

A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF CHERRY HILLS VILLAGE  
APPROVING A FEE AGREEMENT WITH HAMRE, RODRIGUEZ, OSTRANDER &  
PRESCOTT, P.C. FOR LEGAL SERVICES

WHEREAS, Section 6.4 of the home rule charter for the City of Cherry Hills Village provides that the City Council may appoint an attorney to handle any matter in which the City has an interest or to assist and counsel with the City Attorney; and

WHEREAS, the City Council desires to approve the Fee Agreement with Hamre, Rodriguez, Ostrander & Prescott, P.C., a copy of which is attached hereto and incorporated herein as **Attachment A** (the "Fee Agreement"); and

WHEREAS, the City Council desires to authorize the Mayor to execute the Fee Agreement on behalf of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE:

**Section 1.** The City Council hereby: (a) approves the Fee Agreement, in substantially the form attached hereto as **Attachment A**; and (b) authorizes the Mayor to execute the same on behalf of the City.

**Section 2.** This Resolution shall take effect upon its approval by the City Council.

Introduced, passed and adopted at a regular meeting of City Council this 6<sup>th</sup> day of June, 2023, by a vote of 5 yes and 0 no.

(SEAL)

  
*Kathleen Brown*  
Kathleen Brown, Mayor

ATTEST:

*Laura Gillespie*  
Laura Gillespie, City Clerk

APPROVED AS TO FORM:

*Kathie B. Guckenberger*  
Kathie B. Guckenberger, City Attorney

**Attachment A**  
**Fee Agreement**

## FEE AGREEMENT

This Fee Agreement ("Agreement") is between Hamre, Rodriguez, Ostrander & Prescott, P.C., subsequently referred to as "Law Firm" and City of Cherry Hills Village, subsequently referred to as "Client or CHV". The Law Firm and Client are collectively referred to as the "Parties."

Client has requested Law Firm to provide it with legal advice and possible representation in regarding a conservation easement for the property known as Quincy Farm. Because the Client is a municipality, the Law Firm has requested that one person be designated to bind the Client with respect to fees and representation of Client in such matter. This is done to avoid confusion, duplication of effort and conflicting instructions. The person so designated to act for the Client is Kathie Guckenberger attorney for City of Cherry Hills Village. To avoid misunderstanding, Client and Law Firm wish to formalize their agreement regarding fees and representation of Client by this written Agreement.

Client and Law Firm agree as follows:

A. The Parties agree that the Law Firm's engagement is limited to performance of services referenced above. Because we are not your general counsel, the Law Firm's acceptance of this engagement does not involve an undertaking to represent you or your interest in any other matter. Specifically, and without limitation, the present engagement does not include responsibility for insurance coverage for any claim asserted in the matter, of notification of your insurance carriers about the matter, or for advice to you about your disclosure obligations concerning the matter under federal securities laws or other applicable law.

B. To enable the Law Firm to represent you effectively, you agree to cooperate fully with the Law Firm in all matters relating to the matter, and to fully and accurately disclose to us all facts and documents that may be relevant to the matter or that we may otherwise request. You also will make yourself reasonably available to attend meetings, discovery proceedings and conferences, hearings, and other proceedings. You also agree to pay our statements for services and other charges stated below.

C. In light of court rules, it is especially important that you take steps to preserve not only hard copy documents, but also electronically stored information ("ESI"). Failure to do so could result in sanctions or other court rulings adverse to your interests in the lawsuit. The category of discoverable ESI can include within its scope, among other things, electronic mail ("e-mail") messages and word processing files (including hidden elements of these files known as "metadata"), and computer back up tapes. To help us ensure that any automatic deletion protocols are suspended, and that all reasonably accessible ESI is being preserved, you agree to make available to us your company's information technology ("IT") personnel (if applicable) or any other individual responsible for such functions.

D. Donald M. Ostrander will have primary responsibility for your representation and will utilize other Law Firm lawyers and legal assistants as believed appropriate in the circumstances. The Law Firm will provide legal counsel to you in accordance with this Agreement and, in reliance upon information and guidance provided by you, keep you reasonably informed of

progress and developments, and respond to your inquiries. We will use email to communicate with you, or on your behalf, during the course of the representation. It is widely understood that ordinary internet email is inherently insecure. If you would like us to engage in something more secure than ordinary internet email, please contact us and indicate so, otherwise we will presume that ordinary internet email is acceptable.

E. Either at the commencement or during the course of our representation, the Law Firm may express opinions or beliefs concerning expenses, fees, litigation, or various courses of action and the results that might be anticipated. Any such statement made by any attorney of the Law 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 you as a promise or guarantee.

F. Client agrees to pay the Law Firm for its services. Client acknowledges the factors considered by the Law Firm in determining its fees are: the time involved, difficulties encountered, skill required to perform the legal service properly, responsibility of the Law Firm, familiarity with the area of law involved, time limitation imposed by the Client or the circumstances, amount involved and results obtained. Law Firm makes no warranty as to the adequacy of service rendered by other attorneys.

