

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

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of August 18, 2011, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town") and The Mercer Group, Inc., a Georgia corporation (the "Consultant").

RECITALS

A. The Town issued a Request for Proposals entitled "Request for Proposals for Town Manager Search Services" (the "RFP"), attached hereto as Exhibit A and incorporated herein by reference, seeking proposals from vendors for Town Manager search services.

B. The Consultant submitted a proposal in response to the RFP (the "Proposal"), attached hereto as Exhibit B and incorporated herein by reference, and the Town desires to enter into an Agreement with the Consultant to provide Town Manager search services (the "Services").

AGREEMENT

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

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until December 1, 2011 (the "Term").
2. Scope of Work. Consultant shall provide the Services as set forth in the Scope of Work and Fee Schedule, attached hereto as Exhibit C and incorporated herein by reference.
3. Compensation. The Town shall pay Consultant a fee not to exceed \$15,000.00 as compensation for the Services at the rates as set forth in the Fee Proposal, attached hereto as a part of Exhibit C. The Town shall pay the Consultant an aggregate amount not to exceed \$5,000.00 as compensation for approved reimbursable expenses as set forth in Exhibit C.
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. The invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.
5. Documents. All documents 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 completion of the Services to be performed 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 of substantially equal ability and qualifications.

7. Inspection; Acceptance. [INTENTIONALLY OMITTED]

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

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

10. Indemnification. To the fullest extent permitted by law, the Consultant shall indemnify, defend and hold harmless the Town and each council member, officer, employee or agent thereof (the Town and any such person being herein called an "Indemnified Party"), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the Consultant, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

11. Insurance.

11.1 General.

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

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

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

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

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

F. 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.

G. 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.

H. 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.

I. 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. In the event any insurance policy required by this Agreement is written on a "claims made" basis, coverage shall extend for two years past completion of the Services and the Town's acceptance of the Consultant's work or services and as evidenced by annual certificates of insurance. 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. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or reference to this Agreement, as applicable, will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

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

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

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

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

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

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

(4) A 30-day advance notice cancellation provision. If ACORD certificate of insurance form 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, \$1,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured’s clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read “Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of “your work” for that insured by or for you.” If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

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

C. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Consultant engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate. In the event the Professional Liability insurance policy is written on a “claims made” basis, coverage shall extend for two years past completion and acceptance of the Services, and the Consultant shall be required to submit certificates of insurance and a copy of the declaration page(s) of the insurance policies evidencing proper coverage is in effect as required above.

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 materially changed without 30 days' prior written notice to the Town.

12. Applicable Law; Venue. In the performance of this Agreement, Consultant shall abide by and conform to any and all laws of the United States, State of Arizona and Town of Fountain Hills, including but not limited to, federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this Agreement. 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. Termination; Cancellation.

13.1 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.

13.2 For Cause. This Agreement may be terminated by either party upon 30 days' written notice should the other party fail to substantially perform in accordance with this Agreement's terms, through no fault of the party initiating the termination. 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.

13.3 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.

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

13.5 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 cancelled by the Town pursuant to this provision, the Town shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Consultant an amount equal to 150% of the gratuity.

13.6 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 the 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.

#### 14. Miscellaneous.

14.1 Independent Consultant. 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.

14.2 Laws and Regulations. The 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 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.

14.3 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.

14.4 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.

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

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

14.7 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 the Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

14.8 Assignment. No right or interest in this Agreement shall be assigned 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.

14.9 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.

14.10 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.

14.11 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.

14.12 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.

14.13 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.

14.14 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, (C) given to a recognized and reputable overnight delivery service, to the address set forth below or (D) delivered by facsimile transmission to the number set forth below:

If to the Town:           Town of Fountain Hills  
                                  16705 East Avenue of the Fountains  
                                  Fountain Hills, Arizona 85268  
                                  Facsimile: (480) 837-3145  
                                  Attn: Town Manager

With copy to:            GUST ROSENFELD, P.L.C.  
                                  One East Washington Street, Suite 1600  
                                  Phoenix, Arizona 85004-2553  
                                  Facsimile: (602) 254-4878  
                                  Attn: Andrew J. McGuire, Esq.

If to Consultant:       The Mercer Group, Inc.  
551 North Cordova Road, #726  
Santa Fe, New Mexico 87505  
Facsimile: (505) 466-1274  
Attn: James L. Mercer

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, (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, or (D) when received by facsimile transmission during the normal business hours of the recipient. 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.

14.15 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.

14.16 Records and Audit Rights. 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 to ensure that the Consultant and its subcontractors are complying with the warranty under subsection 14.17 below (all 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 14.17 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.

14.17 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 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.

14.18 Scrutinized Business Operations. Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, the Consultant certifies that it does not have scrutinized business operations in Sudan or Iran. For the purpose of this subsection the term "scrutinized business operations" shall have the meanings set forth in ARIZ. REV. STAT. § 35-391 or 35-393, as applicable. If the Town determines that the Consultant submitted a false certification, the Town may impose remedies as provided by law including terminating this Agreement pursuant to subsection 13.2 above.

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

14.20 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]

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[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

J. Ghetti  
Julie Ghetti, Interim Town Manager

ATTEST:

Beverlyn J. Bender  
Beverlyn J. Bender, Town Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF MARICOPA    )

This instrument was acknowledged before me on August 22, 2011, by Julie Ghetti, the Interim Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation, on behalf of the Town of Fountain Hills.

Janice E. Baxter  
Notary Public in and for the State of Arizona

My Comm. Expires 

12/05/2012

"Consultant"

THE MERCER GROUP, INC.,  
a Georgia corporation

By: \_\_\_\_\_

Name: JAMES L. MERCER

Title: PRESIDENT/CEO

(ACKNOWLEDGMENT)

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF SANTA FE )

This instrument was acknowledged before me on AUGUST 11, 2011,  
by JAMES L. MERCER as PRESIDENT/CEO of THE MERCER GROUP,  
INC., a Georgia corporation, on behalf of the corporation.

Karolyn Prince-Mercer  
Notary Public in and for the State of NM

My Commission Expires:

6-20-2013



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

[RFP]

See following pages.



## **REQUEST FOR PROPOSALS FOR TOWN MANAGER SEARCH SERVICES**

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

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### **SOLICITATION INFORMATION AND SELECTION SCHEDULE**

Release Date:	<b>July 7, 2011</b>	
Final Date for Inquiries:	<b>July 18, 2011</b>	
Proposal Due Date and Time:	<b>July 19, 2011 3:00 p.m. (local time, Phoenix, Arizona)</b>	
Target Town Council Award Date:	<b>July 21, 2011</b>	
Anticipated Agreement Start Date:	<b>July 22, 2011</b>	
Town Representatives:	<b>Joan McIntosh 480-816-5125</b>	<b>jmcintosh@fh.az.org</b>
	<b>Bev Bender 480-816-5115</b>	<b>bbender@fh.az.org</b>

**\*\* The Town of Fountain Hills reserves the right to amend the solicitation schedule as necessary.**

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Sample Professional Services Agreement	B-1

**I. RFP PROCESS; AWARD OF AGREEMENT**

1. Purpose; Scope of Work. The Town of Fountain Hills (the “Town”) is issuing this Request For Proposals (this “RFP”) from qualified consultants (“Vendors”) interested in providing Town Manager search services for the Town as more particularly described in the Scope of Work attached to the sample Professional Services Agreement (included in Section B of this RFP) as Exhibit C (the “Services”), and incorporated herein by reference. The Town will accept sealed proposals (“Proposals”) for the Services. This procurement is progressing at an accelerated pace in order to ensure timely selection of a suitable new Town Manager who will be able to start work by December 1, 2011. The Proposal shall (A) include all of the components necessary for the Vendor to perform all of the Services necessary from initial consultation with the Town Council to hiring of the new Town Manager and (B) be arranged into discrete, logical groupings of services to allow the Town to select the appropriate amount of services to meet its budgetary needs. Accordingly, the service components shall be arranged to ensure that, upon completion of each discrete component, the Town will be presented with a finished product from which it may continue the process if it so desires.

