

RESOLUTION NO. 08-37

INTRODUCED BY:

Councilperson Coppola  
Councilperson Havercroft

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF CASTLE PINES NORTH  
APPROVING AN INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE CITY OF CASTLE PINES NORTH AND THE CASTLE PINES  
NORTH METROPOLITAN DISTRICT**

WHEREAS, pursuant to Section 29-1-201, C.R.S., the City of Castle Pines North (the "City") and Castle Pines North Metropolitan District (the "District") may enter into intergovernmental agreements; and

WHEREAS, the City is placing before the electors of the City on November 4, 2008 a ballot question that would authorize the City to impose a mill levy of up to 19 mills, but only if the Board of Directors of the District reduces the currently imposed mill levy of the District, at which time, if adopted by the electors, the City could impose a mill levy equal in amount to the amount of the District's reduction in mill levy; and

WHEREAS, the City Council of the City has adopted Resolution No. 08-33 which requests that the Board of the District reduce the District's mill levy for 2009 by 9.5 mills; and

WHEREAS the City will utilize its revenue sources including but not limited to the 9.5 mills for the citizens of Castle Pines North to deliver essential municipal services; and

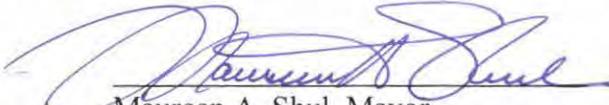
WHEREAS The District and The City are jointly working toward a fiscally responsible approach to address their respective responsibilities and accomplish the goals of providing quality services to the citizens of Castle Pines North while not increasing the property tax burden on the taxpayers; and

WHEREAS the Intergovernmental Agreement between the City and the District adopted hereby support and reflects the parties joint efforts to address their respective responsibilities and accomplish the goals of providing quality services to the citizens of Castle Pines North while not increasing the property tax burden on the taxpayers.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CASTLE PINES NORTH, COLORADO:

The City Council hereby approves the Intergovernmental Agreement between the City of Castle Pines North and the Castle Pines North Metropolitan District, substantially in the form attached hereto as **Exhibit A**.

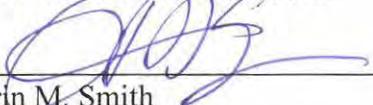
INTRODUCED, READ AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES NORTH the 30<sup>th</sup> day of September, 2008.

  
Maureen A. Shul, Mayor

ATTEST:

  
\_\_\_\_\_  
Carl E. Kollmar, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Erin M. Smith  
City Attorney

## EXHIBIT A

### **INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF CASTLE PINES NORTH AND THE CASTLE PINES NORTH METROPOLITAN DISTRICT**

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2008, pursuant to the provisions of §29-1-201 *et seq.*, C.R.S. 2008, by and between the CITY OF CASTLE PINES NORTH, COLORADO, a Colorado statutory municipality (hereafter referred to as "The City") acting by and through its duly elected City Council, and CASTLE PINES NORTH METROPOLITAN DISTRICT, a Colorado special district and political subdivision (hereafter referred to as "The District") acting by and through its duly elected Board of Directors.

### WITNESSETH

WHEREAS The City and The District share common boundaries and serve the same constituents; and

WHEREAS the citizens of The City approved incorporation of The City of Castle Pines North in order to self determine issues related to growth and development and the management of the community's affairs; and

WHEREAS, such incorporation carries with it a responsibility to the citizens of the City of Castle Pines North to properly fund and deliver essential services and protect the citizens; and

WHEREAS The District, as part of its approved Service Plan, provides water service to the residents of The City and The District; and

WHEREAS The District projects, based upon competent ground water engineering studies and its own experience, that ground water resources available to serve The District will significantly decrease over the next 10 years, and may become uneconomical to develop within the next 15 years; and

WHEREAS identifying and acquiring renewable sources of water is fundamental to providing sustainability to The City, The District and the residents of each; and

WHEREAS The District is in the process of identifying and acquiring renewable water rights, water storage, water transmission mains and facilities, and water treatment facilities necessary to implement and develop a sustainable long-term water program which will assure the continued vitality and viability of The City and The District; and

