



MONDAY, AUGUST 22, 2022  
SPECIAL TOWN BOARD MEETING AGENDA  
4:00 PM

**MASKS ARE RECOMMENDED BUT ARE NOT REQUIRED**  
[HTTPS://US02WEB.ZOOM.US/MEETING/88125577355](https://us02web.zoom.us/j/88125577355)  
MEETING ID 88125577355

**Roll Call**

**Approval of Agenda**

**Announcements**

**New Business**

[Request for Proposals Outcome - Paonia Town Attorney](#)

**Trustees, How Did We Do?**

**Adjournment**

**How agenda items are addressed:**

- Introduction of agenda item  
either community presenter, Board member, or staff member
- Trustees first opportunity for comment/discussion
- Board opportunity to make motion
- Community comment period – no more than 3 minutes, one time
- Motion amendments & Trustees second opportunity for comment/discussion
- Mayor/Mayor Pro Tem to restate motion
- Vote

**Agenda Sections open for community comment:**

- Community Members & Guests
- Public Hearings
- Unfinished Business
- New Business
- Executive Sessions

AS ADOPTED BY:  
TOWN OF PAONIA, COLORADO  
RESOLUTION NO. 2017-10 – Amended May 22, 2018

I. RULES OF PROCEDURE

**Section 1. Schedule of Meetings.** Regular Board of Trustees meetings shall be held on the second and fourth Tuesdays of each month, except on legal holidays, or as re-scheduled or amended and posted on the agenda prior to the scheduled meeting.

**Section 2. Officiating Officer.** The meetings of the Board of Trustees shall be conducted by the Mayor or, in the Mayor's absence, the Mayor Pro-Tem. The Town Clerk or a designee of the Board shall record the minutes of the meetings.

**Section 3. Time of Meetings.** Regular meetings of the Board of Trustees shall begin at 6:30 p.m. or as scheduled and posted on the agenda. Board Members shall be called to order by the Mayor. The meetings shall open with the presiding officer leading the Board in the Pledge of Allegiance. The Town Clerk shall then proceed to call the roll, note the absences and announce whether a quorum is present. Regular Meetings are scheduled for three hours, and shall be adjourned at 9:30 p.m., unless a majority of the Board votes in the affirmative to extend the meeting, by a specific amount of time.

**Section 4. Schedule of Business.** If a quorum is present, the Board of Trustees shall proceed with the business before it, which shall be conducted in the following manner. Note that all provided times are estimated:

- (a) Roll Call - (5 minutes)
- (b) Approval of Agenda - (5 minutes)
- (c) Announcements (5 minutes)
- (d) Recognition of Visitors and Guests (10 minutes)
- (e) Consent Agenda including Approval of Prior Meeting Minutes (10 minutes)
- (f) Mayor's Report (10 minutes)
- (g) Staff Reports: (15 minutes)
  - (1) Town Administrator's Report
  - (2) Public Works Reports
  - (3) Police Report
  - (4) Treasurer Report
- (h) Unfinished Business (45 minutes)
- (i) New Business (45 minutes)
- (j) Disbursements (15 minutes)
- (k) Committee Reports (15 minutes)
- (l) Adjournment

\* This schedule of business is subject to change and amendment.

**Section 5. Priority and Order of Business.** Questions relative to the priority of business and order shall be decided by the Mayor without debate, subject in all cases to an appeal to the Board of Trustees.

**Section 6. Conduct of Board Members.** Town Board Members shall treat other Board Members and the public in a civil and polite manner and shall comply with the Standards of Conduct for Elected Officials of the Town. Board Members shall address Town Staff and the Mayor by his/her title, other Board Members by the title of Trustee or the appropriate honorific (i.e.: Mr., Mrs. or Ms.), and members of the public by the appropriate honorific. Subject to the Mayor's discretion, Board Members shall be limited to speaking two times when debating an item on the agenda. Making a motion, asking a question or making a suggestion are not counted as speaking in a debate.

**Section 7. Presentations to the Board.** Items on the agenda presented by individuals, businesses or other organizations shall be given up to 5 minutes to make a presentation. On certain issues, presenters may be given more time, as determined by the Mayor and Town Staff. After the presentation, Trustees shall be given the opportunity to ask questions.

**Section 8. Public Comment.** After discussion of an agenda item by the Board of Trustees has concluded, the Mayor shall open the floor for comment from members of the public, who shall be allowed the opportunity to comment or ask questions on the agenda item. Each member of the public wishing to address the Town Board shall be recognized by the presiding officer before speaking. Members of the public shall speak from the podium, stating their name, the address of their residence and any group they are representing prior to making comment or asking a question. Comments shall be directed to the Mayor or presiding officer, not to an individual Trustee or Town employee. Comments or questions should be confined to the agenda item or issue(s) under discussion. The speaker should offer factual information and refrain from obscene language and personal attacks.

**Section 9. Unacceptable Behavior.** Disruptive behavior shall result in expulsion from the meeting.

**Section 10. Posting of Rules of Procedure for Paonia Board of Trustees Meetings.** These rules of procedure shall be provided in the Town Hall meeting room for each Board of Trustees meeting so that all attendees know how the meeting will be conducted.

## **II. CONSENT AGENDA**

**Section 1. Use of Consent Agenda.** The Mayor, working with Town Staff, shall place items on the Consent Agenda. By using a Consent Agenda, the Board has consented to the consideration of certain items as a group under one motion. Should a Consent Agenda be used at a meeting, an appropriate amount of discussion time will be allowed to review any item upon request.

**Section 2. General Guidelines.** Items for consent are those which usually do not require discussion or explanation prior to action by the Board, are non-controversial and/or similar in content, or are those items which have already been discussed or explained and do not require further discussion or explanation. Such agenda items may include ministerial tasks such as, but not limited to, approval of previous meeting minutes, approval of staff reports, addressing routine correspondence, approval of liquor licenses renewals and approval or extension of other Town licenses. Minor changes in the minutes such as non-material Scribner errors may be made without removing the minutes from the Consent Agenda. Should any Trustee feel there is a material error in the minutes, they should request the minutes be removed from the Consent Agenda for Board discussion.

**Section 3. Removal of Item from Consent Agenda.** One or more items may be removed from the Consent Agenda by a timely request of any Trustee. A request is timely if made prior to the vote on the Consent Agenda. The request does not require a second or a vote by the Board. An item removed from the Consent Agenda will then be discussed and acted on separately either immediately following the consideration of the Consent Agenda or placed later on the agenda, at the discretion of the Board.

## **III. EXECUTIVE SESSION**

**Section 1.** An executive session may only be called at a regular or special Board meeting where official action may be taken by the Board, not at a work session of the Board. To convene an executive session, the Board shall announce to the public in the open meeting the topic to be discussed in the executive session, including specific citation to the statute authorizing the Board to meet in an executive session and identifying the particular matter to be discussed “in as much detail as possible without compromising the purpose for which the executive session is authorized.” In the event the Board plans to discuss more than one of the authorized topics in the executive session, each should be announced, cited and described. Following the announcement of the intent to convene an executive session, a motion must then be made and seconded. In order to go into executive session, there must be the affirmative vote of two thirds (2/3) of Members of the Board.

**Section 2.** During executive session, minutes or notes of the deliberations should not be taken. Since meeting minutes are subject to inspection under the Colorado Open Records Act, the keeping of minutes would defeat the private nature of executive session. In addition, the deliberations carried out during executive session should not be discussed outside of that session or with individuals not participating in the session. The contents of an executive session are to remain confidential unless a majority of the Trustees vote to disclose the contents of the executive session.

**Section 3.** Once the deliberations have taken place in executive session, the Board should reconvene in regular session to take any formal action decided upon during the executive session. If you have questions regarding the wording of the motion or whether any other information should be disclosed on the record, it is essential for you to consult with the Town Attorney on these matters.

## **IV. SUBJECT TO AMENDMENT**

**Section 1. Deviations.** The Board may deviate from the procedures set forth in this Resolution, if, in its sole discretion, such deviation is necessary under the circumstances.

**Section 2. Amendment.** The Board may amend these Rules of Procedures Policy from time to time.

**File Attachments for Item:**

Request for Proposals Outcome - Paonia Town Attorney



Office: 970-527- 4101 / 214 Grand Avenue / P.O Box 460, Paonia, CO 81428-0460  
townofpaonia.colorado.gov

**REOUEST FOR PROPOSAL – TOWN ATTORNEY**

The Town of Paonia is currently seeking the contracted services of a municipal attorney to serve as it’s Town Attorney. It is intended that the successful candidate would perform the services listed in this proposal.

**COMMUNITY BACKGROUND**

The Town of Paonia was incorporated in 1902. The Town has a population of approximately 1,497 residents. The community consists of approximately 800 households. Paonia is a Title 31 statutory town in Delta County, situated on the North Fork of the Gunnison River. Paonia is home to the noted western newspaper *High Country News*, and KVNF community public radio station.

The Town provides a full range of public services, including a Police Department, Municipal Utilities (water, wastewater, and trash), Infrastructure (drainage, streets, public buildings, and sidewalks), and Recreational programs (parks and recreation activities).

The community is zoned for and developed with different zones for commercial, residential, industrial, and developing resources.

Listed below are amenities located within Town limits:

- Parks: Apple Valley Park, Town Park, Poulos Park, Paonia River Park, and Lee’s Park.
- Paonia Public Library
- Delta County Fire Protection District #2
- Town Hall, which includes town administration, police, public works, parks, and municipal court;
- Schools: Paonia Public K – 8, North Fork School of Integrated Studies (PreK – 6).

The Town of Paonia has a Mayor-Town Board form of government with a contract Town Administrator. There are six (6) Board of Trustee representatives, and each representative is elected to the Board for staggered four (4) year terms. The Mayor is elected for a four (4) year term. Every two (2) years, the Mayor (possibly) and three (3) Trustee representatives are up for election. The Mayor and all Trustees are elected “at-large.”

The Town employs Department Heads and a staff of approximately 18 full time and no part-time employees to manage the Town’s day-to-day business. Town departments include administration, public works, and police. In addition to the Board of Trustees and the Mayor, there are currently four (4) volunteer boards: Planning Commission, Advisory Water Committee, Tree Board, and the combined Zoning Board of Adjustments/Board of Appeals. Six Board of Trustees’ Committees were formed in 2022 consisting of Finance, Personnel, Water/Sewer/Trash, Parks, Streets and Public Safety. Two Trustees serve on each Committee.



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**SCOPE OF SERVICES**

CRS 31-4-304 provides for the appointment of a Town Attorney. “The board of trustees shall appoint a town attorney, as it deems necessary for the good government of the corporation [Town].”

Town Attorney-Functions and Duties:

1. The Attorney shall act as legal advisor to, and be attorney and counsel for, the Board of Trustees and the Mayor. They shall advise any officer or department head of the Town in matters relating to their official duties when so requested and shall file with the Clerk a copy of all written opinions given by them.
2. The Attorney shall prepare or review all ordinances, contracts, bonds, and other written instruments, which are submitted to him by the Board or by the mayor and shall promptly give their opinion as to the legal consequences thereof.
3. The Attorney shall prosecute ordinance violations and they shall conduct for the Town such cases in court and before other legally constituted tribunals. They shall file with the Clerk copies of such records and files relating thereto as the Board may direct.
4. The Attorney shall call to the attention of the Board all matters of law, and changes or developments therein, affecting the Town.
5. The Attorney shall act as parliamentarian for the Board of Trustees and inform accordingly.
6. The Attorney shall perform such other duties as may be prescribed for them by the Board of Trustees, including municipal court prosecution.

The Town Attorney is usually requested to attend all or selected portions of two (2) Board of Trustee meetings a month and may be requested to attend Board of Adjustment and Appeals, Planning & Zoning Commission, weekly staff meetings with the Department Heads, and other meetings, as necessary. Meetings may be attended in-person or remotely. The Board of Trustees meets the second and fourth Thursday of every month with meetings beginning at 6:30 and has full capability for interactive remote attendance by the Town Attorney via Zoom software.



