

**PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE TOWN OF FOUNTAIN HILLS  
AND  
VICI MEDIA, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is entered into as of January 3, 2018 between the Town of Fountain Hills, an Arizona municipal corporation (the “Town”) and Vici Media, Inc., a Kentucky corporation (the “Consultant”).

RECITALS

A. The Town issued a Request for Proposal, TD-2018-1 (the “RFP”), a copy of which is on file in the Town Clerk’s Office and incorporated herein by reference, seeking proposals from vendors for Digital Retargeting and Marketing 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 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 for a period of one year, until January 3, 2019 (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 this Agreement, the Consultant requests, in writing, to extend this 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 this 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 an amount not to exceed \$50,000.00 per year for the Services at the rates as set forth in the Fee Proposal, attached hereto as Exhibit C and incorporated herein by reference.

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.

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. If deemed qualified, the Consultant is encouraged to hire Town residents to fill vacant positions at all levels. 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, 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, 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 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. This Agreement is subject to the provisions of ARIZ. CONST. ART. IX, § 5 and ARIZ. REV. STAT. § 42-17106. The provisions of this Agreement for payment of funds by the Town shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The Town shall be the sole judge and authority in determining the availability of funds under this Agreement and the Town shall keep the Consultant fully informed as to the availability of funds for this Agreement. The obligation of the Town to make any payment pursuant to this Agreement is a current expense of the Town, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the Town. If the Town Council fails to appropriate money sufficient to pay the amounts as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the Town and the Consultant shall be relieved of any subsequent obligation under this Agreement.

### 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 and Exhibit B. 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 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

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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. 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:            DICKINSON WRIGHT PLLC  
                                  1850 N. CENTRAL AVE. STE 1400  
                                  PHOENIX, AZ 85009  
                                  ATTN: FREDDA BISMAN

If to Consultant:        Vici Media, Inc.  
                                  13327 Ridgemoor Dr.  
                                  Prospect, KY 40059  
                                  Attn: Todd Schumacher

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 subcontractor's 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 subcontractors’ 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, any Town-approved Purchase Order, 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.

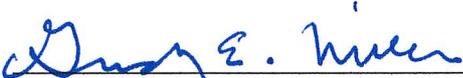
13.22 Special Provisions. All proposals must identify their company's stipulations or regulations on any "non-compete" regulations for new/or existing clients.

[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 January 16, 2018, 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”

Vici Media, Inc.,  
a(n) Kentucky Corporation

By: [Signature]

Name: Todd Schumacher

Title: Managing Partner

(ACKNOWLEDGMENT)

~~STATE OF ARIZONA~~ Kentucky )  
~~COUNTY OF MARICOPA~~ Jefferson ) ss.

On 3 January, 2018, before me personally appeared Jodd M Schumacher, the Managing Partner of Vici Media INC, a(n) Kentucky 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 Vici Media INC.

[Signature]  
Notary Public

(Affix notary seal here)

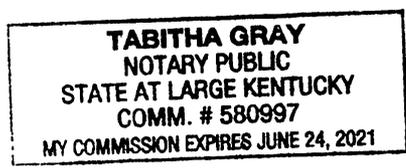


EXHIBIT A  
TO  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE TOWN OF FOUNTAIN HILLS  
AND

---

[Consultant's Proposal]

See following pages.



# 2018 Digital Marketing Planner for Fountain Hills Tourism and Economic Development



Digital Retargeting and Marketing Company/Services TD2018-1



## About Vici

Vici is a full-service digital advertising technology company. We specialize in building online campaigns to get maximum reach for our clients. We do this by utilizing a multi-platform approach to digital marketing which includes targeted internet display advertising (Behavioral, Keyword, Ad Networks), mobile targeting, geo-targeting, video pre-roll advertising, retargeting campaigns, SEO, Facebook and Instagram News Feed targeting, Mobile Conquesting, Native Advertising, as well as Household IP Targeting. Founded in 2014, Vici manages half a billion impressions per year, with leadership through Founding/Manager Partner Todd Schumacher and Founding Partners Megan Malone and Leslye Schumacher.

