

RESOLUTION NO. 09-76

INTRODUCED BY:

Councilperson Coppola

Councilperson Havercroft

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF CASTLE PINES NORTH
RETAINING THE SERVICES OF LYONS GADDIS KAHN & HALL, PC
TO ACT AS SPECIAL COUNSEL IN WATER MATTERS**

WHEREAS, pursuant to Section 31-15-101, C.R.S., the City Council of the City of Castle Pines North has the authority to enter into contracts; and

WHEREAS, the City is seeking to retain special counsel in order to assist the City in water matters; and

WHEREAS, Lyons Gaddis Kahn & Hall, PC (the "Firm") has submitted a letter of engagement to act as special counsel in connection with the City's water matters; and

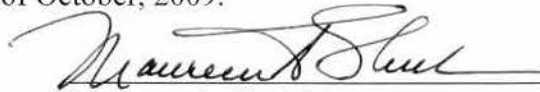
WHEREAS, the City Council wishes to retain the Firm in accordance with the terms of the engagement letter and any conditions of approval or amendments imposed by City Council.

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

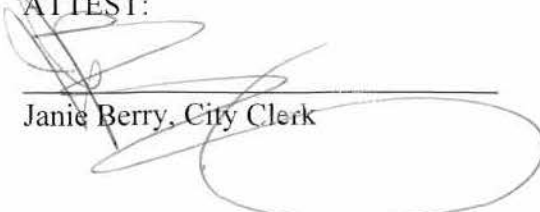
Section 1. The City Council hereby retains Lyons Gaddis Kahn & Hall, PC, by and through Steven P. Jeffers, to perform legal services in water matters as specified in the agreement attached hereto as **Exhibit A**, subject to amendments to the agreement as deemed necessary by the City Attorney and/or as directed by City Council in its motion of approval.

Section 2. Upon approval of the final form of agreement by the City Attorney, the Mayor is authorized to sign the Agreement on behalf of the City.

INTRODUCED, READ AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES NORTH by a vote of six (6) in favor, none against, and one (1) absent this 8th day of October, 2009.


Maureen A. Shul, Mayor

ATTEST:


Janie Berry, City Clerk

APPROVED AS TO FORM:


Linda C. Michow, City Attorney

Exhibit A

LETTER OF ENGAGEMENT

Richard N. Lyons, II
Jeffrey J. Kahn
John W. Gaddis
Bradley A. Hall
Steven P. Jeffers
Anton V. Dworak
Adele L. Reester

Lyons Gaddis Kahn & Hall
A Professional Corporation  Attorneys and Counselors

Eve I. Canfield
Scott E. Holwick
Matthew Machado
Madoline Wallace-Gross
Chad A. Kupper

Daniel F. Bernard
Senior Counsel

Catherine A. Tallerico
Special Counsel

October 6, 2009

Alan Lanning, City Manager
Castle Pines North
9193 S. Jamaica Street, Suite 400
Englewood CO 80112

VIA E-MAIL alan.lanning@ch2m.com

Re: Engagement Letter for Water Counsel

Dear Alan:

Thank you for taking the time to meet with me to discuss the City's water rights situation and for considering our firm to serve as Water Counsel for Castle Pines North. We understand that such services, if approved by the City Council, will be provided on an as needed basis and will initially include assistance in the evaluation of water rights owned by Resource Colorado Metropolitan Water and Sanitation District in the Lost Creek Designated Basin, and possibly other water rights, for use by the City. Additional services may be provided as the City may request from time to time.

As we discussed, I have worked on a limited basis as conflicts counsel for Cottonwood Water and Sanitation District and our firm has done a small amount of transactional work for Arapahoe County Water and Wastewater Authority. We are not currently doing any work for either entity. I currently represent Roxborough Water and Sanitation District and Stonegate Village Metropolitan District as Water Counsel. Other lawyers in our firm also represent Castle Rock in water matters. Our prior representation of Cottonwood and the Authority and our current representation of these other entities create potential for future conflicts of interest, although I do not think a conflict presently exists. I understand that you will advise the City Council of this potential conflict and confirm that our representation of the City is approved under these circumstances.

Our firm's policy is to enter into a written agreement regarding fees and costs at the same time we undertake the representation of a new client. When this letter is signed by you on behalf of the City and returned to our firm, it will serve as our formal agreement. This agreement includes the attached additional provisions prohibiting services by illegal aliens. As a prospective contractor for these services, we hereby certify that we will comply with the provision of § 8-17.5-101, C.R.S. et. seq., that we do not knowingly employ or contract with any illegal aliens, and that we have participated in or attempted to participate in either the E-Verify program or the Department of Labor program in order to confirm the employment eligibility of all employees who are newly hired for employment

I will be primarily responsible for assisting the City on water matters, and I expect that Madoline Wallace-Gross will work with me on this project. I will consult directly with the City Manager and the Mayor regarding all water rights matters. Please let me know if you would like me to copy Eric Guth or the City Attorney or anyone else on our correspondence. Other attorneys in our firm as well as our law clerks, paralegals and legal assistants may assist me from time to time. This division of

Lyons Gaddis Kahn & Hall

A Professional Corporation

Attorneys and Counselors

Alan Lanning, City Manager

October 6, 2009

Page 2

responsibility enables us to render a work product for our clients in an efficient manner and at a reasonable cost. Our services will be charged at the following rates: my current rate is \$225 per hour; and Madoline Wallace-Gross' rate is \$185 per hour. Billing rates for law clerks and paralegals range from \$50 to \$110 per hour.