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**PROPOSAL REQUIREMENTS**

The following items should be addressed as part of the proposal:

1. Describe your experience with municipal law generally and specifically speak to your experience regarding municipal elections, municipal land use regulations, real property matters, zoning law, constitutional issues (state and federal) affecting municipalities, municipal finance, complex litigation, appellate practice and any other areas you believe are relevant to the Town’s decision.
2. Provide a list of other municipal clients with whom you have worked in the past five years.
3. Describe any knowledge or experience that makes you particularly qualified for the position.
4. The Town is soliciting talent and expertise first and foremost. While cost to the Town is important, the selection will not be based solely on cost. Please detail and explain your required fees to perform the requested services.
5. Provide your Martindale-Hubbell rating and a biography.
6. Please provide a list of all attorneys in the firm who might provide services under this proposal and list any disciplinary proceedings against them.
7. Please disclose any potential conflicts of interest.
8. Please provide a minimum of three client references.
9. If you propose to bill for services at an hourly rate or a monthly fee, provide the current hourly/monthly rate for each lawyer and for each employee of your firm who may work on Town matters. State specifically whether you will work on a fixed fee basis and, if so, how you propose that such a fee be determined. State specifically that if you are the successful candidate and if your fee will be based on hourly rates that you will not increase for Town matters before January 1, 2024.
10. Please provide the name of your professional liability insurance carrier and the limits of your professional liability insurance.
11. Describe the support services you would receive from your firm if selected.
12. Specify availability and preferences for in person or remote attendance.



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**GENERAL TERMS AND CONDITIONS**

1. The Town reserves the right to undertake its own investigation to evaluate a candidate. The Town shall have the sole discretion to accept or reject a proposal.
2. All proposals become the property of the Town upon receipt and will not be returned to the candidate. Selection or rejection of the proposal will not affect this right.
3. The Town operates under public disclosure laws, as part of normal procedures. Proprietary information must be identified and will be protected as far as possible.
4. Cost of developing the proposal, attendance at the remotely held oral interview or any other such costs are entirely the responsibility of the candidate and shall not be reimbursed in any manner by the Town.
5. Failure to conform to proposal rules, including failure to respond to each item in the Proposal section of this RFP or to follow the proposal format requested in the RFP may lead to the rejection of a proposal. The submittals should contain all information necessary to evaluate the proposals.
6. The successful candidate shall not at any time permit any individual employed by the Town to benefit because of a financial interest in the candidate’s firm, any affiliate of the successful candidate, or any subcontractor.
7. The final selection will be based on the written proposal, oral and written responses of client references and on the interview with the candidate.

**SELECTION PROCESS**

The following is the timeline for the selection process:

- Send out Request for Proposals: July 15, 2022
- Deadline for submission of proposals: August 17, 2022 (4:30 p.m.)
- Hold Special Zoom Meeting to choose candidates for interviewing (August 22, 2022)
- Schedule interviews: August 23, 2022
- Conduct interviews: week of August 29, 2022
- Appointment of Town Attorney at Board Meeting: September 8, 2022

Questions concerning the information contained herein should be directed to the following person: Corinne Ferguson, Town Administrator 970/527-4101 telephone 970/527-4102 fax.



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[townofpaonia.colorado.gov](http://townofpaonia.colorado.gov)

Written proposals will be received at the Town of Paonia, PO Box 460, 214 Grand Avenue, Paonia, CO 81428, or via e-mail at: [corinne@townofpaonia.com](mailto:corinne@townofpaonia.com), until 4:30 p.m. on Wednesday, August 17, 2022.

The Town reserves the right to accept or reject any and all proposals and to waive any informalities or irregularities in said proposals. The Request for Proposal does not bind the Town to accept a proposal when, in the Town's sole discretion, the Town determines not to do so. Additionally, the Town reserves the right to modify the schedule as necessary and will notify those participating in the RFP of the change in writing. The Town of Paonia is an equal opportunity employer.

Town of Paonia  
Paonia, Colorado

TOWN ATTORNEY SERVICES  
RESPONSE TO RFP

Contact:  
John Mallonee  
Balcomb & Green, P.C.  
[jmallonee@balcombgreen.com](mailto:jmallonee@balcombgreen.com)  
970-945-6546  
[www.balcombgreen.com](http://www.balcombgreen.com)





John Mallonee  
Office (970) 945-6546  
Direct (970) 928-3471  
jmallonee@balcombgreen.com

August 16, 2022

Town of Paonia  
c/o Corinne Ferguson, Town Administrator  
214 Grand Ave.  
P.O. Box 460  
Paonia, CO 81428

Via Email: [corinne@townofpaonia.com](mailto:corinne@townofpaonia.com)

Re: ***Proposal to Serve as Town Attorney***

Dear Town Board Members:

Balcomb & Green is pleased to offer the Town of Paonia a legal team consisting of attorneys who are highly qualified in general governance, land use, employment, water, real property, contracts, and construction law, who are also firmly grounded in the values and issues facing Colorado. Our team can manage the Town’s legal concerns soundly with customized, budget-sensitive strategies tailored to the goals, policies, and recommendations of the Town of Paonia. Our attorneys will be grounded in the unique challenges and opportunities of the Town of Paonia, and its policies.

Balcomb & Green has represented municipal and state interests in rural Colorado for over 60 years, including in Moffatt, Garfield, Mesa, and Lake Counties. Our team consists of 10 attorneys with extensive governmental experience, including current or former General Counsel for the Colorado River Water Conservation District, the Rifle Housing Authority, the Ute Water Conservancy District, and the Roaring Fork Water and Sanitation District, as well as Special Counsel for numerous cities, towns, and county governments across Colorado’s Western Slope. Balcomb & Green is rated AV Preeminent (the highest possible rating) by Martindale-Hubbell and is rated by U.S. News and World Report as a Best Law Firm in the United States.

We propose John Mallonee to serve generally as the Town of Paonia’s Attorney for Town Attorney Services. Mr. Mallonee is an experienced local government and litigation attorney, who served in Thornton for more than three years. His work as Deputy City Attorney there included working the entire gamut of issues facing a city from open records to land use, from liquor licensing to legislative issues, and everything in between. He has also been assistant director of civil litigation in Denver, and currently represents private interests in our Glenwood Springs and Buena Vista offices. Additionally, as our client, the Town of Paonia would have access to our entire attorney team, including specialists in employment, construction, litigation, and water law. We encourage you to contact our references to verify we can provide a high level of service within your budgetary expectations. In the meantime, thank you for considering our proposal.

Sincerely,

BALCOMB & GREEN, P.C.

By:   
\_\_\_\_\_  
John Mallonee  
Scott Grosscup, President

# PROPOSAL REQUIREMENTS

## Firm Information, Qualifications, & Experience

Balcomb & Green attorneys represent special districts, water conservancy districts, and local and state government agencies in land use, business, water law, natural resource, and litigation matters, and Mr. Mallonee has been Deputy City Attorney of the sixth largest city in Colorado. Our team consists of attorneys with experience as former City Attorneys, current General Counsel for Special Districts, including the Rifle Housing Authority, and other governmental entities, including School Districts, Counties, Water Conservancy Districts, and Metropolitan Districts. Our team practices extensively in land use development, including attending public hearings, handling open records act requests, navigating Colorado’s Sunshine Law, negotiating development agreements, and negotiating construction contracts. Our team is also experienced in construction, employment, litigation, and water law. While many firms specialize in either local government or private party practice, Balcomb & Green attorneys understand the perspective from both sides. This insight allows our attorneys to advise government clients in serving and protecting the interests of their constituents, while helping private parties efficiently work with government entities to accomplish their goals.

Mr. Mallonee has experience generally with the issues affecting Home Rule municipalities. He has revised the qualification forms for municipal elections, and entered an appearance litigating the viability of a municipal oil and gas regulatory ordinance, as well as advised city development about the enforcement of ordinances, and draft revisions of ordinances. He has reviewed and revised contracts and advised with respect to policies, and settling cases related to 1<sup>st</sup> Amendment and 4<sup>th</sup> Amendment issues. Mr. Mallonee has been a police legal advisor, and has researched and advised on some sales tax changes, in addition to supervising municipal prosecutors.

## Municipal Clients Balcomb & Green has worked with the past five years

| Client Name   | Project Description and Dates | Attorney/Staff                     | Project Manager Name and Telephone Number   |
|---|-------------------------------|------------------------------------|---|
| City of Thornton  | 2018-2021                     | John Mallonee                      | Kristen Rosenbaum,<br>City Clerk<br>Ph. 303.538.7309<br>Luis Corchado<br>Past City Attorney<br>Ph. 303.618.2686 |
| Town of Mountain Village, formerly Mountain Village Metropolitan District | Sept. 1990 - Present          | Christopher L. Geiger              | Kim Montgomery,<br>Town Manager<br>Ph: 970.728.6413   |
| City of Rocky Ford  | Feb. 2005 - Present           | Sara M. Dunn and David C. Hallford | Cy Chavez<br>Ph: 719.254.7414   |
| Roaring Fork School District RE-1   | May 1992 - Present            | Chad J. Lee                        | Jeff Gatlin,<br>Finance Director<br>Ph: 970.384.6024  |

**Proposed Staffing and Organization**

Firm Composition –

- City Attorney – John Mallonee (see attached biography)
- Land Use/Real Estate/Municipal - Chad J. Lee, Scott Grosscup
- Litigation - John Mallonee
- Water/Municipal - Scott Grosscup, Sara M. Dunn, Christopher L. Geiger
- Of Counsel - Tom Hartert, David Hallford, Lawrence Green
- Associates – Ryan Mitchell, Blake Peterson
- Paralegal - Britt Choate, Lisa Stoeber, Brenda Ladd, Sally Vagneur

As our client, the Town of Paonia has access to all firm attorneys. Our Martindale-Hubbell rating is AV, and we also provide biographies for every firm attorney on our website, [www.balcombgreen.com](http://www.balcombgreen.com).

**Potential Conflicts of Interest**

No known conflicts of interest.

**Professional Liability Insurance Information**

Balcomb & Green’s Professional Liability Insurance Carrier is QBE Insurance Corporation, 55 Water Street, NY, NY 10041. Our limits are: each claim - \$2,000,000; aggregate - \$4,000,000.

**Firm Support Services**

Administrative and paralegal support services are provided by our full service firm.

**Availability for In Person Attendance**

Mr. Mallonee would expect to attend most meetings in person, as Balcomb & Green’s main office in Glenwood Springs is just 70 miles from Paonia’s Town Hall. Of course, in case of extreme weather, or simply a special meeting that is expected to be short in time, we would like to retain the ability to occasionally attend virtually for the sake of efficiency.



## John Mallonee

John is Of Counsel at Balcomb & Green. His practice focuses on civil litigation and local government issues. His cases include breach of contract, fraud, property disputes, business litigation, real estate, securities litigation, will contests, intellectual property, corporate issues, investments, and civil rights/constitutional law. Local government issues include liquor licensing, marijuana licensing, open records, land use, administrative hearings, quasi-judicial decisions, legislative matters, elections, and open meetings.

John’s practice varies widely and is well suited for Colorado’s Western Slope. He represents individuals against corporations and governments, as well as governments and corporations in their affairs. From property boundary line disputes to corporate by-law litigation, he has experience that could suit the needs of a diverse base of valley residents. He has completed numerous trials, administrative hearings, commercial arbitrations, and appellate arguments, including appeals before the U.S. Court of Appeals for the 10th Circuit and the 4th Circuit.

Originally from Delaware, John spent much of his career in the Washington, D.C. area before moving to Colorado in 2013. He has been in private practice for most of his career but has also served as the Deputy City Attorney for the City of Thornton, as well as Assistant Director of Civil Litigation for Denver.

**Position:**

- Attorney, Balcomb & Green, P.C

**Areas of Practice:**

- Litigation, and Local Government

**Bar Admissions:**

- State of Colorado (2014)
- California (1999, Inactive)
- Washington, DC (2000, Inactive)
- Maryland (2004)

**Education:**

- Oxford University (2003, MBA)
- University of North Carolina (1999, JD)
- Franklin & Marshall College (1996, AB, *cum laude*)

**Professional Associations and Memberships:**

- Colorado Bar Association
- Colorado Police Legal Advisor’s Group – Past member
- Colorado Rising Municipal Attorneys Group
- Trustee, Garfield County Library System
- Judicial Appointment and Retention Advisory Commission, Thornton: Past Ex-Officio Member
- Oxford University Society of Washington, DC – Past Treasurer
- Licensing Executive Society, Washington, DC – Past Membership Coordinator

Thank you for considering our proposal for the Town of Paonia's Town Attorney Services. Please feel free to contact me if any questions arise. We look forward to hearing from you soon.

Sincerely,

BALCOMB & GREEN, P.C.



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

John Mallonee  
Scott Grosscup, President

**Cost Proposal  
Balcomb & Green, P.C.**

Balcomb & Green, P.C. achieves efficiency in terms of cost savings—whether it is due to our ability to turn around matters in a shorter timeframe, to negotiate resolutions of matters or to use other creative methods to bring positive outcomes. Our proposed rates might not be the lowest, but we provide an assurance of quality and efficiency. The following rates will not increase for Town matters before January 2024.

