

RESOLUTION NO. 43

SERIES 2016

RESOLUTIONS OF THE CRESTED BUTTE TOWN COUNCIL
APPROVING TOWN ATTORNEY REPRESENTATION LETTER

WHEREAS, the Town of Crested Butte, Colorado (the "Town") is a home rule municipality duly and regularly organized and now validly existing as a body corporate and politic under and by virtue of the Constitution and laws of the State of Colorado;

WHEREAS, pursuant to Section 7.1 of the Home Rule Charter of the Town of Crested Butte, the Town Council appoints the Town Attorney to serve at the pleasure of the Town Council;

WHEREAS, the Town Attorney is the legal representative of the Town and shall advise the Town Council and Town officials in matters relating to their official powers and duties and perform such other duties as the Town Council desires;

WHEREAS, the Town Council finds it necessary and appropriate to enter into a representation letter with the Town Attorney governing the Town Attorney's performance of legal services for the Town; and

WHEREAS, the Town Council hereby finds that it is in the best interest of the health, safety and general welfare of the citizens and visitors of Crested Butte to enter into an agreement with the Town Attorney for the Town Attorney's performance of legal services for the Town for the above-stated purposes, and in connection therewith, adopt and execute the Town Attorney representation letter referenced below.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT:

1. **Findings.** The Town Council hereby finds that entering into the Town Attorney representation letter with the Town Attorney for the Town Attorney's performance of legal services for the Town is in the best interest of the health, safety and general welfare of the citizens and visitors of Crested Butte.

2. **Approval; Authorization of Mayor.** Based on the foregoing, the Town Council hereby approves the Town Attorney representation letter in substantially the same form as attached hereto as **Exhibit "A"** (the "**Letter**"). The Mayor is hereby authorized to execute the Letter in such form.

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL THIS 21st DAY OF November, 2016.

TOWN OF CRESTED BUTTE, COLORADO

By: Glenn Michel
Glenn Michel, Mayor

ATTEST

Lynelle Stanford
Lynelle Stanford, Town Clerk

(SEAL)



EXHIBIT "A"

Town Attorney Representation Letter

[attach letter here]

J. D. BELKIN & ASSOCIATES, LLC

ATTORNEYS AT LAW
Whiterock Professional Building
502 Whiterock Avenue, Suite 200
P.O. Box 2919 (U.S. Mail Stop)
Crested Butte, Colorado 81224
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Facsimile: 970.497.4401

John D. Belkin, Esq.
E-mail: jbelkin@jbelkinlaw.com

November 21, 2016

VIA E-MAIL TRANSMITTAL

Town Council, Town of Crested Butte
Attn: Dara MacDonald, Town Manager
P.O. Box 39
507 Maroon Avenue
Crested Butte, CO 81224
E-mail: dmacdonald@crestedbutte-co.gov

Re: **Town Attorney Representation Letter**

Dear Town Council:

This representation letter sets forth our agreement for your retention of me to serve as the Town Attorney for the Town of Crested Butte.

Because the Town, a municipal corporation, is in fact my client, I represent only the Town and not its elected officials, officers or staff members in their unofficial capacities. This means that it is my duty to place the Town's welfare and interests ahead of the interests of any of the individual elected officials, officers or staff members. As the Town Attorney, I cannot ethically conceal a problem I discover in the course of my representation concerning the Town or any elected official, officer or staff member relating to the Town. Instead, I would be required to disclose that information to the Town Council even if that disclosure could be to the detriment of one or more of the elected officials, officers or staff members.

Please be assured I always protect my clients' privacy. In particular, I adhere to professional and ethical standards regarding attorney-client privilege and the confidentiality requirements of the applicable ethics rules. Confidential information may be shared with other attorneys retained by the Town, paralegals or legal assistants and outside consultants retained on the Town's behalf whose services are necessary in the course of my representation. Confidential information may also be disclosed to third parties where such disclosure is implied from the legal services you have requested me to provide. This duty of privacy and confidentiality is of course subject to the requirements of the Colorado Open Records Act.

As you know, many local governments use a two-tiered rate billing system where there is a lower rate for general municipal work, as well as a higher rate for legal work that is charged back to developers and reimbursed to the Town. This is how I have operated for the last 10 years and this allows municipal attorneys to keep the general rate lower.

- For Town unreimbursed work: \$175.00 general work
- For developer reimbursed work: \$275.00 developer reimbursable work*

Town Council
Attn: Dara MacDonald
November 21, 2016
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*As we have discussed, if the developer does not reimburse the Town, such developer unreimbursed work will be billed to the Town at the general legal work rate of \$175.00.

The Town agrees to reimburse me for customary expenditures made on the Town's behalf such as court reporters, copying costs, postage, Federal Express or other overnight carriers, filing and recording fees and secretarial and/or paralegal time allocated to Town legal matters. I may also incur mileage at the applicable IRS rate. Lodging and subsistence expenses may be billed to the Town only after approval in advance by the Town Manager. In the event that I feel the need to obtain the services of consultants, vendors and experts on the Town's behalf to assist me with the performance of legal services, I will gain the approval of the Town Council and/or Town Manager in advance thereof. This is, again, how I have operated for the last 10 years.

As of January 1, 2017, I will be joining the law firm of Garfield & Hecht, P.C. For your information, I was with Garfield & Hecht when I was hired as the Town Attorney in 2006. This arrangement will be seamless to the Town, and there will be no change in the services I provide. I will remain as the appointed Town Attorney under the Town Charter, but I will now have the resources of Garfield & Hecht to support me. The rates will also remain the same. Other attorneys at Garfield & Hecht who may assist me will bill at rates equal to or less than my rates as set forth above. This arrangement will allow for the provision of additional legal services to the Town in areas such as water representation and litigation support. It will also allow me to have a back-up attorney in the event that I am not able to make a Town Council meeting. If you recall, this was something that you asked me to address during my last review. When I join the firm in January there will be five licensed attorneys in the Garfield & Hecht municipal practice group, which serves multiple special districts and municipalities across the Western Slope. Because Garfield & Hecht is based in Aspen, conflicts in my representation of the Town will be rare if ever. This has been the case to date. Accordingly, as of January 1, this representation letter will transfer to Garfield & Hecht with me continuing to support you as I always have.

My commitment in representing the Town has been and will continue to be providing the Town with the finest legal services available. If this representation letter is acceptable to you, please countersign the same in the space provided below. Thank you.

Very truly yours,

J. D. BELKIN & ASSOCIATES, LLC

By: 

John D. Belkin

AGREED:

TOWN OF CRESTED BUTTE, COLORADO

By: 

Glenn Michel, Mayor