2. Preparation/Submission of Proposal. Vendors are invited to participate in the competitive selection process for the Services outlined in this RFP. Responding parties shall review their Proposal submissions to ensure the following requirements are met.

2.1 Irregular or Non-responsive Proposals. The Town shall consider as “irregular” or “non-responsive” and reject any Proposal not prepared and submitted in accordance with this RFP, or any Proposal lacking sufficient information to enable the Town to make a reasonable determination of compliance to the minimum qualifications. Unauthorized conditions, limitations, or provisions shall be cause for rejection. Proposals may be deemed non-responsive at any time during the evaluation process if, in the sole opinion of the Town:

- A. Vendor does not meet the minimum required skill, experience or requirements to perform or provide the Service.
- B. Vendor has a past record of failing to fully perform or fulfill contractual obligations.
- C. Vendor cannot demonstrate financial stability.
- D. Vendor’s Proposal contains false, inaccurate or misleading statements that, in the opinion of the Town Manager or authorized designee, is intended to mislead the Town in its evaluation of the Proposal.

2.2 Submittal Quantities. Interested Vendors must submit **one (1) original and eight (8) copies (nine (9) total submittals)** of the Proposal. In addition, interested parties must submit **one (1) original copy** of the Proposal on a CD-ROM (or electronic media approved by the Town) in printable Adobe or Microsoft Word format (or other format approved by the Town). Failure to adhere to the submittal quantity criteria shall result in the Proposal being considered non-responsive.

**SECTION A**

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2.3 Required Submittal. The Proposal shall be submitted with a cover letter with an **original ink** signature by a person authorized to bind the Vendor. Proposals submitted without a cover letter with an **original ink signature** by a person authorized to bind the Vendor shall be considered non-responsive. The Proposal shall be a maximum of **fifteen (15)** pages to address the Proposal criteria (excluding resumes, the Vendor Information Form, but including the materials necessary to address project understanding, general information, organizational chart, photos, tables, graphs, and diagrams). Each page side (maximum 8 1/2" x 11") with criteria information shall be counted. However, one page may be substituted with an 11" x 17" sheet of paper, folded to 8 1/2" x 11", showing a proposed project schedule or organizational chart and only having information on one side. Cover, back, table of contents and tabs may be used and shall not be included in the page count, unless they include additional project-specific information or Proposal criteria responses. The minimum allowable font for the Proposal is **11 pt**. Failure to adhere to the page limit and size criteria and font size shall result in the Proposal being considered non-responsive. Telegraphic (facsimile), electronic (e-mail) or mailgram Proposals will not be considered.

2.4. Vendor Responsibilities. All Vendors shall (A) examine the entire RFP, (B) seek clarification of any item or requirement that may not be clear, (C) check all responses for accuracy before submitting a Proposal and (D) submit the entire Proposal by the Proposal Due Date and Time. Late Proposals will not be considered. A Vendor submitting a late Proposal shall be so notified. Negligence in preparing a Proposal confers no right of withdrawal after the Proposal Due Date and Time.

2.5. Sealed Submittals. All Proposals shall be sealed and clearly marked with the RFP title, **Town Manager Search Services**, on the lower left hand corner of the mailing envelope. A return address must also appear on the outside of the sealed Proposal. The Town is not responsible for the pre-opening of, post-opening of, or the failure to open, any Proposals not properly addressed or identified.

2.6. Pricing. The Vendor shall submit the same number of copies of the Fee Proposal as described in Article I, Section 2.2 above in a separate, sealed envelope enclosed with the Vendor's Proposal. Pricing shall be inclusive of all of the Services in the Scope of Work and Fee Proposal as described in the Professional Service Agreement in Exhibit C. Each discrete component of the Services shall include a component cost, and all costs shall be included in an overall aggregate amount for all Services.

2.7. Address. All Proposals shall be directed to the following address: Town Clerk, 16705 East Avenue of the Fountains, Fountain Hills, Arizona 85268, or hand-delivered to the Town Clerk's Office by the Proposal Due Date and Time indicated on the cover page of this RFP.

2.8. Pricing Errors. If price is a consideration and in case of error in the extension of prices in the Proposal, the unit price shall govern. Periods of time, stated as number of days, shall be calendar days.

**SECTION A**

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2.9. Proposal Irrevocable. In order to allow for an adequate evaluation, the Town requires the Proposal to be valid and irrevocable for **60** days after the Proposal Due Date and Time indicated on the cover of this RFP.

2.10 Amendment/Withdrawal of Proposal. At any time prior to the specified Proposal Due Date and Time, a Vendor (or designated representative) may amend or withdraw its Proposal. Any erasures, interlineations, or other modifications in the Proposal shall be initialed in **original ink** by the authorized person signing the Proposal. Facsimile, electronic (e-mail) or mailgram Proposal amendments or withdrawals will not be considered. No Proposal shall be altered, amended or withdrawn after the specified Proposal Due Date and Time.

3. Cost of Proposal Preparation. The Town does not reimburse the cost of developing, presenting or providing any response to this solicitation. Proposals submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Vendor is responsible for all costs incurred in responding to this RFP. All materials and documents submitted in response to this RFP become the property of the Town and will not be returned.

4. Inquiries.

4.1 Written/Verbal Inquiries. Any question related to the RFP shall be directed to the Town Representatives whose names appear on the cover page of this RFP. Questions shall be submitted in writing or via e-mail by the close of business on the Final Date for Inquiries indicated on the cover page of this RFP. Any inquiries related to this RFP shall refer to the number and title, page and paragraph. However, the Vendor shall not place the RFP number and title on the outside of any envelope containing questions, because such an envelope may be identified as a sealed Proposal and may not be opened until after the Proposal Due Date and Time.

4.2 Inquiries Answered. Written questions will be read and answered within 24 hours. Verbal or telephone inquiries directed to Town staff **will not be answered**. No questions, submitted in any form, will be answered after the Final Date for Inquiries listed on the cover of this RFP.

5. Pre-Submittal Conference. INTENTIONALLY OMMITTED.

6. Payment Requirements; Payment Discounts. Any Proposal that requires payment in less than 30 calendar days shall not be considered. However, the Town shall be entitled to take advantage of any payment discount offered by the Vendor provided payment is made within the discount period.

7. Federal Excise Tax. The Town is exempt from Federal Excise Tax, including the Federal Transportation Tax. Sales tax, if any, shall be indicated as a separate item.

**SECTION A**

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8. Public Record. All Proposals shall become the property of the Town and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the Town's Procurement Code.

9. Confidential Information. If a Vendor believes that a Proposal or protest contains information that should be withheld from the public record, a statement advising the Town Representative of this fact shall accompany the submission and the information shall be identified. The information identified by the Vendor as confidential shall not be disclosed until the Town Representative makes a written determination. The Town Representative shall review the statement and information and shall determine in writing whether the information shall be withheld. If the Town Representative determines to disclose the information, the Town Representative shall inform the Vendor in writing of such determination.

10. Vendor Licensing and Registration. Prior to the award of the Agreement, the successful Vendor shall (i) be licensed with the Arizona Corporation Commission to do business in Arizona and (ii) have a completed Request for Vendor Number on file with the Town Financial Services Department. The Vendor shall provide licensure information with the Proposal. Corporations and partnerships shall be able to provide a Certificate of Good Standing from the Arizona Corporation Commission.

