

RESOLUTION NO. 08-48

INTRODUCED BY:

Councilperson Havercraft
Councilperson Hoffman

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF CASTLE PINES NORTH
APPROVING LEGAL SERVICES AGREEMENT BETWEEN THE CITY OF CASTLE
PINES NORTH AND ICENOGL, NORTON, SMITH, GILIDA & POGUE, P.C.**

WHEREAS, pursuant to section 31-4-208, C.R.S., the City Council of the City of Castle Pines North, on April 2, 2008 appointed the law firm of Icenogle, North, Smith, Blieszner, Gilida and Pogue, P.C. now known as Icenogle, North, Smith, Gilida and Pogue, as its City Attorney (the "Law Firm"); and

WHEREAS, the City shall receive legal services and legal advice from the Law Firm and the Law Firm shall invoice the City on a monthly basis; and

WHEREAS, the purpose of this resolution is to memorialize the Legal Services Agreement between the City and the Law Firm.

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

Section 1. The City Council hereby approves the Legal Services Agreement with Icenogle, Norton, Smith, Gilida & Pogue, P.C., 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 22nd day of October, 2008.


Maureen A. Shul, Mayor

ATTEST:


Douglas J. Gilbert, Interim City Clerk

APPROVED AS TO FORM:

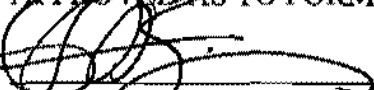

Erin M. Smith
City Attorney

Exhibit A

LEGAL SERVICES AGREEMENT

THIS AGREEMENT is an agreement between the City of Castle Pines North, a statutory municipality of the state of Colorado, incorporated and organized pursuant to the provisions of sections 31-2-101, *et seq.*, C.R.S. (the "City"), and Icenogle, Norton, Smith, Gilida and Pogue, P.C. (the "Law Firm") under which the Law Firm shall perform legal services for the City.

WHEREAS, pursuant to section 31-4-208, C.R.S., the City Council of the City of Castle Pines North, on April 2, 2008 appointed the Law Firm, then known as Icenogle, Norton, Smith, Blieszner, Gilida and Pogue, P.C., as its City Attorney.

NOW THEREFORE, the City and the Law Firm agree as follows:

PART A:

1. Erin Smith and the law firm of Icenogle, Norton, Smith, Gilida & Pogue, P.C. shall serve as the City attorney pursuant to the Appointment made on April 2, 2008.
2. Scope of Legal Services. The Law Firm will provide any and all legal services requested of it by the Mayor, the City Council, the City Manager, and any boards or employees of the City authorized by the Mayor or City Council to request legal services of the Law Firm. Such services shall include, but are not limited to the following:
 - a. Attend regular meetings of the City Council, Planning Commission, Board of Adjustment and, as needed, weekly meetings of the City Staff.
 - b. Attend meetings and conferences with City Council, City boards and commissions, City staff and officers as directed by the Mayor, City Council or the City Manager.
 - c. Supervise the drafting of all ordinances and resolutions.
 - d. Supervise the drafting of all legal documents.
 - e. Respond to all inquiries and communications of a general legal nature from the Mayor, members of the City Council, the City Manager and the City staff.
 - f. Advise appropriate City officials in a timely manner of their specific and continuing legal obligations both from a defensive posture (i.e. advising them after claims have been asserted) and from a prospective posture (i.e. avoiding potential problems before they manifest themselves).
 - g. Keep abreast of rules, regulations and statutes of federal, state and local governmental entities that could, or should involve the City.

h. Represent the City in its dealings and negotiations with federal, state and local governmental entities and agencies, special improvement districts and utilities, affecting the City.

i. Represent the City in litigation matters involving the City.

j. Perform such other duties as may be prescribed by the ordinances or resolutions of the City, the City Council, or the City Manager.

3. Identification of Client. It is understood that the Law Firm's client for purposes of its representation is the City of Castle Pines North, and not any of its individual members or constituents, or any other entities whose interests are being represented by those individuals.

4. Term. It is understood that the City Attorney serves at the pleasure of the City Council of the City of Castle Pines North, and this Agreement shall therefore be for an indefinite term.

5. Designated City Attorney. The name of the City Attorney within the Law Firm who will be primarily responsible for all legal services other than litigation, to be rendered to the City is Erin M. Smith.

6. Management. At least annually, the City Attorney will confer with the City Manager to identify legal service priorities, and to plan for the management of the legal services budget.

7. Compensation and Expenses. The Law Firm will continue to charge the City according to the provisions set forth in Part B of this Agreement, attached hereto and incorporated herein. The Law Firm will bill the City on a regular basis, normally each month, for both fees and disbursements. All bills will reflect services already performed and disbursements already made.

8. Billing Statement. The Law Firm will provide a computer generated billing statement each month setting forth the following information in a readable, detailed format:

- a. The date services are provided.
- b. The description of those services
- c. The legal professional performing those services.
- d. The applicable hourly rate
- e. The amount of time expended.
- f. A subtotal of the cost of those services.
- g. A cumulative total of the cost of all legal services provided that month.

With respect to disbursements and other expenses, the billing statement will indicate the cumulative total of all expenses that month.

9. Governing Law. This Agreement shall be construed in accordance with, and governed by the laws of the State of Colorado.