We have employees based in Philadelphia, Louisville, and Phoenix. Megan Malone will be actively managing this campaign. She has overseen the successful implementation of the Fountain Hills Tourism digital campaign for two years, and the Fountains Hills Economic Development campaign for one year. To learn more visit [www.vicimediainc.com](http://www.vicimediainc.com).



## Goals For This Campaign: Tourism

- Gain larger market share of people visiting Fountain Hills from Phoenix, Scottsdale, Mesa, and Glendale through digital marketing:

Target 1: Visitors who have visited your website through all marketing channels who are interested in visiting Fountain Hills

Target 2: People actively searching event and day-trip related keywords or visit webpages that contain your keywords. 314 different keywords were utilized during this campaign and shown :1! videos

Target 3: Travelers and day trippers- people who are currently planning a trip or vacation

- Increase traffic to key information destinations: booking a hotel, getting information on golf courses and booking tee times, increasing restaurant bookings, disseminating information on the hiking/biking trails, as well as promoting the events calendar.
- Ability to promote upcoming events in the 2018 tourism season



## Goals For This Campaign: Economic Development

- Help F.H.E.D. find potential new customers based on your ideal customer profile, by utilizing retargeting (via Facebook), IP Targeting potential businesses on our data list, and targeting California with social ads directed towards small businesses of less than 100 employees, particularly in the fields of Technology, Healthcare, Professional Services, and Advanced Business Services.
- The ultimate goal is a direct contact, to have a business call or reach out to F.H.E.D. We are starting with branding to create familiarity, to attract businesses to Fountain Hills. This will help with current strategy of direct one-to-one contacts or meetings during conferences.
- Campaign will utilize social ads, display ads, and the new :90 video ad that was recently created.
- Target the Chicago metro with native ads units during the coldest time of the year in February 2018 to target business owners to think about warmer climates



## Elements For This Campaign: Tourism



Retargeting

The **Native Retargeting** campaign shows your ad to people who have left your website as they browse online



Keyword Targeting

The **Native Keyword Targeted** ads target people searching for your selected keywords on Google or on webpages that contain those keywords. In 2017 we built and optimized targeting with an expanded list of 314 keywords (2015-2016 campaign we used 109 keywords) throughout the duration of this campaign.



Native Ads

The **Native Categories** shows your ads to potential trippers, based on your ideal customer profile mentioned previously. We were targeting hundreds of popular website on the Travel ad network with publishers like Travelocity, Trip Advisor, and Kayak.



## Elements For This Campaign: F.H.E.D.



**Native Ads** will be used to place your ads across websites and apps where your ad matches the look, feel and visual context of where they are seen, across all devices. This will be utilized in the Chicago market.



The **Facebook Newsfeed Business Targeted** ads target people searching for your selected keywords on Google or on webpages that contain those keywords. In 2017 we built and optimized targeting with an expanded list of 314 keywords (2015-2016 campaign we used 109 keywords) throughout the duration of this campaign.



The **IP Targeting** ads will show your ad **ONLY** to the businesses on your targeted list where we have matched their business street address to their IP address.



Digital Campaign Planner

Date Created: 11/15/2017

Client: Fountain Hills



GEOGRAPHIC TARGET:

Phoenix, Scottsdale, Mesa, and Glendale

	Jan-18	Feb-18	Mar-18	Apr-18	Total
<b>NATIVE ADS RETARGETING</b>					
Estimated Historical Web Traffic (6 month avg.)	5,000	5,000	5,000	5,000	
Projected Retargeted Traffic	1,463	2,925	2,925	2,925	
Frequency Cap	24	24	24	24	
Total Potential Impressions	35,112	70,200	70,200	70,200	245,712
Cost Per Thousand	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
Investment Projection	\$351.12	\$702.00	\$702.00	\$702.00	\$2,457.12
<b>NATIVE KEYWORD TARGETING</b>					
Total Potential Impressions	<u>99,888</u>	<u>64,800</u>	<u>64,800</u>	<u>64,800</u>	<u>294,288</u>
Cost Per Thousand	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
Investment Projection	\$998.88	\$648.00	\$648.00	\$648.00	\$2,942.88
<b>NATIVE DISPLAY ADS</b>					
Native Categories: Women 25-54, Family Travel, Moms, Parenting School-Aged Kids	<u>65,000</u>	<u>65,000</u>	<u>65,000</u>	<u>65,000</u>	<u>260,000</u>
Total Potential Impressions	65,000	65,000	65,000	65,000	260,000
Cost Per Thousand	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
Investment Projection	\$650.00	\$650.00	\$650.00	\$650.00	\$2,600.00
<b>TOTAL CAMPAIGN IMPRESSIONS:</b>	<b>200,000</b>	<b>200,000</b>	<b>200,000</b>	<b>200,000</b>	<b>800,000</b>
<b>TOTAL CAMPAIGN INVESTMENT:</b>	<b>\$2,000.00</b>	<b>\$2,000.00</b>	<b>\$2,000.00</b>	<b>\$2,000.00</b>	<b>\$8,000.00</b>