11. Certification. By submitting a Proposal, the Vendor certifies:

11.1 No Collusion. The submission of the Proposal did not involve collusion or other anti-competitive practices.

11.2 No Discrimination. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11456.

11.3 No Gratuity. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor or service to a Town employee, officer or agent in connection with the submitted Proposal. It (including the Vendor's employees, representatives, agents, lobbyists, attorneys, and subcontractors) has refrained, under penalty of disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a part in the selection process, including the Selection Committee, elected officials, the Town Manager, the Deputy Town Manager, Department Heads, and other Town staff. All contact must be addressed to the Town Representatives. Any attempt to influence the selection process by any means shall void the submitted Proposal and any resulting Agreement.

11.4 Financial Stability. It is financially stable, solvent and has adequate cash reserves to meet all financial obligations including any potential costs resulting from an award of the Agreement.

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11.5 No Signature; False or Misleading Statement. Failure to sign the Proposal, or signing it with a false or misleading statement, shall void the submitted Proposal and any resulting Agreement.

11.6 Professional Services Agreement. In addition to reviewing and understanding the submittal requirements, it has reviewed the attached sample Professional Service Agreement (attached in Section B), including the Scope of Work.

12. Award of Agreement.

12.1 Selection. A Selection Committee composed of representatives from the Town will conduct the selection process according to the schedule listed on the cover page of this RFP. The Selection Committee shall recommend that the Town Council award the agreement to the responsible and responsive Vendor whose Proposal is determined, in writing, to be the most advantageous to the Town and best meets the overall needs of the Town taking into consideration the scoring criteria set forth in this RFP. The amount of applicable transaction privilege or use tax of the Town shall not be a factor in determining the most advantageous Proposal. After the Town has entered into an Agreement with the successful Vendor, the successful Proposal and the scoring documentation shall be open for public inspection.

12.2 Line Item Option. Unless the Proposal states otherwise, or unless otherwise provided within this RFP, the Town reserves the right to award by individual line item, by group of line items, or as a total, whichever is deemed most advantageous to the Town.

12.3 Form of Agreement. The selected Vendor will be required to execute the Town's standard Professional Services Agreement in a form acceptable to the Town Attorney. A sample of the standard agreement is included with this RFP. If the Town is unsuccessful in negotiating an Agreement with the highest-scoring Vendor, the Town may then negotiate with the second, then third, highest-scoring Vendor until an Agreement is executed. Town Council approval may be required. The Town reserves the right to terminate the selection process at any time.

12.4 Waiver; Rejection; Reissuance. Notwithstanding any other provision of this RFP, the Town expressly reserves the right to: (A) waive any immaterial defect or informality, (B) reject any or all Proposals or portions thereof and (C) reissue an RFP.

13. Offer. A Proposal is an offer to contract with the Town based upon the terms, conditions and specifications contained in this RFP and the Vendor's responsive Proposal, unless any of the terms, conditions, or specifications is modified by a written addendum or agreement amendment. Provided, however, that no contractual relationship shall be established until the Vendor has signed, and the Town has approved, a professional services agreement between the Town and the Vendor in the form acceptable to the Town Attorney. A sample Professional Service Agreement is included herein.

**II. PROPOSAL FORMAT; SCORING**

Upon receipt of a Proposal, each submittal will be reviewed for compliance with the Proposal requirements by the Selection Committee. Proposals shall be organized and submitted in the format as outlined below. Failure to conform to the designated format, standards and minimum requirements shall result in a determination that the Proposal is non-responsive. Additionally, the Selection Committee will evaluate and award points to each Proposal based upon the scoring criteria as outlined in this document. Points listed below are the maximum number of points possible for each criteria and not the minimum number that the Selection Committee may award.

**Section 1: Organization/Local Office Technical Qualifications**

**10 pts**

- A. One page cover letter as described in Article I, Section 2.3 above.
- B. State whether the Vendor's firm is national, regional or local. Explain the legal organization of the Vendor. Provide identification information of the Vendor. Include the legal name, address, identification number and legal form of the Vendor (e.g., partnership, corporation, joint venture, sole proprietorship). If a joint venture, identify the members of the joint venture and provide all of the information required under this section for each member. If the Vendor is a wholly owned subsidiary of another company, identify the parent company. Provide the name, address and telephone number of the person to contact concerning the Proposal.
- C. State the address of the local office that will provide the Services to the Town.
- D. INTENTIONALLY LEFT BLANK.
- E. Indicate the number of people, by level, within the local office that will provide the Services to the Town. Indicate which other projects this staff will be working on concurrently. State your policy on notification of changes in key personnel. Also, indicate the overall supervision to be exercised over the team by the Vendor's management.
- F. Provide a list of the local office's current and prior City/Town Manager Search clients indicating the type(s) of services performed and the number of years served for each. Indicate your experience in performing the Services for entities that are similar in size and complexity to the Town.
- G. Identify any contract or subcontract held by the Vendor or officers of the Vendor that have been terminated within the last five (5) years. Briefly describe the circumstances and the outcome.
- H. Identify any claims arising from a contract which resulted in litigation or arbitration within the last five (5) years. Briefly describe the circumstances and the outcome.
- I. Vendor Information Form (may be attached as separate appendix).

**SECTION A**

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**Section 2: Individual Staff Technical Qualifications.**

**30 pts**

A. Describe the experience in City/Town Manager searches of each senior and higher level person assigned to provide the Services to the Town, including years on each job and her/his position while on each assignment.

B. Describe the relevant educational background of each individual to be assigned to provide the Services to the Town. Indicate whether each such person is registered or licensed in Arizona.

C. Describe any specialized skills, training, or background by assigned individuals. This may include participation in State or National professional organizations and speaker or instructor roles in conferences or seminars.

D. Indicate the local office's experience in providing additional services to government clients by listing the name of each government entity, the type(s) of services performed and the year(s) of engagement.

E. Provide a reference list of three current and/or former municipal clients that the Town may contact regarding the offeror's performance. The list shall include client name, agency, address, email address and phone number as well as the date(s) of service.

**Section 3: Approach**

**40 pts**

Describe the Vendor's technical approach to providing the Services to the Town as it relates to the Scope of Work described in the Professional Services Agreement in Exhibit C, including hardware and software that will be utilized on site. Describe your understanding of the work to be performed and indicate time estimates for completion of the Services. (Samples may be included in a separate appendix and will not be included in the page count.)

**Section 4: Pricing**

**10 pts**

While fees are not a primary evaluation criterion, Vendors should be prepared to present and discuss pricing proposals for this type of engagement during the interview process. The Proposal should contain all pricing information relative to performing the Services described in this RFP. Vendor shall submit the same number of copies of the Fee Proposal as described in Article I, Section 2.6 above in a separate, sealed envelope enclosed with the Vendor's Proposal with the signature of the representative of the Vendor who is authorized to make such an offer.

**Section 5: Other Relevant Information**

**10 pts**

Include any other information that may be helpful in evaluating your firm's qualifications, including peer reviews within the past three years and any disciplinary action received within the past three years.

**Total Possible Points for Proposal:**

**100**

**III. VENDOR INFORMATION FORM**

By submitting a Proposal, the submitting Vendor certifies that it has reviewed the administrative information and draft of the Professional Services Agreement's terms and conditions and, if awarded the Agreement, agrees to be bound thereto.

---

\_\_\_\_\_  
VENDOR SUBMITTING PROPOSAL

\_\_\_\_\_  
FEDERAL TAX ID NUMBER

\_\_\_\_\_  
PRINTED NAME AND TITLE

\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
TELEPHONE

\_\_\_\_\_  
FAX #

\_\_\_\_\_  
CITY            STATE            ZIP

\_\_\_\_\_  
DATE

WEB SITE: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

---

SMALL, MINORITY, DISADVANTAGED AND WOMEN-OWNED BUSINESS ENTERPRISES (check appropriate item(s):

- \_\_\_\_\_ Small Business Enterprise (SBE)
- \_\_\_\_\_ Minority Business Enterprise (MBE)
- \_\_\_\_\_ Disadvantaged Business Enterprise (DBE)
- \_\_\_\_\_ Women-Owned Business Enterprise (WBE)

Has the Vendor been certified by any jurisdiction in Arizona as a minority or woman-owned business enterprise?

