

**Agenda Item No: CA-j**

**Meeting Date: April 10, 2023**

**Subject:** Approval of Resolution 23-36, approving an engagement letter for scope of services and fee agreement with Alderman Bernstein, LLC regarding Right-of-Way and Easement Acquisition.

**Background:** The City of Dacono is interested in acquiring ROW & Easements for the construction of the York Street Improvements project.

There are currently two (2) parcels at the York St. & Grandview Blvd. intersection where ROW & Easements are necessary to construct drainage improvements to facilitate the complete construction of the intersection by implementing recommendations from the Outfall System Plan that was adopted by council earlier this year.

Legal services are required for these transactions.

**Recommended Action:** Staff is recommending approval of Resolution 23-36.

**RESOLUTION NO. 23-36**

**A RESOLUTION APPROVING AN ENGAGEMENT LETTER  
FOR SCOPE OF SERVICES AND FEE AGREEMENT WITH  
ALDERMAN BERNSTEIN, LLC REGARDING  
RIGHT-OF-WAY AND EASEMENT ACQUISITION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DACONO,  
COLORADO:**

**Section 1.** The Agreement by and between the City of Dacono and Alderman Bernstein, LLC is hereby approved in essentially the same form as the copy of such Agreement accompanying this resolution.

**Section 2.** The Mayor is hereby authorized to execute the Agreement. The City Council further authorizes the Mayor to negotiate and approve on behalf of the City such revisions to the Agreement as the Mayor and City Attorney's Office determines are necessary or desirable for the protection of the City, so long as the essential terms and conditions of the Agreement are not altered.

**INTRODUCED, READ, and ADOPTED** this 10<sup>th</sup> day of April, 2023.

CITY OF DACONO, COLORADO

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Adam Morehead, Mayor

ATTEST:

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Valerie Taylor, City Clerk



Jody Harper Alderman  
720.460.4205  
[jha@ablawcolorado.com](mailto:jha@ablawcolorado.com)

Carrie S. Bernstein  
720.460.4203  
[csb@ablawcolorado.com](mailto:csb@ablawcolorado.com)

April 4, 2023

City of Dacono  
512 Cherry Street  
Dacono, CO 80514

*via email: [BRedd@CityofDacono.com](mailto:BRedd@CityofDacono.com)*

Re: Fee Agreement

Dear City Council:

The purpose of this letter is to establish the scope of our services and our fee agreement.

1. **Professional Undertaking:** We are being engaged to represent the City in connection with acquiring right-of-way and a slope easement at the intersection of York and Grandview in Dacono, Colorado. It is our firm's policy to obtain an engagement letter concerning individual matters that we undertake for each client. In the event that we do not obtain an engagement letter from you for any subsequent representation that you request, then this letter agreement shall also be applicable to that representation.

2. **Fees:** Our fees for services rendered on your behalf will be based upon the hourly rates for the attorneys and legal assistants who do the work. Our schedule of hourly rates is based upon each individual's years of experience and specialization in training and practice. Jody Harper Alderman's current hourly rate is \$400.00. Carrie S. Bernstein's current hourly rate is \$385.00. Amanda A. Bradley's current hourly rate is \$335.00. Joshua T. Mangiagli's current hourly rate is \$300.00. Katie R. Fox's hourly rate is \$300.00. Makenna X. Johnson's hourly rate is \$250.00. The hourly rate for our paralegals is \$190.00. The hourly rates are revised each year to reflect the current cost of delivery of legal services. All statements will be reviewed before they are sent to you in order to ensure that the amount charged is appropriate.

3. **Costs:** It is likely that we will be required to incur expenses on your behalf for items such as recording costs, filing fees, delivery charges, court reporters, hearing and deposition transcripts, photocopying, computerized legal research, long distance and mobile telephone calls, and travel, lodging and meals. All expenses will be separately itemized on the statements or, under some circumstances, bills from parties providing such services will be furnished directly to you for payment.

4. **Billings:** Our statements will be prepared and mailed about the second of each month and will reflect the services rendered by us through the end of the previous month. We expect payment promptly after each statement is rendered. If our bills are not paid within 20 days following the date of issuance, we reserve the right to charge a late charge on any past due bill at

the rate of one and one-half percent (1 ½%) per month, and if collection is necessary, costs and attorney fees therefor. It is important to clearly establish the terms of our business relationship as well as our legal relationship at the beginning of our representation and we feel that prompt and full payment of all bills is an important element of maintaining that relationship.

5. **Conflicts:** We will not represent other persons or companies who have an actual and direct conflict with you, but we may accept the representation of others whose general interests may be adverse to you. We will attempt to promptly advise you of any potential conflict and ask that you likewise advise us.

6. **Privacy Notice:** Generally, we are bound by the Colorado Rules of Professional Conduct to keep all information about you that comes into our possession during the course of our representation confidential, and unless otherwise required or permitted by law or the Rules, we may not disclose that information to non-affiliated third parties in the absence of your consent. To the extent that we represent you in financial activities we are also subject to federal and state privacy laws regarding the collection and exchange of nonpublic personal information about you. In addition to such information provided by you to us, we may collect information about you from other sources such as your representatives and affiliates, your consultants or retained professionals, or consumer reporting agencies. We maintain physical, electronic, and procedural measures to guard that information. However, it may be necessary in the course of our representation to exchange information with, or provide information to third parties such as your consultants or advisors, any opposing or co-counsel, or agencies or jurisdictions before which we are to represent you. In doing so, we will take appropriate measures to keep all treatments and exchanges of your information within the requirements of the law and the Rules.

7. **Termination:** You will have the right to terminate our representation at any time. We will have the same right of termination (including termination for non-payment of fees and expenses), subject to an obligation to give reasonable notice. All fees incurred for services rendered through the date of termination, as well as all costs and expenses incurred by us on your behalf must be paid within 10 days following receipt of our final statement. Upon the conclusion of our services on this matter, whether because of termination or the completion of the work, we will not, thereafter, update you, nor shall we be responsible for legal matters as to which our services have not been specifically requested and confirmed, preferably in writing.

8. **Mediation:** If a dispute arises regarding our services or fees, either of us may request non-binding mediation upon such terms as we may then agree. If either of us requests mediation, no court proceeding shall be pursued, until after mediation has been completed.

9. **File Retention:** When our engagement in this matter ends, we will return to you at your request (preferably written) all materials/property you provided to us during the course of the representation. You agree that we have the right to make copies of any and all documents generated or received by us from any source during the course of our representation of you.

You also agree that any materials in the file left with us after the engagement ends may be retained or destroyed, at our discretion, unless we hear from you otherwise within three (3) months from the date you receive our final bill on the matter for which we provided representation. When you request documents/property/information from us that is maintained

