



MEMORANDUM

P.O. Box 4100 ♦ FRISCO, COLORADO 80443

TO: MAYOR AND TOWN COUNCIL
FROM: DIANE McBRIDE, RECREATION DIRECTOR/ASSISTANT TOWN MANAGER
RE: RETENTION AGREEMENT WITH ZWEIG LAW
DATE: NOVEMBER 8, 2022

Summary and Background: The tubing hill / ski and ride hill at the Peninsula Recreation Area (PRA) opened in 2010, and at that time, the Town contracted with the Rietz Law Firm to assist with specific risk management issues associated with a ski area operation. The Rietz Law firm is based out of Dillon and for years, they have reviewed TOF waivers, operations, and assisted staff with training very specific to ski area operations.

The Town's main point of contact at the firm has been Mr. Brian Birenbach. Mr. Birenbach has been with the firm for years and was a TOF Planning Commissioner. Mr. Birenbach recently informed TOF staff that Mr. Rietz is retiring and the firm is shutting down. As such, Mr. Birenbach has moved to the Zweig Law Firm out of Breckenridge, and continues to specialize in the world of ski area operations and litigation.

Providing risk management training, reviewing liability waivers, and counseling staff on industry best practices remains a priority for the Town of Frisco. As such, an agreement between the Town and Zweig Law is before Town Council at this time.

Analysis: Activities at the PRA can be hazardous and involve the risk of physical injury. Risk management is a large component of everyone's job and as a result, staff are regularly trained on best practices and operations. Consulting with attorneys on these matters and ski industry liability remains a priority for the Town.

The Zweig Law attorneys have a combined 90 years of experience defending ski and recreation industry clients. A summary of their firm and their credentials is included as Attachment 2.

Under Section 6-1(d) of the Charter "The Council may employ such special counsel as may be recommended by the Town Attorney or the Council." Mr. Thad Renaud, TOF attorney, has reviewed the retention agreement provided by Mr. Birenbach with the Zweig Law firm, and is supportive of the agreement.

Financial Impact: Fees are charged on the basis of time and effort. There is no retainer fee. The current hourly rate for Mr. Birenbach is \$250.00. The current hourly rate for a paralegal is \$150.00 per hour. Fees charged will come out of the professional services line item in the PRA budget. There are sufficient funds in this account for such services. Staff anticipates spending no more than \$5,000 annually on such services.

Alignment with Strategic Plan: Providing quality core services and maintaining, sustaining and protecting the Town's assets and experiences are top priorities for the Town of Frisco.

Environmental Sustainability: n/a

Staff Recommendation: Staff recommends approval of the retention agreement between the Town and Zweig Law, PC.

Approved By:

Tom Fisher, Town Manager
Leslie Edwards, Finance Director

Attachments:

Attachment 1: Retention Agreement

Attachment 2: Zweig Law Brochure