**BALCOMB & GREEN, PC  
2022 Small Municipality Billing Rates**

| <b>Attorney</b>            | <b>Rate</b> |
|----------------------------|-------------|
| Dunn, Sara M               | \$235       |
| Geiger, Christopher L      | \$235       |
| Grosscup, Scott            | \$235       |
| Lee, Chad J                | \$235       |
| Green, Lawrence            | \$235       |
| Hallford, David C          | \$235       |
| Hartert, Thomas J.         | \$235       |
| Mallonee, John             | \$235       |
| <b>Associate Attorneys</b> |             |
| Peterson, Blake            | \$195       |
| Mitchell, Ryan             | \$195       |
| <b>Paralegals</b>          |             |
| Choate, Britt              | \$175       |
| Ladd, Brenda               | \$175       |
| Stoeber, Lisa              | \$175       |
| Vagneur, Sally             | \$175       |

We recommend a blended hourly rate for routine general services—coupled with clear communication and budgeting. If selected for Legal Services, John Mallonee would work closely with the Town, Town Boards, Mayor, Town Administrator and finance staff to ensure that budgets are set, monitored, and honored. To track legal costs, he would set up individual billing numbers for separate matters so the Town can easily determine the amount of time and money spent on any project. He would also provide periodic status reports to the Town.

GENERAL LEGAL SERVICES

The following routine services (not intended to be exhaustive) would be provided at the General Legal Services rate:

- Provide routine legal advice to the Town, Town Boards, Mayor, Town Administrator, etc.
- Attend Town Board meetings.
- Prepare and/or review agendas, ordinances, staff reports, resolutions, agreements, contracts, forms, notices, declaration, certificates, deeds, leases, and similar legal documents.
- Prepare and/or review correspondence from Town staff on general governance laws, government codes, and ethics.
- Assist with Public Records Act requests.
- Advise on labor and employment matters.
- Provide advice on conflicts of interest.
- Perform routine legal work pertaining to property acquisition, property disposal, public improvements, public rights of way and easements, and matters relating to public entities.
- Coordinate the work of special legal counsel as needed and as directed by the Town, Town Boards and/or Town Administrator.
- Coordinate with Town staff and provide advice on code compliance issues.
- Hold regularly scheduled office hours an average of 4 hours every two weeks.
- Monitor new legislative developments and provide updates on new legislation and case law which could affect the Town.
- Advise concerning litigation matters in which the Town might become involved.
- Perform research and interpret laws, court decisions and other legal authorities to prepare legal opinions and to advise the Town, Town Boards, Mayor, and Town Administrator on legal matters pertaining to Town operations.

SPECIAL COUNSEL SERVICES

Compared to most public agency firms, we can provide a greater range of specialized legal services because we have the appropriate staff to handle such matters. Our proposed rate for special counsel services reflects this higher level of expertise. Special counsel services include all litigation; water law; employment-related hearings, arbitrations, grievance hearings, fact-finding hearings, and disciplinary hearings; successor agency matters; eminent domain; energy; atypical election issues (such as responding to citizen-initiated referenda or initiatives); significant land use projects not subject to cost recovery; complex environmental issues not subject to cost recovery; telecommunications, bond counsel and specialized finance services; regulatory and administrative hearings before other public agencies; and other special counsel work approved by the Town.

COST RECOVERY

Some legal services are needed as a result of applications for land use permits and other matters benefitting private parties. When these legal services can be reimbursed by the third parties, Balcomb & Green, P.C. will charge its full cost recovery rates, subject to the Town’s approval. Cost recovery rates are determined by our current market rates.

OTHER EXPENSES

Balcomb & Green, P.C. will not charge for office support services, including word processing and facsimile charges. Although we are committed to attending all Town meetings in person when requested, to minimize travel expenses, we are prepared to coordinate with the Town for attending other board meetings via telephone or video conference as desired by the Town. We propose to charge the costs of postage, and any third-party expenses, such as expert witness fees, deposition and court reporter fees, and electronic legal research.

|                      |                 |
|----------------------|-----------------|
| Mileage              | At IRS rates    |
| Photocopy            | No extra charge |
| Postage              | USPS rate       |
| Third Party Expenses | Actual costs    |

FIXED FEE

We are open to negotiating a monthly fixed fee contract based upon our average hourly rates and an expected number of hours per month, with a “not-to-exceed” number of hours for the fixed fee.



**Nicolas D. Cotton-Baez**  
(315) 276-9312 tel  
(303) 298-1627 fax  
*nick@kellypc.com*

August 17, 2022

Corinne Ferguson, Town Administrator  
Town of Paonia  
Attn: Town Clerk’s Office  
214 Grand Avenue  
PO Box 460  
Paonia, CO 81428

Re: Proposal for Town Attorney Services

Dear Ms. Ferguson:

Thank you for the opportunity to submit our firm’s proposal to provide Town Attorney services to the Town of Paonia. The enclosed proposal provides detailed information about our firm and proposes hourly rates for attorney services.

By way of summary, our proposal is that Nick Cotton-Baez serve as the attorney responsible for coordinating all legal services pursuant to the engagement. Melinda Culley would assist and serve as substitute in case of Mr. Cotton-Baez’s absence. Kathleen Kelly would assist with matters as needed.

Mr. Cotton-Baez has experience representing municipalities located in the mountains. He has represented the Town of Dillon, in Summit County, since 2018. Additionally, Mr. Cotton-Baez serves as prosecutor for the Town of Kremmling. Mr. Cotton-Baez would tailor his representation of the Town of Paonia to the Town’s specific needs.

Since the submission of our firm’s proposal dated December 7, 2021, Mr. Cotton-Baez has begun assisting a client municipality in negotiations regarding the proposed development of a 390.013-acre tract of land. The proposed development involves multiple land uses, public and private components, the expansion of the client’s off-site wastewater treatment plant, land and water rights dedications, complexities regarding water and sewer connections and associated fees, and public improvement financing through a metropolitan district.

Regarding the firm more generally, for the past 30 years our practice has been devoted to local government law. We are currently City or Town Attorney for Louisville, Bennett, Dacono, Dillon, Haxtun, Jamestown, Keenesburg, Kremmling, Sedgwick, Ward and Wiggins.

As noted in the enclosed proposal, fees billed to the Town would be \$213 per hour for all attorney work. We understand the budgetary concerns of public entities, and we are committed to providing the highest quality legal services at a reasonable cost. Our firm’s experience with municipal issues allows our attorneys to provide advice without spending much time on legal research. Our goal in providing day-to-day advice is to avoid litigation and big disputes that would cost the Town. We are also committed to avoiding attorney-driven approaches that would cause our clients to incur large bills.

While our firm is located in Denver, our attorneys have the capability to attend meetings by telephone or video conference. Mr. Cotton-Baez has attended several client board and council meetings remotely since the onset of the COVID-19 pandemic. The firm and our clients have found Mr. Cotton-Baez’s remote attendance at meetings to work well. Mr. Cotton-Baez is also willing to attend meetings in-person when needed.

Again, thank you for your consideration of our proposal. If you have any questions, please contact us.

Sincerely,

KELLY PC

By: /s/ Nick Cotton-Baez  
Nick Cotton-Baez

**PROPOSAL FOR TOWN ATTORNEY LEGAL SERVICES**

**TO**

**THE TOWN OF PAONIA**

August 17, 2022

Submitted by

**Kelly PC**

Kathleen M. Kelly

Melinda A. Culley

Nicolas D. Cotton-Baez

999 18<sup>th</sup> Street, Suite 1450, Denver, CO

Tel. (303) 298-1601

Fax (303) 298-1627

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**A. GENERAL INFORMATION:**

The following provides a brief summary of the information contained in this Proposal regarding our firm. Other sections of this Proposal provide additional details concerning our background, experience, and qualifications.

**1. Principals’ names, firm, address, and telephone and facsimile numbers:**

Kathleen M. Kelly  
Melinda A. Culley  
**Kelly PC**  
999 18<sup>th</sup> Street, Suite 1450, Denver, CO  
Tel. (303) 298-1601  
Fax (303) 298-1627

**2. Services and Methods of Approach.** We are a full-service municipal law firm. We have a unique combination of experience to appreciate the legal issues affecting municipalities in the context of decisions and challenges facing municipalities.

It is our proposal that Nick Cotton-Baez serve as the attorney responsible for coordinating all legal services pursuant to the engagement. Melinda Culley would assist and serve as substitute in case of Mr. Cotton-Baez’s absence. Ms. Kelly would assist with matters as needed.

In the event that a member of the attorney team is unable to perform legal services for the Town, we will replace the person with someone of similar qualifications, and will provide you with the attorney’s qualifications. We understand that replacement will be subject to approval by the Town after any investigation deemed appropriate.

We are qualified and able to provide the full range of services required by the Town of Paonia, including representation of the Town Board, boards and commissions, department heads and employees.

**3. Attorneys’ lengths of time practicing law in Colorado, date of admission to the Colorado bar and continuing education training:**

- Nicolas D. Cotton-Baez: Partner with 6 years practicing law in Colorado, admitted to Colorado bar in 2016
- Melinda A. Culley: Partner with 16 years practicing law in Colorado, admitted to Colorado bar in 2006
- Kathleen M. Kelly: Partner with 25 years practicing law in Colorado, admitted to Colorado bar in 1997

Resumes for Mr. Cotton-Baez, Ms. Culley, and Ms. Kelly are attached in Section F of this

Proposal. All of the attorneys in the firm are licensed and in good standing in the state of Colorado. There are no disciplinary proceedings against any attorneys of our firm.

In the past year, all attorneys have attended practice-relevant continuing legal education programs, including but not limited to land use and municipal law seminars. Further, attorneys in the firm are frequent presenters in the area of municipal law and able to provide appropriate and cost-effective training to Town officials and staff on municipal law. Further continuing legal education information is available if desired.

Our firm and its attorneys have not pursued a Martindale Hubbell rating.

4. **Professional Liability Insurance.** Our firm carries professional liability insurance through QBE Corporation, with limits of \$2,000,000 per claim and \$2,000,000 policy aggregate and a \$10,000 deductible. The firm has never had any claims made against it.

5. **Potential conflicts of interest.** We do not have any business relationships with any elected Town official, members of any boards or commissions, or staff members. We do not represent developers, businesses, citizens, or other private entities; our practice is exclusively limited to representing municipalities and other public entities. Therefore, we do not have any conflicts of interest that would hamper our representation of the Town of Paonia and do not foresee any such conflicts. Of course, in the event any conflict arose, we would act in accordance with the Rules of Professional Conduct governing lawyers.

In Section B, we have noted the municipal clients with whom we have an ongoing relationship, or for which we have performed work in the last five years. We do not foresee any conflicts of interest in the future between our current clients and the Town of Paonia.

6. **Existing Workload and Schedule.** As a full-service municipal law firm, we do not foresee any difficulties in adding Paonia as a client and adding any legal work for Paonia to our current workload. With three attorneys available, we will be able to balance our workload to best meet the needs of all of our clients. Should the need arise, the firm would hire a qualified associate to assist with added workload.

Nick Cotton-Baez is available to attend regular meetings of the Town Board on the second and fourth Thursdays of each month. Mr. Cotton-Baez also has availability to attend meetings with the Board of Adjustment and Appeals, Planning Zoning Commission, Department Heads, and other meetings as necessary.

Because our firm is located in Denver, Mr. Cotton-Baez's preference would be to attend meetings remotely, with occasional attendance in person.

**B. BACKGROUND AND QUALIFICATIONS OF THE FIRM:**

The firm began as Griffiths & Tanoue, P.C. in 1987, founded by former CML General Counsel Susan Griffiths and CML Staff Attorney Tami Tanoue. From the beginning, the focus of the firm’s practice has been on municipal, county and special district law, and governmental liability and insurance law. The firm represents primarily the following: individual local governments, including cities and towns (both statutory and home rule), counties, and special districts; local government officials; and associations of local governments.

