Contract No. 2017-075

PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN OF FOUNTAIN HILLS AND THE CK GROUP, INC.

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of December 6, 2016, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town"), and The CK Group, Inc., an Arizona corporation (the "Consultant").

RECITALS

A. Pursuant to Section 7.2 of the Town Procurement Policy and 3-3-16 of the Town Code, the Town may directly select certain consultants for professional and technical services.

B. The Consultant possesses the specific skill and experience required to conduct an engineering evaluation of traffic concerns on Shea Boulevard at the intersections of Palisades Boulevard and Fountain Hills Boulevard (the "Services").

C. The Town desires to enter into an Agreement with the Consultant to perform the Services, as more particularly set forth in Section 2 below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 June 30, 2017, unless terminated as otherwise provided in this Agreement.

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

3. Compensation. The Town shall pay Consultant an amount not to exceed $20,174.86 for the Services at the rates set forth in the Fee Proposal, attached hereto as part of Exhibit A.

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 with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

10. Indemnification. To the fullest extent permitted by law, the Consultant shall indemnify 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") to the extent that such Claims (or actions in respect thereof) are caused by the negligent acts, recklessness or intentional misconduct of the Consultant, its officers, employees, agents, or any tier of subcontractor in connection with Consultant's work or services 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, 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 this Agreement. A $25.00 administrative fee shall be assessed for all certificates or declarations received without a reference to this Agreement. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing this Agreement 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 with respect to performance of this 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 in any way related 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 this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this 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 this 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 this 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 this 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, this 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 this Agreement which may remain in effect without the invalid provision or application.

13.7 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 this 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.

13.8 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.

13.9 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.

13.10 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.

13.11 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.

13.12 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.

13.13 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.

13.14 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

If to Consultant: The CK Group, Inc.
16448 North 40th Street, Suite A
Phoenix, Arizona 85032
Attn: Ogbonna Abarwikwu

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.

13.15 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.

13.16 Records and Audit Rights. To ensure that the Consultant and its subcontractors are complying with the warranty under subsection 13.17 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 13.17 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.

13.17 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.

13.18 Israel. Consultant certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

13.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the Scope of Work or the Fee 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.

[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

CR
1/30/17

Grady E. Miller, Town Manager

ATTEST:

Bevelyn J. Bender, Town Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On January 31, 2017, 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.

JENNIFER LYONS
Notary Public, State of Arizona
Maricopa County
My Commission Expires
April 09, 2019

Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

JENNIFER LYONS
Notary Public State of Arizona
Maricopa County
My Commission Expires
April 09, 2019

"**Consultant**"

THE CK GROUP, INC.,
an Arizona corporation

By:_____

Name: Ogbonna Abarikwu

Title: President

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On Jan. 18, 2017, 2016, before me personally appeared Ogbonna I Abarikwu, the owner of THE CK GROUP, INC., an Arizona corporation, 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.

_____
Notary Public

(Affix notary seal here)

VEHANOOSH HAYTAIAN
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Commission Expires
March 22, 2017

2834422.1

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
THE CK GROUP, INC.

[Scope of Work and Fee Proposal]

See following pages.

CK GROUP
Engineers & Construction Managers

October 28, 2016

Mr. Randy Harrel, PE, SE, RLS, CFM
Town Engineer
Town of Fountain Hills Development Services Department
16705 E. Avenue of the Fountains
Fountain Hills, AZ 85268

Re: Shea Traffic Study 2016

Mr. Harrel,

Thank you for requesting our services as referenced. It is our understanding that the Town desires that CK conduct engineering evaluation for the following traffic engineering concerns:

Shea Boulevard at Palisades Boulevard Intersection

1. Eliminating / modifying/ restricting (to peak hours)/ retaining the "Right Turn on Green Arrow Only" restriction.
2. Eliminating existing "U-Turn" restrictions.
3. Evaluating existing phasing scheme, cycle length and timing plan. Evaluation should be based on December 2016 or January 2017 traffic count data.

