

October 9, 2017

VIA HAND DELIVERY

Mr. Grady E. Miller, Town Manager
Town of Fountain Hills
16705 E. Avenue of the Fountains
Fountain Hills, Arizona 85268

Re: Interim Town Attorney Services: Dickinson Wright PLLC ("Firm")

Dear Mr. Miller:

Scope of Engagement. We are pleased that you have selected us to serve as Interim Town Attorneys for the Town of Fountain Hills ("Town" or "Client"). We will do our best to ensure that you are provided with timely legal advice and services. This letter will confirm the terms of our agreement to represent you in this matter. Our representation in this matter is effective as of the date you provide the Firm with a signed copy of this engagement letter (retroactive to the date that any actual services may have been provided) representing your agreement to the terms of the engagement as set forth in this letter.

Client Liaison and Firm Liaison. We understand that as Town Manager, you will be our primary contact at the Town in furtherance of this engagement, and Fredda Bisman will be the Firm attorney responsible for this engagement. Ms. Bisman will make staffing decisions, with the objective of rendering services to the Client on an and cost-effective basis.

Staffing and Hourly Rates. Our time and expenses will be charged at the reduced hourly rates set forth in this letter. General Town Attorney services, including attendance at Town Council meetings; participation in staff meetings, consultations with Town staff and response to routine public records requests will be billed at \$250 per hour. Development agreements, litigation, construction disputes, and other matters that fall outside the rubric of general town attorney services will be billed at the rate of \$300 per hour. Other attorneys who have been identified at this time as likely to work on this engagement include James Patterson, Scott Holcomb, and Mitesh Patel, in addition to Ms. Bisman.

We may also assign other attorneys within the Firm to work on certain aspects of

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this matter as needed, at the same hourly rates.

We periodically review our hourly rates and make adjustments as necessary; therefore, from time to time in the future, the hourly rates of attorneys and paralegals engaged in representing the Client may be increased. If such rates are increased, you will be advised in writing in advance.

Multi-Jurisdictional Notice. The firm has attorneys in states other than Arizona and not licensed in Arizona. All attorneys present in the Phoenix office are licensed to practice law in Arizona.

No Advance Deposit. No Advance Deposit is being required at this time in consideration of the Town's status as an Arizona municipality.

The Firm reserves the right to require advance deposits in the future. If we determine that such an Advance Deposit is necessary, we will advise you in advance. In the Firm's discretion, an Advance Deposit will either: (a) be held by us in a trust account, without interest accruing on such amounts, until our representation of the Client is concluded or (b) applied to any billings of the Firm for fees and costs. If any monthly billing statement is not paid before coming past due, the Firm will have the right, in its discretion, to apply all or a portion of the Advance Deposit to the outstanding balance due the Firm. Should that become necessary, the Client shall still be responsible for any remaining balance, and the Firm will have the right to withdraw from further representation if the outstanding balance remains unpaid. If the Firm applies all or any portion of the Advance Deposit to pay an outstanding balance, the Firm reserves the right to notify the Client that we have done so, whereupon the Firm may, in its discretion, require the Client to promptly replenish the Advance Deposit so that at all times there is no less than the Advance Deposit amount set forth above on deposit with the Firm. If the Advance Deposit is not replenished within fifteen (15) days after the Firm has requested that the Client do so, the Firm reserves the right, in its discretion, to terminate the representation and engagement.

If the Client fails to comply with the foregoing, the Firm is authorized, in its sole discretion, to withdraw from further representation of the Client. The Client also has the right, at any time, to terminate the Firm and to substitute counsel for the Firm. If you substitute counsel or terminate the Firm's services, the total outstanding amount due the Firm, plus any additional charges for legal services, fees, and costs accrued to the date of such substitution or termination, after application of any balance of the Advance Deposit, will become immediately due and payable to the Firm.

No Guarantee of Result or Fees and Costs. It is impossible for the Firm to predict the total amount of attorneys' and other professional fees and costs that will be

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incurred in regard to our representation of the Client in this matter. No guaranties have been made, nor can they be made, to the Client with respect to the total attorneys' and other professional fees and the costs relating thereto. Any estimate of fees and costs that we may have discussed represents only an estimate of such fees and costs. It is also expressly understood that your obligation for payment of the Firm's fees and costs is not in any way contingent on the ultimate outcome of this matter.