Sample clients of the firm have included or do include (entities in bold-face indicate ongoing relationships or work within the last five years):

- |   |  |
|---|--|
| Archuleta County                              | City of Fort Collins                     |
| City of Arvada                                | City of Fort Morgan                      |
| City of Aurora                                | City of Glendale                         |
| Town of Avon                                  | Town of Grand Lake                       |
| <b>Town of Bennett</b>                        | <b>Town of Haxtun</b>                    |
| <b>City and County of Broomfield</b>          | <b>Town of Jamestown</b>                 |
| <b>Town of Castle Rock</b>                    | <b>Town of Keenesburg</b>                |
| <b>Colorado Intergovernmental Risk</b>        | <b>Town of Kremmling</b>                 |
| <b>Sharing Agency (CIRSA)</b>                 | City of Lakewood                         |
| <b>Colorado Municipal League</b>              | <b>City of Louisville</b>                |
| City of Colorado Springs                      | City of Loveland                         |
| <b>County Workers’ Compensation Pool</b>      | <b>City of Manitou Springs</b>           |
| <b>County Health Pool</b>                     | Town of Milliken                         |
| <b>County Special Districts Property and</b>  | Town of Monument                         |
| <b>Liability Pool</b>                         | Northern Colorado School Districts Self- |
| <b>County Technical Services</b>              | Insurance Pools                          |
| <b>City of Dacono</b>                         | City of Northglenn                       |
| <b>Town of Deer Trail</b>                     | <b>City of Westminster</b>               |
| City and County of Denver                     | Town of Otis                             |
| <b>Denver Regional Council of Governments</b> | <b>Town of Parker</b>                    |
| <b>(DRCOG)</b>                                | <b>Town of Sedgwick</b>                  |
| City of Edgewater                             | <b>Special Districts Association</b>     |
| <b>Town of Estes Park</b>                     | Town of Telluride                        |
| City of Federal Heights                       | City of Thornton                         |
| <b>Town of Firestone</b>                      | <b>Town of Ward</b>                      |
| Town of Fleming                               | <b>Town of Wiggins</b>                   |
|   | City of Wray                             |

**C. LOCAL GOVERNMENT EXPERIENCE:**

Our firm has substantial experience in representing local governments, individually and collectively. We have experience and expertise in numerous local government issues, including elections, land use, personnel, recall, open meetings, public records, investment, budget, liability, sales, use, and other taxes, air and water quality, transportation, public construction and financing, liquor and beer licensing, special districts, the Fair Labor Standards Act, and the Americans with Disabilities Act.

We are sensitive to the budgetary concerns of public entities and work with them to provide high quality legal services in a cost-effective manner. The firm’s work includes representing:

- **Municipalities and other local governments.** We provide general and special counsel services to municipalities and other local governments, their governing bodies and staffs, and have provided special counsel services to the State of Colorado. We are currently City or Town Attorney for Bennett, Dacono, Dillon, Haxtun, Jamestown, Keenesburg, Kremmling, Louisville, Sedgwick, Ward and Wiggins.
- **Intergovernmental entities.** We form and represent entities established by intergovernmental agreement and provide services similar to those described above for non-profit associations. We currently serve as legal counsel to the following intergovernmental entities: County Health Pool, County Workers’ Compensation Pool, Colorado Counties Casualty and Property Pool, and Denver Regional Council of Governments (DRCOG).

Some examples of specific substantive work and experience include:

- **Problem solving:** Have substantial experience in working with diverse government officials and private and other public interests to resolve, in a positive manner, issues of mutual concern.
- **Ordinance and resolution drafting:** Draft ordinances and resolutions on numerous issues including animal control, excavation permits, utility shutoff, traffic regulations, liens for unpaid bills, petty offenses and misdemeanors, sales and use taxes, conflicts of interest, land use matters including rezonings, various licensing regulations, including amusements, liquor and medical and retail marijuana, and weeds, rubbish and trash.
- **Personnel:** Provide advice on methods of avoiding wrongful discharge claims; assist defense counsel in employment litigation in federal and state courts; draft and revise local government personnel manuals and various personnel documents and procedures; advise clients on avoiding discrimination and sexual harassment claims; review contracts for required compliance language; provide advice on validation of employee testing procedures.
- **Elections:** Assist municipal clerks and governing bodies in their responsibilities in recall, initiative and referendum, TABOR, and other special and regular elections; act as hearing

officer or advisor to hearing officer in quasi-judicial matters in relation to petition protests and other election-related contests.

- **Real property, condemnation, franchises, easements and rights-of-way:** Negotiate and complete real estate purchases and sales; draft, negotiate, and obtain permanent and temporary easements and rights-of-way; negotiate franchise fees and right-of-way issues in connection with utility franchise agreements; review deeds and related documents in connection with various local government actions (subdivisions, annexations, property transfers). We are familiar with eminent domain law and are able to represent the client in such proceedings or work with selected special counsel.
- **Litigation:** Coordinate our work as general counsel with insurance defense counsel or other litigation counsel (on non-insured matters), with respect to pending or threatened litigation. We occasionally represent clients in uncovered litigation matters such as C.R.C.P. 106(a)(4) and declaratory judgment actions; however, our primary work is coordinating with outside counsel on defense of litigation. Mr. Cotton-Baez recently successfully represented a municipal client in complex litigation before the Colorado Public Utilities Commission.
- **Land use:** Provide advice and representation in zoning, rezoning, and subdivision matters; prepare and negotiate subdivision agreements; draft zoning ordinances and zoning amendments; draft intergovernmental land use agreements; provide advice on building code issues.
- **Construction contracts:** Review or draft bid and contract documents for compliance with applicable laws; draft contractor indemnification clauses; provide advice on street, sidewalk, building, and other construction contracts.
- **Special districts:** Provide representation in special district exclusion, inclusion, and dissolution proceedings; review proposed service plans and advise local government elected officials in connection with the formation of new special districts.
- **Finance:** Provide advice on taxing powers; serve as hearing officer in sales and use tax and other excise tax appeals; draft tax ordinances; draft legal explanation in publication regarding taxes available to Colorado municipalities; provide advice on budget and audit requirements; draft revisions to home rule charters on tax, finance and investment matters; and provide advice on statutory investment limitations.
- **Police and fire:** Negotiate, review, and comment on proposed intergovernmental agreements with other jurisdictional authorities; provide advice to police departments on matters of concern.
- **Property taxes:** Provide advice on property tax exemption, abatement and refund issues; advise and draft enactments relating to imposition of property taxes.
- **Prosecution:** Prosecute ordinance and model traffic code violations.

- **Architectural/engineering contracts:** Review and comment on engineering contracts for street, water treatment, drainage, and other public improvements; review and comment on hold harmless and indemnification provisions of various engineering contracts.
- **Hearings:** Advise decision makers in employee hearings; advise clerks on recall, initiative, and referendum petition hearings; prosecute or provide advice to local boards and commissions on liquor and marijuana licensing, rezoning, subdivision and other land use matters, and special assessment hearings; represent planning commissions and boards of adjustment; serve as hearing officer in sales, use and other excise tax appeals; appear before state agencies during state administrative hearings; serve as hearing officer in sales, use and other excise tax appeals, personnel issues, and election issues.
- **Liquor licensing:** Provide representation on liquor license issues, including grants and denials of licenses, suspensions, revocations, and renewals.
- **Medical and retail marijuana licensing and cultivation:** Provide representation on licensing issues for medical and retail marijuana establishments, including grants and denials of licenses, suspensions, revocations, and renewals. We have also prepared ordinances prohibiting such businesses and ordinances regulating the personal cultivation of marijuana in residential settings.
- **Open Records/Meetings Act:** Provide advice on state and federal open records and meetings issues. Provide advice to or serve as parliamentarian in governing board and commission meetings.
- **Bankruptcy:** Prepare documents for bankruptcy court to protect local government financial interests; review contracts and procedures for means to avoid problems created by bankruptcy.
- **Water law:** Provide various water-related services including enforcement of water service regulations and rates; termination of water services; drafting of water service ordinances and related documents; and advice in construction of water facilities. We have a general knowledge of water law, and can knowledgeably oversee the work of water lawyers.
- **Urban Renewal:** We are familiar with the Colorado Urban Renewal Law and Mr. Cotton-Baez serves as counsel to two urban renewal authorities. While Paonia does not have an Urban Renewal Authority, Mr. Cotton-Baez’s experience representing such authorities adds to his value in representing municipalities on issues related to economic development and vitality.

**D. SELECTED FIRM PUBLIC ENTITY CLIENT REFERENCES:**

You are, of course, welcome to contact any of our present or former clients for comments concerning the quality of our work. You may particularly wish to contact the references listed below. Each of the references is a current client of the firm, except Sam Light. Sam Light is a former Partner of the firm, and supervised Nick Cotton-Baez’s work until his departure to serve as General Counsel for CIRSA.

**Colorado Intergovernmental Risk Sharing Agency**

Sam Light, General Counsel  
3665 Cherry Creek Drive North  
Denver, CO 80209  
[saml@cirsa.org](mailto:saml@cirsa.org)  
(720) 605-8002

**Town of Dillon**

Nathan Johnson, Town Manager  
725 Lake Dillon Drive  
P.O. Box 8  
Dillon, CO 80435  
(970) 262-3402  
[njohnson@townofdillon.com](mailto:njohnson@townofdillon.com)

**City of Dacono**

AJ Euckert, City Manager  
512 Cherry Street, Box 186  
Dacono, CO 80514  
(303) 833-5562 x 134  
[aeuckert@cityofdacono.com](mailto:aeuckert@cityofdacono.com)

**City of Louisville**

Megan Davis, Acting City Manager  
749 Main Street  
Louisville, CO 80027  
(303) 335-4539  
[mdavis@louisvilleco.gov](mailto:mdavis@louisvilleco.gov)

**E. SCHEDULE OF FEES AND CHARGES:**

It is our proposal that Nick Cotton-Baez serve as the attorney responsible for coordinating all legal services pursuant to the engagement. Melinda Culley would assist and serve as substitute in case of Mr. Cotton-Baez’s absence. Melinda Culley and Kathleen Kelly would assist with matters as needed. The proposed principal attorney pursuant to this engagement will not be changed without prior approval by the Paonia Town Board.

We propose to bill for legal services at the rate of \$213 per hour for all attorney work. We will commit to, and will not raise, the foregoing rate before January 1, 2024. Our firm does not employ legal assistants or other support staff, and we will not charge Paonia for non-attorney services. We would be happy to discuss other fee options upon request.

We understand the budgetary concerns of municipal governments, and we are committed to providing the highest quality legal services at a reasonable cost. Our firm’s experience with municipal issues allows our attorneys to provide advice without spending much time on legal research. Our goal in providing day-to-day advice is to avoid litigation and big disputes that would cost the Town. We are also committed to avoiding attorney-driven approaches that would cause our clients to incur large bills.

The following expenses would be billed separately: mileage (at current IRS rate) for both ways of travel; and attorney travel time is billed at regular hourly rates for one-way only. We have the capability to attend meetings by telephone or video conference in order to assist in reducing costs. Mr. Cotton-Baez has attended several client board and council meetings remotely since the onset of the COVID-19 pandemic. The firm and its clients have found Mr. Cotton-Baez’s remote attendance at meetings to work well.

Bills are provided monthly, detailing the time and services performed. We can accommodate special billing formats upon request, including billing formats that the Town may desire for purposes of reimbursement of legal costs from third parties.

We understand the need to work within a budget and cooperate closely with our clients to manage legal work and maintain control of legal costs, which may include periodic reviews of bills and services, identifying and limiting those who may request legal services, and other mutually agreeable management procedures and practices.

We understand that the Town reserves the right to obtain legal services from other attorneys when the Town in its sole discretion believes the use of another law firm would be in the best interests of the Town. As we serve as general counsel for a number of municipalities, we are experienced in both managing and coordinating our services with other counsel, such as water attorneys or insurance defense attorneys, to provide the best services to our clients.

**F. BIOGRAPHICAL SUMMARIES:** The following are the biographical summaries for the partners and associates of the firm:

**NICOLAS D. COTTON-BAEZ**

**Education**

2016 J.D., Indiana University Maurer School of Law  
Sherman Minton Moot Court Competition

2013 B.A., State University of New York at Potsdam  
Summa Cum Laude, with honors

**Bar Admissions**

2016 Colorado

**Legal Employment**

2017 to Present **Kelly PC.** Emphasis on all aspects of local government representation, including Open Records and Open Meetings Law, TABOR, the Colorado Governmental Immunity Act, land use and zoning, and election law.

2016 to 2017 **Legal Fellow, Denver City Attorney’s Office.** Emphasis on all aspects of local government representation, including land use and zoning, tax, and litigation.

Summer 2015 **Legal Intern, Office of the Indiana Attorney General – Civil Litigation Department.** Drafted legal memoranda on issues of constitutional law; drafted various court documents in defense of state officials.

