

TOWN OF TIMNATH, COLORADO

RESOLUTION NO. 93, SERIES 2011

**A RESOLUTION CONTRACTING WITH SUITER & ASSOCIATES, LLC. TO PROVIDE STRATEGIC PLANNING, ORGANIZATIONAL ASSESSMENT AND DEVELOPMENT AND AN EXECUTIVE SEARCH TO THE TOWN OF TIMNATH**

**WHEREAS**, the Town of Timnath Town Council wishes to appoint Suiter & Associates, LLC., as a professional consultant for the Town of Timnath,

**WHEREAS**, Suiter & Associates, LLC. shall provide consulting services to the Town of Timnath for strategic planning, organizational assessment and development, and an executive search.

**BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, COLORADO:**


**Section 1.** The Town of Timnath Town Council agrees to contract with Suiter & Associates, LLC.

**Section 2. Effective Date**

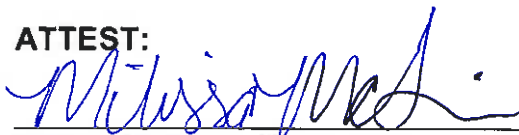
This Resolution shall be effective upon FEBRUARY 28, 2011.

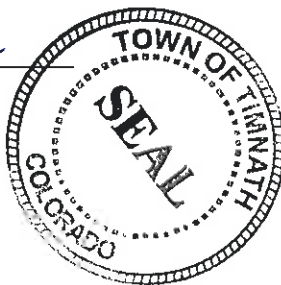
PASSED, APPROVED AND ADOPTED THIS 28<sup>TH</sup> DAY OF FEBRUARY, 2011.

TOWN OF TIMNATH, COLORADO

  
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Jill Grossman-Belisle, Mayor

ATTEST:

  
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Milissa McGuire, Town Clerk



**PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE TOWN OF TIMNATH  
AND SUITER & ASSOCIATES, LLC**

This Professional Services Agreement, hereinafter "Agreement", is made by and between the Town of Timnath, hereinafter the "Town", and the undersigned contractor, hereinafter the "Contractor", and both collectively referred to from time to time herein as the "Parties".

**WHEREAS**, the Town desires to retain Contractor for the services as described herein; and

**WHEREAS**, the Contractor desires to be retained by the Town for the services as described herein.

**NOW, THEREFORE**, in consideration of the agreements and covenants contained herein, the Parties hereto agree as follows:

**1. BASIC TERMS:**

**A. Name, Address, and Phone Number of the Parties.**

a. *Town:*

Town of Timnath  
4800 Goodman Street  
Timnath, Colorado 80547  
Phone: 970-224-3211

b. *Contractor:*


Suiter & Associates, LLC  
% Gary Suiter  
164 Goose Lane  
Carbondale, CO 81623  
Phone: 970-963-0752

**B. Scope of Services.** The scope of services shall be as set forth in **ATTACHMENT A** to this Agreement.

**C. Compensation.** Compensation shall be paid as set forth in **ATTACHMENT A-1**.

**D. Term.** The term commences on the Commencement Date and terminates on the Termination Date as hereinafter defined.

**E. Commencement Date.** The "Commencement Date" is **March 1, 2011** and is when

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the services described in this Agreement are to commence.

**F. Termination Date.** The "Termination Date" of this Agreement is **August 31, 2011**.

**G. Approval by the Town Council.** This Agreement is contingent upon and subject to approval by the Town Council. If this Agreement is contingent upon and is subject to approval by the Town Council and such approval is granted after the Commencement Date, the Commencement Date shall be extended until such approval is received and the Termination Date shall be extended to reflect the Term of this Agreement.

**H. Termination.** Either Party may terminate this Agreement upon **ten (10) days** written notice to the other.

**2. CONTRACTOR NOT EMPLOYEE.** Contractor is an independent contractor and not an employee, partner or agent of the Town.

**As an Independent Contractor you are not entitled to workers' compensation benefits and that as an Independent Contractor you are obligated to pay federal and state income tax on any moneys earned pursuant to our contract relationship.**

The Contractor shall, at all times, be an independent contractor. The Contractor shall have exclusive domain and control over the activities of its employees, if any, and under no circumstances shall Independent Contractor or Independent Contractor's employees be considered employees or agents of the Town.

