

SPECIAL MEETING NOTICE

LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY (4:00 P.M.)

Aug 1, 2022

**Cleveland Room at Desk Chair
201 East 4th Street in Downtown**

The Loveland Downtown Partnership and Downtown Development Authority are committed to providing an equal opportunity for citizens and does not discriminate on the basis of disability, race, color, national origin, religion, sexual orientation, or gender. The LDP-DDA will make reasonable accommodations for citizens in accordance with the Americans with Disabilities Act.

For more information, please call our offices at 970.699.2856.

Agenda
Loveland Downtown Development Authority (DDA)
Special Meeting
Monday, August 1, 2022 4:00 pm

Cleveland Room at Desk Chair
201 East 4th Street

4:00 pm

- 1. Call to Order**
- 2. Roll Call**

4:05 pm

3. Discussion / Action Items

- Consideration of a legal services agreement with Liley Law, LLC, and third-party payor agreement between the City of Loveland and Liley Law, LLC.

Sample motion: "I move that we approve/deny the legal services agreement with Liley Law, LLC, and consent to the third-party payor agreement between the City of Loveland and Liley Law, LLC."

- Executive session for the purposes of determining positions relative to matters that may be subject to negotiations, developing strategies for negotiations, and instructing negotiators, pursuant to C.R.S. § 24-6-402(4)(e)(i); and receiving legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b); regarding: (1) the Draper project; and (2) statutory and organizational issues related to downtown development authorities and their governing bodies.

Sample motion: "I move that we enter into an executive session for the purposes of determining positions relative to matters that may be subject to negotiations, developing strategies for negotiations, and instructing negotiators, pursuant to C.R.S. § 24-6-402(4)(e)(i); and receiving legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b); regarding: (1) the Draper project; and (2) statutory and organizational issues related to downtown development authorities and their governing bodies."

5:30 pm

4. Adjourn

LEGAL SERVICES AGREEMENT

LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY (“you”) retains the law firm of LILEY LAW, LLC (“the firm,” “us,” “our,” or “we”), to perform the following legal services for your organization: assistance with the Draper project; and advice and counsel on organizational issues related to downtown development authorities (the “Legal Work”).

We anticipate the legal work will include, but not necessarily be limited to, with regard to the Draper project: (a) review of agreements and other documents related to the Draper project; (b) drafting of comments on and revisions to documents related to the Draper project; and (c) emails, phone calls, and/or meetings with your staff and board members, as well as the legal counsel and staff of other project participants; and with regard to organization issues related to downtown development authorities: (a) evaluation of your existing organizational practices; (b) development of recommendations for changes to organizational practices; (c) emails, phone calls and/or meetings with your staff and board members to discuss organizational practices and/or recommendations related thereto; and (d) assistance with implementing organizational changes, which may include emails, phone calls and/or meetings with the legal counsel and staff of the City of Loveland, Colorado. Our work will be limited to the Legal Work unless you specifically request our advice or representation in connection with other projects and we agree to perform the additional legal work. After we complete the Legal Work, we will not assume continuing responsibility to advise you on matters affecting the Legal Work we have performed unless you and we agree that our representation extends to providing continuing advice.

You initially consulted with Joshua C. Liley, a member of the firm, in connection with the Legal Work. Notwithstanding such initial contact, some of the Legal Work may be performed by another member of the firm, paralegal, law clerk, law student, or legal assistant, including legal research, factual investigation, and preparation of drafts of legal documents, letters, applications, pleadings, and briefs.

You may terminate our representation at any time, with or without cause, by giving notice of such termination to us in writing. If permission for withdrawal from any pending litigation is required by the rules of any court, we will withdraw from such litigation upon permission of the court.

We may withdraw as counsel for you and terminate this Agreement by notifying you in writing: (a) if withdrawal can be accomplished without material adverse effect on your interests; or (b) for any good cause. Examples of good cause for termination include, but are not limited to, failure to pay invoices when due; failure to cooperate with us in our representation of you; a determination that representation of you would result in a conflict of interest for us; any action or request by you which would require us to violate the Colorado Rules of Professional Conduct; or because withdrawal is required by the Colorado Rules of Professional Conduct.

