

February 4, 2022

Sent via e-mail:

City of Pueblo
1 City Hall Place, 3d Floor
Pueblo, CO 81003

c/o Dan Kogovsek, City Attorney dkogovsek@pueblo.us

Re: City of Pueblo, Colorado
Engagement for Legal Services

Dear Mr. Kogovsek:

Thank you for retaining Seter & Vander Wall, P.C. (the “**Firm**”) to provide legal services to the City of Pueblo (the “**City**”) acting by and through its Law Department and Planning Department. This letter is to summarize and confirm the terms and conditions of the Firm’s representation of the City.

1. Scope of Representation and Personnel

Seter & Vander Wall, PC’s engagement is limited to matter on which you or the planning department request assistance or representation. Representation and projects will generally involve the review, comment and negotiation of special district or other government entity formations and operation, including the review and preparation of service plans and intergovernmental agreements. Assistance may also be required regarding development approvals and related matters.

Kim Seter will be the attorney primarily responsible for your matters. In addition, some services may be provided by attorney Conor Kruger and paralegals Michele “Mitch” Barrasso and Natalie Fleming. Other attorneys and paralegals may be assigned to work on your matters as appropriate for the service being provided and expertise required.

2. Fees and Billing

The Firm provides legal services on an hourly basis, billed in six-minute increments. The current hourly rate for Mr. Seter is \$410 per hour. The current hourly rates for Mr. Kruger, Ms. Barrasso and Ms. Fleming are \$275, \$160 and \$140 respectively. The rates of other personnel in our office vary from \$140.00 to \$490.00 per hour. All rates are subject to change January 1 of each year.

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In addition to our time, we may incur costs on your behalf. Costs include photocopying expenses, delivery charges, filing and recording fees, Westlaw research charges and other expenses incurred when we advance materials or funds on your behalf. Costs are billed separately from legal fees and appear on your monthly invoice. Costs are to be paid on the same terms as legal fees. We do not charge for secretarial or other staff support except for paralegals and we do not add a surcharge or mark-up to any costs for any reason.

We will provide you with a detailed invoice for services and costs incurred. Invoices are mailed monthly and payment is due 45 days from the date of the invoice. Past due invoices may be subject to a monthly late charge of 1.5% of the unpaid balance.

3. Communication

The Firm primarily communicates with its clients using e-mail; the sending of documents and correspondence via the United States Post Office, UPS, FedEx, courier or other similar delivery service; and telephone. When sending e-mail, we endeavor to ensure that only the intended recipient(s) receives the e-mail. However, our e-mail communication is not encrypted. Communication via e-mail is not completely secure and e-mails may pass through servers controlled by third-parties and could be accessed by unauthorized third-parties.

Although a common form of social communication, the Firm does not generally communicate with clients about client matters via text message, iMessage, or other form of instant messaging. Communications made via text, iMessage or instant messaging may not be received and risk not being attended to in a timely manner. Accordingly, communications with the Firm should be made via one of the other identified communication methods.

Generally, communication between the client and the Firm are confidential and subject to the attorney-client privilege. This privilege is for the benefit of the client and if confidential communications are shared with third-parties by the client, that privilege may be lost.

4. Document Retention

In the course of our representation, we will maintain a file of documents produced and received in the ordinary course of practice. Not all papers and electronic data are maintained in the ordinary course of practice. For example, multiple copies or drafts of the same document, or communications containing duplicative correspondence or concerning non-substantive communications may not be retained. We generally maintain our files in electronic format, and except for certain documents required to be maintained in hard copy, will convert paper copies to electronic format and dispose of the paper copy.

It is the general policy of the Firm to retain your files in paper or electronic format for at least ten (10) years from the date our representation is complete, either by completion or resolution of the matter for which we were engaged or termination of the attorney-client relationship. In certain circumstances, such as where there is pending or threatened litigation related to the matter which is known to the Firm, we may be required to maintain your files for a longer period. Following expiration of the ten-year retention period, your file may be destroyed without notice unless you have requested the original file to be delivered to you.

City of Pueblo, CO
C/o Dan Kogovsek, City Attorney
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Notwithstanding the foregoing policy, if the Firm is designated as a public records custodian for the City pursuant to the Colorado Open Records Act, Part 2 of Title 24, C.R.S., or is otherwise in possession of "public records" of the City, the Firm will retain and destroy those files in accordance with any approved document retention and destruction policy of the City, the Colorado State Archives or similar regulatory body.