3. This Item is intentionally left blank.

4. This Item is intentionally left blank.

**5. DOCUMENTS.** All documents prepared or furnished by Contractor (and independent professional associates and sub-consultants) pursuant to this Agreement shall be the property of the Town. In addition, the Town shall have access to Contractor's financial records for the purposes of audit. Such records shall be complete and available for audit for **ninety (90) days** after final payment under this Agreement and shall be retained and available for audit purposes for at least **two (2) years** after final payment hereunder.

**6. TABOR.** Colorado Constitution, Article X, Section 20. Notwithstanding other provisions in this Agreement to the contrary, the Parties understand and acknowledge that the Town is subject to Article X, § 20 of the Colorado Constitution ("TABOR").

a. The Parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement.

b. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Agreement to the contrary, all payment obligations of the



Town are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the Town's current fiscal period ending upon the next succeeding **December 31**.

c. Financial obligations of the Town payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with ordinances and resolutions of the Town and other applicable law.

d. Notwithstanding any other provision of this Agreement concerning termination, upon the Town's failure to appropriate such funds, the Agreement shall automatically terminate.

**7. CONFIDENTIALITY.** The Parties agree that Contractor will, in the course of its duties hereunder, receive information concerning the Town, its employees, elected and appointed officials, property, equipment and functions. Contractor agrees to hold all such information confidential and to not disclose the same other than to the extent required to perform its duties, or upon a proper request from an authorized Town official, or pursuant to a proper request under the Colorado Open Records Act, C. R. S. § 24-72-101, et. seq., to which the authorized Town official has confirmed it is appropriate for Contractor to respond or pursuant to a lawful court order. The requirements of this Section shall survive the termination of this Agreement.


**8. ILLEGAL ALIENS - PUBLIC CONTRACTS FOR SERVICES.** "E-verify program" as used herein means the electronic employment verification program created in Public Law 104-208, as amended, and expanded in Public Law 108-156, as amended, and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program. "Department" as used herein means the department of labor and employment. "Department program" as used herein means the employment verification program established pursuant to C.R.S. § 8-17.5-102(5)(c).

(1) The undersigned on behalf of the Contractor certifies that, at the time of this certification and the execution of this Agreement, the Contractor does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that the Contractor will participate in the e-verify program, pursuant C.R.S. § 8-17.5-101 or department program in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(2)(a) The Contractor shall not:

(I) Knowingly employ or contract with an illegal alien to perform work under this Agreement for services; or

(II) Enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

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(b) In addition:

(I) The Contractor has confirmed 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 department program;

(II) The Contractor is prohibited from using either the e-verify program or the department program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed;

(III) If the Contractor obtains actual knowledge that a subcontractor performing work under this Agreement for services knowingly employs or contracts with an illegal alien, the Contractor shall be required to:

(A) Notify the subcontractor and the Town within **three (3) days** that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(B) Terminate the subcontract with the subcontractor if within **three (3) days** of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that the contractor shall not terminate the contract with the subcontractor if during such **three (3) days** the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien;

(IV) The Contractor shall comply with any reasonable request by the Department of Labor and Employment (Department) made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5.102(5).

(3) If the Contractor breaches this **Section 8**, the Town may terminate this Agreement for breach of the Agreement. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the Town.

(4) The Contractor shall, within **twenty (20) days** after hiring an employee who is newly hired for employment to perform work under this Agreement, affirm that the Contractor has examined the legal work status of such employee, retained file copies of the documents required by 8 U.S.C. sec. 1324a, and not altered or falsified the identification documents for such employees. The Contractor shall provide a written, notarized copy of the affirmation to the Town.

(5) If the Contractor has not accepted into the department program prior to entering into this Agreement, the Contractor shall apply to participate in the Program every **three (3) months** until the Contractor is accepted or the contract has been



completed, whichever is earlier. This provision shall not be required or effective if the department program is discontinued.

