

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
AMERICAN METERING SERVICES, INC.
D/B/A AMS BILLING SERVICES**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of September 17, 2015, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town"), and American Metering Services, Inc., a Florida corporation, d/b/a AMS Billing Services (the "Consultant").

RECITALS

A. The Town issued a Request for Proposals, Environmental Fee Billing and Collection Processing (the "RFP"), a copy of which is on file in the Town Clerk's Office and incorporated herein by reference, seeking proposals from vendors to provide bill creation, printing, mailing, account monitoring and collection services (the "Services").

B. The Consultant responded to the RFP by submitting a proposal (the "Proposal"), attached hereto as Exhibit A and incorporated herein by reference, and the Town desires to enter into an Agreement with the Consultant for the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Consultant hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until August 5, 2016 (the "Initial Term"), unless terminated as otherwise provided in this Agreement. After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") if (i) it is deemed in the best interests of the Town, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of the Agreement, the Consultant requests, in writing, to extend the Agreement for an additional one-year term and (iii) the Town approves the additional one-year term in writing (including any price adjustments approved as part of this Agreement), as evidenced by the Town Manager's signature thereon, which approval may be withheld by the Town for any reason. The Consultant's failure to seek a renewal of this Agreement shall cause the Agreement to terminate at the end of the then-current term of this Agreement; provided, however, that the Town may, at its discretion and with the agreement of the Consultant, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

2. Scope of Work. Consultant shall provide the Services as set forth in the Scope of Work, attached hereto as Exhibit B and incorporated herein by reference.

3. Compensation. The Town shall pay Consultant for the Initial Term and for each subsequent Renewal Term, if any, an annual aggregate amount not to exceed \$85,000.00 for the Services at the rates set forth in the Fee Proposal, attached hereto as Exhibit C and incorporated herein by reference. The maximum aggregate amount for this Agreement, including all Renewal Terms, shall not exceed \$425,000.00.

4. Payments. The Town shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment. The contract number must be referenced on all invoices.

5. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the Town pursuant to this Agreement shall be the property of the Town.

6. Consultant Personnel. Consultant shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Consultant agrees to assign specific individuals to key positions. Consultant agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the Town. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Consultant shall immediately notify the Town of same and shall, subject to the concurrence of the Town, replace such personnel with personnel possessing substantially equal ability and qualifications.

7. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the Town at reasonable times during Consultant's performance. The Consultant shall provide and maintain a self-inspection system that is acceptable to the Town.

8. Licenses; Materials. Consultant shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Consultant. The Town has no obligation to provide Consultant, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The Town has no obligation to provide tools, equipment or material to Consultant.

9. Performance Warranty. Consultant warrants that the Services rendered will conform to the requirements of this Agreement and to the highest professional standards in the field.

10. Indemnification. To the fullest extent permitted by law, the Consultant shall indemnify, defend and hold harmless the Town and each council member, officer, employee or agent thereof (the Town and any such person being herein called an "Indemnified Party"), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including,

but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the Consultant, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

11. Insurance.

11.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Consultant, Consultant shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the Town. Failure to maintain insurance as specified herein may result in termination of this Agreement at the Town's option.

B. No Representation of Coverage Adequacy. By requiring insurance herein, the Town does not represent that coverage and limits will be adequate to protect Consultant. The Town reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

C. Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

D. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the Town, unless specified otherwise in this Agreement.

E. Primary Insurance. Consultant's insurance shall be primary insurance with respect to performance of this Agreement and in the protection of the Town as an Additional Insured.

F. Claims Made. In the event any insurance policies required by this Agreement are written on a “claims made” basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

G. Waiver. All policies, except for Professional Liability, including Workers’ Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the Town, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of Consultant. Consultant shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

H. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the Town. Consultant shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Consultant shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the Town and Consultant. Consultant shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Consultant will provide the Town with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Consultant’s insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The Town shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be Consultant’s responsibility to forward renewal certificates and declaration page(s) to the Town 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing the RFP number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the

insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

(1) The Town, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

(a) Commercial General Liability – Under Insurance Services Office, Inc., (“ISO”) Form CG 20 10 03 97 or equivalent.

(b) Auto Liability – Under ISO Form CA 20 48 or equivalent.

(c) Excess Liability – Follow Form to underlying insurance.

(2) Consultant’s insurance shall be primary insurance as respects performance of the Agreement.