Shea Boulevard at Fountain Hills Boulevard Intersection

1. Existing traffic signal head type, layout, and locations (all directions, but especially for southbound traffic).
2. Permitting east to northbound left-turn movements to occur on a green ball or flashing green arrow (either off-peak or continually), versus current protected left-turn on green arrow only movement
3. Eliminating the west to northbound right-turn overlap. We understand that this movement services minimal volume, that both the overlap and emergency vehicle preemption associated with it are disconnected and nonfunctional.
4. Eliminating existing "U-Turn" restrictions.
5. Evaluating existing phasing scheme, cycle length and timing plan. Evaluation should be based on December 2016 or January 2017 traffic count data.

As required, CK will assist in presenting findings and recommendations of the study during a Council work session.

It is anticipated that the proposed study will be completed in 12 weeks from the receipt of a Notice to Proceed (NTP) from the Town. The estimated lump sum fee for the study is $20,174.86 (Exhibit A – Man Hour/ Fee Proposal is attached). Cost associated with meeting(s) beyond those specified in the scope of work will be billed separately on a time and material basis.

Thank you for allowing CK to assist on the proposed study. Please, contact the undersigned directly should you have any question or comment.

Respectfully,
the CK Group, Inc.

Ogbonna Abarikwu
Principal

the CK Group, Inc.
16448 N. 40th Street, Suite A Phoenix, Arizona 85032
P: 602.482.5884 | F: 602 482.2885 | Email: ckgroup@theCKgroup.com

CK GROUP

EXHIBITA - DERIVATION OF FEE

Town of Fountain Hills SHEA BOULEVARD TRAFFIC STUDY - 2016

	Work Activity	Principal	Project Manager	Sr. Project Engineer	Project Engineer	CAD Designer	Project Coordinator	Admin/ Graphics	2-Person Survey Crew	Fee per Task
I	**Shea Boulevard at Palisades**									**9,368.52**
A	Site Reconnisance (a.m.; p.m., off peak hours)			7.5	9		1			1,544.33
B	Data Accumulation/ Review (as-built, collision, counts, signal), etc.			6	14					1,757.58
C	Literature Review (best practices/ references)	3		5						1,003.52
D	Evaluate "Right-turn on Red Only" Restriction			1	2					265.08
E	Evaluate Existing "U-Turn" Restriction			2	2					363.04
F	Evaluate Existing Signal Timming Scheme	1		4	12					1,565.77
G	Prepare Probable Cost of Recommended Improvements			1	3					348.63
H	Prepare Report of Findings and Recommendations			12	2		2	6		1,734.42
I	Present Findings and Recommendations at Council Work Session	2		3			1	2		786.15
II	**Shea Boulevard at Fountain Hills**									**9,833.98**
A	Site Reconnisance (a.m.; p.m., off peak hours)			3.5	3					593.54
B	Data Accumulation/ Review (as-built, collision, counts, signal), etc.			8	16					2,120.61
C	Literature Review (best practices/ references)	2		9			2			1,339.33
D	Evaluate Signal Heads for Compliance with 2014 MUTCD Manual			2	3					446.60
E	Perform Intersection LOS (a.m., p.m., and off peak hours), Optimize Signal Operation, Evaluate Phasing Scheme, Access Right turn Overlap, EVP, etc.	1		6	16					2,095.93
F	Evaluate Existing "U-Turn" Restriction			2	4					530.15
G	Prepare Probable Cost of Recommended Improvements			1	3					348.63
H	Prepare Report of Findings and Recommendations			8	2		2	9		1,480.85
I	Present Findings and Recommendations at Council Work Session	2		3			1	4		878.33
										0.00
										0.00
										0.00
Total Hours	216	11	0	84	91	0	9	21		
Hourly Rates		$71.44	$64.47	$40.87	$34.86	$30.71	$24.03	$19.23	$43.36	
Subtotal	$8,011.28	$785.84	$0.00	$3,433.08	$3,172.26	$0.00	$216.27	$403.83	$0.00	19,202.50