We are committed to providing you with the best possible representation. However, this matter necessarily involves many risks beyond our control. During the course of our representation, we may express opinions or beliefs concerning this matter or various courses of action and the results that might be anticipated. Any such statement made by anyone in the Firm is intended to be an expression of opinion only, based on information available to us at the time and should not be construed by the Client as a promise or guaranty of the outcome. We cannot and do not guarantee that the outcome of this matter will be acceptable to the Client or that any particular result will be achieved.

Client's Responsibilities. Recognizing the Firm cannot effectively represent the Client without the Client's cooperation, assistance, and truthfulness, Client agrees to cooperate fully with the Firm, to always be truthful with the Firm, and to provide promptly all information, known or available, relevant to the Firm's representation, including providing information and documents requested in a timely fashion; cooperating in scheduling and related matters; responding to telephone calls, e-mails, and correspondence in a timely manner; and informing the Firm of changes in the Client's address and telephone numbers.

As a matter of course, we will forward to you photocopies of key correspondence and pleadings generated or received by us regarding this matter. This is an inexpensive way to keep the Client advised of important developments as this matter progresses. You should contact us should you have any questions or comments about the documents you receive.

Conflicts Issues. Dickinson Wright PLLC represents large numbers of business entities and financial institutions as well as individuals. It is possible that during the time we are representing you that some of our current or future clients will have disputes or transactions with you. You agree that we may continue to represent or undertake in the future to represent existing or new clients in any matter, including litigation, even if the interests of such other clients in such other matters are directly adverse to yours, so long as those matters are not substantially related to our work for you and our representation of the other clients would not involve our use of any confidential information you have provided us and would otherwise be permitted by the applicable Rules of Professional Conduct.

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Right to Withdraw from Representation. The Firm reserves the right to withdraw from this representation in the event that invoices are not paid on a timely basis or you have failed otherwise to fulfill your obligations to us.

Termination of Engagement. Either the Firm or the Client may terminate the engagement and representation at any time and for any reason by written notice, subject to our compliance with the applicable rules. To confirm the termination of the representation of the Client, the Firm has the option to file a notice of or request for withdrawal pursuant to the applicable rules.

Post Engagement Matters. Unless otherwise set forth on the first page of this letter, you are engaging the Firm to provide legal services in connection with a specific matter, which does not include other matters beyond or after this matter. If you wish to engage the Firm to represent you in relation to other matters beyond or after this matter is completed, a separate or supplemental agreement identifying the scope of the representation of the Client regarding, and the terms of the other matter engagement must be entered into.

After completion of this matter, changes may occur in laws or regulations that are applicable to the Client that could have an impact upon the Client's future rights and liabilities. Unless you continue to specifically engage us by a separate engagement agreement describing the scope of that additional representation, the Firm has no continuing obligation to advise the Client with respect to any legal or factual developments or matters that may arise subsequent to the termination of our engagement.

Arbitration. The Client has the right to a trial before a trier of fact, either a judge or jury, in connection with any disputes that may arise between the Client and the Firm. However, if a dispute arises between the Firm and Client regarding attorneys' fees and costs provided by the Firm, the parties agree to resolve that dispute through binding fee arbitration procedures and proceedings of the State Bar of Arizona. By agreeing to this binding fee arbitration process, the Client is agreeing to waive the right to trial before either a judge or jury on the issue of attorneys' fees and costs charged to the Client.

No Advice Regarding This Engagement Agreement. The Firm is not acting as Client's counsel in advising the Client with respect to this engagement agreement, as we would have a conflict of interest in doing so. If the Client wishes to be advised regarding any aspect of this engagement agreement, we recommend that the Client consult with independent counsel of the Client's choice. In addition, if the Client has any questions or would like additional information regarding our engagement, we would be happy to discuss those matters with the Client.

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Binding Agreement. When signed by the Client, this letter constitutes a binding agreement between the Firm and the Client.

Standard Terms of Engagement. The Firm's Standard Terms of Engagement are attached hereto and made a part hereof.

Thank you for selecting our Firm to represent you. We appreciate the confidence you have in us and look forward to working with you on this matter.

Sincerely,



Fredda J. Bisman

I HAVE READ THE FOREGOING ENGAGEMENT AGREEMENT, AND MY SIGNATURE INDICATES THAT I AGREE TO ALL OF ITS TERMS AND FULLY UNDERSTAND ITS PROVISIONS. THE TERMS OF THE ENGAGEMENT OF THE FIRM AS STATED ABOVE ARE ACCEPTED AND APPROVED BY:



Town of Fountain Hills
Town Manager

Date: 10/9/2017

PHOENIX 99998-1669 401813v1

Dickinson Wright PLLC

Standard Terms of Engagement

We are pleased that you have retained Dickinson Wright PLLC to provide legal services. Below are the standard terms of engagement in relation to any matter on which you retain us, unless otherwise set forth in your engagement letter and subject always to applicable rules of professional conduct. Please review this document carefully and retain it with your files. If you have any questions about how our legal services will be provided, how you will be billed, the scope of our representation or any other matter related to our representation of you, please contact a member of the Firm promptly.