5. Conflicts of Interest

We have performed an internal review for potential conflicts of interest based on information provided to us. At this time, we do not have any conflicts of interest with any current or former clients that would preclude our representation of the City. Should a conflict of interest arise, we will advise you as soon as practicable, and if the conflict cannot be resolved or waived, the Firm may be required to withdraw from representation of the City.

6. Workers Without Authorization

As a public entity you are required to obtain certifications from us concerning the employment of workers without authorization pursuant to Article 17.5 of Title 8 of the Colorado Revised Statutes. This certification is attached as **Exhibit A** and incorporated herein.

7. Termination

Either of us is free to terminate this agreement at any time for any reason. However, it is important to both of us that any termination is in writing to allow for a clear allocation of responsibilities. Termination of legal services will not affect the City's responsibility for payment of legal services rendered and costs incurred before termination and incurred in connection with an orderly transition of legal services. Our efforts on your behalf may cease and we may withdraw from further representation at any time if an invoice is not timely paid.

Please countersign this letter in the space provided if you agree to these terms and return a copy to our office.

We look forward to working with you.

Sincerely,

SETER & VANDER WALL, P.C.



Kim J. Seter

KJS:kmg
Enclosure

City of Pueblo, CO
C/o Dan Kogovsek, City Attorney
Engagement for Legal Services
February 4, 2022

I have reviewed this proposal and agree to the engagement of Seter & Vander Wall, P.C. pursuant to the terms of representation described in this letter.

City of Pueblo, Colorado

Print Name: _____

Title: _____

Date: _____

EXHIBIT A

**WORKER WITHOUT AUTHORIZATION
PUBLIC CONTRACT FOR SERVICES**

Pursuant to §§ 8-17.5-101 to -103, C.R.S.

1. Seter & Vander Wall, P.C. (the “**Contractor**”) acknowledges that, prior to executing the Contract, Contractor has certified that it does not knowingly employ or contract with a worker without authorization to perform work under the Contract and that the Contractor has participated in the E-Verify Program (formerly known as the Basic Pilot Program¹) (the “E-Verify Program”) or the Colorado Department of Labor and Employment (the “Department”) program established by § 8-17.5-102(5)(c), C.R.S. (the “Department Program”) in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Contract.

2. Contractor shall not:

(a) Knowingly employ or contract with a worker without authorization to perform work under the Contract; or

(b) Enter into a contract with a subcontractor who fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with a worker without authorization to perform work under the Contract.

3. The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the Contract through participation in the E-Verify Program or the Department Program.

(a) In the event the Contractor uses the Department Program for the employment verification described herein, the Contractor shall comply with the requirements mandated by § 8-17.5-102(5)(c), C.R.S. including:

- i. The Contractor shall comply with the provisions of § 8-17.5-102(5)(c), C.R.S.; and
- ii. Contractor shall notify the Client of its determination to participate in the Department Program, and
- iii. The Contractor must, within twenty days after hiring an employee who is newly hired to perform work under the Contract, affirm that

¹ “Basic Pilot Program” is described in § 8-17.5-101(1), C.R.S., as amended, and further defined as the Basic Pilot Employment Verification Program created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, that is administered by the United States Department of Homeland Security.

the Contractor has examined the legal work status of the employee, retained file copies of the documents required by 8 U.S.C. § 1324a and not altered or falsified the identification documents for the employee, and the Contractor must provide a written, notarized copy of the affirmation of compliance with § 8-17.5-102(5)(c), C.R.S. to the Client.

- iv. The Contractor shall indemnify and hold harmless the Client, its directors, officials, agents and employees, from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, expenses (including attorney's fees) and liabilities of, by or with respect to third parties, arising from the Contractor's failure to comply with the provisions of the Department Program and §§ 8-17.5-102(5)(c), C.R.S., arising under this Addendum or in any way related to performance hereof. The obligations of this indemnification shall survive the termination or expiration of this Addendum and the Contract.

4. Contractor is prohibited from using E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while the Contract is in effect.

5. If the Contractor obtains actual knowledge that a subcontractor performing work under the Contract knowingly employs or contracts with a worker without authorization, the Contractor shall:

(a) Notify the subcontractor and the Client within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with a worker without authorization; and

(b) Terminate the subcontract with the subcontractor if within three days of receiving the notice the subcontractor does not stop employing or contracting with the worker without authorization; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a worker without authorization.

6. Contractor shall comply with any reasonable request by the Department made in the course of an investigation that the Department is undertaking, pursuant to the law.

7. If the Contractor violates any of the provisions under this Addendum, the Client may terminate the Contract for breach of contract. The Contractor shall be liable for actual and consequential damages to the Client.