Direct Labor		$8,011.28
Overhead	1.1790	$9,445.54
Subtotal		$17,456.82
Profit	10%	$1,745.68
CK Group Subtotal		$19,202.50
Subconsultants		$800.00
Rebillables		$172.36
Total		**$20,174.86**

Subconsultants	
Traffic TM Counts	$800.00
Total	$800.00

Rebillables				
Mileage				
	168	Miles at	$0.520	$87.36
Delivery				
	2	Deliveries at	$30.000	$60.00
Printing & Misc.				
	1	Lump Sum at	$25.000	$25.00
Total				$172.36

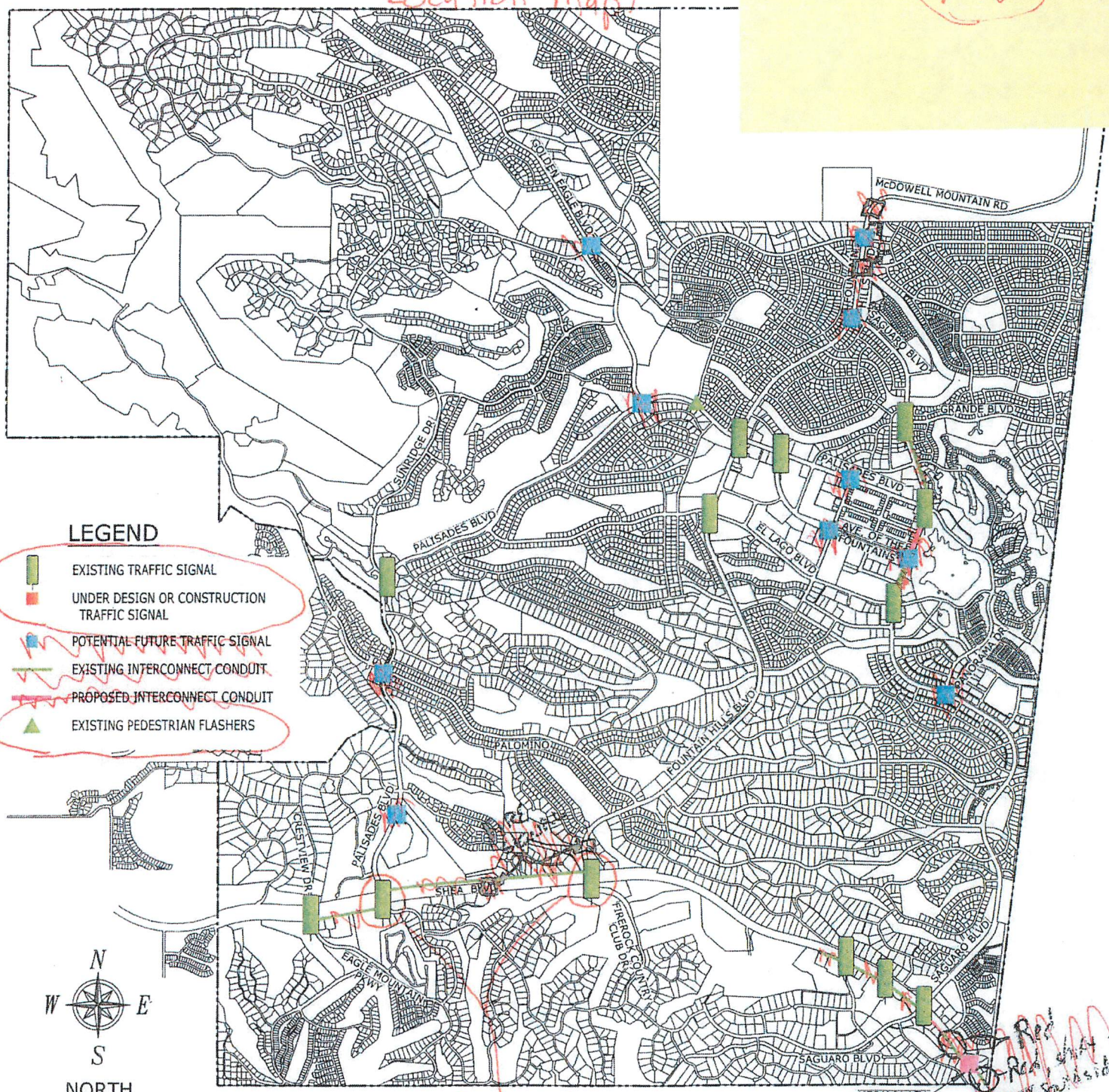
TOWN OF FOUNTAIN

TRAFFIC SIGNAL MAP

2009-2010

Shea Traffic Study - 2016
Location Map

Ken, 11-18-16
If you can prepare this on Monday, that would be great. Thanks
RW



STUDY LOCATIONS

Red
Red, shot to Southside
Lost green
ADOT Signal Grafton
RW 4-22-17

RECEIVED
JAN 23 2017
BY:_____

CK GROUP
Engineers & Construction Managers

Attention:	Date:	Regarding:
Paula Woodward	1-18-2017	Shea Blvd Traffic Study
At: TOWN OF FOUNTAIN HILLS, AZ		Phone: 480.816.5122

We are sending you: ☒ **Attached** ☐ **Under separate cover via _____ the following items**

☐ Shop drawings ☐ Prints ☐ Plans ☐ Samples ☐ Specifications ☐ Cost Estimate

☐ Copy of letter ☐ Change Order ☑ Contract ☐ Lien Waiver ☐ Other

Copies:	Date:	No.:	Description:
1	1-18-17		Signed copy Contract #2017-075

These are transmitted as checked below:

☐ For approval ☐ Approved as submitted ☐ Resubmit _____ copies for approval