This Digital Campaign Planner reflects a projection of how the impressions will be allocated in your geographic areas. During the live campaign we may reallocate impressions in order to deliver the best ROI while staying within your budget.



Digital Campaign Planner

Date Created: 10/19/2017

Client: Fountain Hills Economic Development



GEOGRAPHIC TARGET:

IP Targeting B2B,  
California, Chicago (native)

	Feb-18	Mar-18	Apr-18	May-18	Total
<b>NATIVE ADS</b>					
Small Business, Business Loans	200,000	0	0	0	200,000
Total Potential Impressions	200,000	0	0	0	200,000
Cost Per Thousand	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
Investment Projection	\$2,000.00	\$0.00	\$0.00	\$0.00	\$2,000.00
<b>SOCIAL NEWS FEED</b>					
Target Audience: Adults 18+; Industries: Administrative, Business and Financial Operations, Healthcare and Medical, IT and Technical, Sales; Office Type: Small business; Small business owners					
Facebook News Feed Targeting (static or carousel)	75,000	75,000	75,000	75,000	300,000
Total Potential Impressions	75,000	75,000	75,000	75,000	300,000
Cost Per Thousand	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00
Investment Projection	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$6,000.00
<b>HOUSEHOLD IP TARGETING</b>					
Total Potential Impressions	50,000	50,000	50,000	50,000	200,000
Cost Per Thousand	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00
Investment Projection	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	\$4,000.00
<b>TOTAL CAMPAIGN IMPRESSIONS:</b>	<b>125,000</b>	<b>125,000</b>	<b>125,000</b>	<b>125,000</b>	<b>500,000</b>
<b>TOTAL CAMPAIGN INVESTMENT:</b>	<b>\$4,500.00</b>	<b>\$2,500.00</b>	<b>\$2,500.00</b>	<b>\$2,500.00</b>	<b>\$12,000.00</b>

This Digital Campaign Planner reflects a projection of how the impressions will be allocated in your geographic area. During the live campaign we may reallocate impressions in order to deliver the best ROI while staying within your budget.



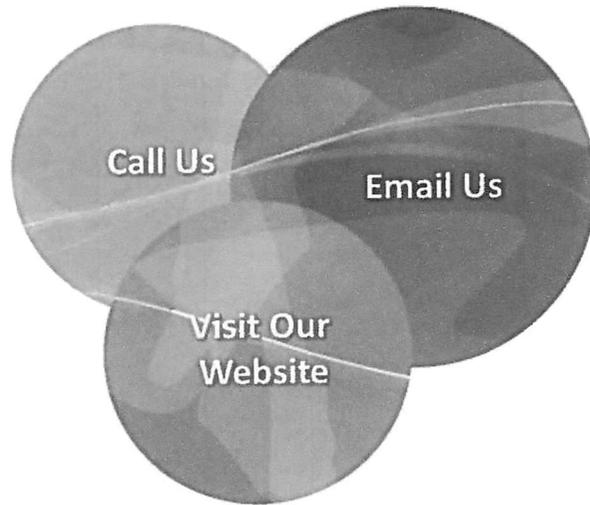
## Campaign Overview

- **Fountain Hills Tourism:** Digital Campaign from January 2018 to April 2018, 800,000 total impressions, or \$8,000 over the course of the campaign
- **Fountain Hills Economic Development:** Digital Campaign from February 2018 to May 2018, 500,000 total impressions, or \$12,000 over the course of the campaign
- **Total Campaign Impressions:** 1,300,000
- **Total Campaign Investment:** \$20,000
- **Total includes art creation, campaign management, fulfillment, and monthly/lifetime reporting for both campaigns**

