

REGULAR MEETING

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. ROLL CALL
- IV. APPROVAL OF AGENDA
- V. PUBLIC COMMENT

Public comment is intended for members of the public wishing to address the Board of Trustees about matters that are not listed for discussion on the agenda. Comments will be taken under advisement by the Board but no decisions will be made. At its discretion, the Board may elect to place a matter raised under public comment on a future agenda for further discussion and possible action.

- VI. PRESENTATIONS
- VII. CONSENT AGENDA
- VIII. BOARD INFORMATION ITEMS
- IX. NEW BUSINESS

- a. Discussion and possible approval of a letter of engagement with Kutak-Rock for legal services related to the Kip's Grill building code enforcement matter;

- X. OLD BUSINESS
- XI. BOARD REPORTS
- XII. EXECUTIVE SESSION
- XIII. ADJOURN

May 8, 2020

**VIA EMAIL ONLY: [manager@creedetownhall.com](mailto:manager@creedetownhall.com)**

Louis M. Fineberg  
Town Manager  
City of Creede, Colorado  
2223 N. Main St.  
Creede, CO 81130  
Tel: (719) 658-2276, ext 1

Re: *Engagement with City of Creede, Colorado*  
*Kip's Grill Building Code Violations*

Dear Mr. Fineberg:

We are pleased to have the opportunity to provide legal representation to the City of Creede, Colorado (the "City") in connection with investigation and potential litigation against Kip's Grill concerning building code violations (the "Matter"). This engagement letter (the "Agreement") shall serve as the formal fee agreement between the City and the Firm with respect to the Matter.

1. *Engagement.* The Firm's representation shall be to act as counsel and render legal advice and services to the City with respect to the Matter and provide you with our recommendations as to courses of action available to you. While we cannot guarantee the result or outcome of any particular matter, our ability to effectively represent you will depend largely upon your cooperation and timely response to requests for information. You acknowledge that the Firm is providing legal services to the City only in connection with the Matter except where otherwise specifically retained.

2. *Fee Arrangement.* The City will be billed for our services at our standard hourly rates in effect when the services are rendered. Our present hourly rates range between \$140 and \$600 depending on the attorney or paralegal and the nature of the work. It is anticipated that my colleagues, Thomas W. Snyder and Thomas A. Isler, will be the primary attorneys working on the Matter. Mr. Snyder's hourly rate is \$425, and Mr. Isler's hourly rate is \$325. When practical and efficient, other attorneys and paralegals who have lower billing rates will be utilized. In addition, other attorneys with specialized experience and knowledge may be asked from time to time to provide services. Please note that, from time-to-time, the Firm makes adjustments to the hourly

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rates of its attorneys. The Firm accounts for time in one-tenth of an hour increments and bill at the then current rate in effect for the attorney performing the services. Any services pertaining to the subject Matter of this Agreement which were performed by the Firm prior to the City's acceptance of this Agreement shall be included in the Firm's fee.

3. *Costs and Expenses.* The Firm's costs and out-of-pocket expenses are billed separately from our fees for services performed. Examples of such costs and expenses include, but are not limited to, court costs, filing fees, fees for service of process, deposition reporting and transcripts, computerized legal research, long-distance telephone charges, reproduction costs (e.g., photocopying or electronic data recovery and storage), outgoing facsimile charges, postage and other expenses or costs that are usually incurred in connection with legal representation. We may ask the City to pay any large out-of-pocket expenses, such as expert legal fees, directly, but will confer with you before incurring any such extraordinary expenses. The City agrees to pay the costs, expenses and disbursements incurred by the Firm in connection with the Matter.

4. *Dispute Resolution/Arbitration.* If you have any questions about your account, please feel free to contact us. We will gladly work with you to resolve any problems. If we are unable to resolve any fee or expense problem, you agree to submit the issue to the Legal Fee Arbitration Committee of the Denver Bar Association for resolution. **THE CITY HEREBY AGREES THAT ANY AND ALL ISSUES ARISING OUT OF OR RELATING TO ITS ACCOUNT AT THE FIRM OR ANY FEES OR EXPENSES ASSOCIATED THEREWITH SHALL BE RESOLVED BY THE LEGAL FEE ARBITRATION COMMITTEE OF THE DENVER BAR ASSOCIATION.** The arbitration will result in a binding, final decision.

5. *Billing and Payment.* Legal fees and any costs or expenses paid by the Firm are billed on a monthly basis. The Firm shall submit to the City itemized monthly invoices for services rendered and costs and expenses incurred during the previous month. These invoices will include a detailed summary of work performed by each attorney or paralegal and a dollar figure for the monthly amount due for fees, as well as any costs or expenses not forwarded to the City directly. Payment of any sums due on the invoices shall be due and payable within 20 days of the invoice date. The City hereby agrees to pay all legal fees and out-of-pocket expenses incurred by the Firm in connection with the Matter.

6. *Termination.* The City may terminate this Agreement with respect to our engagement by notifying the Firm in writing. Conversely, the Firm may withdraw and terminate this Agreement in Matters that protects the City's interests in the work being performed by the Firm by notifying you in writing as well as complying with any applicable Colorado Rules of Professional Conduct or Colorado Rules of Civil Procedure regarding withdrawal. All attorneys' fees and out-of-pocket expenses accrued to the date of termination in connection with the Matter will be due and payable by the City upon any such termination or withdrawal.

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7. *Entire Agreement; Amendment; No Third-Party Beneficiaries.* This Agreement contains the entire agreement between the City and the Firm regarding the professional legal representation described herein and may be amended only in a writing signed by both parties. This Agreement is between the City and the Firm, and neither this Agreement nor the performance of the same shall create any rights in any other person. There are no third-party beneficiaries to this Agreement.

8. *Warranty of Authority.* The undersigned individually warrants and represents that he is authorized to execute this Agreement and, if applicable, that all necessary corporate action has been taken to authorize execution of this Agreement.

9. *Counterparts and Signatures.* This Agreement may be executed in any number of counterparts, each of which shall be deemed effective as an original. For purposes of this Agreement, a signature transmitted via facsimile shall be deemed effective as an original.

10. *Binding Nature of Agreement.* This Agreement shall be binding upon and shall inure to the benefit of parties hereto and their respective heirs, successors and assigns.

Again, thank you for selecting Kutak Rock LLP. If the foregoing Agreement is acceptable to the City, please sign this letter and return it to us via electronic mail.

Sincerely,

Mario T. Trimble

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The undersigned has read and hereby agrees to the above terms and conditions, including the arbitration provision set forth in Paragraph 4 above.

## **CITY OF CREEDE, COLORADO**

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Its: \_\_\_\_\_