

RESOLUTION NO. 10-47

INTRODUCED BY:

Councilperson Shul

Councilperson Hoffman

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF CASTLE PINES NORTH, COLORADO APPROVING AN  
AGREEMENT FOR MANAGEMENT SERVICES WITH  
SUITER & ASSOCIATES, LLC**

WHEREAS, the City of Castle Pines North ("City") is authorized to enter into contracts for the performance of general municipal management services; and

WHEREAS, the City requested proposals through advertisement for an interim city manager to provide the City with city management services on a temporary basis; and

WHEREAS, the City Council appointed Gary Suiter, by and through Suiter & Associates, LLC ("Consultant"), to serve as interim city manager via Resolution No. 10-43, subject to the negotiation and approval of a professional services agreement; and

WHEREAS, the City and Consultant desire to execute an agreement in substantially the same form as that attached hereto.

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

**Section 1.** The City Council hereby (a) approves the Agreement for Management Services between the City and the Consultant, in substantially the same form attached hereto as **Exhibit A** (the "Agreement"), including all exhibits thereto, (b) authorizes the City Attorney to make such changes as may be needed to correct any nonmaterial errors or language or to negotiate such changes to the Agreement as may be appropriate that do not substantially increase the obligations of the City, and (c) authorizes the Mayor to execute the same on behalf of the City with the approval of the City Attorney.

**Section 2.** If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining issues of this Resolution.

**Section 3.** **Effective Date.** This Resolution shall take effect upon its approval by the City Council.

INTRODUCED, READ AND ADOPTED AT A SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES NORTH by a vote of seven (7) in favor and none against this 18<sup>th</sup> day of May, 2010.

  
Jeffrey T. Huff, Mayor

ATTEST:

  
Sharon DeRouen, City Clerk

APPROVED AS TO FORM:

  
Linda C. Michow, City Attorney

**EXHIBIT A  
AGREEMENT FOR  
MANAGEMENT SERVICES**

## AGREEMENT FOR MANAGEMENT SERVICES

This Agreement for Management Services (the “**Agreement**”) is entered into by and between the City of Castle Pines North, Colorado, a statutory municipality (“**CPN**” or “**the City**”), and Suiter & Associates, LLC, Carbondale, Colorado 81623 (“**Consultant**”) (collectively the “**Parties**”).

I. The Parties acknowledge and agree that CPN is in the process of identifying a City Manager. As a consequence, the City has identified those core executive and administrative services it requires in order to function efficiently and effectively while completing the search process. These core services comprise the Scope of Services described in Exhibit A to this Agreement.

II. CPN and Consultant intend that their arrangement shall constitute an independent contract for professional services as described in IRS Publication 15-A (2010).

III. As an independent contractor of the City, Consultant shall have discretion and control over the means and methods by which it performs this Agreement. Further, Consultant shall be free to offer its professional services to clients other than the City during the Term of this Agreement.

IV. For all purposes related to this Agreement, Consultant’s primary point of contact shall be the City’s designated representative, as appointed by the City Council (the “City Representative”).

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1. **Term:** The Term of this Agreement shall commence on May 15, 2010 (the “**Effective Date**”) and shall continue for a period of six (6) months from the Effective Date, unless sooner terminated in accordance with Section 2 below, or extended by mutual consent of the parties subject to approval of a written amendment to this Agreement.

2. **Termination:** Either Party may terminate this Agreement by providing the other Party fifteen (15) days’ written notice. Without imposing any limitation on the right of each Party to terminate this Agreement, the Parties acknowledge that CPN is in the process of identifying and hiring a City Manager and may, in its discretion, terminate this Agreement should a new City Manager be hired during the Term. If this Agreement is terminated by either Party, CPN shall be obligated to pay Consultant in accordance with Section 3(a) of this Agreement below.

3. **Project Fee:**

a. In consideration for performing the Scope of Services described below, CPN shall pay Consultant a project fee totaling \$13,950 per month (the “**Project Fee**”). If either Party terminates this Agreement, the Parties agree that CPN shall pay Consultant on a pro rata, per diem basis (Project Fee divided by 30) for the portion of the Scope of Services that Consultant actually performed prior to termination. The Parties expressly intend and

agree that Consultant shall not be entitled to post-termination compensation or any other form of severance payment in any amount.

b. Consultant shall submit invoices for services rendered no more than once per month addressed to Deputy Treasurer, 7501 Village Square Drive, Ste. 100, Castle Rock, Colorado 80108. CPN shall pay the Project Fee that has become due and payable within 30 days of its receipt of the invoice. .

4. **No Reimbursable Expenses:** Consultant shall not be reimbursed for any other expenses in addition to the Project Fee, except as provided in Exhibit B, Fee Schedule.

5. **Scope of Services:** During the Term of this Agreement, Consultant shall complete the Scope of Services described in Exhibit A to this Agreement (the “**Scope of Services**”). The Parties understand and agree that the Scope of Services will be performed exclusively by Consultant.

6. **Automobile & Insurance:** Throughout the Term of this Agreement, Consultant shall, at its own expense, maintain reliable automobile(s) and automobile insurance in accordance with Colorado law.