(3) All policies, except for Professional Liability, including Workers’ Compensation, waive rights of recovery (subrogation) against Town, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by Consultant under this Agreement.

(4) ACORD certificate of insurance form 25 (2014/01) is preferred. If ACORD certificate of insurance form 25 (2001/08) is used, the phrases in the cancellation provision “endeavor to” and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives” shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

11.2 Required Insurance Coverage.

A. Commercial General Liability. Consultant shall maintain “occurrence” form Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured’s clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read “Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with

respect to liability arising out of “your work” for that insured by or for you.” If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

B. Vehicle Liability. Consultant shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Consultant’s owned, hired and non-owned vehicles assigned to or used in the performance of the Consultant’s work or services under this Agreement. Coverage will be at least as broad as ISO coverage code “1” “any auto” policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, directors, officials and employees shall be cited as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

C. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Consultant engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers’ Compensation Insurance. Consultant shall maintain Workers’ Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Consultant’s employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

11.3 Cancellation and Expiration Notice. Insurance required herein shall not expire, be canceled, or be materially changed without 30 days’ prior written notice to the Town.

12. Termination; Cancellation.

12.1 For Town’s Convenience. This Agreement is for the convenience of the Town and, as such, may be terminated without cause after receipt by Consultant of written notice by the Town. Upon termination for convenience, Consultant shall be paid for all undisputed services performed to the termination date.

12.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause

and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the Town to the Consultant for the undisputed portion of its fee due as of the termination date.

12.3 Due to Work Stoppage. This Agreement may be terminated by the Town upon 30 days' written notice to Consultant in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the Town to the Consultant for the undisputed portion of its fee due as of the termination date.

12.4 Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. The Town may cancel this Agreement without penalty or further obligations by the Town or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Town or any of its departments or agencies is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement.

12.5 Gratuities. The Town may, by written notice to the Consultant, cancel this Agreement if it is found by the Town that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the Town for the purpose of securing this Agreement. In the event this Agreement is canceled by the Town pursuant to this provision, the Town shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Consultant an amount equal to 150% of the gratuity.

12.6 Agreement Subject to Appropriation. The Town is obligated only to pay its obligations set forth in the Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the Town's then current fiscal year. The Town's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the Town concerning budgeted purposes and appropriation of funds. Should the Town elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the Town shall be relieved of any subsequent obligation under this Agreement. The parties agree that the Town has no obligation or duty of good faith to budget or appropriate the payment of the Town's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which the Agreement is executed and delivered. The Town shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The Town shall keep Consultant informed as to the availability of funds for this Agreement. The obligation of the Town to make any payment pursuant to this Agreement is not a general obligation or

indebtedness of the Town. Consultant hereby waives any and all rights to bring any claim against the Town from or relating in any way to the Town's termination of this Agreement pursuant to this section.

13. Miscellaneous.

13.1 Independent Contractor. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the Town. Consultant, its employees and subcontractors are not entitled to workers' compensation benefits from the Town. The Town does not have the authority to supervise or control the actual work of Consultant, its employees or subcontractors. The Consultant, and not the Town, shall determine the time of its performance of the services provided under this Agreement so long as Consultant meets the requirements of its agreed Scope of Work as set forth in Section 2 above. Consultant is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. Town and Consultant do not intend to nor will they combine business operations under this Agreement.

13.2 Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the Maricopa County, Arizona.

13.3 Laws and Regulations. Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future Town and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future Occupational Safety and Health Administration standards.

13.4 Amendments. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the Town and the Consultant.

13.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Agreement will promptly be physically amended to make such insertion or correction.

13.6 Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.

13.7 Relationship of the Parties. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Consultant is advised that taxes or Social Security payments will not be withheld from any Town payments issued hereunder and Consultant agrees to be fully and solely responsible for the payment of such taxes or any other tax applicable to this Agreement.

13.8 Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

13.9 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Consultant without prior, written permission of the Town signed by the Town Manager and no delegation of any duty of Consultant shall be made without prior, written permission of the Town signed by the Town Manager. Any attempted assignment or delegation by Consultant in violation of this provision shall be a breach of this Agreement by Consultant.

13.10 Subcontracts. No subcontract shall be entered into by the Consultant with any other party to furnish any of the material or services specified herein without the prior written approval of the Town. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Consultant.

13.11 Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the Town of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of the Town to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the Town's acceptance of and payment for services, shall not release the Consultant from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the Town to insist upon the strict performance of this Agreement.

