

# Sherman & Howard L.L.C.

ATTORNEYS & COUNSELORS AT LAW  
635 SEVENTEENTH STREET, SUITE 3000  
DENVER, COLORADO 80202  
TELEPHONE: 303 297-2900  
FAX: 303 298-0940  
OFFICES IN: COLORADO SPRINGS  
RENO • LAS VEGAS • PHOENIX

May 4, 2009

City Council  
City of Castle Pines North  
c/o Widner Michow & Cox LLP  
13133 E. Arapahoe Road, Suite 100  
Centennial, Colorado 80112

Attention: Linda Michow, Esq.

Re: Engagement as bond and special counsel

Ladies and Gentlemen:

We are pleased to confirm our engagement as your bond and special counsel. We appreciate your confidence in us and will do our best to continue to merit it. The purpose of this letter is to set forth in writing the elements of our mutual understanding in establishing our attorney-client relationship.

This letter sets forth the role we propose to serve and the responsibilities we propose to assume as bond and special counsel in connection with the issuance of one or more series of bonds, notes, or other obligations (the "Bonds") by or on behalf of City of Castle Pines North (the "Issuer"), and in connection with the rendering of other legal services in connection with municipal finance matters. This letter supersedes and replaces any previous engagement letters between the Issuer and us pertaining to representing the Issuer on public finance matters. We understand that the governing body of the Issuer will authorize the execution of this letter at a meeting and will delegate to the presiding officer of the Issuer's governing body the authority to sign this letter and to represent the Issuer during any particular financing. Blake T. Jordan will be principally responsible for the work performed by Sherman & Howard L.L.C. on your behalf. Where appropriate, certain tasks may be performed by other attorneys or paralegals. At all times, however, Mr. Jordan will coordinate, review, and approve all work completed for the Issuer.

## **Scope of Employment**

Bond counsel is engaged as a recognized expert whose primary responsibility is to render an objective legal opinion with respect to the authorization and issuance of bonds. As your bond counsel, we will examine applicable law; consult with the parties to the transaction prior to the issuance of any particular series of Bonds; prepare customary authorizing and operative documents,

**Sherman & Howard L.L.C.**

review a certified transcript of proceedings; and undertake such additional duties as we deem necessary to render the opinion. Subject to the completion of proceedings to our satisfaction, we will render our opinion relating to the validity of the Bonds, the enforceability of the security for the Bonds, and the exclusion of the interest paid on the Bonds (subject to certain limitations which may be expressed in the opinion) from gross income for federal income tax purposes.

Unless otherwise determined by the Issuer or ourselves in connection with any particular Bond issue, we are also being retained by you to act as special counsel to the Issuer in connection with an Official Statement for any particular series of Bonds (the "Official Statement"). For some Bond issues, the Issuer may decide not to prepare an Official Statement, the Issuer may determine to have the Official Statement prepared by other persons such as underwriter's counsel, or other circumstances could exist which lead to the conclusion that this firm should not act as special counsel in connection with any particular Bond issue, and in such cases, the provisions hereof pertaining to special counsel will be inapplicable.

For Bond issues in which we are also acting as special counsel, we will provide advice to the Issuer on the applicable legal standards to be used in preparing the Official Statement and meeting the Issuer's disclosure responsibilities. At the conclusion of the transaction we will deliver a letter to you stating that we have assisted the Issuer in the preparation of the Official Statement, and that in the course of such assistance, nothing has come to the attention of the attorneys in our firm rendering legal services in connection with our representation which leads us to believe that the Official Statement, as of its date (except for the financial statements, other statistical data and statements of trends and forecasts, information concerning the provider of any credit enhancement, and information concerning The Depository Trust Company ("DTC") provided by DTC contained in the Official Statement and its Appendices, as to which we express no view), contains any untrue statement of material fact or omits to state any material fact necessary to make the statements in the Official Statement, in light of the circumstances under which they were made, not misleading. If requested, we will prepare the Bond Purchase Agreement on behalf of the Issuer, though this is not normally within the scope of our responsibilities.

In rendering any opinion hereunder, we will rely upon the certified proceedings and other certifications of public officials and other persons furnished to us without undertaking to verify the same by independent investigation. Any such opinion will be addressed to the Issuer and will be executed and delivered by us in written form on the date a series of Bonds are exchanged for their purchase price (with respect to that series, the "Closing"), and will be based on facts and law existing as of such date.

