

RESOLUTION NO. 08-22

INTRODUCED BY:

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF CASTLE PINES NORTH
APPROVING AN AGREEMENT FOR CITY MANAGEMENT SERVICES
WITH CH2M HILL, INC.**

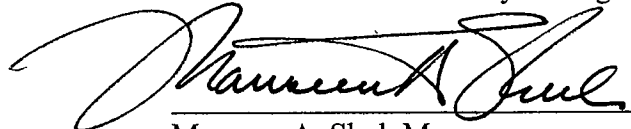
WHEREAS, pursuant to Section 31-15-101, C.R.S., the governing body of a municipality has the authority to enter into contracts; and

WHEREAS, the City Council wishes to hereby approve a professional services agreement with CH2M Hill, Inc. for city management services and finds that such approval promotes the public health and welfare.

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

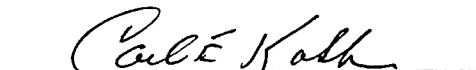
Section 1. The City Council hereby approves the Agreement for City Management Services with CH2M Hill, Inc. substantially in the form attached hereto as Exhibit A and authorizes the Mayor to execute said agreement on behalf of the City.

INTRODUCED, READ AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES NORTH THE 13th day of August, 2008.



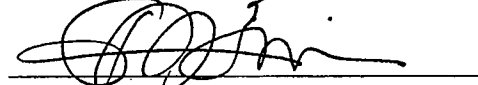
Maureen A. Shul, Mayor

ATTEST:



Carl E. Kollmar, City Clerk

APPROVED AS TO FORM:



Erin M. Smith
City Attorney



Exhibit A

Agreement for City Manager Services with CH2M Hill, Inc.

**CITY OF CASTLE PINES NORTH
AND CH2M HILL, INC.
PROFESSIONAL SERVICES AGREEMENT
CITY MANAGEMENT SERVICES**

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**CITY OF CASTLE PINES NORTH/CH2M HILL, INC.
PROFESSIONAL SERVICES AGREEMENT
CITY MANAGEMENT SERVICES**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into by and between the **CITY OF CASTLE PINES NORTH, COLORADO ("City")**, a statutory municipality of the State of Colorado, and **CH2M HILL, INC.**, a Florida corporation whose business address is 9193 South Jamaica Street, Suite 400, Englewood, CO 80112 (the "**Contractor**"). The City and the Contractor may be collectively referred to as the "**Parties**" and each individually a "**Party**".

RECITALS AND REPRESENTATIONS

WHEREAS, the District Court of Douglas County entered an order approving the election and approving the petition for incorporation of the City on December 14, 2007; and

WHEREAS, a city council for the City was elected on February 12, 2008 and sworn in on March 10, 2008; and

WHEREAS, the City is in need of certain city management services; and

WHEREAS, the City issued a request for qualifications/proposals from prospective vendors and service providers with experience in city operations services regarding their qualifications and approach to assist the City in the implementation, management, and operations of a wide range of services and functions for the new city; and

WHEREAS, from the responsive qualifications/proposals received and reviewed, a recommendation was made to City Council by a selection committee appointed by the Mayor; and

WHEREAS, the Contractor was selected by the City Council through the selection process as the service provider with the requisite resources, experience and expertise to provide the services as set forth in this Agreement; and

WHEREAS, the Parties desire to cooperate at all times to ensure that the development and implementation of the policies of any Party which relate to city management services contemplated by this Agreement are undertaken with input and consideration of the effect of such policy on the other.

NOW, THEREFORE, in consideration of the terms and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is mutually agreed by and between the Parties as follows:

1.0 DEFINITIONS

1.1 "City Manager" shall mean the Contractor Employee who shall serve as the primary point of contact for the oversight and administration of the Services to be provided hereunder and who shall perform the duties set forth in Section 3.3 of this Agreement.

- 1.2 "Contractor Employee(s)" shall mean person(s) under the direct supervision and control of the Contractor who perform Services hereunder, whether employees, contract employees or volunteers.
- 1.3 "Designated Employee" shall mean the following Contractor Employee: City Manager.
- 1.4 "Scope Addition Services" shall mean optional services to be provided to the City by Contractor as mutually agreed upon between the Parties, the compensation for which shall be separate from the Compensation Amount, as described in Section 7.1.
- 1.5 "Services" shall mean those services as fully described in **Exhibit A** to be provided within the City and shall include Start-Up Activities.
- 1.6 "Services Commencement Date" shall be 12:01 a.m. on August 15, 2008, except that Start-Up Activities shall commence on the Effective Date of this Agreement, as set forth in Section 8.1.
- 1.7 "Start-Up Activities" are those services provided by the Contractor in order for the Contractor to provide services for the establishment of the new City.
- 1.8 "Subcontractor" shall mean any individual or entity retained, affiliated, or engaged by or under contract with Contractor to undertake any Services to be performed hereunder.
- 1.9 "Term" shall be as defined in Section 8.0.