13.12 Attorneys' Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

13.13 Liens. All materials or services shall be free of all liens and, if the Town requests, a formal release of all liens shall be delivered to the Town.

13.14 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the Town may offset from any money due to the Consultant any amounts Consultant owes to the Town for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The Town may offset from any money due to the Consultant any amounts Consultant owes to the Town for delinquent fees, transaction privilege taxes and property taxes, including any interest or penalties.

13.15 Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the Town: Town of Fountain Hills
16705 East Avenue of the Fountains
Fountain Hills, Arizona 85268
Attn: Grady E. Miller, Town Manager

With copy to: GUST ROSENFELD P.L.C.
One East Washington Street, Suite 1600
Phoenix, Arizona 85004-2553
Attn: Andrew J. McGuire, Esq.

If to Consultant: American Metering Services, Inc.
d/b/a AMS Billing Services
6915 15th Street East, Suite 204
Sarasota, Florida 34243
Attn: Frank J. Miller, President

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

13.16 Confidentiality of Records. The Consultant shall establish and maintain procedures and controls that are acceptable to the Town for the purpose of ensuring that information contained in its records or obtained from the Town or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Consultant's duties under this Agreement. Persons requesting such information should be referred to the Town. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under this Agreement.

13.17 Records and Audit Rights. To ensure that the Consultant and its subcontractors are complying with the warranty under subsection 13.18 below, Consultant's and its subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Consultant and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the Town, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Consultant's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Consultant's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 13.18 below. To the extent necessary for the Town to audit Records as set forth in this subsection, Consultant and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the Town shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the Town to Consultant pursuant to this Agreement. Consultant and its subcontractors shall provide the Town with adequate and appropriate workspace so that the Town can conduct audits in compliance with the provisions of this subsection. The Town shall give Consultant or its subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

13.18 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Consultant's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the Town.

13.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the Scope of Work, the Fee Proposal, the RFP and the Consultant's Proposal, the documents shall govern in the order listed herein.

13.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the Town. The Town reserves the right to obtain like goods and services from another source when necessary.

13.21 Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions (“Eligible Procurement Unit(s)”) are permitted to utilize procurement agreements developed by the Town, at their discretion and with the agreement of the awarded Consultant. Consultant may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Consultant. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The Town assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The Town shall not be responsible for any disputes arising out of transactions made by others.

[SIGNATURES ON FOLLOWING PAGES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“Town”

TOWN OF FOUNTAIN HILLS,
an Arizona municipal corporation



Grady E. Miller, Town Manager

ATTEST:

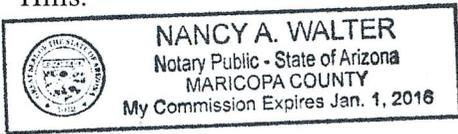


Bevelyn J. Bender, Town Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On September 21, 2015, before me personally appeared Grady E. Miller, the Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the Town of Fountain Hills.





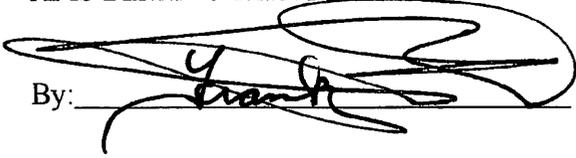
Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE

“Consultant”

AMERICAN METERING SERVICES, INC.,
a Florida corporation, d/b/a
AMS BILLING SERVICES

By: 

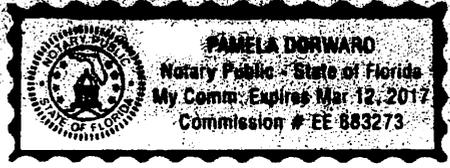
Name: FRANK J. MILLER

Title: PRESIDENT & CEO

(ACKNOWLEDGMENT)

STATE OF FLORIDA)
) ss.
COUNTY OF MANATEE)

On July 27, 2015, before me personally appeared FRANK MILLER, the PRESIDENT/CEO of AMERICAN METERING SERVICES, INC., a Florida corporation, d/b/a AMS BILLING SERVICES, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the corporation.



(Affix notary seal here)

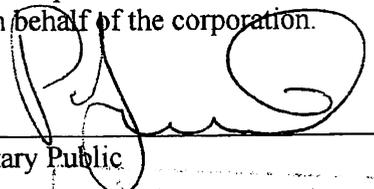

Notary Public



EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
AMERICAN METERING SERVICES, INC.
D/B/A AMS BILLING SERVICES

[Consultant's Proposal]

See following pages.