WHEREAS a reasonable timeline for identification and acquisition of renewable water rights is 2 to 5 years; and

WHEREAS The District currently estimates that the total cost to identify and acquire sufficient renewable water and to purchase and/or develop the infrastructure

required to adequately serve the residents and property owners of The District and The City is \$60-80 million; and

WHEREAS The District currently has the financial capacity, under its currently voter-approved and existing mill levy assessments and currently adopted and proposed schedule of rates, fees and charges, to fund the identification, acquisition and development of the water, water rights, and infrastructure identified above up to approximately \$70 million; and

WHEREAS The District recognizes that costs for water acquisition and development have been rising in the approximate amount of 10% per year, and that such increases are likely to continue; and

WHEREAS the time from identification and acquisition of water rights to full delivery and development of such water rights is between 3 and 6 years; and

WHEREAS The City is placing before the electors of The City on November 4, 2008 a Ballot Question that would authorize The City to impose a mill levy of up to 19 mills, but only if the Board of Directors of The District reduces the currently imposed mill levy of The District, at which time, if adopted by the electors, The City could impose a mill levy equal in amount to the amount of the District's reduction in mill levy; and

WHEREAS the City Council of The City has adopted Resolution No. 08-33 which requests that the Board of The District reduce The District's mill levy for 2009 by 9.5 mills; and

WHEREAS the City of Castle Pines North will utilize its revenue sources including but not limited to the 9.5 mills for the citizens of Castle Pines North to deliver some or all of the essential municipal services including: renewable water, police protection; street construction and maintenance; snow management; right of way management; planning; zoning and land use management; establishment and operation of a judiciary system; City financial and administrative services; capital improvements; traffic and transportation; compliance with county, state and federal requirements and mandates; maintenance of intergovernmental relationships; enhancement of community recreation activities; and economic development; and

WHEREAS The District and The City are jointly working toward a fiscally responsible approach to address their respective responsibilities and accomplish the goals of quality services to the citizens of Castle Pines North while not increasing the property tax burden on the taxpayers; and

WHEREAS the Board of Directors of The District and the City Council of The City agree that this Intergovernmental Agreement shall come into effect if, and only if, the Board of Directors of The District approves a reduction in The District's current 24-mill assessment from 24 mills to 14.5 mills; and

WHEREAS the parties hereto, as elected officials who have assumed and continue to be bound by fiduciary responsibilities to their respective commonly-served constituents, wish to set forth herein in full their good-faith agreement as to the matters set forth herein.

NOW THEREFORE The City, acting by and through its duly elected City Council, and The District acting by and through its duly elected Board of Directors, for themselves and their successors, in and for the consideration of the performance of the mutual obligations set forth herein, the receipt and adequacy of which is hereby acknowledged, do hereby agree as follows:

1. Agreement contingent. The provisions of this Intergovernmental Agreement are expressly contingent upon the Board of Directors of The District adopting a mill levy of less than 24 mills (but not less than 14.5 mills) for debt reduction purposes, which reduced mill levy would become effective in 2009. Nothing set forth herein obligates the Board of The District to adopt a reduced mill levy. In the event the Board does not adopt a mill levy decrease from the 24 mill level effective for 2008, this IGA shall terminate and shall be of no further force and effect.

2. City agreements in the event of a mill levy reduction. In the event the Board of Directors of the District reduces the current 24 mill levy assessment in any amount effective January 1, 2009, The City agrees that at such time as (a) The District's plans and efforts to identify, acquire, develop and deliver to the District renewable water requires funds which are in addition to funds which The District is able to secure using its reduced mill levy, or (b) The District is unable to generate sufficient funds to pay currently-existing debt or debt service due to the reduced mill levy, The City, acting by and through its then-serving City Council shall, in the exercise of its sole legislative discretion, either

A. Secure bonds in the amount needed by The District to complete the renewable water acquisition/development,

B. Appropriate sufficient funds in order to enable, and thereafter to make regular and long-term cash payment(s) to The District from such appropriated funds in order to enable The District to issue bonds based on such regular and long-term cash payment(s), or

C. Reduce the mill levy authorized by the FIRST BALLOT ISSUE appearing on the November 4, 2008 ballot in the amount necessary to secure any additional funding required by The District to complete the identification, acquisition and development of the renewable water identified in The District's then-current renewable water plan.