7. **Availability:** Consultant shall be physically present at, and will work from, the City offices located at 7501 Village Square Drive, Ste. 100, Castle Pines North, Colorado, as provided in the Scope of Services, and shall be available to the City at all times during the Term by telephone or e-mail. Consultant shall advise the City Representative in advance of any period that it expects to be unavailable to the City for a period exceeding 24 hours.

8. **Independent Contractor Status:** The Parties acknowledge and agree that they intend their relationship to be that of independent contractors, and not that of employer and employee. Nothing in this Agreement is intended to provide for wages or a salary, or to entitle Consultant or its officers, employees, or representatives to the benefits of CPN employment. Neither Consultant nor its officers, employees, or representatives shall be entitled to participate in any health or welfare benefit plan offered by the City to its employees, and shall not accrue or be credited for vacation leave, sick leave, or compensatory time. Further, neither Consultant nor its officers, employees, or representatives shall hold itself or themselves out as a CPN employee. Consultant shall have control over the means and methods by which it performs the Scope of Services and shall not be prohibited from offering its professional services to other clients during the Term of this Agreement. As a consequence, CPN will not withhold taxes in any amount from the Project Fee, or from any other amounts paid to Consultant.

9. **Workers' Compensation: AS AN INDEPENDENT CONTRACTOR, NEITHER CONSULTANT NOR ITS OFFICERS, EMPLOYEES, OR REPRESENTATIVES SHALL BE ENTITLED TO WORKERS' COMPENSATION BENEFITS, AND CONSULTANT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAXES ON ALL MONIES EARNED IN ACCORDANCE WITH THIS AGREEMENT.** This provision is intended to comply with C.R.S. § 8-40-202(2)(b)(IV).



10. **Unemployment Compensation:** **AS AN INDEPENDENT CONTRACTOR, NEITHER CONSULTANT NOR ITS OFFICERS, EMPLOYEES, OR REPRESENTATIVES SHALL BE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS, UNLESS CONSULTANT PROVIDES UNEMPLOYMENT COMPENSATION COVERAGE FOR ITSELF, ITS OFFICERS, EMPLOYEES, AND REPRESENTATIVES, AND CONSULTANT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAXES ON ALL MONIES EARNED IN ACCORDANCE WITH THIS AGREEMENT.** This provision is intended to comply with C.R.S. § 8-70-115(2).

11. **Entire Agreement:** The Parties acknowledge that this Agreement reflects all of the terms and conditions to which they have agreed regarding Consultant's performance of the Scope of Services.

12. **Non-Assignment:** This Agreement shall be binding upon the parties hereto, their respective legal representatives, successors, and assigns, provided however, that neither Party shall have a right to assign this Agreement, or enforce any other change, deletion, or addition or amendment, except as such assignment, change, or amendment is agreed to in writing by both Parties.

13. **Governing Law:** This Agreement shall be governed by the laws of the State of Colorado.

14. **Severability:** In the event that any provision or portion of this agreement shall be determined to be invalid or unenforceable for any reason, in whole or in part, the remaining provisions of this Agreement shall be unaffected thereby and shall remain in full force and effect to the full extent permitted by law.

**SIGNATURE PAGE FOLLOWS.**



## **EXHIBIT A SCOPE OF SERVICES**

- A) The Consultant shall serve as interim City Manager for the City. Consultant shall devote a minimum of 130 hours per month (30 hours per week) to the execution to the duties required of the interim City Manager. The City shall provide to Consultant use of and access to City-owned workspace, desk, computer and other office materials needed by the Consultant necessary for the performance of the duties of interim City Manager.
- B) The Consultant shall exercise all the duties, powers, responsibilities and obligations of the City Manager consistent with State Statutes, local ordinances and resolutions of the City.
- C) Specific work items to be performed by the interim City Manager are:
  - 1. Maintain a positive public perception of CPN City Government through positive media relations, public and employee relations, and candid public dialogue.
  - 2. Assist the City Council with the development and implementation of their vision, mission, goals and specific objectives.
  - 3. Provide professional guidance and oversight for the implementation of construction, development, and planning projects, including the URA implementation, the Metro District integration, and the Lagae South and other annexations.
  - 4. Provide budgetary oversight and recommendations to the City Council regarding revenue opportunities, potential cost-savings and expenditure reductions.
  - 5. The City Council may reasonably assign other duties at any time.
- D) Consultant shall attend all regular meetings, special meetings, and any other meetings the City Council requires or requests Consultant's attendance unless the Council determines that the Consultant's attendance is not required or seven days advance notice is provided by the Consultant to the Mayor.
- E) Consultant shall provide regular written updates of activities and issues of interest to the Council. The Council members may individually contact the Consultant as needed for an informal update on issues of importance.
- F) Consultant shall be responsible for and carry his own general liability insurance.
- G) Prior to termination of this agreement, Consultant and City Council shall meet to discuss Consultant's performance, and possible extension of this agreement.



**EXHIBIT B**  
**FEE SCHEDULE**

**Fees**

Project Fee (for 130 hours per month)  
\$13,950 per month

Hours over the monthly amount  
\$90.00 per hour

**Expenses and Reimbursements**

Mileage	Included in Project Fee
Meals for consultant	Included in Project Fee
Telephone/Fax	Included in Project Fee
Copies, Postage, etc	Provided by the City
Meals for legitimate business purposes	Reimbursed at cost
Air fare for trips directed by Council	Reimbursed at cost