**Professional Organizations**

Colorado and Denver Bar Associations

**Presentations**

“Law School for Clerks,” 41<sup>st</sup> Annual Municipal Clerks Institute (July 11, 2018)

“Colorado Open Meetings Law for Elected Officials,” Colorado Municipal League Annual Conference (June 18, 2019)

**Publications**

“Intergovernmental Agreements,” *Colorado Municipalities*, a Colorado Municipal League Publication (2017)

**MELINDA A. CULLEY**

**Education**

2006 J.D., University of Colorado School of Law  
 Gorsuch Kirgis Law Scholarship, 2003  
 Colorado Journal for International Environmental Law and Policy

2002 B.A., Environmental Science, University of Kansas  
 Graduation with Highest Distinction  
 Phi Beta Kappa Honor Society, 2002.

**Bar Admissions**

2006 Colorado

**Legal Employment**

2008 to present **Kelly PC.** Emphasis on all aspects of local government representation.

2006 to 2008 **Associate, Faber Bantz P.C.** Represented clients in business development, international mergers and acquisitions, strategic tax planning, and estate planning.

2005 to 2006 **Legal Intern, Scott Krob, Attorney at Law.** Researched and drafted legal memoranda on issues of municipal law, including the Colorado Governmental Immunity Act, election law and contract law.

Summer 2005 **Legal Intern, U.S. Environmental Protection Agency – Region VII.** Drafted compliance orders, complaints and settlement agreements; researched issues related to the Clean Water Act, Superfund liability and environmental crimes.

Summer 2004 **Legal Intern, City of Wichita Department of Law.** Provided legal research and writing on aspects of local government law.

**Professional Organizations**

Colorado and Denver Bar Associations, Metro City Attorney Association

**Presentations**

First Amendment Issues for Municipalities, presented at Colorado Municipal League Annual Conference, June 20, 2014.

**KATHLEEN M. KELLY**

**Education**

1997 J.D., University of Denver College of Law  
 Law Scholarship, 1993-97  
 Tenth Circuit Survey Editor, Denver University Law Review, 1996-97  
 Research and Technical Editor, Denver University Law Review, 1995-96

1993 B.S.B.A., University of Phoenix

**Bar Admissions**

1997 Colorado

**Legal Employment**

1998 to present **Kelly PC.** Emphasis on all aspects of local government, including municipal court prosecution.

1994 to 1996 **Colorado Municipal League.** Provided legal research and writing to the Executive Director, General Counsel, Staff Attorney and lobbyists on all aspects of local government law. Worked as the direct liaison between member municipal officials and the League for legal research inquiries on all aspects of local government law. Authored, edited and updated CML publications.

**Professional Organizations**

American, Colorado and Denver Bar Associations; Metro City Attorneys Association

**Publications**

“Municipal Law and Practice,” 1A Krendl, Colorado Methods of Practice (1998 to present).

CIRSA Public Officials Liability Handbook (1999 and 2007).

Liquor and Beer Licensing Law and Practice (1998).

CML Open Meetings, Open Records: Colorado’s Sunshine Laws and Municipal Government (1998).

Note from the Editor, Twenty-Third Annual Tenth Circuit Survey, 74 Denv. U. L. Rev. 335 (1997).

Twenty-Second Annual Tenth Circuit Survey: Immigration Law, 73 Denv. U. L. Rev. 787 (1996).

CML Municipal Sales and Use Taxes (1996).



# Proposal for Legal Services

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## Town of Paonia

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Law of the Rockies  
525 North Main St.  
Gunnison, Colorado 81230  
(970) 641-1903  
<http://www.lawoftherockies.com>  
August 16, 2022

August 16, 2022

Town of Paonia  
corinne@townofpaonia.com

***Re: Proposal for Legal Services***

Dear Town of Paonia:

On behalf of Law of the Rockies (the “Firm”), we are pleased to submit our proposal to provide general counsel legal services to the Town of Paonia (“Paonia”). We are excited about the opportunity to bring our many years of local government, non-profit, and corporate legal counsel experience to the task of providing comprehensive and cost-effective legal services to Paonia. We are confident that the Firm is well suited to this role, and appreciate the opportunity to tell you more about our firm and what we can provide.

We anticipate that Daniel Spivey and Marcus Lock would perform the majority of the legal services for Paonia, with Daniel serving as the Firm’s primary contact. Daniel joined the Firm in January 2021 after practicing for over 10 years at two prominent Denver law firms where he specialized in defending public entities and businesses in litigation and advising public entities as general outside counsel. Marcus has been practicing for 20 years and his additional years of experience and Daniel’s lower hourly rate will allow us to tailor the allocation of workload in the best interest of Paonia. The Firm would also have at its disposal two additional attorneys, Kendall Burgemeister and Jacob With, both Members of the Firm with many years of experience serving clients in and around Gunnison County and statewide. With four attorneys with over 50 years of collective practice experience and support staff including a paralegal and office administrator, the Firm is well positioned to effectively serve Paonia. Following the below responses to each item in the request for proposal are biographies for Daniel and Marcus.

This proposal is organized by items listed in the request for proposal:

- 1. Describe your experience with municipal law generally and specifically speak to your experience with regard to municipal elections, municipal land use regulations, real property matters generally, zoning law, constitutional issues (state and federal) affecting municipalities, municipal finance, complex litigation, appellate practice and any other areas you believe are relevant to the Town’s decision.*

Daniel brings with him experience providing outside general counsel services and serving as litigation counsel to some of Colorado’s largest school districts including Denver Public Schools and Cherry Creek School District, and Colorado mountain school districts including Telluride School District, Garfield School District Re-2, and Roaring Fork School District. Daniel’s experience includes advising other public entities such as water and sanitation districts and special districts and he routinely attends public entity Board meetings and advises Boards on matters involving governance, procedure, employees, contracts, and disputes.

Daniel defends public entities in litigation involving constitutional issues such as due process, discrimination, retaliation, and free speech. Daniel has appeared in numerous cases in state and federal trial and appellate courts representing public entities in lawsuits involving constitutional violations, statutory violations, tort claims, contract claims, and employment claims. Daniel has broad experience with the Colorado Governmental Immunity Act and Colorado law on open records and open meetings. He has appeared numerous times on behalf of public entities before the Colorado Civil Rights Division and the U.S. Equal Employment Opportunity Commission. Daniel’s experience includes bringing claims against public entities in cases involving constitutional issues and land use decisions. His substantial experience representing public entities coupled with his experience being adverse to public entities provides him with a well-rounded understanding of the legal disputes public entities often encounter.

Daniel has been lead counsel or co-lead counsel representing public entities in complex litigation in state and federal trial and appellate courts. His experience defending public entities in complex litigation includes class action claims, multi-party claims, claims involving cutting edge areas of free speech law, and high-profile cases involving claims of sexual discrimination under Title IX, race/age/sex discrimination under Title VII, disability discrimination under the Americans with Disabilities Act, and public contracts.

Outside of litigation, Daniel advises public entities on general day-to-day issues such as employment, compliance, contracts, risk management, policy, and changes in applicable law. Daniel sat on the Gunnison County Planning Commission for two years gaining valuable insight into the governmental role in land use decisions.

The Firm currently provides general counsel legal services to many local government entities and special districts including the Mt. Crested Butte Water & Sanitation District, Baca Grande Water & Sanitation District, Pagosa Area Water & Sanitation District, the Upper Arkansas Water Conservancy District, the Gunnison County Metropolitan Recreation District, and Crested Butte South Metropolitan District. We also serve as conflicts counsel for the City of Gunnison. Our work for local government entities includes advising them through the statutory process for regular and special elections including ballot issues and election of board members.

We provide general counsel legal services to a number of private local businesses and property owners associations, which provides us with experience in matters that are similar to those that Paonia encounters, such as employment, real estate, contract, working with other local government entities, and general business matters.

The Firm has broad experience working with municipalities and counties on issues involving ordinances/regulations, land use, and litigation. At times, this work is cooperative such as working as co-defendants in lawsuits, working toward gaining approval for client development projects, or navigating municipal codes or county land use regulations with the advice of local government officials. At times, our work is in opposition to municipalities and counties. We understand the legal issues Paonia faces and are experienced in addressing them.

The Firm’s largest practice areas are real property law, general civil litigation, water law, land use planning, and public entity and local government representation. The Firm enjoys a

robust and comprehensive real property law practice. We routinely advise our public and private clients in all aspects of the purchase and sale of real property, liens, and foreclosures, financing transactions, easement negotiations and enforcement, and development and land use review. Relatedly, we have represented property owners, governments, lenders, architects, and builders in various construction matters, from contract drafting and negotiation to dispute resolution.

We routinely negotiate, draft, and review contracts of all types for our public and private clients, including agreements for the purchase and sale of real estate, businesses, and other assets; employment and independent contractor agreements; financing documents; partnership agreements; bylaws; intergovernmental agreements; service contracts; and leases.

We advise employers on diverse employment law issues, including wage act claims, workers' compensation claims, discrimination and retaliation claims, employee benefits, employee policies, employment agreements, separation with employees, resolution of employee complaints, compliance with state and federal law, and COVID-19 related employment issues.

The Firm has provided legal services to lenders and borrowers both. Specifically, the Firm represents multiple banks, and both public and private debtors. The Firm has assisted clients in multiple public financing transactions and countless private debt arrangements.

When our clients encounter disputes, our goal is to find a resolution before a lawsuit is filed that is cost-effective and meets our client's goals. However, if litigation cannot be avoided, we have substantial experience litigating a variety of cases in state and federal courts including contract, employment, real estate, tort, and constitutional claims. With our broad litigation experience, we are prepared to represent clients through all phases of a lawsuit including trial and appeal. We also have significant experience representing clients in administrative proceedings with state and federal authorities.

We also enjoy a statewide water law practice. We regularly represent water users in due diligence investigations and negotiations for the purchase of water rights, including the purchase of water rights for the purpose of changing the use to include municipal uses. We assist public and private clients in developing, maintaining, and protecting their water rights portfolios.

- 2. *Provide a list of other municipal clients with whom you have worked in the past five years.*

The Firm has worked for, cooperatively with, or against the following municipal clients within the past five years: City of Gunnison, Town of Crested Butte, Town of Mt. Crested Butte, and the Firm acts as general counsel for the Town of Marble.

- 3. *Describe any knowledge or experience that makes you particularly qualified for the position.*

As described in response to question 1 above, Daniel, Marcus, and the Firm's experience and breadth of knowledge regarding legal issues public entities such as Paonia encounter make us particularly qualified for this position.

- 4. *The Town is soliciting talent and expertise first and foremost. While cost to the Town is important, the selection will not be based solely on cost. Please detail and explain your required fees to perform the requested services.*

The Firm generally bills for professional services on an hourly basis and we propose an hourly rate structure for Paonia. A proposed rate schedule is provided below. However, the Firm does perform certain services for a flat fee, and is willing to consider a flat fee or blended fee agreement if that is of interest to Paonia. By way of example, the Firm has one local government client that pays a flat fee for general counsel legal services (attending meetings, drafting resolutions, etc.) and an hourly fee for discrete matters (specific litigation cases, specific large transactions). We would not require a retainer from Paonia.

We propose to provide legal services to Paonia at a discount from our hourly rates for 2022, as shown in the following table. We will not increase the rates shown below before January 1, 2024.

| <b>Attorney/Staff</b> | <b>2022 Rate</b> | <b>2022 Paonia Rate</b> |
|-----------------------|------------------|-------------------------|
| Daniel Spivey         | \$275            | \$250                   |
| Marcus Lock           | \$295            | \$275                   |
| Kendall Burgemeister  | \$285            | \$275                   |
| Jacob With            | \$285            | \$275                   |
| Associates            | \$225            | \$200                   |
| Contract Attorneys    | \$245            | \$200                   |
| Paralegal             | \$95             | \$80                    |

The Firm generally seeks reimbursement for discrete expenses incurred while performing services on behalf of a client. Mileage is reimbursed at the prevailing IRS rate (but as explained below, our investment in technology means we can perform Paonia’s legal services from anywhere). Postage is reimbursed at cost when documents are transmitted on behalf of a client. We prefer to transmit as much correspondence as possible electronically. We do not seek reimbursement for long-distance phone calls, but reserve the right to seek reimbursement when we coordinate a conference call through our fee-based teleconferencing or video conferencing services. We generally do not seek reimbursement for photocopying, but for particularly large, color print jobs, we have the ability to ascertain our cost and reserve the right to pass that on to the client (the cost is far less than what would be charged by a print shop). We do not charge a legal research fee when we use our research subscriptions to provide convenient access to common materials, such as statute books, but reserve the right to seek reimbursement of the cost when these databases are used for large client-specific legal research projects or to obtain specialized materials on behalf of a client.

- 5. *Provide your Martindale-Hubbell rating and a biography.*

Daniel’s and Marcus’s biographies are attached at the end of this proposal.