## 9. MISCELLANEOUS.

**A. Severability/Governing Law.** This Agreement is to be governed and construed according to the laws of the State of Colorado with venue of any litigation to be in Larimer County. If any provisions of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Agreement, and all such other provisions shall remain in full force and effect. It is the intention of the Parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision valid, then the provision shall have the meaning which renders it valid.

**B. Entire Agreement.** It is understood that there are no oral agreements between the Parties hereto affecting this Agreement, and this Agreement supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the Parties hereto or displayed by Town to Contractor with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Agreement. This Agreement is and shall be considered to be the only agreement between the Parties hereto and their representatives and agents. All negotiations and oral agreements acceptable to both Parties have been merged into and are included herein. No provision of this Agreement may be amended or added to except by an agreement in writing signed by the Parties hereto or their respective successors in interest.

**C. Waiver and Modification.** The waiver by Town of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition on any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of services hereunder by Town shall not be deemed to be a waiver of any preceding breach by Contractor of any term, covenant or condition of this Agreement. No modification of the terms of this Agreement shall be valid unless in writing and executed with the same formality as this Agreement, and no waiver of the breach of any provision of this Agreement shall be construed as a waiver of any subsequent breach of the same or any other provision hereof. If this Agreement is contingent upon approval by the Town Council, it is expressly agreed that, except as may otherwise be provided by applicable statute or ordinance, no official of the Town has the authority to waive or modify any provision of this Agreement without formal approval of the Town Council.

**D. Headings.** The headings and titles in this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part hereof.

**E. Time.** Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor.

**F. Corporate Authority.** If Contractor is a corporation, an LLC, an LLP, a limited partnership, a general partnership, an LLLP, or other non-natural entity, each individual



executing this Agreement on behalf of said entity represents and warrants that they are duly authorized to execute and deliver this Agreement on behalf of said entity, in accordance with a duly adopted resolution of the board of directors, partners, or members of said entity or in accordance with the governing documents of said entity, and that this Agreement is binding upon said entity in accordance with its terms.

**G. Notices.** Any notice or other communication given by any of the Parties hereto to another relating to this Agreement shall be in writing and shall be deemed to have been duly given:

a. On the date and at the time of delivery if delivered personally to the party to whom notice is given at the address specified in **Section 1**, above;

b. On the date of delivery or attempted delivery shown on the return receipt if mailed to the party to whom notice is to be given by first class mail, sent by registered or certified mail, return receipt requested, postage prepaid and properly addressed as specified in **Section 1**, above; or

c. Within **twenty-four (24) hours** after deposit with a nationally recognized overnight courier or messenger service, properly addressed as specified in **Section 1**, above.

Either party may change such address by **fifteen (15) days** written notice to the other provided, however, the Parties may not designate more than one place and address to receive notices as provided in this Agreement.

**H. NON-ASSIGNMENT.** This Agreement is an agreement for services by which Contractor was selected for Contractor's special expertise. This Agreement may not be assigned by either Party.

**I. LAWFUL PRESENCE AFFIDAVIT.** If a natural person, the undersigned shall complete the attached Lawful Presence Affidavit, **ATTACHMENT B**.

**J. Coordination With Other Consultants.** At no extra charge and during the term of this Agreement, Contractor may be asked to coordinate and work cooperatively with Ron Miller.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement as of the 28<sup>th</sup> day of February, 2011.

**TOWN OF TIMNATH**

By: Jessie Bell  
Jill Grossman-Belisle

Title: Town Mayor

[Signature]







**ATTACHMENT A**  
(Scope of Services)

The Scope of Work is broken out in the following categories:

- A. Executive Search;
- B. Organizational Assessment and Development; and
- C. Strategic Planning.

**A. Executive Search**

**a. Objectives**

Suiter & Associates, LLC will contract with the *Mercer Group*. The executive search will be conducted by the *Mercer Group*, in order to take advantage of national name recognition and networking contacts, with the goal of finding the best qualified candidates for the Town Manager position.