If yes, please provide details and documentation of the certification.

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SAMPLE PROFESSIONAL SERVICES AGREEMENT

[Intentionally Omitted]

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

[Consultant's Proposal]

See following pages.



# **The Mercer Group, Inc.**

***Consultants To Management***

551 W. Cordova Road, #726

Santa Fe, New Mexico 87505

(505) 466-9500

FAX (505) 466-1274

E-mail: [jmercer@mercergroupinc.com](mailto:jmercer@mercergroupinc.com)

July 14, 2011

Town Clerk  
Town of Fountain Hills  
16705 East Avenue of the Fountains  
Fountain Hills, AZ 85268

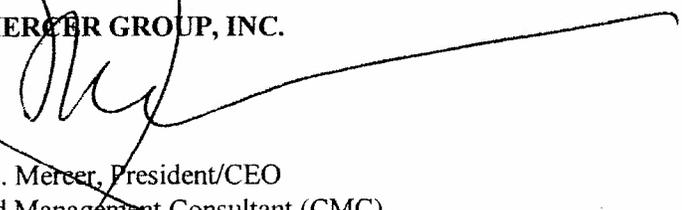
Dear Town Clerk:

The Mercer Group, Inc. is pleased to submit this proposal to assist the Town of Fountain Hills to recruit nationally and to develop exceptionally well-qualified candidates for the position of Town Manager. We are most interested in assisting the Town of Fountain Hills with this critical project, and if selected to conduct the search, would have no difficulty beginning the project immediately and expediting our work to ensure a smooth process. The Mercer Group, Inc. has extensive experience in conducting town manager searches locally and nationally. Our firm probably conducts more city/town manager searches than any other executive level search firm in the United States. We are especially well qualified to conduct this search for the Town of Fountain Hills as we have worked with the Town on prior occasions and are familiar with the Town. Additionally, have a good database of top quality prospective candidates for the Town.

Thank you for the opportunity to respond to this important assignment. This proposal is valid for ninety (90) days from receipt by the Town of Fountain Hills. We are looking forward to discussing this proposal with you personally, and urge you to allow us to come to Fountain Hills at our expense to do that. We can move very quickly to do so. Please call me at 505-466-9500 if you have any questions.

Sincerely yours,

**THE MERCER GROUP, INC.**

  
James L. Mercer, President/CEO  
Certified Management Consultant (CMC)

Enclosure

PINPOINTING WORKABLE SOLUTIONS FROM OUR OFFICES NATIONWIDE

[www.mercergroupinc.com](http://www.mercergroupinc.com)

# **TOWN OF FOUNTAIN HILLS, ARIZONA**

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**Proposal for  
Executive Search Services**

**for the Position of**

**TOWN MANAGER**

**July 14, 2011**

**JAMES L. MERCER, PRESIDENT/CEO  
THE MERCER GROUP, INC.**

**551 W Cordova Road  
Suite 726**

**Santa Fe, New Mexico 87505**

**505-466-9500**

**505-466-1274 FAX**

**[jmerc@mercergroupinc.com](mailto:jmerc@mercergroupinc.com)**

**[www.mercergroupinc.com](http://www.mercergroupinc.com)**

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# **SECTION I**

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## **ORGANIZATION/LOCAL OFFICE TECHNICAL QUALIFICATIONS**

## I. ORGANIZATION/LOCAL OFFICE TECHNICAL QUALIFICATIONS

The Mercer Group, Inc. is an independent management consulting firm incorporated in the State of Georgia and operating nation-wide. The firm was founded by James L. Mercer, a long-term public management consultant.

The Mercer Group, Inc. provides exceptionally high quality management consulting services to state and local governments, transit authorities, health care providers, utilities, special districts, and private sector clients. Specialty practice areas include: executive recruitment, organization and operations analysis, productivity improvement, strategic planning, management systems, compensation/classification/policy studies, privatization, budget evaluation services, government consolidation and organization development, training, and general management consulting. Our key consultants have conducted successful searches for hundreds of public sector organizations nationally and can offer numerous references as testimony of our work.

This important engagement will be conducted by Mr. James L. Mercer. Mr. Mercer has conducted or assisted in the conduct of more than 2000 successful executive searches in recent years. Mr. Mercer's resume is included in the appendix. Below is the address of the office to be used to conduct this search.

James L. Mercer, President  
The Mercer Group, Inc.  
551 W Cordova Road, Suite 726  
Santa Fe, New Mexico 87505  
Telephone: (505) 466-9500; FAX: (505) 466-1274  
Federal Tax ID No.: 58-1877068

The President and one Senior Vice President from this Santa Fe office and one Senior Vice President from our California office will provide the services listed under the Scope of Work. The Santa Fe office will also be working on a County Administrator search, a County Manager search, an Executive Director search and a study for a Texas municipality. The California office will be working on a Police Chief search. It is our firm's policy not to change key personnel during a search unless we discuss it with the client. Mr. Mercer will exercise supervision over the team.

### **City Managers/Administrators**

Alachua, Florida - City Manager - 2001  
Angel Fire, New Mexico - Town Administrator (Limited Scope Search) - 2000  
Aspen, Colorado - City Manager - 1989  
Athens/Clarke County Unified Government, Georgia - Manager - 2000  
Athens/Clarke County Unified Government, Georgia - Manager - 1995  
Aurora, Colorado - City Manager - 1989  
Austin, Texas - City Manager - 1988  
Avondale, Arizona - City Manager - 2000  
Bangor, Maine - City Manager - 2010  
Beavercreek, Ohio - City Manager - 2003  
Beavercreek, Ohio - City Manager - 1985  
Bellaire, Texas - City Manager - 1996  
Billings, Montana - City Administrator - 2006  
Billings, Montana - City Administrator - 2003  
Billings, Montana - City Administrator - 1999  
Billings, Montana - Assistant City Administrator - 2003  
Billings, Montana - Deputy City Administrator - 2003

Florence, South Carolina - City Manager - 1996  
Fort Lauderdale, Florida - City Manager - 1998  
Fort Smith, Arkansas - City Administrator - 2008  
Fort Smith, Arkansas - City Administrator - 2006  
Fountain Hills, Arizona - Town Manager - 2002  
Frankfort, Kentucky - City Manager - 2003  
Gainesville, Florida - City Manager - 2005  
Gainesville, Florida - City Manager - 1995  
Galesburg, Illinois - City Manager - 2006  
Gastonia, North Carolina - City Manager - 2007  
Glen Ellyn, Illinois - Village Manager - 2008  
Glen Ellyn, Illinois - Village Manager - 2006  
Glencoe, Illinois - Village Manager - 2000  
Glendale, Arizona - Assistant City Manager - 2010  
Glendale, Arizona - Deputy City Manager (2 Positions) - 2004  
Goldsboro, North Carolina - City Manager - 2011  
Goldsboro, North Carolina - City Manager - 2004  
Goodyear, Arizona - City Manager - 2007  
Grand Island, Nebraska - City Administrator - 2007  
Greensboro, North Carolina - Assistant City Manager (Limited Scope Search) - 1996  
Gulfport, Florida - City Manager - 1989  
Hampton, Virginia - City Manager - 2009  
Hampton, Virginia - City Manager - 1984  
Indian Rocks Beach, Florida - City Manager (Limited Scope Search) - 1997  
Indian Trail, North Carolina - Town Manager - 2009  
Jacksonville, North Carolina - City Manager - 2010  
Jacksonville, North Carolina - City Manager - 2005  
Jacksonville, North Carolina - City Manager - 1998  
Jacksonville, North Carolina - Assistant City Manager - 2007  
Johns Creek, Georgia - City Manager - 2006  
Johnson City, Tennessee - City Manager - 2005  
Kingsport, Tennessee - City Manager - 1999  
Laurinburg, North Carolina - City Manager - 1999  
League City, Texas - City Administrator - 2009  
Lee's Summit, Missouri - City Manager - 2008  
Longboat Key, Florida - Town Manager - 1997  
Longboat Key, Florida - Town Manager - 1993  
Longboat Key, Florida - Assistant Town Manager - 1996  
Los Angeles, California - Chief Legislative Analyst - 2005  
Macon, Georgia - Chief Administrative Officer - 2008  
Martinsville, Virginia - City Manager - 2004  
Mason, Ohio - City Manager - 2006  
Matthews, North Carolina - Town Manager - 2002  
McAlester, Oklahoma - City Manager (Limited Scope Search) - 2006  
McKinney, Texas - Assistant City Manager - 2006  
Middletown, Ohio - City Manager - 1984  
Middletown, Pennsylvania - Borough Manager - 2001  
Midland, Texas - City Manager - 2008  
Minnetonka, Minnesota - City Manager - 2000  
Minster, Ohio - Village Administrator - 1986  
Monmouth, Illinois - City Administrator - 2007