In the event option C. above is selected by the City Council, the City Council shall publicly support any increase in The District's mill levy back to whatever level is required to support and sustain the additional funding required by The District.

3. District undertakings. In the spirit of cooperation and in the desire to effectively serve the common constituents of the parties, the Board of the District agrees that, during the term of this IGA, it shall

A. Communicate on a regular periodic basis its progress in identifying, acquiring and developing renewable water and water rights and required infrastructure, and will periodically advise The City regarding The District's ability to finance such efforts;

B. Take such steps as the then-currently elected and serving Board of Directors deems necessary and proper to ensure that the financial operations of The District allows for the maximum financing ability on the part of The District before The District requires The City to undertake any of the actions specified in paragraph 2, subparts A, B and C above, provided however that The City recognizes and acknowledges that each then-serving Board of The District possesses the sole authority and discretion to determine the required operations level for The District; and

C. Use all resources of The District deemed available by the then-currently serving Board of Directors for bonding and acquisition purposes before asking The City to take any of the actions identified in paragraph 2, subparts A, B or C.

4. Reliance on §29-1-203(1), C.R.S. 2008. In entering into this Intergovernmental Agreement, the parties are relying on the provision of §29-1-203(1), C.R.S 2008, which allows an intergovernmental agreement of the sort entered into by the parties to "be entered into for any period, notwithstanding any provision of law limiting the length of any financial contracts or obligations of governments."

5. No limitation on discretion of elected bodies. Nothing set forth or agreed to herein shall deprive any future elected City Council of The City or Board of Directors of The District from exercising its lawfully delegated authority or exercising lawful discretion.

6. Remedies. In the event The City fails to elect or perform any of the options available to it in paragraph 2 above, The District may re-impose a mill levy up to the maximum level previously authorized by the electors of The District. In the event The District fails to perform the obligations it has accepted as set forth in paragraph 3 above, The City may refuse to appropriate or pay funds until such time as The District has provided the required information/documentation.

7. Termination provision. This Intergovernmental Agreement shall continue in full force and effect until the earlier to occur of the following:

A. Written termination by the mutual agreement of the parties, which mutual agreement shall be manifested by a writing duly adopted by the City Council and the Board of Directors; or

B. Adoption by the electors of The City of a new tax or mill levy that will fund operations of The City; or

C. Failure by The City to elect and/or perform any of the options identified in paragraph 2 above; or

D. Failure of The District to comply with any of the provision of paragraph 3 above, or to provide any such required information upon reasonable written request from The City.

8. Jurisdiction and venue. This Intergovernmental Agreement shall be construed in accordance with the laws of the State of Colorado. Exclusive venue for any dispute between the parties shall be the District Court in and for the County of Douglas, State of Colorado.

9. Effective date. This Intergovernmental Agreement shall become effective only upon satisfaction of the contingency identified in paragraph 1 above and upon approval by the City Council of The City and the Board of Directors of The District.

10. No Third Party Beneficiaries. This Intergovernmental Agreement does not and shall not be deemed or construed to confer upon or grant to any third party or parties any rights to claim damages or to bring any suit, action or other proceeding against either The City or The District because of any breach of this Intergovernmental Agreement or because of any of the terms, covenants, agreements or conditions herein contained.

THE CITY OF CASTLE PINES NORTH, COLORADO,  
a Colorado statutory municipal corporation

By: \_\_\_\_\_  
Maureen A. Shul, Mayor

Attest:

\_\_\_\_\_  
Carl E. Kollmar, City Clerk

CASTLE PINES NORTH METROPOLITAN DISTRICT,  
a Colorado special district and political subdivision

By: \_\_\_\_\_  
Bill Santos, President

Attest:

\_\_\_\_\_