1. **The Scope of Our Services.** Our engagement letter to you sets forth the specific matter for which representation will be provided and the scope of our services. The services we will provide to you may be varied by agreement during the course of the matter. Our services will not include advice on tax-related issues unless and to the extent specifically requested by you and included in the scope of our representation.

At times we may be called upon to express opinions of law or anticipated outcomes. Such opinions are limited by our knowledge of the facts at the time the opinion is rendered, the present state of the law and, at times, factors that are unknown or beyond our control. Although we will use our best professional judgment, we cannot guarantee the outcome of any matter.

2. **Primary Attorney.** The primary attorney(s) responsible for your client relationship with the Firm may, in the exercise of his/her/their professional judgment, involve other attorneys (including other members or associates), paralegals or non-legal professionals possessing special knowledge or experience to improve efficiency.

Our invoices for services may reflect time and professional services rendered by attorneys or other legal personnel associated with the Firm's international or other affiliate(s). Such attorneys, who are licensed in other jurisdictions, are consulted and serve as legal advisors to the Firm based on their licensed status in such jurisdictions and expertise in particular legal specialties.

3. **The Client.** Dickinson Wright PLLC will provide representation for only the person(s) or entity identified in our engagement letter. In matters related to corporations, partnerships and other entities, unless otherwise agreed in writing, our representation does not extend to officers, directors, employees, shareholders, partners, members or other individuals. Additionally, unless otherwise agreed in writing, our representation of an entity does not extend to its affiliates (such as parent, sister or subsidiary corporations).

4. **Basis of Our Charges.** Unless other arrangements are made, our billing for legal services will be on a per hour basis. Our standard hourly rates will apply in the absence of any other agreement, and details of the hourly rates for the attorneys working on your matter(s) are available upon request. Our hourly rates are subject to periodic reviews and adjustments and we reserve the right to revise our hourly rates in accordance with such general Firm reviews.

The Rules of Professional Conduct generally permit a law firm to consider the following factors in addition to regular hourly rates: the novelty and difficulty of the question involved; the skill requisite to perform the legal services; the likelihood that acceptance of a particular matter will preclude other representation; the fee customarily charged in the locality for similar services; the risk assumed by the firm in performing certain types of work, and the amount involved and results obtained. Time limitations imposed by the client or by other circumstances may also be considered in determining an appropriate fee. We reserve the right to consider all of these factors and submit a billing or billings in excess of the hourly rates quoted above.

We are often asked to provide estimates regarding the cost of our representation on a given matter. We are pleased to provide such estimates when, in our professional judgment, they can be made. Unless we agree in writing to perform a specific project for a fixed fee, an estimate will not represent a maximum, minimum or agreed charge.

5. **Reimbursement of Costs and Expenses.** In addition to our hourly fees, we may incur costs and disbursements on your behalf for which you will be obligated to reimburse us. It is our Firm policy to submit invoices for costs and disbursements charged by third parties in excess of \$1,500 to you for direct payment. Costs and disbursements of third parties incurred by the Firm on your behalf are billed without any administrative add-on. Costs incurred internally on your behalf are generally charged at predetermined standard rates: \$0.20 per copy, \$2.00 per first page, \$1.00 per subsequent pages for faxes and \$12.00 per month for each gigabyte of data stored in our litigation support document database. Computerized legal research (CALR) charges are billed at our legal research providers' standard retail rates. Please note, however, that the Firm pays for CALR on an annual Firm-wide fixed fee basis. Long distance phone charges are billed at tariff rates.

6. **Frequency of Billing.** We will bill you monthly for time and disbursements. Remittance within 30 days is expected. We reserve the right to impose a charge of 1% per month on accounts which are not paid within such 30-day period. If you have any questions on any invoice, please raise them with the member primarily responsible for the matter as soon as possible. If any portion or element of an invoice is questioned, the remainder of the invoice is to be paid within 30 days.