Montgomery, Illinois - Village Manager - 2000  
Mound, Minnesota - City Manager - 2000  
Mount Holly, North Carolina - City Manager - 2007  
Newburgh, New York - City Manager - 2010  
Newport News, Virginia - City Manager - 2005  
Norfolk, Virginia - City Manager - 1999  
North Miami, Florida - City Manager - 2002  
North Myrtle Beach, South Carolina - City Manager - 2010  
North Myrtle Beach, South Carolina - City Manager - 2003  
North Myrtle Beach, South Carolina - City Manager - 1997  
North Myrtle Beach, South Carolina - Assistant City Manager 2008  
Oak Ridge, Tennessee - City Manager - 2010  
Oak Ridge, Tennessee - City Manager - 2003  
Oklahoma City, Oklahoma - City Manager - 1986  
Overland Park, Kansas - City Manager - 2010  
Paducah, Kentucky - City Manager - 2010  
Peoria, Illinois - City Manager - 2008  
Payson, Arizona - Town Manager - 2002  
Phoenix, Arizona - City Manager - 1989  
Portsmouth, Virginia - City Manager - 2000  
Powder Springs, Georgia - City Manager - 2006  
Prairie Village, Kansas - City Administrator - 2007  
Punta Gorda, Florida - City Manager - 2004  
Punta Gorda, Florida - City Manager - 1998  
Punta Gorda, Florida - City Manager - 1995  
Raleigh, North Carolina - Assistant to the City Manager - 1971  
Raleigh, North Carolina - City Manager - 2000  
Reading, Pennsylvania - Managing Director - 2003  
Richland, Washington - City Manager - 2007  
Richland, Washington - City Manager - 1998  
Richland, Washington - City Manager (Limited Scope Search) - 2000  
Richmond, Virginia - Chief Administrative Officer - 2009  
Rio Rancho, New Mexico - City Administrator - 2003  
Roanoke, Virginia - City Manager - 1999  
Rock Hill, South Carolina - City Manager - 2001  
Rock Hill, South Carolina - City Manager - 1993  
Rockville, Maryland - City Manager - 1998  
Sandy Springs, Georgia - City Manager - 2005  
San Diego, California - Deputy City Manager - 1988  
Sarasota, Florida - City Manager - 2007  
Sarasota, Florida - City Manager - 1986  
Savannah, Georgia - City Manager - 1994  
Snellville, Georgia - City Manager - 2008  
Sparks, Nevada - City Manager - 1989  
Spartanburg, South Carolina - City Manager - 2001  
Spartanburg, South Carolina - City Manager - 1995  
Spartanburg, South Carolina - City Manager - 1984  
St. Petersburg, Florida - Deputy City Manager Public Works - 1988  
Suffolk, Virginia - City Manager - 2002  
Sunrise, Florida - City Manager - 1989  
Takoma Park, Maryland - City Manager - 2004

Talladega, Alabama - City Manager - 2008  
Talladega, Alabama - City Manager - 2003  
Tallahassee, Florida - City Manager - 1994  
Tifton, Georgia - City Manager - 2007  
Tifton, Georgia - City Manager - 1996  
Topeka, Kansas - Assistant to the Mayor (Technology Agent) - 1973  
Topeka, Kansas - Chief Administrative Officer - 2002  
Treasure Island, Florida - City Manager - 1996  
Tucson, Arizona - City Manager - 2004  
Tucson, Arizona - Assistant City Manager (Technology Agent) - 1973  
University City, Missouri - City Manager - 2005  
Virginia Beach, Virginia - City Manager - 1991  
Virginia Beach, Virginia - Deputy City Manager - 1987  
Westminster, Colorado - City Manager - 2000  
Westminster, Maryland - City Administrator - 2006  
West Palm Beach, Florida - City Manager - 1988  
White House, Tennessee - City Administrator - 2005  
Wichita, Kansas - City Manager (Limited Scope Search) - 2008  
Wilmington, North Carolina - City Manager - 2002  
Wilmington, North Carolina - Deputy City Manager - 2003  
Wilson, North Carolina - City Manager - 2004  
Winter Haven, Florida - City Manager - 2001  
Winter Haven, Florida - City Manager - 1986  
Worcester, Massachusetts - City Manager - 1993  
Worthington, Minnesota - City Manager - 1988  
York, Pennsylvania - Business Administrator & Assistant Solicitor - 2000

The candidate placed in these positions remained an average of eight (8) years. Our firm has extensive experience in conducting Town/City Manager searches in entities that are similar to the Town of Fountain Hills in both size and complexity.

There have been no contract or subcontract with our firm which has been terminated nor have an claims arisen from a contract which resulted in litigation of arbitration over the past 30 years of our firm's existence.

# **SECTION II**

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## **INDIVIDUAL STAFF TECHNICAL QUALIFICATIONS**

## II. INDIVIDUAL STAFF TECHNICAL QUALIFICATIONS

The Mercer Group, Inc.'s team for this project has eighteen (18) to thirty (30) years of experience in conducting City/Town Manager searches. Our President/CEO has been in this capacity for thirty years, our Senior Vice President from our California office has been with the firm for over eight years but was involved with conducting City/Town Manager searches while with a previous firm. Our Senior Vice President in the Santa Fe office has been with the firm for eighteen years. These are all senior level executive recruiters with extensive experience in conducting executive recruitments.

The Senior Vice President in our California office has a Bachelor's degree, the other members of our team have advanced degrees.

The President/CEO is specialized in turn-key management level executive recruitment. He is a member of the International City/County Management Association as well as the Institute of Management Consultants, USA. Mr. Mercer is a Certified Management Consultant.

Our firm has extensive experience in providing management consulting, organization management studies, strategic planning, conducting searches and conducting compensation and classification studies for multiple local government clients.

### References:

Roric Massey, City Attorney  
City of Goodyear; population: 57,000  
190 N Linchfield Road  
Goodyear, AZ 85338  
509-942-7381  
[RMassey@goodyearaz.gov](mailto:RMassey@goodyearaz.gov)  
City Manager Search. Conducted in 2007

Michael Letcher, City Manager  
City of Tucson; population: 560,000  
PO Box 27210  
Tucson, AZ 85762  
520-791-4204  
[Mike.Letcher@tucsonaz.gov](mailto:Mike.Letcher@tucsonaz.gov)  
City Manager Search, City Attorney Search, Human Resources Director Search; Director of Office of Management and Budget Search; General Services Director Search; Information Technology Chief Search. Searches were conducted in 2004 and 2005.