June 28, 2015

Town Finance Director
16705 East Avenue of the Fountains
Fountain Hills, Arizona 85268

AMS Billing Services, Inc. officially submits the request to be awarded the contract for the Fountain Hills “Environmental Fee Billing and Collection Process” for the year beginning January 1, 2016. We understand the contract requires providing bill creation, printing, mailing, and account monitoring and collection services for the 15,000 + properties of Fountain Hills, Arizona.

About AMS Billing

AMS Billing has been in operation since 1998 and is located in Sarasota, Florida. We are a leader in Property Utility Management, specializing in automated Utility Billing Solutions, Sub metering, Water Conservation, and Specialty Billing Services. AMS offers adept services that boost our client’s bottom line by reducing expenses related to billing and payment collection services.

Unlike other utility and specialty billing companies, there is no outsourcing with the services offered by AMS. AMS takes care of every single element in-house and is therefore able to streamline its service resulting in process time to be shorter and quality to be higher. AMS provides timely and accurate billing services and utility management along with customer-centric features like online reports, timely audits on rates and tariffs, resident auto-pay, call center for payment processing and billing inquiries, guaranteed maintenance, etc. AMS takes pride in our excellent understanding of state regulations which works to prevent blunders and resulting fines for using unlawful billing practices.

We are excited at the opportunity to provide our services to Fountain Hills and are confident we have the experience, personnel, systems, and processes to successfully perform the “Environmental Billing and Collection Process” for you. Please review the attachments representing our formal proposal and contact us at your convenience with any questions.

We look forward to hearing from you.

Sincerely,

Frank J. Miller, President / CEO
6915 15th St. Suite 204
Sarasota, Florida 35243
941-358-1253

TOWN OF FOUNTAIN HILLS, ARIZONA

Environmental Fee Billing and Collection Process Proposal

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June 28, 2015

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Pricing

- Included in separate sealed envelope per proposal guidelines

TOWN OF FOUNTAIN HILLS, ARIZONA

Environmental Fee Billing and Collection Process Proposal

General Information

June 28, 2015

General Information

- AMS Billing – Corporate Identification and principal address:

AMS Billing Services, Inc.
6915 15 th st. E. Suite 204
Sarasota, Florida 34243

Ph 941-358-1253
Email: Info@amsbilling.com

- Fountain Hills Business License Application – see attached at GI-1
- Disaster Recovery Program – AMS utilizes a Cloud / Web based billing software with along with backup secure servers at an offsite location.
- AMS – Business Description and years in business

AMS Billing has been in operation since 1998 and is located in Sarasota, Florida. We are a leader in Property Utility Management, specializing in automated Utility Billing Solutions, Sub metering, Water Conservation, and Specialty Billing Services. AMS offers adept services that boost our client's bottom line by reducing expenses related to billing and payment collection services.

- Terminated client contracts in last five years for performance – None
- Litigation and or arbitration claims in the last five years – None
- Company Holidays 2015 – 2016 – See GI-2
- Vendor Information Form – see GI-3
- Organizational Chart – see GI-4
- Certificate of Insurance – see GI-5

GI

TOWN OF FOUNTAIN HILLS, ARIZONA

Environmental Fee Billing and Collection Process Proposal

Experience & Qualifications

June 28, 2015

- AMS experience in providing services to entities similar to Fountain Hills

AMS has been in business since 1998 providing billing and payment center services to many businesses including Home Owners Associations, Multi-Family Housing, and Commerical Business Centers.

Billing and payment center services include processing personal checks, credit card payments, pay by phone, auto payments, bank processed bill pays, cash payments, and web based payments. We are also in the process of establishing paperless billing which will be available in the fall of 2015.

Billing and payment processing is performed monthly, quarterly, semi-annually, and annually depending on the needs of our clients.

- List of five organizations with services comparable to or exceeding needs of Fountain Hills

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EQ

TOWN OF FOUNTAIN HILLS, ARIZONA

Environmental Fee Billing and Collection Process Proposal

Key Personnel

June 28, 2015

Key Personnel Identified as Support Staff for The Fountain Hills Contract

- **Mr. Chris Jeffries**, Director of Operations
10 years' experience with AMS, MBA, Ret. Lieutenant 10+ years Navy

Oversees all billing and payment processes, approves changes to billing reports and report changes. Manages maintenance programs for clients and client requests, manages contracts with mailing and printing vendors.