10. Amendment. This Agreement may be amended only by a written instrument signed by both of the parties hereto.

11. Budget and Appropriation. The City's obligation to pay the Law Firm for fees, disbursements and other expenses billed by the Law Firm shall be subject to budget and appropriation.

**PART B:
Fee Schedule**

Icenogle Norton proposes a monthly retainer in the amount of \$5,000. The retainer will cover: (1) Travel to and attendance at up to two regular Council meetings per month; (2) Travel to and attendance at up to one zoning or planning and zoning commission meeting per month; (3) Travel to and attendance at up to two regular staff meetings per month; (4) Incidental telephone conferencing with staff, the Mayor or City Council Members; (5) Telephone conferencing with staff concerning Code enforcement issues; (6) Supervision from the City Attorney of the work of other Icenogle Norton personnel; (7) Preparing correspondence notifying the City of changes in federal or state laws that may implicate City policies and laws; and (8) Preparing correspondence identifying necessary or suggested changes to existing City ordinances and estimating the number of hours involved to prepare any municipal code amendment. All other services will be billed on an hourly basis.

A proposed hourly rate schedule for all positions is attached as Appendix A to this Part B.

The fee for travel to and attendance at two regular City Council meetings each month is included in the retainer (see (a) above). Fees for travel to (one way; capped at .75 hour) and attendance at any additional City Council meetings will be billed as general legal services at a rate of \$215.00 per hour when performed by Erin Smith; not to exceed \$190.00 when performed by an associate; and \$105.00 when performed by a paralegal.

Litigation matters in which Icenogle Norton is actively representing the City will be billed to the City at the Firm's normal hourly rates (see Appendix A to this Part B). These fees will also apply to matters requiring representation of the City before other local, state or federal agencies and special district dissolution work. These rates are subject to increase on January 1, 2009 and annually thereafter on January 1.

Legal fees for development matters that the City charges back to the applicant will be billed at the Firm's normal hourly rates (see Appendix A to this Part B), which rates are subject to increase on January 1, 2009 and annually thereafter on January 1.

Legal fees for special projects will be billed at the Firm's normal hourly rates (see Appendix A to this Part B), which rates are subject to increase on January 1, 2009 and annually thereafter on January 1. The development of the sales tax ordinance would be a special project. Special projects would be opened upon approval of the Mayor and Treasurer. We propose using a standardized form to be signed by the Mayor and Treasurer that will describe the scope of work, the estimated hours and the assigned attorney(s).

All other general legal services not covered by the retainer when performed by Erin Smith will be billed at the rate of \$215.00 per hour, when performed by an associate will be billed at a rate not to exceed \$190.00, and when performed by a paralegal will be billed at a rate of \$105.00. This will include: (1) monitoring litigation that is being handled by special counsel or insurance defense counsel; (2) municipal court prosecution; (3) preparing documents related to settling litigation provided such preparation does not involve legal research; (4) travel to (one way; capped at .75 hour) and attendance at City Council, zoning or planning and zoning commission and staff meetings not covered by the retainer and board of adjustment meetings. The rate for general legal services is subject to increase on January 1, 2009 and annually thereafter on January 1.

Icenogle Norton proposes to charge and bill separately from its fees an amount to reimburse it for its actual out-of-pocket expenses such as special delivery charges (cost), mailings (cost), copying (\$0.20/page), online Lexis/Westlaw computerized research (cost) and mileage (at the IRS Standard Mileage Rate) one way to or from the City for City Council, Planning Commission, Board of Adjustment and staff meetings and round trip to and from any other meeting or destination. The Firm does not charge for facsimiles and long-distance calls. The Firm will review reimbursable costs on an annual basis, and they are subject to increase on January 1st of each year.

EXECUTED on _____, 2008, effective as of April 2, 2008.

CITY OF CASTLE PINES NORTH

Maureen A. Shul, Mayor

ATTEST:

Doug Gilbert, Interim City Clerk

**ICENOGLA, NORTON, SMITH, GILIDA AND
POGUE, P.C.**

By: _____

APPENDIX A
2008 BILLING RATES

| | | |
|------------------------|-------------|-------------------|
| T. Edward Icenogle | Shareholder | \$310.00 per hour |
| Charles E. Norton | Shareholder | \$310.00 per hour |
| Erin M. Smith | Shareholder | \$270.00 per hour |
| Edward J. Blieszner | Shareholder | \$300.00 per hour |
| Tamara K. Gilida | Shareholder | \$250.00 per hour |
| Alan D. Pogue | Shareholder | \$250.00 per hour |
| Deborah A. Early | Associate | \$205.00 per hour |
| Carolyn R. Steffl | Associate | \$190.00 per hour |
| John R. Christofferson | Associate | \$180.00 per hour |
| J. Michael Keane | Associate | \$170.00 per hour |
| Jennifer L. Ivey | Associate | \$165.00 per hour |
| Ericka D. Olson | Associate | \$165.00 per hour |
| Gordon F. Garrett | Of Counsel | \$275.00 per hour |
| Bruce E. Deacon | Of Counsel | \$260.00 per hour |
| Nicolle L. Brewer | Paralegal | \$115.00 per hour |
| Wynter B. Wells | Paralegal | \$110.00 per hour |
| Stacie L. Pacheco | Paralegal | \$110.00 per hour |
| Victoria A. Brown | Paralegal | \$105.00 per hour |
| Kristy S. Butler | Paralegal | \$105.00 per hour |