G. Client agrees to pay a per hour fee as set forth below for all work done by the Law Firm and the staff. We typically review our timekeeper billing rates in June of each year as part of our planning process for the coming year. Rates are subject to change on July 1 of every year as a result of this planning process. Not every rate changes every year, but we would like you to be aware in advance of that process. Any rate changes will require client's agreement.

a)	Shareholders	\$425.00
b)	Special Counsel	\$325.00
c)	Associate	\$275.00
d)	Paralegal (Lori Argo)	\$250.00
e)	Legal Assist.	\$125.00
f)	Law Clerk	\$100.00

The Law Firm will bill the City in increments of one-tenth of an hour. All invoices will be emailed to the City to pay directly with a copy to Kathie Guckenberger in house counsel for the City of Cherry Hills Village.

Additional charges would include, among other items, online and access fees for computer database research in excess of flat-rate charges normally incurred by the firm, court filing fees (including computer filing charges), service of process costs, court reporter fees, expert fees, computerized legal research expenses, long distance telephone charges, delivery charges, facsimile charges (long distance only), copying, postage, including federal express, travel (by common carriers) and lodging. The Client will receive an itemized statement showing the work that the Law Firm has done and all of the costs incurred on the account each month.

H. Unless we agree to an alternative method of pricing, the Law Firm's fees will be billed primarily on the amount of time spent on your behalf. Statements normally will be issued for monthly work performed and expenses recorded on our books during the previous month. Payment is due promptly upon receipt of our statement. If any balance or statement remains unpaid for more than 90 days, we may suspend performing services for you until arrangements satisfactory to us have been made for payment of outstanding statements and the payment of future fees and expenses [OR] terminate the representation. As we have discussed, the fees and costs relating to this matter are not predictable. Accordingly, we have made no commitment to you concerning the maximum fees and costs that will be necessary to resolve or complete this matter. Any estimate of fees and costs that we may have discussed or provided below represents an estimate only of such fees and costs. It is also expressly understood that payment of the Law Firm's fees and costs is in no way contingent upon the outcome in the matter.

I. Client has been informed and understands that a court sometimes awards attorney fees or costs (payment of landowner costs is constitutionally required in condemnation case) to the opposing party(ies). Client has been informed and understands that should that happen in this representation, unless otherwise required by ethical rules, Client will be solely responsible to pay such award.

J. Client may terminate the Law Firm's representation at any time by notifying us. Your termination of our services will not affect your responsibility for payment of outstanding statements and accrued fees and expenses incurred before termination or incurred thereafter in connection with orderly transition of the matter. If such a termination occurs, your papers and property will be returned to you promptly upon receipt of payment for outstanding fees and costs. Our own internal files pertaining to the matter will be retained. The Law Firm files include, for example, Law Firm administrative records, time and expense reports, personnel and staffing materials, credit and accounting records, and internal lawyers' work product, including investigative reports, prepared by or for the internal use of lawyers. All such documents retained by the Law Firm will be transferred to the person responsible for administering our records retention program. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to destroy or otherwise dispose of such documents or other materials (including, without limitation, copies of any ESI provided to us by you) retained by us seven years after termination of our engagement.

K. Client acknowledges the Law Firm may withdraw from representation in this matter at any time if: client insists on presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification or reversal of existing law; client insists that the Law Firm pursue a course of conduct that is illegal or that is prohibited under the disciplinary rules; by other conduct render it unreasonably difficult for the Law Firm to carry out its employment; client insists that the Law Firm engage in conduct that is contrary to the judgment and advice of the Law Firm and its attorneys; or deliberately disregards an agreement or obligation to the Law Firm as to expenses or fees for services rendered. In the event of withdrawal from employment the Law Firm will take reasonable steps to avoid foreseeable prejudice to the rights of Client including giving due notice to the Client, allowing reasonable time for employment of other counsel, and delivering all papers and properties to which Client is entitled.

L. This Agreement contains the entire agreement between the Client and the Law Firm regarding the Law Firm's fees and representation of Client. This Agreement shall not be modified or revoked except by written agreement signed by the Client and the Law Firm.

M. This Agreement shall be binding upon the Client and the Law Firm and its or their agents, legal representatives, successors and assigns.

N. This Agreement shall be construed and governed by the laws of the State of Colorado.

O. Client acknowledges reading and signing this Agreement and receiving a copy.

P. At the conclusion of the case the Client has the option to have the files delivered to it or the Law Firm will hold it for seven years, after which time the files may be destroyed.

DATED this 18<sup>th</sup> day of July, 2023.

CITY OF CHERRY HILLS VILLAGE

By:

Katy Brown  
Katy Brown  
Mayor of the City of Cherry Hills Village

HAMRE, RODRIGUEZ, OSTRANDER & PRESCOTT, P.C.

By:

Donald M. Ostrander  
Donald M. Ostrander, Esq.