In addition to the foregoing duties, from time to time the Issuer may require advice or other legal services in connection with municipal finance matters which do not result in the issuance of Bonds, and it is intended that this engagement shall cover any such additional representation, as and to the extent requested by the Issuer. Such additional work, if any, will be performed only after a specific request from the Issuer.

Our services hereunder are limited to those contracted for explicitly in this letter. Specifically, but without implied limitation, our responsibilities do not include any representation by

**Sherman & Howard L.L.C.**

Sherman & Howard L.L.C. in litigation involving the Issuer or the Bonds, or any other matter. Neither do we assume responsibility for the preparation of any collateral documents (*e.g.*, environmental impact statements) which are to be filed with any state, federal or other regulatory agency. Nor do our services include financial advice (including advice about the structure of any Bonds) or advice on the investment of funds related to any Bond issue.

**Representation of the Issuer**

In performing our services hereunder our client will be the Issuer. Accordingly, in any negotiations concerning the terms of the financing, we will represent the interests of the Issuer. We will work closely with the Issuer's attorney and will rely on his/her opinion with regard to specific matters, including pending litigation. We do not represent the City Council members in their individual capacity. We assume that other parties to the transaction will retain such counsel as they deem necessary and appropriate to represent their interests in this transaction. Our limited representation of the Issuer does not alter our responsibility to render an objective opinion as bond counsel.

**Conflicts of Interest**

Before accepting any new business, the Colorado Rules of Professional Conduct (the "Rules") require us to evaluate whether there are any ethical constraints to representing you in this new matter. As you are aware, our Public Finance Department practices in all areas of public finance in Colorado and other states, and in such practice simultaneously represents many political subdivisions, investment bankers/underwriters, trustees, financial institutions, and other companies and individuals. In addition, our other departments also represent various persons or institutions which may have or will have dealings with the Issuer, and which may be adverse to the Issuer.

We have completed a conflicts check within our firm and have found no current conflict between the Issuer and our existing clients, except as described below.

*Current or Anticipated Representations* - We have in the past, and are currently representing or are undertaking to represent, many of the firms which may act as your underwriter, as well as many of the banks or other financial institutions which may act as trustee or paying agent, in unrelated bond or other transactions. Technically, because the Issuer sells its bonds to an underwriter or purchaser, and because the Issuer enters into agreements with the trustee or paying agent, the Issuer's interests can be viewed as "adverse" to those of such underwriter or bank. Our past, current, and anticipated representations of such underwriters and banks are not in any way connected to any Bonds of the Issuer; however, under the ethical Rules, attorneys in our firm cannot simultaneously represent such adverse parties, even though the transactions are wholly unrelated, unless we reasonably believe that our representation of the Issuer will not adversely affect our relationship with such other parties, and unless each client, after consultation, consents to the adverse representation. Please be advised that we routinely receive the consent of underwriters and other public finance clients to our representation of governmental entities in matters unrelated to our representations of such clients.

**Sherman & Howard L.L.C.**

*Future Representations* - In addition, during the course of our engagement with you or at some future time, it is likely that we will be asked to represent such parties, or other persons or entities who have dealings with the Issuer, in other matters or transactions unrelated to any Bonds. Even though such existing and prospective engagements will be unrelated to any Bonds, we believe that good practice, and the Rules, require us to obtain the Issuer's consent thereto. With respect to our future representation of such parties in matters unrelated to any Bonds, we acknowledge that you might be concerned about confidentiality of information. The Rules prohibit the use of information obtained in our capacity as bond counsel and special counsel to the disadvantage of the Issuer. Accordingly, we do not believe that our existing or former representation of the underwriter or the bank will act as a material limitation on our ability to represent the Issuer as bond counsel and special counsel.

*Factors Considered* - We do not believe that our current, anticipated, or future engagements will materially limit or adversely affect our ability to represent the Issuer either: (i) because the potential for adversity is remote or minor and is outweighed by the consideration that it is unlikely that any advice given to other clients in unrelated transactions would be relevant to our representation of the Issuer in connection with any Bonds, or (ii) because such matters are or will be sufficiently different from this financing so as to make the representation not adverse to our representation of the Issuer in connection with any Bonds. In reviewing our current, anticipated, and potential future representation of the parties discussed above, we have considered: whether we can represent each client with undivided loyalty; whether we can protect the confidentiality of each client; the limited duration and extent of our engagement with the parties; the likelihood that a conflict will eventuate, possibly requiring our withdrawal from the representation; and should any conflict arise, any prejudice to each client which might result therefrom.