In addition to fees for legal services, we will bill monthly for any out-of-pocket expenses which we incur in connection with this representation, including filing fees, court costs, copies, travel expenses, expert witness fees, long-distance telephone calls, delivery fees and fees for computerized legal research, if any. We currently charge 55 cents per mile for travel and 25 cents per page for copies. Faxes are charged at 50 cents per page.

Detailed statements will be mailed to your office following the end of each month in which we have provided legal services. We can provide a copy of the bill to other city staff members if you prefer. We want you to review our statements carefully and to call us if you have any questions or concerns about them. There is never a charge for reviewing the bills or discussing such questions with our clients.

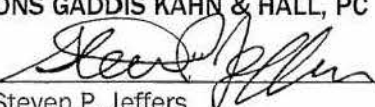
Payment is due within 30 days of the statement date. If that creates any problems for the City's normal payment cycle, please let me know and we can make other arrangements. Our fees and expenses are not contingent on the outcome of our services. As a condition to our undertaking this representation, the City agrees that if our statements become delinquent, we may discontinue our legal services upon advising you that we desire to do so. Of course, the City may terminate this representation at any time upon notifying us of its desire to do so.

If this proposal is acceptable, please sign both originals keeping one for your records and returning the other original to me. We look forward to working with you and the City on these water matters. If you have any questions regarding the fee agreement described in this letter, please give me a call.

Yours truly,

LYONS GADDIS KAHN & HALL, PC

By


Steven P. Jeffers

sjeffers@lgkhlaw.com

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Attorneys and Counselors

Alan Lanning, City Manager

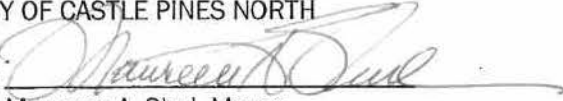
October 6, 2009

Page 3

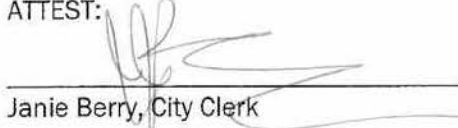
Accepted:

CITY OF CASTLE PINES NORTH

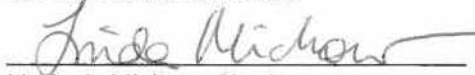
By:


Maureen A. Shul, Mayor

ATTEST:


Janie Berry, City Clerk

APPROVED AS TO FORM:


Linda C. Michow, City Attorney

Lyons Gaddis Kahn & Hall

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Alan Lanning, City Manager

October 6, 2009

Page 4

ADDITIONAL PROVISIONS FOR LEGAL SERVICES CONTRACT BETWEEN LYONS GADDIS KAHN AND HALL, P.C. ("CONTRACTOR") AND CITY OF CASTLE PINES NORTH

- 1. UNLAWFUL EMPLOYEES, CONTRACTORS AND SUBCONTRACTORS.** Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor shall not knowingly contract with a subcontractor that (a) knowingly employs or contracts with an illegal alien to perform work under this Contract or (b) fails to certify to the Contractor that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this contract.
- 2. VERIFICATION REGARDING ILLEGAL ALIENS.** Contractor has confirmed or attempted to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the E-Verify program or the Colorado Department of Labor program.
- 3. LIMITATION REGARDING BASIC PILOT PROGRAM.** Contractor shall use either the E-Verify program or Department program procedures to undertake pre-employment screening of job applicants while performing this Contract.
- 4. DUTY TO TERMINATE A SUBCONTRACT; EXCEPTIONS.** If Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, the Contractor shall:

 - 4.1** Notify the subcontractor and the City within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and,
 - 4.2** Terminate the subcontract with the subcontractor if, within three days of receiving notice required pursuant to Section 8-17.5-102(2)(b)(III)(A), C.R.S. the subcontractor does not stop employing or contracting with the illegal alien. The contractor shall not terminate the contract with the subcontractor if during the three days, the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
- 5. DUTY TO COMPLY WITH STATE INVESTIGATION.** Contractor shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation pursuant to Section 8-17.5-102(5), C.R.S.
- 6. DAMAGES FOR BREACH OF CONTRACT.** In addition to any other legal or equitable remedy, the City may be entitled to for a breach of this Contract, if the City terminates this Contract, in whole or in part, due to Contractor's breach of the obligations set forth above, Contractor shall be liable for actual and consequential damages to the City.