Ms. Alex Sombra, Billing Manager

5+ years' experience with AMS, AA, BBA expected 2016

Manages billing reps, controls and monitors billing rep portfolio's including her own portfolio of clients, reviews and approves reports, reconciles billing records to output, manages employee payroll time reporting, back-up to Operations Director

Mr. Matt Ortner, IT Director, New Business Technology Development

8 years experience with AMS, 25 years professional experience

Developes all technology processing, maintains existing systems, creates specialty reporting based on client needs, manages IT support staff of 8 and sets staff priorities.

Mr. John Thomas, CFO

3+ years with AMS, 32 years Accounting & Finance experience

Oversees all financial and accounting processes and accounting staff, manages monthly/annual corporate reporting and analysis, corporate taxes, contract analysis, financial planning

TOWN OF FOUNTAIN HILLS, ARIZONA

Environmental Fee Billing and Collection Process Proposal

Project Approach

June 28, 2015

Project Approach

- Approach to fulfilling contract duties – See PA-1 Attached

- Contract Fulfillment
 - Security Measures to protect Fountain Hills data – AMS maintains a secure website, does not keep any payer credit card information, does not allow company records to be removed from premises without proper management approval, and the offices are secured with 24 security monitoring.

 - Quality Control procedures – AMS has in place a pre-programmed monthly review including a monthly physical audit of records and programs.

 - Procedures to ensure billing is successfully completed – AMS processes customer billings with reports forwarded to clients allowing for a 48 hour review. Input received from the client with changes is then included in the billing to customers.

 - Process to remove a bill from processing – Information is verified with the client and town records and documented before removal.

 - Procedures for correcting issues that arise – AMS is proactive in this approach and works with clients and their customers to satisfy all concerned. Any changes are reviewed with all parties to ensure issues are resolved and agreed upon.

 - Ongoing support provided throughout the contract – AMS assigns client with a personal rep so the client and their customers deal with one person throughout contract period.

- Alternative approaches to accomplish Fountain Hills objectives – See PA - 1

PA

TOWN OF FOUNTAIN HILLS, ARIZONA

Environmental Fee Billing and Collection Process Proposal

Project Approach

June 28, 2015

Project Approach

- **Alternative approaches to accomplish Fountain Hills objectives**

The Fountain Hills objective of implementing an annual “\$36.00 Environmental Fee” to property owners effective January 1, 2016, can best be accomplished by a one-time billing each January for the calendar year as opposed to a \$3.00 monthly bill.

Each month AMS will rebill property owners for which no payment has been received and include a “late fee” in the new billing as directed by Fountain Hills management. The rebills will be marked as past due and encourage the property owners to remit payment. This process will continue until all billed Environmental Fees have been collected. AMS will provide reports to Fountain Hills of payments received, outstanding balances by name monthly, and will remit payments received to Fountain Hills within two weeks of payments being received.

We also suggest the town take advantage of our “web based portal payment system”. This option allows payers the opportunity to pay the bill online, with the funds going directly to the clients bank account. In this case it would be the designated bank account of Fountain Hills. This would make the payment funds available to the town in two to three business days. Payments by physical checks would still be remitted to Fountain Hills in the required two weeks.

We feel the more advance notice and explanation of the Environmental Fee to be billed January 2016 we can do, will assist us in the collection of these fees. We suggest mailing an information package and introductory letter to the property owners in the fall of 2015 (November / December). The information package will also include email addresses and phone numbers to call for further explanation if needed.

While it is not stated in the Proposal information on how the selected vendor will be paid for these services, we recommend that AMS bill Fountain Hills monthly based on the number of bills that are billed in that period. In each succeeding month as the non-payers are re-billed, AMS will then bill the town for the number of bills mailed. This should provide a decline in monthly cost to the town for services rendered. This process will continue until all fees are collected.