Accepted by: \_\_\_\_\_ Date: \_\_\_\_\_



**Thank you for your consideration!**



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**www.ViciMediaInc.com**

EXHIBIT B  
TO  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE TOWN OF FOUNTAIN HILLS  
AND

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The Town of Fountain Hills is looking to contract with a digital marketing agency that can provide online outreach, keyword targeting and retargeting to increase traffic and interaction with the Tourism website and/or the Town's Economic Development website. The selected service provider must be able to guarantee that similar services will not be provided to any agency or company looking to obtain similar goals, as the Town, within a 35 mile regional area from Fountain Hills referred to as "No Competition" The selected service provider should outline specific strategies that support a municipal tourism strategy for attracting local and non-local audiences.

The selected service provider's proposal must incorporate the following goals for Tourism:

- Gain a bigger market share of people visiting Fountain Hills from Phoenix, Scottsdale, Mesa, and Glendale through digital marketing with retargeting, keyword targeting, and ad network targeting with online display ads.
- Increase traffic to key information destinations such as but not limited to: booking a hotel, getting information on golf courses and booking tee times, increasing restaurant bookings and distributing the Dining Guide, disseminating information on the hiking/biking trails, as well as promoting the events calendar.
- Targeting strategies that incorporate: demographics, geography, key words and look alike audiences.

The selected service provider's proposal must incorporate the following goals for Economic Development:

- Consultant shall provide digital marketing with retargeting, keyword targeting and ad network targeting with online display ads to increase awareness of Fountain Hills as a potential business location.
- Consultant shall utilize effective strategies that will:
  - Identify potential new clients based on likelihood of fit within the community.
  - Target small businesses of less than 100 employees, particularly in the fields of Technology, Healthcare, Professional Services, and Advanced Business Services.
  - Incorporate marketing videos and segments of marketing videos.
- The goal is a direct contact, to have a business call or reach out to the economic development office

EXHIBIT C  
TO  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE TOWN OF FOUNTAIN HILLS  
AND

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[Fee Proposal]

See following page(s).



Digital Campaign Planner

Date Created: 10/19/2017

Client: Fountain Hills Economic Development

GEOGRAPHIC TARGET:



IP Targeting B2B,  
California, Chicago (native)

	Feb-18	Mar-18	Apr-18	May-18	Total
<b>NATIVE ADS</b>					
Small Business, Business Loans	200,000	0	0	0	200,000
Total Potential Impressions	200,000	0	0	0	200,000
Cost Per Thousand	\$10.00	\$10.00	\$10.00	\$10.00	\$10.00
Investment Projection	\$2,000.00	\$0.00	\$0.00	\$0.00	\$2,000.00
<b>SOCIAL NEWS FEED</b>					
Target Audience: Adults 18+; Industries: Administrative, Business and Financial Operations, Healthcare and Medical, IT and Technical, Sales; Office Type: Small business; Small business owners					
Facebook News Feed Targeting (static or carousel)	75,000	75,000	75,000	75,000	300,000
Total Potential Impressions	75,000	75,000	75,000	75,000	300,000
Cost Per Thousand	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00
Investment Projection	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$6,000.00
<b>HOUSEHOLD IP TARGETING</b>					
Total Potential Impressions	50,000	50,000	50,000	50,000	200,000
Cost Per Thousand	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00
Investment Projection	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	\$4,000.00
<b>TOTAL CAMPAIGN IMPRESSIONS:</b>	125,000	125,000	125,000	125,000	500,000
<b>TOTAL CAMPAIGN INVESTMENT:</b>	\$4,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$12,000.00

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## Campaign Overview

- **Fountain Hills Tourism: Digital Campaign** from January 2018 to April 2018, 800,000 total impressions, or \$8,000 over the course of the campaign
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