The objectives are as follows:

- To conduct on-site needs assessment for the new Town Manager.
- To develop a comprehensive position profile.
- To reconcile any differences in points of view with regard to specifications for the position.
- To encourage top-level people to apply who might otherwise be reluctant to respond to an advertisement.
- To save a considerable amount of the Council's and staff's time in establishing a position profile and reviewing applicants.
- To comply with appropriate personnel regulations and laws (e.g. EEO and ADA).
- To independently and objectively assess the qualifications and suitability of candidates for the position.
- To recommend a pool of finalist candidates to the Council.
- To coordinate finalist candidate interviews with the Council.
- To provide an information packet supplied by the Town to all qualified applicants.
- To respond to all candidate inquiries and produce all correspondence throughout the search.
- To preserve the confidentiality of inquiries to the degree possible under Colorado law.
- To assist the Council in reaching a final decision.
- To assist in reaching a compensation package with the successful candidate on behalf of the Town.
- To keep the Council closely involved in key decisions and informed of our progress.

## **b. Approach and Work Plan**

This section includes the approach, process and schedule for the executive search project.

### **1. Approach**

The approach and style is interactive. The Mayor, Council members, and others that may be asked to participate in the process, will benefit by gaining more in-depth knowledge and understanding of the professional screening process and selection of candidates, thereby creating ease of implementation.

### **2. Work Plan**

The following is the search process:

a. *Position Analysis.* We will study and define work relationships, job qualifications and requirements for the position, update our knowledge of the community and Town organization and create a "Position Profile." This will involve extensive consultation with Council members, the Mayor, Town staff as well as other individuals or groups to learn the Town's vision/mission, goals and objectives, the needs and issues, requirements of the job, and to verify information about the environment within which the position functions. We will spend a considerable amount of time at the beginning of the process in Timnath in order to improve our knowledge of the community and the Town organization.

We will identify expectations, perceptions, and issues regarding the position, as well as the expected characteristics of the next successful Town Manager.

The final position profile will include information about the Town, the community, major issues to be faced, the position, and the selection criteria established. Our Position Profiles are found to be thoroughly informative to prospective candidates.

b. *Recruitment Process.* We will recruit regionally and nationally (more than just advertising) for the position and will utilize our vast network to locate qualified candidates. Because we have recently completed similar searches, we will review our database to determine those candidates whom we may already know and/or already have on file who may meet the Town's specifications. The Position Profile is a very effective tool during this phase of direct recruitment. We will also provide the Council with advertising alternatives. We are accustomed to using professional sources also that are relied upon by minority and women candidates.

c. *Resume Review.* We will review and analyze each applicant's background and experience against the position description criteria. We will acknowledge all resumes received and keep candidates informed of their status.

d. *Candidate Screening.* We will work with the Town to perform this task in accordance with the desires of the Council. The consultant (with the input of the Town) will carefully screen prospective candidates according to the selection criteria contained in the Position Profile. Criteria for the preliminary screening will be contained in the approved Position Profile. They may include such items as education, technical knowledge, experience, accomplishments, management style, personal traits, etc. At this stage, each must meet the minimum qualifications specified in the Position Profile.

Once the initial screening is completed, we will assist the Council to identify a shorter list of those potential finalists who appear to be the most promising to invite for interviews. One contingency here is that the Town may not approve of any of the candidates. If that should occur, we would, of course, keep searching (for expenses only) until the Town's needs are clearly met.

e. *Interview Process.* We will coordinate interviews with the Council. Based on the preceding steps, an interview guide and report on the finalists will be compiled. We will prepare a written summary on each finalist. The information will cover, but not be limited to:

1. Present position;
2. Total years experience;
3. Salary requirements;
4. Education;
5. Previous positions held;
6. Notable projects;
7. Management style;
8. Skills and abilities;
9. Interests; and
10. Professional goals.

The above information will be presented to the Council in a written format combined with the results of the candidate screening.

The Council will be provided recommendations relative to timing, sequencing, location, setting, format, and conduct of interviews with the finalists. The Council will provide be provided information about trends in employment, employment contracts and agreements, relocation expenses, perquisites, appropriate role for spouses, receptions, etc. We will arrange schedules for top candidate interviews with the Council and will coordinate the process and a public reception for residents and other Town leaders to meet the candidates will be arranged at the request of Council.