2.0 SERVICES AND PERFORMANCE

- 2.1 Services. Contractor represents to the City that the Contractor and the Contractor Employees and any Subcontractor performing Services hereunder possess the skills, knowledge, and abilities to competently, timely, and professionally perform the Services in accordance with this Agreement. In the event that a boundary change or change in the area upon which Services are to be provided hereunder increases or decreases the Service obligations of Contractor hereunder, the Parties shall mutually agree to a proportionate change in the Services and Compensation Amount to be paid hereunder.
- 2.2 Changes to Services. From time-to-time, either Party may identify optional new services that were not included in **Exhibit A**, or events may warrant modification to the Services ("Scope Addition Services"). Within a reasonable period of time, the respective Party will notify the other Party of the Scope Addition Services modification opportunity. If agreed to by both Parties, Contractor will, within a reasonable time period (generally within ten (10) working days) provide to the City in writing a price and modification to Services for the proposed Scope Addition Services. Any changes that are mutually agreed upon between the City and the Contractor shall be made in writing and upon execution by both Parties

shall become an amendment to this Agreement. To be effective, any written change must be approved by City Council and signed by the Contractor and by the City Council, the City Manager, or by a person expressly authorized in writing to sign on behalf of the City. Unless otherwise stated in the estimate, Contractor will invoice the City on the next billing cycle after completion of the addition to Services or if the change involves an ongoing new addition to Services, Contractor will include the associated adjustment to the Compensation Amount and will pro rate the billing in accordance with provisions of Section 7 of this Agreement. All Disputes will be handled in accordance with Section 22.0 (Disputes) of this Agreement.

- 2.3** Allocation of Resources. The parties recognize that this Agreement is intended to provide flexibility to the Parties in order to meet their obligations in the delivery of city management services to the City residents. The Contractor may reasonably allocate Contractor and Subcontractor resources for the performance among the Services so long as such allocations do not adversely affect the City regarding either: (1) increase in Compensation Amount under this Agreement; or (2) Service quality to the public.
- 2.4** Required Permits and Licenses. The Contractor shall be responsible at the Contractor's expense for obtaining and maintaining in a valid status, all licenses and permits necessary to perform the Services as required by law or by this Agreement. Contractor represents to the City that the Contractor is, and the Contractor Employees or any Subcontractors performing Services are, properly licensed and/or registered within the State of Colorado for the performance of the Services (if licensure and/or registration is required by applicable law).
- 2.5** Obligation to Acquire Necessary Information. The Contractor shall become acquainted with the information, laws, and regulations related to the Services given to them by City. Contractor is not responsible for the accuracy of the information obtained. City will use its best efforts to affirmatively obtain from Douglas County or other entities such information that the Contractor may request based on the Contractor's professional experience, should reasonably expect is available and which would be relevant to the performance of the Services.
- 2.6** Ambiguity Concerning Services. The Contractor shall perform the Services in accordance with this Agreement and shall promptly inform the City concerning ambiguities and uncertainties related to the Contractor's performance that are not addressed by the Agreement.
- 2.7** Contractor Compliance with Laws. The Contractor shall comply with all applicable federal, state and local laws, ordinances, regulations, and resolutions. Without limiting the foregoing, Contractor shall comply with all wage and hour laws and OSHA and other applicable federal and state statutes, regulations and standards for work place safety.

3.0 CITY AND CONTRACTOR COORDINATION

- 3.1 City Representatives. The Mayor shall be the City's primary representative and point of contact for all regular reports and amendments to this Agreement allowable under this Agreement in the agreed-upon format between the City and the Contractor. The Mayor has the authority and authorization to direct Contractor regarding the Services under this Agreement. The City's Treasurer shall serve as the City's representative for the processing of all invoices subject to approval by City Council.
- 3.2 Contractor City Manager. The Contractor will assign a City Manager who shall be the Contractor's primary representative and the point of contact for all Service matters and amendments to this Agreement.
- 3.3 City Manager Duties. The City Manager shall, among other duties specified by the Mayor:
- A. Act as liaison between the City staff and Contractor;
 - B. Attend City staff meetings, City Council meetings, Council Ward or District meetings, special community meetings and any agenda meetings at which attendance by the City Manager is deemed necessary by the Mayor regarding the Services under this Agreement;
 - C. Attend other County and State agency meetings and forums as required by the Mayor regarding the Services under this Agreement;
 - D. Provide information to Mayor and City Council on all issues relevant and applicable to the City, its officials, its constituents or to its status as a municipal corporation regarding the Services under this Agreement;
 - E. Assist the City in all relations with other City departments, other contractors, subcontractors and external organizations, including other governmental entities and relevant professional organizations regarding the Services under this Agreement; and
 - F. When so directed by the Mayor carry out such other duties and responsibilities as are necessary to fulfill Services under **Exhibit A**, as long as such duties are not in conflict with Contractor's obligations under this Agreement and do not expand Contractor's obligations under this Agreement.
- 3.4 Vacancy in Designated Employee Position. In the event of a vacancy in the position of Designated Employee, Contractor agrees to make selection of a replacement without undue delay, in good faith, and in the best interest of the City. The Mayor shall have the opportunity to interview each of the candidates, and no person may be appointed to a Designated Employee position without the written mutual agreement of both Parties.
- 3.5 Dissatisfaction with Job Performance of Designated Employee. In the event the Mayor becomes dissatisfied with the performance of a Designated Employee, utilizing an objective standard based upon job performance, the City may, in its