- 6. *Please provide a list of all attorneys in the firm who might provide services under this proposal and list any disciplinary proceedings against them.*

Daniel would provide the majority of the services with Marcus supporting. Kendall and Jacob would also assist at times when there is need for additional support or their expertise. None of these lawyers have faced any disciplinary proceedings.

- 7. *Please disclose any potential conflicts of interest.*

We are unaware of any potential conflicts of interest.

- 8. *Please provide a minimum of three client references.*

Ronnie Benson, District Manager, Crested Butte South Metropolitan District, 970-349-5480, ronnie@cbsouthmetro.net.

Mike Fabbre, District Manager, Mt. Crested Butte Water & Sanitation District, 970-349-7575, mfabbre@mcbwsd.com.

JoAnn Slivka, District Manager, Baca Grande Water and Sanitation District, 719-256-4310, joann@bacawater.com.

Jerome DeHerrera, former General Counsel for Denver Public Schools (reference for Daniel Spivey), Achieve Law Group, 303-725-2769, jd@achivelawgroup.com.

- 9. *If you propose to bill for services at an hourly rate or a monthly fee, provide the current hourly/monthly rate for each lawyer and for each employee of your firm who may work on Town matters. State specifically whether you will work on a fixed fee basis and, if so, how you propose that such a fee be determined. State specifically that if you are the successful candidate and if your fee will be based on hourly rates that you will not increase for Town matters before January 1, 2024.*

See response to number 4 above.

- 10. *Please provide the name of your professional liability insurance carrier and the limits of your professional liability insurance.*

Our professional liability insurance carrier is Medmarc Casualty Insurance Company and the limit of our insurance is \$1,000,000 for each claim and \$2,000,000 aggregate.

- 11. *Describe the support services you would receive from your firm if selected.*

The Firm has four full time attorneys, one full-time office manager, one full-time paralegal, and a part-time bookkeeper. We work as a team and each member of the Firm provides support when needed. We have the resources to respond promptly to any and all

requests for legal advice. Indeed, our responsiveness, together with the high standards we place on our work product, are points of pride here at the Firm. With the combination of attorneys that would perform services for Paonia, we are confident that the Firm will be able to provide continuous coverage even in the absence of a particular attorney.

The Firm has made a substantial investment in its technological resources to ensure that we can provide our clients with timely and accurate legal advice anytime and anywhere. Through the use of a remotely accessible server, laptops, and hand-held mobile devices, the Firm’s attorneys have constant access to client communications, legal research, and electronic documents. The Firm maintains comprehensive subscriptions with the leading legal research databases, providing the attorneys with access to up-to-date case law, statutes, and regulations from all state and federal jurisdictions, as well as other secondary research materials. The Firm’s utilization of technology to deliver fast and competent legal services is second to none.

*12. Specify availability and preferences for in person or remote attendance.*

Our location in Gunnison enables us to travel to Paonia for meetings or other matters where our physical presence is needed at a low cost and on short notice. While we can travel to Paonia when needed and on short notice, our technological resources allow us to meet Paonia’s legal needs from Gunnison. Daniel does not have a preference for in person or remote attendance, but would accommodate the preference of Paonia and work with it to determine the best and most cost effective method of attending meetings.

**Conclusion**

Our approach in representing our clients is to be candid, practical, effective, and efficient. We strive to find creative solutions to complex problems and deliver timely and effective results that satisfy our clients’ goals. We have developed strong relationships with our clients and value those relationships. In short, we like what we do and work hard to do a good job at it. Through careful legal analysis, thoughtfulness, and attention to detail, we try always to exceed our clients’ expectations. As general counsel for Paonia, we would make it our priority to understand Paonia’s short and long term goals and always strive to meet those goals, while managing the day-to-day work of meeting Paonia’s legal needs.

If there is any other information that you would like us to provide, please let us know. Thank you for your consideration of this proposal. You can reach us at 970-641-1903 or at [dspivey@lawoftherockies.com](mailto:dspivey@lawoftherockies.com) and [mlock@lawoftherockies.com](mailto:mlock@lawoftherockies.com).

Sincerely,



Daniel P. Spivey  
Marcus J. Lock  
LAW OF THE ROCKIES

**Daniel P. Spivey**

---

**Legal Experience:**

*Law of the Rockies, LLC* January 2021–Present

Special Counsel

- Advise public entities, individuals, and businesses regarding dispute resolution, real estate/land use matters, policy, contracts, corporate governance, and employment matters.
- Represent individuals and businesses in civil litigation including real estate, land use, contract, tort, and construction claims.
- Represent individuals and businesses in business transactions.
- Advise community associations regarding statutory requirements and real estate matters.

*Semple, Farrington, Everall & Case, P.C.* 2016–2017/2018–2021

Denver, Colorado/Crested Butte, Colorado

Special Counsel

- Represent Colorado school districts/school boards, and special districts in employment, civil rights, discrimination, free speech, retaliation, Title IX, and contract litigation in state and federal courts and before the Colorado Civil Rights Division and the EEOC.
- Advise Colorado school districts, school boards, and special districts on a variety of legal issues including employment, contracts, open meetings and records laws, the Colorado Governmental Immunity Act, legislation, policies and procedures, Title IX, FERPA, free speech, and employee and student discipline.
- Conduct internal investigations for clients involving employee and employer conduct.

*Davis Graham & Stubbs LLP* 2009–2016

Denver, Colorado

Associate Attorney

- Broad range of civil litigation in state and federal courts at the trial and appellate levels, including: contract and tort claims; insurance coverage claims; oil and gas related claims; claims involving state and federal environmental laws; and trademark claims. Experience with all stages of litigation including: drafting pleadings/motions/briefs; fact investigation; mediation; settlement negotiations; managing discovery; interviewing witnesses; preparing fact and expert witnesses for depositions and trial; taking and defending depositions; hearings; and trial.
- General legal advisor to school districts, charter schools, and higher education institutions and advised these clients regarding: employment issues; student discipline; contracts; FERPA; Title IX; policy; legislation; and compliance with federal and state law.

*Massachusetts Office of the Attorney General* September 2008–May 2009

Boston, Massachusetts

Extern

- Boston College Law School Attorney General Program – eight-month externship designed for third-year law students to gain civil litigation experience.

*Colorado Attorney General's Office*  
Denver, Colorado

June 2007–August 2007

- Research legal issues involving Colorado state agencies.

**Education:**

*Boston College Law School*  
Newton, Massachusetts  
Juris Doctor

2006–2009

Activities: Massachusetts Office of the Attorney General - Extern; Latino Law Students Association – Diversity Chair; Grimes Moot Court Competition

*Colorado College*

2001–2005

Colorado Springs, Colorado

Bachelor of Arts, History, with Honors

Activities: Awarded Public Interest Fellowship at Bell Policy Center in Denver after graduation

**Professional Awards, Activities and Memberships:**

Planning Commission, Gunnison County, Alternate Commissioner, 2018–2019

President, Colorado Hispanic Bar Association, 2015

Mentor, Law School Yes We Can, 2015–2017

Recipient, Team of the Year Award, Colorado Lawyers Committee, 2011

- For representing Colorado school districts pro bono in landmark public school funding lawsuit *Lobato v. State*

Colorado Bar Association, Appellate Pro Bono Program, 2011–2013

Fellow, Bell Policy Center, 2005–2006

- Public policy research to advance economic mobility in Colorado

Colorado Bar Association

Colorado 7th Judicial District Bar Association

**Admissions:**

All County, District, and Appellate Courts of the State of Colorado

United States District Court for the District of Colorado

United States Court of Appeals for the Tenth Circuit

**Professional Presentations:**

Regulation of Off-Campus Student Speech in the Social Media Age, December 2020, Colorado Council of School Board Attorneys, Denver, Colorado

A Roadmap to Defending School Districts in Title IX Disputes, National School Boards Association, Council of School Attorneys (paper only), March 2017, Denver, Colorado

Bound and Determined: Does an Insurance Agent’s Knowledge of Claim Constitute Notice to the Insurer, American Bar Association, Tort & Insurance Practice, Feb. 2014, Phoenix, Arizona

**Marcus J. Lock**

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**Legal Experience:**

*Law of the Rockies, LLC (and predecessor firms)* 2007–Present  
Managing Member

- Acts as general counsel for various businesses, public entities, and nonprofits providing advice on liability issues, insurance, transactions, real estate, corporate governance, and related matters.
- Extensive real estate development experience in the Gunnison Valley, serving as the lead development attorney for multiple projects located in various local jurisdictions.
- Serves as general or special counsel for multiple public entities including municipalities, special districts, and water conservancy districts.
- Represents businesses and individuals in all aspects and types of civil litigation, including complex commercial litigation, real property litigation, construction litigation, and litigation concerning various other tort and contract disputes.
- Provides representation in all aspects of water rights litigation, water rights transactions, water supply planning, changes of water rights, implementation of exchanges, development of augmentation plans, and related matters.
- Substantial experience in all aspects of community association law including governance, enforcement matters, and general advice.
- Excels at finding creative solutions to complex problems and helping clients understand and evaluate the likelihood of possible outcomes, all with a focus on obtaining the best possible result for the client.

*Reilly Pozner & Connelly, LLC* 2004–2007  
Denver, Colorado  
Attorney

- Represented clients in all aspects and types of civil, criminal, and administrative litigation, including complex commercial litigation, real property litigation, franchise disputes, trade secrets litigation, professional malpractice litigation, bar admission and disciplinary litigation, and litigation concerning various other tort and contract disputes.
- Primarily responsible for much of the firm’s recruiting of new and summer associates.
- Spearheaded firm’s participation in Colorado Pledge To Diversity and other efforts to increase hiring and retention of minority candidates.
- Responsible for drafting new protocols for file management and retention, new fee agreements, and other related documents necessary to comply with ethical mandates of the Colorado Supreme Court.
- Acted regularly as a consultant to management on compliance with the Colorado Rules of Professional Conduct.

*Bratton & McClow, LLC* 2003–2004  
Gunnison, Colorado  
Attorney

- Represented clients in commercial and construction litigation, real property litigation, appellate litigation, water rights litigation, water rights transactions, acquisition and sale of real property, commercial transactions, and business formation and planning.

*United States District Court for the District of Colorado* 2002–2003  
 Denver, Colorado

Law Clerk to the Honorable Zita L. Weinshienk

- Drafted opinions, orders, and jury instructions pertaining to various areas of the law for Judge Weinshienk’s consideration and approval.
- Assisted in the management and adjudication of trials, motions for summary judgment, motions to dismiss, and various other procedural and substantive pleadings and motions.
- Responsible for the administration of a docket of approximately 150 cases.

*Colorado Supreme Court* 2001–2002  
 Denver, Colorado

Law Clerk to the Honorable Nancy E. Rice

- Drafted opinions of the Colorado Supreme Court pertaining to civil, criminal, constitutional, and many other areas of the law for Justice Rice’s consideration and approval.
- Drafted multiple memoranda analyzing whether the Colorado Supreme Court should grant certiorari review in cases or issues decided by the Colorado Court of Appeals or Colorado District Courts.

*Holland and Hart, LLP* May 2000–August 2000  
 Denver, Colorado

Summer Associate

- Drafted briefs, motions, memoranda, correspondence, and articles, primarily in the areas of natural resources law, administrative law, real property law, and general civil litigation.

*Arizona Game and Fish Department* January 1997–May 1997  
 Phoenix, Arizona

Assistant Legislative Liaison (Lobbyist)

- Acted as a legislative proponent of departmental policies by analyzing, introducing, supporting, or opposing legislation in the Arizona State Legislature.

**Legal Education:**

*University of Colorado School of Law* 1998–2001  
 Boulder, Colorado

Juris Doctor

Class Rank: 1

Grade Point Average: 3.88

Scholarships and Honors: Order of the Coif; Don W. Sears Award, 2000-2001; West Group Outstanding Scholastic Achievement Award (for highest grade point average in class), 1998-

2001; Leon and Dora Wolf Scholarship, 2000-2001; Thomas and Claire Brown Scholarship, 2000-2001; Francis J. Knauss and Gurr Knauss Scholarship, 1999-2000; Bernard J. Seeman Scholarship, 1998-1999.

Activities: University of Colorado Law Review, Articles Editor 2000-2001, Member 1999-2000.