TOWN OF FOUNTAIN HILLS, ARIZONA
Environmental Fee Billing and Collection Process
Project Schedule & Implementation Plan Calendar

June 28, 2015

- June 30, 2015 – Environmental Fee Proposal Submission
- August 6, 2015 – Town Council Award Date
- August 31, 2015 – Agreement Start Date
- September 4, 2015 – Implementation Calendar Forwarded by AMS to Fountain Hills
- September 11, 2015 – AMS request to Environmental Fee language to be included on billings to property owners
- September 25, 2015 – Sample of monthly billing invoice including introductory letter forwarded to Fountain Hills for review and feedback.
- October 2, 2015 – AMS to obtain access to Maricopa County Assessor’s Office Records
- October 2 – 9, 2015 – AMS creates billing data base and receivable report sample for Town of Fountain Hills Review.
- October 16, 2015 – AMS to provide training material and access to billing data base to Fountain Hills employees.
- October 17, 2015 – AMS initiates information requests to establish Gateway payment account for Fountain Hills.
- October 17 – 30 – Questions and Feedback from Fountain Hills addressed and resolved.
- November 13 – AMS updates property owner data base and resends sample of billing invoice and introductory letter to Fountain Hills for final approval.
- November 20, 2015 – AMS prints and mails to property owners, letter of introduction and explanation of Environmental Fee to be billed January 1, 2016.

PS&I

TOWN OF FOUNTAIN HILLS, ARIZONA

Environmental Fee Billing and Collection Process

Project Schedule & Implementation Plan Calendar

June 28, 2015

- November 21, 2015 – January 1, 2016 – AMS & Fountain Hills responds to property owners questions regarding the Environmental Fee to be billed.
- January 1, 2016 – AMS updates property owner's data base and mails Environmental Billing.
- January – December 2016 – Monthly billing and payment cycle is established along with late notices. Payments received remitted to Fountain Hills as stated in contract along with receivable balances.

PS&I

TOWN OF FOUNTAIN HILLS, ARIZONA
Environmental Fee Billing and Collection Process
Implementation and Operation Calendar

June 28, 2015

- June 30, 2015 – Environmental Fee Proposal Submission
- August 6, 2015 – Town Council Award Date
- August 31, 2015 – Agreement Start Date
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TOWN OF FOUNTAIN HILLS, ARIZONA
Environmental Fee Billing and Collection Process
Implementation and Operation Calendar

June 28, 2015

- January 1, 2016 – AMS updates property owner’s data base and mails Environmental Billing.
- January – December 2016 – Monthly billing and payment cycle is established along with late notices. Payments received remitted to Fountain Hills as stated in contract along with receivable balances.

TOWN OF FOUNTAIN HILLS, ARIZONA

Environmental Fee Billing and Collection Process Proposal

Optional Services

June 28, 2015

AMS provides multiple billing and payment processing services including water utility billing, security monitoring billing, trash removal, and sewer billing services. We are a national billing company with clients from Maryland to California to Washington State and Texas. No to client is too small or too big for us and if there is a billing need and payment center need we can work with anyone to get the job done.

We are continually improving and adding to our services and payment methods and have partnered with 7Eleven, Family Dollar and PayNearMe to give our clients customers the ability to pay their bills at over 17,000 locations nationwide. We are currently implementing paperless billing which will provide the ability to even pay directly from your phone.

Our web portal payment option even eliminates the delay of receiving your funds as this payment option deposits payments directly into the clients bank account in two to three business days. Why wait 30 days to receive your payments when this option is available.



References:

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AMS Billing Services INC.

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EXHIBIT B
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
AMERICAN METERING SERVICES, INC.
D/B/A AMS BILLING SERVICES

[Scope of Work]

See following pages.

SCOPE OF WORK

Environmental Fee Billing and Collection Processing

1. Introduction. The Town Council approved the implementation of an environmental fee for each parcel of land with the corporate limits of the Town at a rate of \$3 per month. The Town currently contains approximately 15,000 parcels, and property owners of each parcel will be billed \$36.00 annually. Due to the number of winter residents, bills will be issued in January. The Town is seeking an outside source to (i) utilize information from the Maricopa County Assessor's property records to establish a database of all parcels and property owners, (ii) create, print, mail and email bills, (iii) accept payments and monitor customer accounts, (iv) create, print, mail and email late notices and (v) provide collection services for unpaid fees. Bill messages may be included and may be changed periodically based on Town requirements. It is unknown how many late notices will be required, but the percentage is likely to be higher in the first year than in later years. The vendor should be able to use its experience and industry knowledge to estimate those figures.
2. Requirements.
 - 2.1 Vendor shall prepare a database consisting of all Fountain Hills parcel numbers, property owner names and addresses obtained from the Maricopa County Assessor's Office records.
 - 2.2 Vendor shall provide all paper, forms and envelopes for all bills, correspondence and reports. Return envelopes must be provided to customers for payment, except for customers who opt for e-billing services.
 - 2.3 Vendor must be able to produce the Town's bill with a remittance stub in a format acceptable to the Town.
 - 2.4 Vendor must have the ability to print bill messages, logos and other information as needed.
 - 2.5 Vendor must provide an interface capable of the following and provide the Town with specific operating details:
 - A. Allow the Town to include/exclude inserts and messages based on Town requirements.
 - B. Allow the Town to update requirements for bill messages and bill inserts on an as-needed basis.
 - C. Allow the Town to create ad hoc messaging to be printed on the bills, including the ability to upload images to the message area.
 - D. Storage of messages for reuse.