☑ For your use ☐ Approved as noted ☐ Submit _____ copies for distribution

☑ As requested ☐ Returned for corrections ☐ Return _____ corrected prints

☐ For review/comment ☐ For bids due ☐ Prints returned after loan to us

☑ Other

Remarks:	
Please, do not hesitate to let me know should you require anything else.	
Copy to: **CK project folder #AZ2016-20TE**	Signed: Ogbonna Abarikwu

If enclosures are not noted, please notify us at once

REQUEST FOR LEGAL SERVICES

Name/Phone Number/E-mail of Requestor: Randy Harrel/480-816-5112/rharrel@fh.az.gov	**Date of Request:11/21/2016** **Date Director Approved Request: 11/21/2016** P.M.
Due Date (From Town Attorney's office): 12/5/2016 LEAD TIME: Minimum of 2 weeks prior to date of Council meeting	**Proposed Council Date: 12/15/2016** **Or,** **Council Approval is not required:** ☐

Describe Requested Legal Services: Prepare a Professional Services Agreement with the CK Group, Inc. for traffic engineering for the "Shea Traffic Study 2016".

Attachments: draft Agenda Action Form; CK's proposal dated 10-28-16, Location Map

Proposed Agenda Language [if applicable]: Consideration of a Professional Services Agreement with "the CK Group, Inc", for traffic engineering for the "Shea Traffic Study 2016", in the amount of $20,174.86.