**Undergraduate Education:**

*Arizona State University* 1994 – 1997  
Tempe, Arizona  
Bachelor of Science, Wildlife Conservation Biology, *summa cum laude*  
Honors: Dean’s Honor Roll, Golden Key National Honor Society  
Activities: Society for Conservation Biology

**Professional Awards, Activities and Memberships:**

Fellow, Litigation Counsel of America 2016–Present  
Top rated General Litigation attorney in Colorado by Super Lawyers Magazine 2016–Present  
KBUT Community Radio Board Member 2015–2017  
Barrister’s Best Water Lawyer, Law Week Colorado 2016  
Law Week Colorado, Lawyer of the Year 2014  
Colorado Lawyers’ Committee, Special Recognition Award 2013–2015  
Colorado Super Lawyers, Rising Star 2009–2015  
Supreme Court Pattern Civil Jury Instructions Committee 2012–2016  
Colorado Bar Association Ethics Committee, Member 2007–2011  
Colorado Bar Association  
Seventh Judicial District Bar Association

**Bar Admissions:**

All County, District, and Appellate Courts of the State of Colorado  
United States District Court for the District of Colorado  
Arizona Superior Court, County of Maricopa (*Pro Hac Vice*)  
United States District Court for the District of New Jersey (*Pro Hac Vice*)

**Publications:**

*Increasing Access to Justice for Colorado’s Poor: Expanding the Role of Nonlawyers in the Delivery of Legal Services to Colorado’s Indigent*, 72 Colo. L. Rev. 459 (2001).

*Braving The Waters of Supreme Court Takings Jurisprudence: Will the Fifth Amendment Protect Western Water Rights From Federal Environmental Regulations*, 4 U. Denv. Water L. Rev. 76 (2000).

**Professional Lectures:**

*Water Transfers Nuts & Bolts, Case Studies & More*  
*CLE International’s 4<sup>th</sup> Annual Conference*  
*Beaver Creek, Colorado, 2013*

*Water Rights Case Law: An Update*  
Western State Colorado University  
Gunnison, Colorado, 2013

*Understanding the Scope of Ditch and Pipeline Easements*  
CLE in Colorado, Inc., Sponsored by the Colorado Supreme Court and the Colorado Bar Association  
Denver, Colorado, 2013

*Water Law 101: The Basic Principles of Colorado Water Law*  
Colorado Open Space Alliance Annual Conference  
Crested Butte, Colorado 2013

*Storage Rights Water Law*  
Ditch and Reservoir Company Alliance, Annual Convention  
Colorado Springs, Colorado, 2012

*Staying in the Current: Developments and Trends in Colorado Water Law*  
(with Kendall K. Burgemeister)  
36th Annual Colorado Water Workshop  
Gunnison, Colorado, 2011

*Water Law 101*  
(with Kendall K. Burgemeister)  
Colorado Water Trust, Water on the Land Workshops  
Various Locations, 2010-2011

*Colorado Water Law in the 21st Century*  
(with Kendall K. Burgemeister)  
Crestone, Colorado, 2010

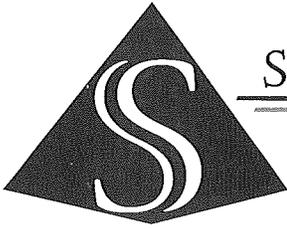
*Character and Fitness in the Bar Admission Process*  
(with Larry S. Pozner)  
University of Colorado School of Law  
Boulder, Colorado, 2006

**Professional Statement:**

*Throughout my career, I have focused on identifying, and implementing, creative and innovative solutions to complex disputes. I am not intimidated by new areas of the law or issues of first impression, and instead, welcome the opportunity to use hard work and careful research to solve a new problem. I enjoy working with my clients, and I recognize that they are a valuable member of our team.*

**Personal:**

*Devoted father, loving husband, avid cook, obsessive disc golfer, and amateur triathlete.*



SAMSON  
LAW FIRM<sup>PC</sup>

Telephone: (303) 776-1160 47

Fax: (303) 776-5444

samsonlongmontlaw.com  
info@samsonlongmontlaw.com

August 17, 2022

*Via Email:* [corinne@townofpaonia.com](mailto:corinne@townofpaonia.com)

Town of Paonia  
P.O. Box 460  
Paonia, CO 81428-0460

**RE: Proposal for Town Attorney Position**

Dear Corinne:

Attached please find my responses to your proposal requirements for the position of Town Attorney. Included with my responses is a copy of my resume. Please let me know if anything else is required.

Very truly yours,

Richard E. Samson

RES/cc  
Encl

# RICHARD E. SAMSON

717 Fifth Avenue, Longmont, CO 80501 • (303) 588.7503

[rick@samsonlongmontlaw.com](mailto:rick@samsonlongmontlaw.com)

[www.samsonlongmontlaw.com](http://www.samsonlongmontlaw.com)

## MUNICIPAL ATTORNEY

### EXECUTIVE PROFILE

Accomplished attorney admitted to practice of law in the State of Colorado, the State of Kansas, the U.S. District Court of Colorado, the U.S. District Court of Kansas, and the 10<sup>th</sup> Circuit Court of Appeals, a member of the Colorado Bar Association, the Weld County Bar Association, the Boulder County Bar Association, the Boulder County Bar Foundation, the Kansas Bar Association, the Legal Aid Foundation and the Colorado Municipal League, who has expertise in all aspects of land use and development, contract negotiations and possesses a deep and clear understanding of government relations and public affairs strategic development.

### SKILLS HIGHLIGHTS

- Expert knowledge of Municipal laws and practices
- Excellent verbal and written communication skills
- Contract negotiation
- Land Use, including annexations and subdivisions
- Economic Development
- Ability to adapt style to the audience
- Commitment to Integrity and Excellence

### CURRENT PRINCIPAL PRACTICE AREAS

- Municipal Law
- Business Law
- Real Estate Law
- Probate
- Estate Planning

### MUNICIPAL REPRESENTATIONS

- Town of Frederick
- Town of Lyons
- Town of Mead
- Town of Timnath
- Town of Wellington
- Town of Lochbuie
- City of Loveland – Employment Matter Special Council

**EDUCATION**

J.D. – Washburn University School of Law, Topeka, Kansas  
B.A. – Bethany College, Lindsborg, Kansas

**ELECTED OFFICE**

Stevens County Attorney, Stevens County, Kansas (Two terms)  
St. Vrain Valley Board of Education, (Colorado) (Two terms)

**REPORTED CASES**

Gale Reese vs. Gas Engineering and Construction and Home Insurance Company,  
548 P.2nd, 746 (KS Sup.Ct.);  
Town of Lyons vs. Bashor, 867 P.2nd, 159 (Colo. App.);  
Colorado Manufactured Housing Association, et al vs. The Town of Frederick, et al,  
977 F.Supp. 1080, d. Colo;  
Minch vs. Town of Mead, 957, P.2d 1054 (Colo. App.);  
Town of Frederick vs. North American Resource Company, 60 P.3rd, 578 (Colo. App.);  
Town of Erie vs. Town of Frederick, 251 P.3d 500 (Colo.App.Div. 1).

**AWARDS**

Boulder County Bar Association  
    Ron Porter Community Service Award  
Partners of Boulder County, Inc.  
    Lee Shepard Memorial Volunteer of the Year Award  
Longmont Twin Peaks Rotary Club  
    Larry Nelson Community Service Award  
    4 Way Test Award

**CURRENT CIVIC INVOLVEMENT**

Member, Board of Directors, Front Range Community College Foundation  
Member, Board of Directors, Longmont Twin Peaks Rotary Club

**PAST CIVIC INVOLVEMENT**

Member, Board of Directors, Bethany College, Lindsborg, KS  
Elected member of the St. Vrain Valley Board of Education  
Board Member and Vice-President of Partners, Inc. (national organization)  
Board Member, Assistant Secretary and Counsel to the Longmont Foundation  
Chairman of Boulder County Republican Party  
Chairman, Republican Second Congressional District  
Partners of Boulder County, Inc. Past President

# RICHARD E. SAMSON

717 Fifth Avenue, Longmont, CO 80501 • (303) 588.7503  
[rick@samsonlongmontlaw.com](mailto:rick@samsonlongmontlaw.com)  
[www.samsonlongmontlaw.com](http://www.samsonlongmontlaw.com)

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## MUNICIPAL ATTORNEY

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Longmont Area Chamber of Commerce, Past Chair  
Longmont Twin Peaks Rotary Club, Past President  
Habitat for Humanity of the St. Vrain Valley Community Development Committee

## MILITARY SERVICE

Captain – U.S. Army

RESPONSES TO PROPOSAL REQUIREMENTS – RICHARD E. SAMSON, ESQ.

1. In 30 years of representing statutory municipalities, I have dealt with almost every aspect of municipal law but have relied on specialists in the area of special districts and municipal finance.
2. City of Creede  
The Town of Frederick  
The Town of Mead
3. There are not many issues that I have not dealt with in my 30-year career including recalls, censures and removal of elected officials which are not normal for most communities. In attending many town board meetings, I have not been reluctant to appropriately call issues to the attention of the mayor and trustees as things develop during the meeting.
4. I have worked with some communities on an hourly rate and with others on a monthly retainer. Since I am unfamiliar with the workload in Paonia I would want to be on an hourly rate initially.
5. I have a Distinguished rating from Martindale Hubbell and my peer reviews are 4.5/5.0 and 5.0/5.0 in municipal law. I have attached a copy of my resume.
6. I would be the only attorney providing legal services from my firm and I have never been involved in any disciplinary proceedings.
7. I am not aware of any potential conflicts of interest.
8. Geoff Wilson, former CML General Counsel  
Helen Migchelbrink, Mead Town Manager  
Louis Fienberg, Creede City Manager
9. I would propose to bill on an hourly rate of \$300 an hour and on occasion I might need to rely on some of my staff members who are both paralegals with billing rates of \$150 an hour. These figures have not increased for a number of years and will not increase prior to January 1, 2024 as regards to the Town of Paonia.
10. I am insured by Berkeley Insurance Company and have been continuously insured since 1986. The limits of liability on my policy are \$1 million/\$2 million.
11. My office staff consists of myself and two paralegals. One of my paralegals has a Masters degree in Public Administration and has previously served as a city/town manager for over 20 years.
12. Based on my location on the front range, it would be necessary for me to attend all meetings remotely. This arrangement has worked quite well for the City of Creede.

TOWN OF PAONIA  
TOWN ATTORNEY SERVICES

August 17, 2022

SUBMITTED BY:

**WOOD BANOWSKY, PLLC**

MUNICIPAL LAW | ECONOMIC DEVELOPMENT | LAND USE

[www.woodbanowsky.com](http://www.woodbanowsky.com)

**WOOD BANOWSKY, PLLC**  
MUNICIPAL LAW | ECONOMIC DEVELOPMENT | LAND USE

August 17, 2022

RE: Proposal for Town Attorney services  
Town of Paonia

Honorable Mayor and Board,

We are tremendously pleased to submit this proposal for your consideration.

We understand how critical it is today for smaller towns to maximize often limited resources to encourage the highest quality investment in the local community, while maintaining the community’s core identity. Having represented 30+ cities and towns over the years our team possess a deep understanding of the challenges faced by Board and staff alike as you work to preserve local character while providing the managed growth that citizens and local businesses desire.

Our service philosophy is founded on becoming fully versed in your values and strategic goals and use this understanding to better serve your community. We are dedicated to providing unlimited 24/7 access to the town attorney for the day-to-day operations of the town.

The following pages provide an overview of our full range of legal services for municipalities. We are grateful for your consideration and committed to finding the best way to serve the Paonia community.

Sincerely,



Whitt Wyatt  
Director of Municipal Law

**Wood** Banowsky, PLLC  
923 Roslyn Ct.  
Denver, CO 80230  
P: 972.762.6418  
E: [whitt@woodbanowsky.com](mailto:whitt@woodbanowsky.com)

**Proposal Contents:**  
Statement of Qualifications  
Appendix A – GovDox™ Forms Collection Sample List

## Firm Introduction

We are a full-service municipal law firm with decades of experience representing all types of local governments, including cities, towns, local government corporations, and special districts. Our firm’s background is unique in that our attorneys have represented more than 30 cities over the years and possess a wealth of experience not just in all areas of municipal law but also in working closely with smaller communities such as Paonia that possess a truly unique character and rich history.

As a full-service firm we provide a comprehensive range of services for municipalities, including the areas of land use, public real estate transactions, economic development, municipal elections, and constitutional issues. Our general municipal practice further includes:

- Municipal Law & Elections
- Public Real Estate Transactions
- Zoning & Land Use
- Condemnations & Eminent Domain
- Employment/HR Law
- Public Safety & Law Enforcement
- Development Agreements & Annexation
- Colorado Open Records Act (CORA)
- Open Meetings Law (OML)
- Economic Development & Finance
- Parks & Recreation Services
- Litigation & Defense
- Municipal Prosecution
- Subdivision Regulation

## Service Philosophy

### A Better Service Model

Our firm is unique in that all of the firm’s attorneys are highly experienced partners with the firm well versed in the nuance often required of the city attorney while representing the interests of Board and staff. With a partner only model we are able to maintain a flat organizational structure similar to that of an in-house position. The result is unlimited access to attorneys with the experience necessary to quickly address any issue that may arise.