- 2.6 Sample bills shall be sent to the Town electronically for review and approval before they are printed and mailed.
- 2.7 Bills must be printed and mailed via presorted first class (or emailed) within one business day of receipt of approval.
- 2.8 The vendor must have the capability to suppress printing certain bills and envelopes, based on Town requirements. Suppression could be on a one-time or ongoing basis.
- 2.9 Vendor shall email billing status reports to the Town weekly for the first two months after the billing is complete. Thereafter, billing status reports may be reduced to monthly.
- 2.10 Vendor shall collect all payments from the customer. Various methods of payment (e.g., check, e-check, online, etc.) must be allowed.
- 2.11 Funds shall be remitted to the Town within two weeks of collection via ACH or wire transfers.
- 2.12 Vendor shall monitor customer accounts.
- 2.13 Vendor shall email aged accounts receivable reports to the Town monthly.
- 2.14 Vendor shall send out late notices monthly.
- 2.15 Vendor shall provide collection services for past due accounts.
- 2.16 Vendor must allow site visits by Town personnel.
- 2.17 Vendor shall provide the following customer support:
 - A. Contact name and information.
 - B. Unlimited telephone customer support Monday through Friday, from 8:00 a.m. to 5:00 p.m. for both the Town and the parcel owners.
 - C. Procedure to obtain assistance after-hours.
- 2.18 Vendor shall allow access to billing system by Town personnel.
3. Optional Services. Other services, including, but not limited to the below list items, will be considered if offered by vendors. All optional items and their cost should be listed on the Price Sheet, under the heading "Optional Services".
 - 3.1 Electronic billing.

- 3.2 Combined billing for entities that own multiple parcels.
- 3.3 Ability to provide similar services to other Town departments.

EXHIBIT C
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
AMERICAN METERING SERVICES, INC.
D/B/A AMS BILLING SERVICES

[Fee Proposal]

See following page.

TOWN OF FOUNTAIN HILLS, ARIZONA

Environmental Fee Billing and Collection Process Proposal

Pricing

June 28, 2015

AMS provides billing services to clients and contracts with them on a per bill basis plus one time set-up fees and invoice billing specialization of \$250.00. This allows the clients to only pay for the service work incurred. Our billing and payment processing services include:

- Collecting and updating client data billing list
- Reviewing billing reports for accuracy
- Interacting with the client gaining approval for each month billing
- Processing and printing monthly bills
- Bill insertion along with return envelopes in bill mailing
- Applying postage and delivering bills to post office
- Processing checks received, auto payments, checks by phone and credit card payments.
- Remitting funds received to clients along with AMS billing for services.
- Providing personalized phone support for client contacts and billed customers
- Providing monthly reporting on accounts receivable outstanding to clients
- Maintains billing data base to allow clients to add inserts to billings as needed.

AMS can provide the above listed services for \$1.50 per monthly bill plus postage. The current postage rate is \$0.49 which would bring the total cost per monthly bill to \$1.99. As the billing and payment process moves from month to month the amount of billing required will decrease by the number of payments received. Working with Fountain Hills management and getting as much information to the property owners who will be billed in advance of the billing, we feel the rebilling required can be minimized, which will keep our service costs to a minimum. Ideally we anticipate total bills and rebills to not exceed 30,000 to 35,000 bills which would project the total cost to Fountain Hills to be from \$60,000 to \$70,000.

If you approve we encourage doing a mailing in November to explain the Environmental Fee Bill they will receive in January, and to introduce AMS so we can provide them all the options they will have to pay this fee. This information will also be included in the monthly billings as they take place. If you approve of the fall notification it's cost to you will be \$0.99 per notification (\$0.49 for postage and \$0.50 for all other costs).

Total projected Environmental Fee and Payment Processing costs for 2016 - \$75,000 - \$85,000.