Vendor/Consultant/Agreement/Agency Information:

Contact Name:	Ogbonna Abarwikwu
Entity Name:	the CK Group, Inc.
Entity Address:	16448 N. 40th Street, Suite A; Phoenix, AZ 85032
Entity Phone, Facsimile and E-mail address:	P: 602-482-5884; F: 602-482-2885; Email: ckgroup@theCKgroup.com
Town of Fountain Hills Business License Number	n/a
Arizona Corporation Commission File Number	n/a

Documents Requested:

- ☐ Ordinance #_____ (Draft attached: Yes)
  - Publication Dates for Zoning Actions:_____
- ☐ Resolution #_____ (Draft attached: Yes)
- ☐ Easement_____ (Specify Type)_____
- ☐ Deed_____ (Specify Type)_____
- ☐ IGA/Amendment (Corresponding Resolution Required)
- ☒ PSA/Amendment
- ☐ PA (Purchase)/Amendment
- ☐ IFB (Invitation for Bid)
- ☐ RFQ (Request for Qualifications)
- ☐ RFP (Request for Proposals)
- ☐ CSA (Construction)/Amendment
- ☐ QSP (Quotes for Small Projects) Approval
- ☐ Cooperative Purchasing Agreement Approval
- ☐ Other_____

Required Contract/Agreement Information:

Method of Vendor Selection: direct select

Term of Contract/Agreement: FY 2016-17

Contract Amount (this contract): $20,174.86 Cumulative Contract Amount: same

Brief description of services/goods being sought: Traffic engineering services

Contract Number Assigned: none yet.

Funding Source: Public Works; Professional Fees Project Number: n/a

Budget Transfer Required: (NA) - attach appropriate documentation

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Staff Check List **[this section is for staff's use to ensure that the Request for Legal Services submitted is complete]:**
A "request for legal services form" will be returned if submitted without the necessary information and attachments. [Use the drop down boxes below as necessary.]

*Scope of Work or Specifications Attached: (NA)
*Fee Proposal or Price Sheet Attached (Yes)
*Proposal or Statement of Qualifications from Vendor Attached (NA)
*Bid/RFQ/RFP Schedule Attached (NA)
*QSP Document Attached (NA)
*Underlying Cooperative Purchasing Agreement Attached (NA)

REQUIRED: A "contract cover sheet" is required by Finance prior to processing the signed contract/agreement for payment(s).

CONTRACT/GRANT INFORMATION SHEET - NEW CONTRACT

Date: 1/26/2017			
Staff's Name: Randy Harrell	Department: Engineering		
Vendor's Name: CK Group		Vendor Number:	
Address: 16448 N 40TH ST, PHOENIX AZ, 85032			
Phone: 602-482-5884			
Received W9: ☐ Y ☐ N ☒ ALREADY IN SYSTEM			
Business License #:6749	Exp. Date: 1/31/2018		

ACCOUNTING SUMMARY	Org	Object	Project/#	$
Accounting Code:	Dvseng	6402		20,174.86
Accounting Code:				
Accounting Code:				
TBD(used for variety of different things/departments/funds):	Choose an item.			

CONTRACT SUMMARY

Contract Number Assigned:	**C2017-075**		
Current Contract Total:	20174.86	Total Contract Amount with Renewals:	
Brief Description of Service:	Traffic signal studies (Shea & FHB, Shea & Palisades)		
If Renewable:	Choose an item.	Total # of Renewals Max:	Choose an item.
FY Cumulative Vendor Totals:	Does this Contract put it over $50,000	☐ Yes	☒ No
Contract Beginning Date:	12/6/2016		
Contract Expiration Date:	6/30/2017		
Budgeted Expenditure:	☒ Yes	☐ No	
Budget Page #:	205		
Approved by Council:	☐ Yes; Date: Click here to enter a date.	☒ No	☐ N/A
Insurance Certificate provided:	☐ Yes	☒ No	☐ N/A
Warranty Period:	☐ Yes	☒ No	If Yes, expires Click here to enter a date.
Estimated Start Date:	1/30/2017		
Estimated Completion Date:	6/30/2017		

GRANT SUMMARY

Paid for by Grant:	☐ Yes	☒ No	
Name of Grantee:			
Grant Number Assigned:		Resolution Number:	
Date Council Approved:			