A lawyer may not reveal information relating to representation of a client unless the client consents, except for disclosures that are impliedly authorized in order to carry out the representation of the client or matters that are of public record. There may be circumstances, however, under which we will be obligated, under the Rules of Professional Conduct, to reveal what would otherwise be considered confidential information. For example, we are obligated to reveal the intention of a client to commit a crime and the information necessary to prevent the crime. Similarly, we are obligated to disclose information when necessary to avoid assisting a criminal or fraudulent act by a client. If we have offered material evidence in any legal proceeding or made statements on behalf of a client and later learn that such evidence or statements were false, we must take reasonable remedial measures. Finally, the attorney-client privilege does not apply to communications between individuals outside the presence of attorneys or to communications that involve third parties or that you disclose to third parties. Therefore, in order to preserve the attorney-client privilege, you should not disclose or discuss matters pertaining

to our representation of you to or with anyone except lawyers and staff of our firm. Similarly, you should not forward our correspondence, electronic messages, or voice messages to anyone else.

In order to represent you properly, it is essential that we receive from you truthful and complete information concerning the Legal Work. If at any time you realize that information previously provided to us was incorrect in any respect, please promptly correct the error. We commit to do the same. We further commit to use our best efforts to have some member of our staff respond to your messages within two business days after we receive them. You should be aware, however, that the particular person with whom you wish to communicate may not be available at the time you transmit a message to our firm, whether by e-mail, facsimile, voice message, letter, or other means of communication. If you believe your message requires immediate attention, it will be necessary that you communicate that personally to a member of our firm or a member of our staff, who will either: (1) see that the message is promptly delivered to the person for whom it is intended; or (2) direct the message to another member of our firm capable of handling and responding to the message appropriately; or (3) explain to you that it simply will not be possible for a member of our firm to respond to or act on the message immediately. In appropriate situations, if no member of our firm is able to respond to a message which you believe may require immediate attention, we will provide to you the names of attorneys in other law firms that we hope will be able to assist you.

We will communicate with you by mail, facsimile transmission, e-mail, and voice messaging at the various addresses and telephone numbers which you have provided to us. If you believe that any mailing address, e-mail address, facsimile number, or telephone number will not be confidential, please let us know and we will avoid using such address and/or telephone number. If someone else opens your mail, checks your voice messages, or checks your e-mail messages, you may not be protected by the attorney-client privilege. If you wish for your mail to be marked personal and/or confidential, please let us know and we will be happy to do so. Information which is transmitted to you by electronic mail will not be encrypted. Cell phones may be intercepted and may not be protected by the attorney client privilege if intercepted. Members of our firm use cell phones. Please let us know if you do not wish for us to communicate with you using a cell phone.

In the course of providing our clients with income tax, estate tax, and gift tax advice, we receive significant personal financial information from our clients. All information that we receive from you is held in confidence, and is not released to people outside the firm, except as agreed to by you, or as required under an applicable law. We retain records relating to professional services that we provide so that we are better able to assist you with your professional needs and, in some cases, to comply with professional guidelines. In order to guard your nonpublic, personal information, we maintain physical, electronic, and procedural safeguards that comply with our professional standards. We, as attorneys, are bound by professional standards of confidentiality that are even more stringent than those required by the Gramm-Leach-Bliley Act, Pub. Law 106-102 November 12, 1999 and the correlative FTC regulation, 16 CFR Part 313 (May 24, 2000).

We will base the legal fees we charge you on the hourly rates of the attorneys, paralegals, legal assistants, or other office personnel who perform work for you. Work for which time will be billed includes, but is not limited to, the following: conferences with you and/or your representatives; legal research; factual investigation; preparation of correspondence and other documents; reading, considering, and analyzing correspondence and other documents; preparation for and attendance in court, meetings and hearings; travel to and from court appearances, meetings and hearings; telephone conversations with you and others; and reviewing and responding to e-mail, voice mail, facsimile, and other messages.