### Responsiveness

Responsiveness is the foundation upon which the town’s trust in its attorney is built. These days most of us are accustomed to instant access to everyday services, and we believe the town’s legal counsel shouldn’t be an exception. We will always be available 24/7 via virtual meetings, phone, email, or text. **Our goal is to be an extension of staff**, a mere ‘click’ or ‘tap’ away at any moment.

### GovDox Municipal Forms

We invest in the latest technologies to facilitate a collaborative working relationship with Board and staff alike. We utilize **GovDox**, a leading provider of legal forms designed exclusively for municipalities, which includes more than 100+ expertly drafted forms, contracts, resolutions, and ordinances commonly used by municipalities. We also offer document automation options where staff has the ability to generate signature ready contracts in minutes for routine matters such as contractor agreements for public works projects. With these effective resources we are able to offer **same-day turnaround** on requests for common town contracts and forms. A sample list of the forms we keep on hand is included with this proposal as **Appendix A**.

## Paonia's Attorney Team

We've found that clients expect the highest level of service at all times and that's precisely what we provide. Our attorneys have decades of combined experience representing cities as city attorney, economic development counsel, litigation counsel, and municipal prosecutor. Having served 30+ cities and towns in every conceivable role, each and every one of our municipal attorneys possess a depth of knowledge rarely found among attorneys in larger municipal firms.

**Whitt Wyatt's** 15+ year career has been devoted to representing local governments with an emphasis on representing municipalities, large and small, as city attorney. Whitt and his wife Kim moved to Colorado a few years ago to head the firm's Colorado office and raise their kids in this amazing and beautiful state. He brings with him extensive experience in local government having represented more than 30 cities as city attorney, public real estate/land use counsel, and special litigation counsel.

### Professional Qualifications

Oklahoma City University School of Law (J.D.), 2006  
 Oklahoma State University, (B.S.), 2003  
 Colorado Bar, 2019  
 Texas Bar, 2007  
 Certified Law Enforcement Instructor



**Daniel Findlay** is a Colorado native with a passion for Colorado's natural environment. Dan has served with the Colorado Parks and Wildlife and Counsel as well as Program Officer for the Rocky Mountain Climate Organization and where he developed a wealth of knowledge and deep understanding of the relationship between state and local governments. With a passion for local Colorado communities and extensive experience in the public sector, Dan brings incredible value to our municipal clients.

### Professional Qualifications

University of North Carolina School of Law (J.D.) 2010  
 University of North Carolina Chapel Hill (B.A.), 2006  
 Colorado Bar, 2010



**Nicole Corr** is our lead HR/employment lawyer and litigator for our local government clients. Nicole advises boards and staff on a variety of issues, including employment matters, city policies, condemnations, risk management and general municipal law. Nicole provides a wealth of experience to our team having previously served as a commercial litigator in a global law firm and as lead defense counsel for several cities through intergovernmental risk pools.

### Professional Qualifications

Gonzaga University School of Law (J.D.) 2007, *Cum Laude*  
 Oklahoma State University (B.S.), 2003  
 Colorado Bar, *pending*  
 Alaska Bar, 2008  
 Texas Bar, 2015



## Our Business Team



Kimberly Wyatt

Kim serves as lead tax counsel for the firm with a background in public-private partnerships and affordable housing. Kim also serves as Executive Director for P3 Foundation, a charitable organization dedicated to partnering with state and local governments to structure and finance housing and community development projects across the nation.



David Wood

With more than 25 years' experience in mergers and acquisitions, public and private equity and debt financings and restructurings, David has represented public and private companies, start-up companies in public offerings, mergers and acquisitions, corporate governance, federal and state securities law compliance, and contractual matters.



Thalia Banowsky

Thalia represents public and private companies, executives, investors, and investment funds in a broad array of engagements, including mergers, acquisitions and divestitures, entity structuring and formation, offerings of debt and equity securities, and general corporate governance and transactional matters.

## Local Government Client List

The following represent a selection of similar local government clients that our attorneys have served in various capacities over the past five (5) years:

- Town of Addison
- City of Allen
- Allen Economic Development Corporation
- City of Cleburne
- City of Colleyville
- Colleyville Tax Increment Financing District
- Colleyville Economic Development Corporation
- City of Collinsville
- Collinsville Economic Development Corporation
- Collinsville Industrial Development Corporation
- City of Coppell
- City of Corinth
- City of DeSoto
- Town of Double Oak
- City of Duncanville
- City of Ennis
- City of Gainesville
- City of Glenn Heights
- Glenn Heights Housing Finance Corp.
- City of Hutchins
- City of Lucas
- City of Midlothian
- Town of Mobile City
- City of Palmer
- City of Red Oak
- City of Richardson
- City of Rowlett
- Town of Scurry
- City of Seagoville
- City of Terrell
- West Cedar Creek MUD

## Predicable, Transparent Pricing Options

We are sensitive to the unique financial challenges faced by local governments, particularly for Colorado statutory towns. For this reason, we offer two different fee structures so that you may choose what works best for Board and staff alike. **Note:** The rates set forth below are guaranteed not to increase through December 31, 2024. We are also willing to negotiate our fee structure if the Board desires an alternative structure.

### *Traditional Hourly Service*

For communities that prefer a uniform billable hour structure our pricing is simple and transparent. All of our attorneys charge the same flat hourly rate of **\$215/hr** for all general municipal law matters. We also charge **\$95/hr** for the services of our paralegals. In conformance with the Town’s RFP, our fees are guaranteed not to increase through January 1, 2024.

### *Flat Fee + Hourly Service*

The traditional ‘billable hour’ model does not always serve the best interests of the Town. Staff may be hesitant to reach out, at least initially, for a quick question or simple document review under a purely billable hour structure, which often leads to increased legal costs down the road that could have been avoided with a quick call, email or text with the Town attorney.

With our monthly flat fee service, Board and staff alike have **unlimited access** to the Town attorney team for communication concerning Town matters as well as questions that come up throughout the day. This fee structure allows us to quickly address minor legal questions as well as become a part of your internal team. Our Flat Fee service is **\$1,200/mo** and includes:

- Unlimited quick questions from Board or staff via email or text (24/7)
- Unlimited scheduled phone calls regarding new matters (up to 15 mins)
- Complimentary meeting agenda review (all boards/commissions)

For other matters that require additional work or research on our end, we will handle those on an hourly basis in the same manner and rates as our traditional hourly service.

## Detailed Invoicing and Expenses

The Town will receive detailed invoices for all legal services provided over the course of each month that includes the total time spent on each matter, the identity of the person(s) working on the matter and a summary of the services provided. We strongly believe fully transparent billing practices are one of the most important factors in providing quality legal services to our clients. **We do not charge markup or overhead** on expenses. Pre-approved expenses for approved travel, meals, lodging, printing, legal research, and other third-party services will always be charged at cost, in conformance with the following schedule:

| <b>Expense Type</b>           | <b>Reimbursement Rate</b> |
|-------------------------------|---------------------------|
| In-house printing and copying | \$0.25 per page           |
| Mileage (upon approval)       | Current IRS rate          |
| Legal Research Software       | Actual cost               |
| All other authorized expenses | Actual cost               |

## Statement of No Conflicts

We presently do not represent any cities or other local governments bordering or near the Town of Paonia. Moreover, our client focused service model means we will never seek to represent any other municipal clients that could pose a potential conflict in the future. In the unlikely event a conflict should ever arise in the course of our representation, we would promptly and openly address the conflict with all parties involved and immediately resolve the conflict in conformance with the applicable rules of ethics and professional responsibility.

## Select References

The following select references are provided in response to the RFP:

**Jerry Ducay**

City Manager  
City of Colleyville  
[jducay@colleyville.com](mailto:jducay@colleyville.com)  
Phone: 817-312-2030

**Ken Schmidt**

Director of Planning  
Town of Addison  
[kschmidt@addisontx.gov](mailto:kschmidt@addisontx.gov)  
Phone: 972-450-7027

**Richard Newton**

Mayor (former)  
City of Colleyville  
Phone: 817-247-1642

**Adrienne Lothery**

Assistant City Manager  
City of Colleyville  
[alothery@colleyville.com](mailto:alothery@colleyville.com)  
Phone: 817-503-1112

**Michael Miller**

Chief of Police  
City of Colleyville  
[mmiller@colleyville.com](mailto:mmiller@colleyville.com)  
Phone: 817-503-1112

**Kimberly Kierce**

Municipal Court Administrator  
City of Richardson  
[kimberly.kierce@cor.gov](mailto:kimberly.kierce@cor.gov)  
Phone: 972-744-4502

We would be happy to provide additional references upon request.

# Appendix A

## GovDox™ Forms Collection

|   |   |
|---|---|
| Bid Packet Documents (Professional Services)              | Billing Collection Agreement (EMS Medical Services) |
| Bid Packet Documents (Public Works)                       | Collection Agreement (Court)                        |
| Contract Amendment (General)                              | Community Garden Management Agreement               |
| Contract Termination Letter                               | Consent Form - Photo/Video Public                   |
| Contractor Agreement (Annual Public Works)                | Escrow Agreement (General)                          |
| Contractor Agreement (Owner-Contractor)                   | Franchise Agreement for Solid Waste                 |
| Contractor Agreement (Vehicle Tow Company)                | License Agreement (Farmers Market)                  |
| Developer Agreement (Mixed Use)                           | Non-Disclosure Agreement (Mutual)                   |
| Developer Agreement (Public Improvements)                 | Purchasing Manual                                   |
| Donation Agreement (Abandoned Property)                   | Records Affidavit                                   |
| Donation Agreement (Real Property)                        | UAS (Drone) Employee Flight Policy (Part 107)       |
| Donation Agreement (Vehicle)                              | Waiver and Release (Animal Services)                |
| Professional Services Agreement                           | Waiver and Release (General Claim)                  |
| Professional Services Agreement (Consulting)              | Waiver and Release (Internship)                     |
| Professional Services Agreement (Legal)                   | Waiver and Release (Volunteer/Minor)                |
| Professional Services Agreement (Prosecutor)              | Settlement and Release Agreement (General)          |
| Tree Mitigation Agreement                                 |   |
| Economic Development Agreement (Demo/Rebuild)             | ILA for Animal Services                             |
| Economic Development Grant Agreement (Tax Refund)         | ILA for Jail Facility (General)                     |
| Economic Development Grant Agreement (Restaurant)         | ILA for Joint Public Facility Usage                 |
| Economic Development Incentive Agreement (Residential)    | ILA for Law Enforcement Services                    |
| Economic Development Incentive Agreement (Infrastructure) | ILA for School Crossing Guards                      |
|   | ILA for School Resource Officer                     |
|   | ILA for Use of Public Driving/Training Facility     |
| Employee Background and Credit Check Waiver               | Deed (Special Warranty & Quitclaim)                 |
| Employee Policies Manual                                  | Easement (Drainage)                                 |
| Employee Recruitment Checklist                            | Easement (General Utility and Street)               |
| Employee Severance Agreement                              | Easement (Pedestrian Trail)                         |
| Employee Training Reimbursement Agreement                 | Easement (Temporary Construction)                   |
| Employment Agreement (City/Town Manager)                  | Easement (Underground Facilities) Easement Release  |
| Employment Agreement (Judge)                              | Encroachment License Agreement                      |
| Employment Checklist for New Employees                    | Lease Agreement for City Buildings                  |
| Employment Drug Screening Consent                         | Agreement for City Event Center                     |
| Employment Letter - Conditional Offer of Employment       | License Agreement (Water Tower Facility)            |
| Employment Letter - Conformation of Employment            | Lien (General/Statement of Expenses)                |
| Employment Letter - Notice of Discipline                  | Lien Release  |
| Employment Letter - Notice of Investigation               | Restriction Agreement                               |
| Employment Physical Consent Social Media Policy           | Right-of-Entry Agreement (For Construction)         |
|   | Right-of-Way License                                |
| Social Media Policy                                       | Artist Agreement (Singer/Band)                      |
| Website Linking Policy                                    | Event Concession Agreement (Food)                   |
| Website Privacy Policy                                    | Event Concession Agreement (Non-Food)               |
| Website Terms of Use                                      | Event Sponsorship Agreement                         |
| Film License Agreement & Checklist                        |   |
| Film Permit   |   |