*Consent Requested* - In determining whether to consent to and waive the foregoing conflicts of interest, you should understand that your waiver includes your acknowledgement and agreement: (i) that you are not entitled to information we will obtain during our representation of the underwriter, bank, or other parties, and (ii) that we have no duty to provide such information to you or to use it in representing you. We advise you to discuss with your general counsel the advantages and risks involved in such simultaneous, adverse representations. Pursuant to such consultation and the matters discussed herein, we will treat your execution of this letter as consent to our current, anticipated, and future representations of such other parties in matters unrelated to any Bonds. If at any time a question should arise about an adverse representation, please do not hesitate to contact us.

**Document Retention**

At or within a reasonable period after Closing, we will direct a review of the file to determine what materials should be retained as a record of the representation and those which are no longer needed. Ordinarily, we will return original legal documents to you along with the Closing transcripts, and we will retain for several years such materials as correspondence, final substantive work product, documents obtained from the client, and documents obtained from third parties. We will not retain such materials as duplicates of the above-described material, or drafts and notes that do not appear needed any longer.

**Sherman & Howard L.L.C.**

As to the client file materials that we retain, ordinarily the firm will keep those for a period of seven years after the final maturity of any particular issue of Bonds. At the end of that time, unless the Issuer has advised us in writing to the contrary, we will destroy the bulk of the file. If the file is especially voluminous, we may return the client file to you sooner than the end of this period as our storage facilities are limited, however, we always reserve the right to retain a copy of the files. If the Issuer wishes to make other arrangements for retention or disposition of files, please so advise us in writing.

**Fee Arrangement**

Currently, the Issuer is proposing the issuance of a short-term note or other instrument in the approximate principal amount of \$1,000,000. Based upon: (i) our current understanding of the terms, structure, size and schedule of this financing, (ii) the duties we will undertake pursuant to this letter, (iii) the time we anticipate devoting to this financing, and (iv) the responsibilities we assume, we estimate that our fee as bond counsel would be \$18,500. It is not anticipated that there would be an Official Statement used in connection with the sale of such note, and thus no fee is quoted herein for such work.

Such fees may vary: (i) if the principal amount of the financing actually issued differs significantly from the amount stated above, (ii) if material changes in the structure of the financing occur, or (iii) if unusual or unforeseen circumstances arise which require a significant increase in our time or our responsibilities. If, at any time, we believe that circumstances require an adjustment of our original fee estimate for this financing, we will consult with you and prepare an amendment to this engagement letter.

At this time the size of any future Bond issue, the nature of the security therefor, and other matters has not been determined. Additionally, the nature of any other legal services which may be requested hereunder is undetermined. As a result, it is agreed that for such future Bond issues, if any, we will represent the Issuer hereunder for a reasonable, mutually agreed-upon fee, based upon the structure of the particular transaction and our responsibilities in connection therewith. In addition, we will expect to be reimbursed for all out-of-pocket expenses, including travel costs, photocopying, deliveries, long distance telephone charges, filing fees, and other necessary office disbursements in connection with that transaction.

Our fees for acting as bond counsel and special counsel, unless otherwise agreed to at the time, will be contingent upon Closing, to be paid at the Closing out of the Bond proceeds or other legally available moneys of the Issuer.

With respect to the provision of legal services in connection with municipal finance matters which do not result in the issuance of Bonds, our fees will be at our usual hourly rates, plus out-of-pocket expenses, and shall not be contingent.

**Sherman & Howard L.L.C.****Termination of Engagement**

The above fees contemplate compensation for usual and customary services as described above. Upon delivery of the opinion or opinions referenced herein, our responsibilities hereunder will terminate with respect to a particular financing. Specifically, but without implied limitation, we do not undertake to provide continuing advice to the Issuer or to any other party to the transaction.

This engagement is terminable by either party upon 15 days notice to the other party; provided that: (i) the foregoing shall not alter or affect our responsibilities to the Issuer under the Code of Professional Responsibility or other applicable laws, rules, and regulations; and (ii) if the Issuer terminates us without cause while we are engaged in a matter on its behalf for which attorney or paralegal time has been expended, the Issuer will pay us our usual fees for such time spent, at our then-applicable hourly rates.