The current hourly charges for attorneys and legal assistants are as follows:

Joshua C. Liley, Attorney	\$250.00
Janelle Kechter, Paralegal	\$170.00
Other Paralegals/Legal Assistants	\$140.00

Time spent by attorneys traveling to and from meeting and court appearances, as well as time spent waiting to appear in court or before other governmental bodies, will be billed at the full hourly rate. Necessary interoffice communications between attorneys and paralegals will be billed by both the attorney and the paralegal. Paralegal time will be billed for meetings and hearings at which the attorney determines a paralegal should be present to assist in hearing preparation and/or presentation.

We respectfully reserve the right to increase our hourly compensation rates upon prior written notice to you.

We also charge for expenses related to your work. Many charges are billed at our actual cost, such as computer research, third-party charges (e.g., court reporters or expert witnesses), travel, delivery, service of process, and filing fees. Other expenses, including photocopying, fax, and long-distance phone calls, may be billed at the charges we pay. Invoices for third-party services may be sent to you for direct payment.

Our monthly invoices will state the work performed by attorneys and any legal assistants, and the fees for such work; these invoices will detail each type of work performed (e.g., email, voicemail, telephone conference, meeting, document preparation, etc.) and provide a total fee amount for all services that day (i.e., fees will not be broken down by each service provided in the day). The statements will also itemize expenses related to the Legal Work and any charges of any third parties who bill us for their services for you. Invoices must be paid within 30 days of the date of the invoice.

You have requested that we accept payment for services rendered to you under this Agreement, including fees and expenses, from a third party, the City of Loveland, Colorado (the "City"). Payment of legal fees by a party other than an attorney's client is permitted under the Colorado Rules of Professional Conduct only so long as: (a) the client gives informed consent; (b) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and (c) information related to representation of the client is protected as required by the Colorado Rules of Professional Conduct. The primary risks of having a third party pay your legal fees is that they may attempt to interfere with our representation of you, or attempt to obtain privileged or confidential information relating to our representation of you, by threatening to withhold payment if their demands are not met. Although we do not have any reason to believe at this time that the City would attempt to interfere with the client-attorney relationship or attempt to obtain privileged or confidential information, these are inherent risks that you should be aware of in consenting to the arrangement. We will not share any information related to our representation of you with the City, except as may be impliedly or explicitly authorized by you. In order to accept payment from the City for legal services rendered to you, we will require the City to sign a third-party payor agreement stating, amount other things, the requirements of the Colorado Rules of Professional Conduct set forth above. We will also require that you consent to the third-party payor agreement in writing. Our agreement to perform the Legal Work is contingent upon you signing this Agreement and consenting to the third-party payor agreement, and the City executing the third-party payor agreement.

If you (or your third-party payor) fail to pay our fees or expenses within 30 days after the mailing of any statement to you, this Agreement shall constitute permission from you for our withdrawal from any pending litigation. If we withdraw from any pending litigation, we will use reasonable precaution to avoid prejudice to your rights by allowing a reasonable period of time for you to employ other counsel to represent you. Upon termination of this Agreement withdrawal from all pending litigation and payment of any balance due to our firm we will deliver to you all papers and property to which you are entitled.

If we withdraw from any pending litigation, we will use reasonable precaution to avoid prejudice to your rights by allowing a reasonable period of time for you to employ other counsel to represent you. Upon termination

of this Agreement, withdrawal from all pending litigation and payment of any balance due to our firm, we will deliver to you all papers and property to which you are entitled.

Upon completion or termination of our representation, and payment of any balance due to our firm, we will deliver to you all papers and property to which you are entitled ("File"). You are responsible for picking up your File from our office during regular business hours. If you are unable to pick up your File, the firm will, upon written request, mail it to you at your expense. The firm will retain your File for a period of one (1) year after completion or termination of our representation. If you fail to take possession of the File within this timeframe you understand and hereby agree that the firm may destroy the File without further notice to you.

