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September 21, 2018

VIA ELECTRONIC MAIL

Daniel S. Duchon, Personnel Director
City of Bisbee
1415 Melody Lane, Building G
Bisbee, Arizona 85603
Email: dduchon@bisbeeaz.gov

**Re: *Suzanna Vetter v. City of Bisbee*
Personnel Appeal Hearing**

Dear Dan:

As you know, Southwest Risk Services, the administrator of the Arizona Municipal Risk Retention Pool (the "AMRRP") of which the City of Bisbee (the "City") is a member, has asked Pierce Coleman PLLC to represent the City in connection with the personnel appeal hearing of Suzanna Vetter ("Vetter"). We look forward to working with you on this matter.

The purpose of this letter is to confirm the terms of our engagement on behalf of the City. The terms of our representation of the City will be as follows:

A. Scope of Engagement

We understand the initial scope of our engagement will be to represent the City in the personnel appeal brought by Suzanna Vetter.

B. Initial Steps

Initially, we will work with you to gather the facts, and defend the City. We will talk with you and provide you with relevant documents and correspondence as this matter proceeds. Please let us know if you ever have any questions or concerns that you would like to discuss.

I will be the primary attorney in charge of the defense of the personnel appeal hearing. The rates charged for our work are governed by an agreement with the AMRRP regarding the payment of our fees. If necessary, we may use other attorneys and paralegals to assist in the matter as appropriate, with the goal of providing the most cost-effective representation.

C. Fee Terms, Costs, and Expenses; Ethical Issues Related to Payment of Fees by Insurer.

The Arizona Municipal Risk Retention Pool (as administered by Southwest Risk Services) has agreed to pay our fees incurred in representing the City in this matter. The City will be responsible for costs. While we do not anticipate a significant amount of disbursements on your behalf, we will bill those back to you on a dollar-for-dollar basis. We request reimbursement for travel-related expenses, including lodging, air travel, cab fares, parking fees, and mileage. We do not request reimbursement for meals. We also request reimbursement for photocopying costs at \$.10 per page, postage, messenger service, and delivery charges where material must be sent via certified, registered, or express mail or package carrier.

Our representation of the City is governed by the Rules of Professional Conduct adopted by the Arizona Supreme Court. Several rules are implicated when someone other than the client pays for legal services. ER 1.8 states:

A lawyer shall not accept compensation for representing a client from one other than the client unless:

- (1) the client consents after consultation;
- (2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and
- (3) information relating to representation of a client is protected as required by ER 1.6.

As you probably are aware, all communications between attorneys and clients are confidential under the attorney-client privilege. That privilege belongs to the client, and the client determines when disclosure of confidential communications may be made and to whom. ER 1.6 prohibits a lawyer from revealing "information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized to carry out the representation...."

The Comment to ER 1.7 governs conflicts of interest generally. It directly addresses potential conflicting interests between an insurer and its insured:

A lawyer may be paid from a source other than the client, if the client is informed of that fact and consents and the arrangement does not compromise the lawyer's duty of loyalty to the client.... For example, when an insurer and its insured have conflicting interests in a matter arising from a liability insurance agreement, and the insurer is required to provide special counsel for the insured, the arrangement should assure the special counsel's professional independence.

Based on these ethical rules, our representation of the City, with fees and costs being paid by the AMRRP, is undertaken with the following understanding:

1. You consent to payment of our legal fees by the AMRRP. Please note that we cannot provide you independent advice on coverage issues.
2. The AMRRP will not interfere with our independent professional judgment or with our relationship with you, our client, although certain such management decisions may be made in accordance with the terms of your agreement with the AMRRP; and
3. You agree that we are permitted to share relevant privileged communications with the AMRRP or its administrator, Southwest Risk Services, for the purpose of fulfilling our reporting requirements, and to meet your duty of cooperation under your coverage agreement with the AMRRP.

The AMRRP has accepted the terms relating to this issue in writing.

D. Cooperation

We cannot effectively represent you without your cooperation and assistance. The City's obligations include timely providing requested information and documents; assisting in discovery, disclosure, and trial preparation; and cooperating in scheduling and related matters.

We very much appreciate the opportunity to serve the City of Bisbee, and hope you will be pleased with the quality and efficiency of our work. We welcome your questions about this letter, our policies, our bills and our work, so please call me directly if you ever have any questions.

In order to confirm the City's agreement to our representation on these terms, we ask that you sign below and return this letter to us.


Please let me know if you require any further information.

Sincerely,
/s/Stephen B. Coleman
Stephen B. Coleman

SBC/kmc

AGREED:

CITY OF BISBEE

By: 

Title: Mayer

Date: 10/9/18