7. **Retainers.** Unless otherwise set forth in the engagement letter, it is understood that Dickinson Wright PLLC may withdraw amounts from the retainer at any time as may be necessary to satisfy outstanding invoices. If at any time the retainer proves insufficient to cover past due

invoices or falls below the agreed amount, you will be called upon to replenish the retainer amount. Any unused portion of the retainer remaining after all legal services have been paid for will be refunded.

8. Conflicts of Interest. Conflicts of interest are a concern for Dickinson Wright PLLC and the clients we represent. We attempt to identify actual and potential conflicts at the outset of any engagement and may request that you sign a conflict waiver before we accept an engagement from you. Occasionally, other clients or prospective clients may ask us to seek a conflict waiver from you so that we can accept an engagement on their behalf. Please do not take such a request to mean that we will represent you less zealously; rather, that we take our professional responsibilities to all clients and prospective clients very seriously.

Unfortunately, conflicts sometimes arise or become apparent after work begins on an engagement. When that happens, we will do our best to address and resolve the situation in the manner that is consistent with our professional responsibilities.

We will not represent any other client on any matter on which we are representing you unless we have your express agreement that we may do so and where permitted to do so by the applicable jurisdiction's Rules of Professional Conduct.

We may also act generally for another client which, for you, is a market competitor.

9. Liability Insurance Coverage. It is your responsibility to ascertain whether you are covered by any relevant insurance in respect of either liability or legal expenses. If so, you are responsible to notify your insurer(s) of the claim or potential claim and our involvement as soon as possible. It is also your responsibility to inform us if you believe that you have insurance coverage for the specific matter for which we have been retained.

10. Termination of Representation. You may terminate our representation at any time, with or without reason. We have a right to discontinue providing services under certain circumstances, such as your failure to fulfill your financial obligations to us. Your termination of our representation in no way relieves you of the obligation to pay for legal services that have been provided prior to the time of termination and that are necessitated to make an orderly transfer of our file materials.

Upon termination of our representation for any reason, we will return your papers, documents and other property to you upon receipt of your request for them. We may, and likely will, retain a copy of the materials returned to you. If you have outstanding invoices owing to the Firm, we may have the right to retain your documents if they are properly subject to a lien.

At such time as we have completed the scope of work for which we have been retained, we will consider our representation to have ended. If you later retain us to perform further or additional work, our future representation will be subject to the terms of and understanding set forth herein, unless other terms and conditions are expressly agreed to.

11. Records Retention. Subject to paragraph 10 above, any materials belonging to you will be returned to you at the conclusion of the engagement. Following the engagement, in accordance with Firm policies, applicable law and the applicable jurisdiction's Rules of Professional Conduct regarding ownership of files and file retention, we will retain our files relating to this matter for a period of years, after which time the files may be destroyed. We will make reasonable efforts to notify you prior to the destruction of any physical or electronic files. A reasonable charge may be imposed for any special requests pertaining to disposition or handling of our files.

12. E-Mail and Cellular Phone Authorization. Dickinson Wright PLLC is able to communicate with clients via electronic mail over the internet ("e-mail") and many of our attorneys utilize cellular phones. With e-mail, current technology cannot eliminate the risk that confidences and/or secrets otherwise protected by attorney/client privilege may be viewed by unauthorized third parties and the privilege thereby lost. As to both means of communication, sensitive, confidential and proprietary materials of the client may be intercepted by unauthorized third parties. Please be advised that in connection with the use of e-mail and cellular phones, (a) there is the risk of the loss of the attorney/client privilege and that sensitive, confidential or proprietary material may be inadvertently disclosed to unauthorized third parties; (b) the Firm standard for e-mail encryption is Transport Layer Security (TLS) protocol; and (c) you have the right to specifically direct Dickinson Wright PLLC not to send the client sensitive, confidential or proprietary materials via e-mail or to utilize a cellular phone when communicating.

Unless you specifically provide direction to the contrary, your acceptance of our engagement letter will indicate your review of this policy statement on the use of e-mail and cellular phones and will specifically authorize Dickinson Wright PLLC to utilize e-mail, to send information over the internet to communicate with you and with third parties, and to utilize cellular phones. By engaging our Firm, you agree to assume the risk of inadvertent disclosure and the risk of the loss of attorney/client privilege as it relates to information being transmitted. You retain the right to direct Dickinson Wright PLLC not to send specific items of information via the internet, by e-mail or over a cellular phone. This authorization shall remain in effect until revoked in writing.

Please feel free to contact the attorney at the Firm responsible for the matters you have engaged us to address on your behalf if you have any questions regarding this policy.