**Compliance with Article XXVIII of the Colorado Constitution**

If and only to the extent this engagement letter constitutes a "sole source government contract" within the meaning of Article XXVIII of the Colorado Constitution ("Article XXVIII"), then the provisions of Sections 15 through 17 of Article XXVIII ("Amendment 54") are hereby incorporated into this engagement letter and the parties hereto shall comply with the provisions of Amendment 54. In such a case, for purposes of this engagement letter, Sherman & Howard L.L.C. shall constitute a "contract holder" for purposes of Amendment 54, as shall any additional persons, officers, directors or trustees related to Sherman & Howard L.L.C. who qualify as "contract holders" pursuant to the definition set forth in Article XXVIII. In addition, if and only to the extent this engagement letter constitutes a "sole source government contract," Sherman & Howard L.L.C. hereby certifies that it is not ineligible to hold any "sole source government contract" pursuant to Amendment 54 or any contract thereunder, and Sherman & Howard L.L.C. hereby agrees to notify the Issuer immediately if, at any point during the term of this engagement, Sherman & Howard shall become ineligible to hold any "sole source government contract" pursuant to Amendment 54 or any contract thereunder. If any provision or provisions of Amendment 54 are held to be unconstitutional or otherwise invalid by a court of competent jurisdiction in a non-appealable action, have been repealed retroactively or otherwise do not apply to this engagement letter, such provision or provisions shall no longer be incorporated into this engagement letter and the parties hereto shall have no obligations under such provision or provisions.

**Public Contract for Services – Compliance with §8-17.5-101 C.R.S.**

Sherman & Howard L.L.C. qualifies as a "contractor" pursuant to §8-17.5-101(2), C.R.S. and we hereby certify that, as of the date hereof: (i) we do not knowingly employ or contract with an illegal alien, and (ii) we have participated or attempted to participate in the Basic Pilot Program (as defined in §8-17.5-101(1), C.R.S.) in order to verify that we do not employ any illegal aliens. In compliance with §8-17.5-102(2), C.R.S., the provisions set forth in Exhibit A to this engagement letter are incorporated herein and made a part hereof.


**Sherman & Howard L.L.C.**

**Approval**

If the foregoing terms of this engagement are acceptable to you, please so indicate by returning the enclosed copy of this letter signed by the officer so authorized, retaining the original for your files.

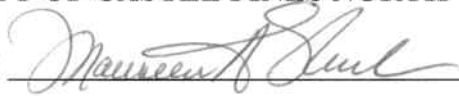
We are pleased to have the opportunity to serve you and look forward to a mutually satisfactory and beneficial relationship. We are deeply committed to the proposition that our clients must be satisfied with the quality of our services as well as the amount of our charges. Our effectiveness and your best interest are enhanced by an atmosphere of candor and confidence between us, not only as to the facts and circumstances of the legal issues on which we are working, but also as to the attorney-client relationship itself. If at any time you have questions concerning our work or our fees, we hope that you will contact us immediately.

**SHERMAN & HOWARD L.L.C.**

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

Accepted and Approved:

**CITY OF CASTLE PINES NORTH**

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

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

Date: 06-11-09 \_\_\_\_\_

Enclosure: Self-addressed envelope

**Sherman & Howard L.L.C.**

**Exhibit A**

- A. Sherman & Howard L.L.C. shall not:
- (I) knowingly employ or contract with an illegal alien to perform work described in this engagement letter under Scope of Employment (the "Legal Services") or
  - (II) enter into a contract with a subcontractor that fails to certify to Sherman & Howard L.L.C. that the subcontractor shall not knowingly employ or contract with an illegal alien to perform the Legal Services.
- B. Sherman & Howard L.L.C.:
- (I) has verified or attempted to verify through participation in the Basic Pilot Program that it does not employ any illegal aliens or shall apply to participate in the Basic Pilot Program every three months until Sherman & Howard L.L.C. is accepted or until Closing on the Bonds, whichever is earlier;
  - (II) shall not use Basic Pilot Program procedures to undertake preemployment screening of job applicants while performing Legal Services;
  - (III) shall be required (only if Sherman & Howard L.L.C. obtains actual knowledge that a subcontractor performing Legal Services knowingly employs or contracts with an illegal alien):
    - (a) to notify the subcontractor and the Issuer within three days that Sherman & Howard L.L.C. has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
    - (b) terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to subparagraph (a) of this subparagraph (III) the subcontractor does not stop employing or contracting with the illegal alien; except that Sherman & Howard L.L.C. shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien; and
  - (IV) shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that such department is undertaking pursuant to §8-17.5-102(5) C.R.S.