If you should have questions with regard to this Agreement, please call us. We appreciate your consideration of our firm to represent you.

Liley Law, LLC, a Colorado
limited liability company

By: _____
Joshua C. Liley, Member

EFFECTIVE the _____ day of _____, 20 ____.

Client:

Loveland Downtown Development Authority, a
body corporate and politic

By: _____
Ray Steele, Jr., Board Chair

ATTEST:

Jon-Mark Patterson, Secretary

Third-Party Payor Agreement and Client Authorization

The City of Loveland, Colorado, a municipal corporation (“Payor”), agrees to pay to Liley Law, LLC, a Colorado limited liability company (“Liley Law”), all sums due for legal services rendered to the Loveland Downtown Development Authority, a body corporate and politic (the “Client”), up to a maximum amount of Twenty-Five Thousand Dollars (\$25,000.00) from the Loveland Downtown Development Authority Special Fund, on the terms and conditions below set forth.

Payor understands and agrees to the following:

1. Payor’s agreement to pay legal fees and costs for the Client does not make Payor a client of Liley Law, nor does it create an attorney-client relationship between Payor and Liley Law. The attorney-client relationship is solely between the Client and Liley Law.
2. Payor shall not in any way interfere with the independence of professional judgment by Liley Law or the attorney-client relationship between the Client and Liley Law.
3. Payor shall have no right to direct Liley Law’s handling of the Client’s matters. All decisions related to Liley Law’s representation of the Client shall be made by the Client, including, by way of example and without limitation, the scope of Liley Law’s representation and the termination of Liley Law’s representation.
4. Payor shall have no right to any information related to Liley Law’s representation of the Client. The sharing of information related to Liley Law’s representation of the Client shall at all times be governed by Rule 1.6 of the Colorado Rules of Professional Conduct.
5. Payor will receive basic invoices from Liley Law identifying only the total amount due for legal services rendered to the Client during the applicable billing period. Payor shall not be entitled to, nor shall it receive, detailed invoices identifying specific services performed on behalf of the Client. Subject to and upon approval by the Client’s authorized representative, Payor shall pay to Liley Law the amount stated in any such invoice within thirty (30) days of receipt.

Liley Law understands and agrees to the following:

1. Appropriation. To the extent this agreement constitutes a multiple fiscal year debt or financial obligation of Payor, it shall be subject to annual appropriation pursuant to the City of Loveland Municipal Charter Section 11-6 and Article X, Section 20 of the Colorado Constitution. Payor shall have no obligation to continue this agreement in any fiscal year in which no such appropriation is made and a termination in such a fiscal year shall not be considered default.

2. Governmental Immunity Act. No term or condition of this agreement shall be construed or interpreted as a waiver, express or implied, of any of the notices, requirements, immunities, rights, benefits, protections, limitations of liability, and other provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq. and under any other applicable law.
3. Termination. This Third-Party Payor Agreement shall terminate upon the Client's termination of Liley Law's representation; provided, however, that Payor shall be liable to pay Liley Law for legal services performed as of the effective date of termination, but shall not be liable to the Liley Law for anticipated profits.
4. Professional Liability Insurance. Liley Law agrees to maintain a professional liability insurance policy while this Third-Party Payor Agreement is in effect.

PAYOR:

City of Loveland, Colorado, a municipal corporation

By: _____

Stephen C. Adams, City Manager

Date: _____

ATTEST:

Delynn Coldiron, City Clerk

APPROVED AS TO FORM:

Moses Garcia, City Attorney

LILEY LAW:

Liley Law, a Colorado limited liability company

By: _____
Joshua C. Liley, Member

Date: _____

CLIENT AUTHORIZATION:

By signing below, the Client consents to the payment of its legal fees and costs by the third-party identified above in the manner described in this Third-Party Pavor Agreement.

Loveland Downtown Development Authority, a body corporate and politic

By: _____
Ray Steele, Jr., Board Chair

Date: _____

ATTEST:

Jon-Mark Patterson, Secretary