We may include other successful interview steps and include an opportunity for each finalist candidate to talk with the top Town staff members and to take a tour of Town facilities and community assets.

f. *Negotiation and Follow-up.* We will facilitate employment and follow-up to



ensure complete integrity of the process, including assistance with performance planning and appraisal for the new Town Manager. We will also assist in mediating the process relative to salary, benefits and other conditions of employment. This allows the Council and the new Town Manager to avoid beginning their work together with an adversarial relationship. We can be especially helpful also because we have proposed a fixed fee rather than one based on a percentage of salary. We will maintain confidentiality of candidate information, to the extent desired by the Town and to the degree possible under Colorado law. Finally, we will notify all unsuccessful candidates who were not recommended for interview of the final decision reached.

We will keep the Town Council closely informed and involved in decisions concerning the search process at all times. We will prepare and send periodic reports that describe the progress on the recruitment, specific steps to be taken to meet the Town's deadlines.

Support from the Town will be needed, as follows:

- Arranging interviews with Council members, the Mayor, other community members and staff members
- Providing budget, organization charts and other documents
- Place of contact for the search
- Processing invoices for payment (such as candidate travel)

## **B. Organizational Assessment and Development**

Suiter & Associates, LLC will:

- a. Review organizational charts, budget documents and history, bond documents, IGAs, Municipal Code, Home Rule Charter and any ordinances/resolutions that create Town departments, programs or functions.
- b. Interview all staff members and others who are in a position to provide objective comments about the Town's programs and services. Compile notes and summarize findings.
- c. Observe customer service protocols and processes for planning, permits, inspections, etc.
- d. Review and evaluate all outsourced services and contracts.
- e. Prepare report to the Council with findings and recommendations as to services provided and those areas in need of improvement.

## **C. Strategic Planning:**

The following strategic planning services include an all-day retreat and follow-up report.

Services will be provided by Suiter & Associates, LLC.

a. Objectives:

1. Establish or reaffirm the Council's vision, mission, and goals.
2. Clarify roles for the Council and Staff.
3. Develop a realistic Strategic Action Plan, including implementation strategies.
4. Help the Council and staff better understand the pace and resources available for accomplishing goals.
5. Develop a higher level of teamwork and collaboration among Council and Staff members.
6. Provide tools for improving Council's overall effectiveness.

b. Scope of Work

1. Interview all members of the Council and key staff to clarify retreat objectives, identify key issues, common goals, and possible differing viewpoints.
2. Summarize interview notes for distribution to participants.
3. Prepare draft retreat agendas for review by the Town.
4. Prepare final retreat agendas, approved by the Town.
5. Meeting preparation, including: researching issues, packet material, handouts, worksheets, etc.
6. Facilitate one full-day retreat.
7. Provide summary report and Strategic Action Plan to the Town.

**ATTACHMENT A-1**  
(Compensation)

**1. Executive Search Fee Proposal:**

Lump sum fee for the above tasks (a) through (f).....\$15,500  
Direct expenses (not to exceed).....2,500  
Total..... \$18,000

PLEASE NOTE: Direct expenses are for advertising sources (trade journals, internet ads, etc), consultant travel, correspondence, and report preparation. The direct expense proposal does not contemplate the cost of newspaper advertising. Advertising specifically for private sector managers may result in **additional expenses of up to \$3,000.**

Because of our location in Colorado, expenses can be kept to a minimum. The cost for final candidates to travel to interview with the Board is not included. Such costs are typically paid by the Town on a reimbursement basis, directly to the candidates. These costs are difficult to estimate because they depend on where the candidates are located.

**2. Organizational Assessment and Development Fee Proposal:**

Lump Sum Fee for above tasks (a) through (c) .....\$9,500  
Expenses for travel and lodging (not to exceed).....\$1,500  
Total..... \$11,000

**C. Strategic Planning Fee Proposal:**

Lump Sum Fee for completion of above Scope of Work, Items 1-7..... \$3,000  
Travel and overnight lodging expenses (not to exceed).....500  
Total.....\$3,500

**Grand Totals:**

Executive Search.....\$18,000  
Organizational Assessment and Development.....11,000  
Strategic Planning..... 3,500  
Total.....\$32,500

Bundled Discount.....\$3,000  
Bundled Total.....\$29,500

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