Alma Carmicle, Director of Human Resources  
City of Glendale; population: 218,812  
5850 W Glendale Avenue  
Glendale, AZ 85301  
623-930-2270  
[acarmicle@glendaleaz.com](mailto:acarmicle@glendaleaz.com)  
City Attorney Search; Deputy City Manager Search. Conducted in 2000, 2004 and 2010.

# **SECTION III**

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## **APPROACH**

### III. APPROACH

#### A. Introduction and Background

It is our understanding that:

- The Town of Fountain Hills is seeking "turn-key" executive search services and support in connection with the recruitment of a new Town Manager.
- The Town of Fountain Hills is interested in identifying outstanding candidates and filling the position of Town Manager.
- Services required include position analysis and preparation of position profiles, recruitment for the position; inviting potential candidates to apply; reviewing and screening applications; conducting interviews, reference checks and background checks of selected candidates; recommending a list of final candidates; coordinating final interviews; negotiating; and following up.
- The Town of Fountain Hills wishes to conduct a comprehensive national recruitment process, to ensure the best qualified candidates are found and that the best qualified individuals who are acceptable can be hired.
- The annual salary and benefits package for the position will be discussed with the Town Council.

#### B. Objectives

The objectives that we will meet in order to help find the best qualified candidates for the position are as follows:

- To conduct on-site needs assessment for the new Town Manager.
- To develop a comprehensive position profiles.
- To reconcile any differences in points of view with regard to specifications for the position.
- To encourage top level people to apply who would otherwise be reluctant to respond to an advertisement.
- To save a considerable amount of the Town Council's and staff's time in establishing a position profile and reviewing applicants.
- To comply with appropriate personnel regulations and state laws (i.e., EEO, Affirmative Action and ADA).
- To independently and objectively assess the qualifications and suitability of candidates for the positions.
- To recommend a pool of finalist candidates to the Town Council.
- To coordinate finalist candidate interviews with the Town Council.
- To mail an information packet supplied by the Town Council to all qualified applicants.
- To respond to all candidate inquiries and produce all correspondence throughout the search.
- To preserve the confidentiality of inquiries to the degree possible under Arizona law.
- To assist the Town Council in reaching a final decision.
- To assist in negotiating a compensation package with the successful candidate on behalf of the Town Council.
- To assist the Town Council in establishing criteria for evaluating the new Town Manager's performance.
- To follow-up with the Town Council and the new Town Manager during the first year to determine if adjustments need to be made.
- To keep the Town Council closely involved in key decisions and informed of our progress.

### C. Scope

The scope of the project will be sufficiently broad and in-depth so as to meet the requirements of the Town of Fountain Hills. However, for the fees proposed it will not address recruitment of additional candidates for positions other than the one specified.

### D. Approach

Our approach and style are interactive. That is, we form a partnership with our client to conduct a project. The Town of Fountain Hills will benefit through ease of implementation and by gaining more in-depth knowledge of executive search and management consulting techniques and expertise. Hardware/software to be used on site will consist of firm laptop computers.

### E. Work Plan

We recommend a seven (7)-step search process as follows:

- **Position Analysis** — We will define work relationships, job qualifications and requirements for the position — the "Position Profile".
- **Recruitment Process** — We will recruit regionally and nationally for the position and network to locate qualified candidates.
- **Resume Review** — We will identify qualified candidates.
- **Candidate Screening** — We will thoroughly screen prospective candidates.
- **Background Investigation** — We will thoroughly evaluate prospective candidates.
- **Interview Process** — We will make recommendations and assist in selection.
- **Negotiation and Follow-up** — We will facilitate employment and follow-up to ensure complete integrity of the process.

#### 1. Position Analysis

We will have extensive consultation with the Town Council, other County staff and local leaders selected by them, as well as other individuals or groups (if you wish) to determine the County's vision/mission, goals and objectives, the needs and issues, requirements of the job, and to obtain information about the environment within which the position functions. In addition, we will spend a considerable amount of time at the beginning of the process in The Town of Fountain Hills in order to determine the level of experience and training needed.

During this process, we will initiate individual interviews with the Town Council, citizen organizations, department heads and key staff, and others of your choice to identify expectations, perceptions, and concerns regarding the position.

Based on those meetings, we will prepare a draft position profile and review it with the Town Council in order to arrive at a general agreement regarding the specifications for the position. The final position profile will include information about the Town of Fountain Hills, the community, major issues to be faced, the position, and the selection criteria established.

#### 2. Recruitment Process

Because we have recently completed similar searches, we will first review our database to determine those candidates whom we may already know and/or already have on file who may meet the Town's specifications.

Although this process is valuable, we will rely most heavily on our own contacts in the city/town manager field and on our own experience. In other words, through "networking", we will conduct a nation-wide professional search for the best qualified candidates and invite them to apply for the position.

We will provide the Town Council with several advertising alternatives with varying degrees of cost and their associated benefits. Based on our discussions with the Town Council, we will place ads in professional journals, in national, in-state and local newspapers, and in various minority and women's publications to encourage applicants to apply.

### **3. Resume Review**

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

### **4. Candidate Screening**

Criteria for the preliminary screening will be contained in the approved "Recruitment Profile". They may include such items as education, technical knowledge, experience, accomplishments, management style, personal traits, etc. Screening of candidates against those criteria will be based on data contained in the resumes and other data provided by the candidates and on our knowledge of the organizations in which they work. At this stage, each must meet the minimum qualifications specified in the Recruitment Profile.

We will be responsible for screening the applications received. This initial screening will be conducted by telephone and/or interactive video with the prospective candidate. We will conduct interviews with references who may know the candidate's background and expertise by telephone. Where feasible, we will also conduct personal interviews with top candidates.

Once the initial screening is completed, we will select the prospective candidates who most closely match the criteria established by the Town Council. The output of this step in the process will be a matrix display of the top candidates showing how each rates against the selection criteria established by the Town Council. This matrix will be reviewed with the Town Council in one-on-one meetings and guidance obtained prior to proceeding. One contingency here is that the Town Council may not approve of any of the candidates. If that should occur, we would, of course, keep searching until the Town of Fountain Hills's needs are clearly met.

After review by the Town Council, we will personally interview each using various interview techniques. We will closely examine their experience, qualifications and achievements in view of the selection criteria and our professional expertise in evaluating the quality of such qualifications and achievements. We also request that all candidates provide us, in writing, substantial information about their accomplishments and their management style and philosophy. This information will be verified and, at the Town Council's option, may be further tested by having the finalists complete management and leadership style inventories. We interpret these instruments for the Town Council, as well.

### **5. Background Investigations**

As part of our process in evaluating top candidates, we make detailed and extensive reference checks. In conducting these, it is our practice to speak directly to individuals who are now or have previously been in a position to evaluate the candidates' job performance.

We ask each candidate to provide us with a large number of references. We then network these references to other persons who know the candidate. In this way, we thoroughly evaluate each candidate. We have talked to as many as 23 references concerning a single finalist candidate. These references and evaluations are combined

to provide frank and objective appraisals of the top candidates. We also verify past employment difficulties.

As part of our evaluation process, we verify undergraduate and graduate college degrees. We arrange for credit checks, criminal checks, and, as an additional option, can arrange for psychological (or similar) testing of the candidates that may be desired. As a part of this project we can provide the results of a Teleometrics Management Style Inventory on the finalist candidates. We can also conduct a Myers-Briggs analysis of the team with the new team member for team building purposes. (These may be extra cost items.) We will recommend background investigation criteria to the Town Council which will make the final decision on the specifics of the background check.

## **6. Interview Process**

Based on the preceding steps, a recommended list of finalists for the positions of Town Manager will be compiled. We will prepare a written summary on each finalist. The information will cover, but not be limited to, 1) present position, 2) total years experience, 3) salary requirements, 4) education, 5) previous positions held, 6) notable projects, 7) management style, 8) skills and abilities, 9) interests, and 10) professional goals.