sole discretion, provide timely notification to Contractor of such dissatisfaction. Thereafter, representatives of Contractor and the City shall meet to discuss possible remedies of the problems experienced by the City. Contractor agrees to act within thirty (30) calendar days and in good faith to resolve any problems experienced by the City. If problems persist after Contractor has taken such action in good faith, and provided the City has notified the Contractor of the City's dissatisfaction in accordance with this Section, the City shall have the right utilizing an objective standard based upon job performance to require Contractor to transfer or reassign the Designated Employee out of service to the City or to a different position acceptable to the City. Upon such City request, Contractor agrees to permanently transfer or reassign the Designated Employee as soon as reasonably possible.

- 3.6 Representatives Meetings. The Mayor and City Manager shall meet together no less than once a quarter to review the Services rendered, future Service plans and performance compliance with this Agreement. The frequency of such meetings may be increased at the request of either party or decreased by mutual agreement of the two representatives.
- 3.7 Relationships and Representation. Contractor and all Contractor employees providing Services hereunder shall, at all times, foster and maintain professional and harmonious relationships with the members of the City Council, all employees of the City, all employees of the City's contract services providers and all City's residents, and shall represent the City in the best light possible to members of the public, staff, elected and appointed officials and media.
- 3.8 City Mayor Review. All communications to the City Council, and press, unless otherwise authorized, shall be through the City's Mayor. All mass communications to City residents shall be reviewed and approved by the City's Mayor prior to printing and dissemination.
- 3.9 Force Majeure. Neither Party shall be liable for damages, delays, costs, or failure to perform its obligations under this Agreement if outside their reasonable control or as a result of any unforeseen occurrence, including but not limited to fire, flood, acts of God, civil unrest, failure of a third party to cooperate in providing services other than Contractor's Subcontractors, or other occurrences beyond the reasonable control of the party invoking this Force Majeure clause. The Party invoking this Force Majeure clause shall notify the other Party immediately by verbal communication and in writing of the nature and extent of the occurrence within five (5) working days after its occurrence or discovery of its occurrence, and shall take reasonable measures to mitigate any impact of the event that triggered the invoking of this Force Majeure clause. If the Force Majeure event shall impact schedule or increase the costs incurred by Contractor, such items shall be handled in accordance with Section 2.2 (Changes to Services).

4.0 INDEPENDENT CONTRACTOR AND CONTRACTOR EMPLOYEES

- 4.1** Independent Contractor. The Contractor shall perform the Services as an independent contractor and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee or other relationship with the City other than as a contracting party and independent contractor. Contractor shall have and maintain the responsibility for and control of the rendition of the Services, the discipline of the Contractor Employees and other matters incident to the performance of the Services, duties and responsibilities as described and contemplated herein.
- 4.2** Liability for Employment Related Compensation. The City shall not be obligated to secure, and shall not provide, any employment related insurance coverage or employment benefits of any kind or type to or for the Contractor or the Contractor's Employees, sub-consultants, Subcontractors, including agents, volunteers or representatives, including coverage or benefits related but not limited to local, state, or federal income or other tax contributions; insurance contributions (e.g., FICA); workers' compensation; disability, injury, or health; professional liability insurance, errors and omissions insurance; or retirement account contributions in regards to Contractor provision of Services under this Agreement. Contractor shall be solely responsible for all compensation benefits, insurance and rights of the Contractor Employees during the course of or arising or accruing as a result of any employment, whether past or present, with Contractor, as well as all legal costs including attorney's fees incurred in the defense of any conflict or legal action resulting from such employment or related to the corporate amenities of such employment. Accordingly, City shall not be called upon to assume any liability for or direct payment of any salaries, wages, contribution to pension funds, insurance premiums or payments, workers compensation benefits or any other amenities of employment to any of the Contractor Employees or any other liabilities whatsoever, unless otherwise specifically provided herein. Contractor is not entitled to workers' compensation benefits and that the Contractor is obligated to pay federal and state income tax on any moneys earned pursuant to the contract relationship.
- 4.3** Identification of Personnel. Contractor Employees and any Subcontractors of Contractor regularly performing Services hereunder, who normally wear a uniform, shall wear attire with the logo of the City in a design and format as reasonably required by the City when, and only when, they are performing Services for the City, except as otherwise directed by the City. For all City related matters, including incoming and outgoing mail, Contractor shall use the City address.
- 4.4** Assignment of Qualified Contractor Employees. All Contractor Employees, including Designated Employee shall be screened and satisfactorily pass drug testing and criminal history background checks prior to assignment to perform any Services under this Agreement.
- 4.5** Drug Free Workplace. Contractor shall adopt and enforce a policy for a drug-free workplace applicable to all persons delivering Services under this Agreement.
- 4.6** Transfer of Contractor Employees. The City shall notify the Contractor should any personnel or employment problem arise with regard to any Contractor