This information will be presented to the Town Council in a detailed written format combined with the results of the background investigation and candidate screening. We will make a recommendation on a group of five (5) to seven (7) finalists. The Town Council shall make the final decision on which and how many candidates will be interviewed.

Our report will be presented in a meeting with the Town Council in which we will discuss our recommendations and provide background information, sample questions and a rating form for the interviews. We can also assist the Town Council at no extra charge in conducting targeted selection and/or simulation processes with finalists, if desired.

In particular, we will explain which, if any, of the applicants specifically meet the total criteria established by the Town Council or whether the final group simply represents the best available talent.

We will also provide the Town Council with our recommendations relative to timing, sequencing, location, setting, format, and conduct of interviews with the finalists. We will provide information about trends in employment, employment contracts and agreements, relocation expenses, perquisites, appropriate role for spouses, receptions, etc. We will arrange schedules for top candidate interviews with the Town Council and will coordinate the process.

## **7. Negotiation and Follow-up**

We will also assist in the negotiation process relative to salary, benefits and other conditions of employment. We feel that we can be especially helpful because we have proposed a fixed fee rather than one based on a percentage of salary. One contingency here is that an agreement may not be able to be arranged. If that is the case, we will work with the Town Council to select an alternate candidate.

We will properly handle any and all media relations. Unless otherwise directed, it is our standard practice to tell all media that we are working on behalf of the Town Council and that any public statement should come directly from the Town Council. We will maintain confidentiality of candidate information, to the degree possible, under Arizona law.

We will create and implement an assessment center style interview process with both public and private components, including a problem-solving exercise for candidate evaluation.

Finally, we will notify by letter all unsuccessful candidates who were not recommended for interview with the Town Council of the final decision reached. We suggest, however, that it is more proper for the Town Council to directly notify all unsuccessful candidates whom they interviewed of the final result.

Once the new Town Manager has been on board for 30 days or so, we will conduct a session with the Town Council and with the new Town Manager in order to establish mutual performance criteria and goals for the position. In this regard, we will work with the Town Council to define the role of the new Town Manager within the Town of Fountain Hills.

We will follow-up periodically with the Town Council and the new Town Manager during the first year in order to make any adjustments that may be necessary.

We will keep the Town Council closely informed and involved in decisions concerning the search process at all times. We will prepare and send to the Town Council weekly e-mail updates and a formal progress report at the mid-point of the search. These reports will contain a progress report on the recruitment and specific steps to be taken to meet the Town Council's deadlines and an itemization of expenses incurred-to-date and expected to be incurred during each succeeding project step.

Support from the Town Council will be needed, as follows:

- Arranging interviews with the Town Council and key Town staff
- Providing budget, organization charts and other documents
- Place of contact for the search
- Processing invoices for payment

**F. Schedule**

The search process normally takes 90- 120 days to complete.

**G. Equal Employment Opportunity Statement**

It is the policy of The Mercer Group, Inc., to assure equal opportunity based on ability and fitness for all employees or applicants considered for our client organizations regardless of race, color, religion, sex, age, marital or veteran's status, national origin, or the presence of any sensory, mental or physical disability. Such policy shall apply, but not be limited to, hiring, placement, job classification, transfer or promotion, demotion, recruitment, advertising or solicitation for employment, rates of pay or other forms of compensation, selection for training, career development, layoff or termination.

This policy shall be disseminated to clients, subcontractors, suppliers and prospective applicants. The intent of this policy will apply to internal operations, recruitment and consulting activities conducted by our firm.

**H. Timeline**

**TOWN OF FOUNTAIN HILLS, ARIZONA  
TOWN MANAGER SEARCH**

**TIMELINE**

Interviews of Town Council and/or others Council wishes to be interviewed	July 22, 2011
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Approve Recruitment Brochure	August 1, 2011
Access Data Base and Place Ads	August 1, 2011
Send Recruitment Brochure/Invitation Letter	August 1-3, 2011
Follow-up Telephone Calls	August 3-September 12, 2011
Cutoff Date for Receipt of Applications	September 12, 2011
Screen Applications Against Selection Criteria	September 14-15, 2011
Meet with or Conference Call with Town Council to Review Top 15 Candidates	September 16, 2011
Conduct Reference and Background Checks	September 19-October 3, 2011
Send Interview Guide to Town Council on Top 5 Candidates	October 6, 2011
Town Council to Conduct Interviews on Top 5 Candidates	October 11-12, 2011
Make Selection	October 12, 2011
Negotiate Agreement	Week of October 17, 2011
Selected Candidate On-Board	30/60 days later
Close of Search Process	Week of October 24, 2011

# **SECTION IV**

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## **PRICING**

#### **IV. PRICING**

See Separate Pricing Proposal

## PRICING

Our normal fee for the services outlined is \$16,500 plus not-to-exceed expenses of \$8,000. Because the Town of Fountain Hills is a prior client we will discount the \$16,500 fee for the search by \$1,500 and we will discount the not-to-exceed expenses by \$3,000 so that the fee to conduct this search will be \$15,000 plus \$5,000 in not-to-exceed expenses. Items typical of a similar search with their typical costs are broken down as follows:

Position Analysis .....	\$ 2,000
Outreach Campaign .....	2,000
Resume Review .....	1,750
Candidate Screening .....	4,500
Background Investigation .....	4,750
Interview Process .....	1,000
Negotiation and Follow-up .....	<u>500</u>
<b>TOTAL FEE .....</b>	<b>\$16,500</b>
<b>DISCOUNT ON SEARCH .....</b>	<b>\$1,500</b>
<b>TOTAL FEE FOR SEARCH .....</b>	<b>\$15,000</b>

Expenses, not-to-exceed out-of-pocket in the amount of \$5,000.00 are for consultant travel, lodging and per diem, telephone, correspondence, advertising, research, sourcing, reference and background investigation, data assemblage and report preparation. Newspaper advertising is not included in the above maximum expense and can sometimes run as high as \$2500 for one ad.

Because of our other ongoing consulting and search work and our experience, expenses should be kept to a minimum. The cost for final candidates to travel to interview with the Town Council is not included. Such costs are typically paid by the client on a reimbursement basis, directly to the candidates. These costs are extremely difficult to estimate because they depend on where the candidates are located. Typically, out-of-state costs run about \$750 to \$1,000 per person.

The Town of Fountain Hills' liability to The Mercer Group, Inc. for services rendered under this agreement will not exceed the agreed upon price unless an increase is authorized by the Town Council in writing.

We will submit regular invoices for fees and expenses. It is our practice to bill one-third at the start of the search, one-third upon delivery of the semi-finalist application materials, and one-third upon delivery of the Final Report (Interview Guide). Expenses will be billed in addition and shown as a separate figure.

We will comply with all applicable laws, rules and regulations of federal, state and local government entities.

Our ability to carry out the work required will be heavily dependent upon our past experience in providing similar services to others, and we expect to continue such work in the future. We will, to the degree possible, preserve the confidential nature of any information received from you or developed during the work in accordance with our professional standards.

We assure you that we will devote our best efforts to carrying out the engagement. The results obtained, our recommendations and any written material provided by us will represent our best judgment based on the information available to us. Our liability, if any, will not be greater than the amount paid to us for the services rendered.

This proposal constitutes the agreement between us. It cannot be modified except in writing by both parties. Our agreement will be interpreted according to the laws of the State of Arizona.

# **SECTION V**

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## **OTHER RELEVANT INFORMATION**

## V. OTHER RELEVANT INFORMATION

### THE MERCER GROUP, INC. GUARANTEES

The ten (10) guarantees of our search work are explained below:

1. **Client Organization:** The client is defined as the entire entity, including all departments, divisions, sections and groups. This assures that all of our guarantees apply to the entire client organization.
2. **Two-Year Off Limits:** We will not recruit candidates from a client organization for two years after completion of a search assignment without the full agreement of the client.
3. **Placement Off Limits Forever:** We will never recruit a candidate whom we have placed in a client organization as long as he/she is employed by that organization without the full agreement of the client.
4. **Continue the Search:** If, for any reason, the client does not feel comfortable selecting a candidate from our original recommended group of candidates, we will continue the search until the client can make a selection. The only caveat is that we may need to charge additional out-of-pocket expenses only for this additional work.
5. **Replacement of Successful Candidate:** If the candidate we place with the client leaves the client organization for any reason during the 24 month period following the date of placement with the client, we will replace the candidate for the out-of-pocket expenses only that it costs us to make the new placement.
6. **Parallel Candidate Presentation:** We will not present a candidate simultaneously to more than one client. This permits our firm to represent one client organization without any conflicts of interest.
7. **Client Conflicts:** If asked, we will disclose to our clients the names of the organizations which are "Off Limits" that logically would be target organizations on the new search assignment.
8. **Deceptive/Misleading Search Techniques:** We commit to our clients and to our prospective candidates that we will not use any search techniques which may be considered as deceptive or misleading.
9. **Resume Floating:** We will not float resumes to organizations in the hopes that we can collect a fee if that individual is hired.
10. **Not Represent Individuals:** We assure our clients and individuals who may become candidates that we will not collect a fee from candidates whom we may recommend for a position.

# **APPENDICES**

# **APPENDIX A**

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## **RESUMES OF KEY CONSULTANTS**

**1. James L. Mercer, President - Atlanta and Santa Fe Offices**

Mr. Mercer holds a Master of Business Administration degree from the University of Nevada, Reno, and a Bachelor of Science degree in Industrial Management from the same institution. He has also received a Certificate in Municipal Administration from the University of North Carolina at Chapel Hill and is a graduate of the Executive Development Program at Cornell University. Mr. Mercer is a Certified Management Consultant (CMC) and has more than 25 years of experience in executive search and management consulting. He has authored or co-authored five books and has written more than 250 articles on various management topics. His experience covers the following functional areas: executive search, organization and operations analysis, management systems, productivity improvement, seminars/training, goal setting, strategic planning, privatization, government, consolidation, and general consulting.

Prior to founding The Mercer Group, Inc., Mr. Mercer held positions as President of Mercer, Slavin & Nevins, Inc.; Regional Vice President of Wolfe & Associates, Inc.; as Partner and Vice President of Korn/Ferry International; General Manager of Battelle Southern Operations; National Program Director for Public Technology, Inc.; and Assistant City Manager of Raleigh, North Carolina. He has also been President of James Mercer & Associates, Inc., and has served as Director of Government Consulting Services for Coopers & Lybrand in both the Southeast and Southwest, as well as Director of the Industrial Extension Division for Georgia Tech.

**2. Clark Wurzberger, Senior Vice President - California Office**

Clark Wurzberger serves as a Mercer Group Senior Vice President and has directed our California Office for the past nine years. He has had a distinguished public sector career of over 20 years at the local, state and federal levels, concluding his career at the Pentagon in Washington, D.C. where he was appointed a senior level personnel manager overseeing civilian personnel matters on behalf of the Secretary of Defense. He was selected as a member of the U.S. Senior Executive Service and, upon his departure from the Pentagon, was conferred the Department of Defense Medal for Distinguished Public Service by the Secretary of Defense.

For the past 19 years, Clark has served as a California-based consultant to local government specializing in executive recruitment and selection, assessment centers and compensation and classification studies. Previous to joining The Mercer Group he served for 7 years as Senior Associate with Hughes, Perry & Associates, a highly regarded California-based management consulting firm to the public sector where he worked within their executive recruitment and selection division. Previously he had served as Vice President in the San Francisco office of Boyden International, one of the country's top executive search firms.

Mr. Wurzberger most recently served as lead consultant in the recruitments of City Administrator for the City of Hyattsville, Maryland; Aviation Director for the City of Dayton, Ohio; Director of Health for the Northern Kentucky Health Department; Fire Chief and Police Chief for the City of Tracy, California; and Fire Chief for the Sacramento Metropolitan Fire District. Among hundreds of other recruitments, he served as lead consultant in the recruitments of Executive Director of Community Planning for the City of Boulder, Colorado; President and CEO and Chief of Police of the Rhode Island Airport Corporation and General Manager of the Hampton Roads Sanitation District in Virginia Beach.

Mr. Wurzberger is a graduate of San Diego State University with a Bachelor's Degree in English. He

was appointed and served for five years as a Member of the Board of Directors of the Cow Palace in San Francisco, a large agricultural and entertainment facility that hosts national and regional public events on behalf of the State of California. He has served as a local Board Member of the U.S. Selective Service since 1993 and for the past five years has also been a volunteer member of the Placer County Sheriff's Search and Rescue Team.

**3. Karolyn Prince-Mercer, Vice President - Santa Fe Office**

Ms. Prince-Mercer received her Bachelor of Arts degree in History with minors in Art, Political Science and Education from the University of Nevada. She received her Doctor of Jurisprudence degree from Woodrow Wilson College of Law. She is licensed to practice law in New Mexico and in Georgia. Ms. Prince-Mercer has taught in public schools in Nevada, Mississippi, and North Carolina and has served as a substitute teacher in Georgia. She has practiced law for over 20 years beginning in Georgia. Ms. Prince-Mercer is also qualified to administer and interpret the Myers-Briggs Type Indicator (MBTI) instruments.

Ms. Prince-Mercer also specializes in public sector executive search. She has been in management consulting for eighteen years. She has experience working in executive search and has conducted several city manager searches. She has placed city managers in Gastonia, North Carolina, and El Reno, Oklahoma, and has worked closely with Mr. Mercer in the placement of city managers in Bangor, Maine; Mason, Ohio; Johns Creek, Georgia; Paducah, Kentucky; Powder Springs, Georgia; and Westminster, Maryland. She has worked on several other city managers/administrators searches with Mr. Mercer over the past 18 years. She also has experience with compensation and classification, and with organization and management studies. Ms. Prince-Mercer is also active in recruitment for other fields in the public sector.

# **APPENDIX B**

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## **VENDOR INFORMATION FORM**

SECTION A

III. VENDOR INFORMATION FORM

By submitting a Proposal, the submitting Vendor certifies that it has reviewed the administrative information and draft of the Professional Services Agreement's terms and conditions and, if awarded the Agreement, agrees to be bound thereto.

THE MERCER GROUP, INC  
VENDOR SUBMITTING PROPOSAL

58-1788068  
FEDERAL TAX ID NUMBER

JAMES L. MERCER, PRESIDENT  
PRINTED NAME AND TITLE CEO

[Signature]  
AUTHORIZED SIGNATURE

551 N CORDOVA Rd #726  
ADDRESS

505 466 9500 / 505 466 1274  
TELEPHONE / FAX #

SANTA FE NM 87505  
CITY STATE ZIP

7/17/11  
DATE

WEB SITE: MERCERGROUPINC.COM

EMAIL ADDRESS: JMERCER@MERCERGROUPINC.COM

SMALL, MINORITY, DISADVANTAGED AND WOMEN-OWNED BUSINESS ENTERPRISES (check appropriate item(s):

- Small Business Enterprise (SBE)
- Minority Business Enterprise (MBE)
- Disadvantaged Business Enterprise (DBE)
- Women-Owned Business Enterprise (WBE)

Has the Vendor been certified by any jurisdiction in Arizona as a minority or woman-owned business enterprise? NO

If yes, please provide details and documentation of the certification.

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

[Scope of Work and Fee Schedule]

See following pages.

## **SCOPE OF WORK**

1. The Consultant shall meet the following objectives:

- Conduct on-site needs assessment for the new Town Manager.
- Develop a comprehensive position profile.
- Reconcile any differences in points of view with regard to specifications for the position.
- Encourage top-level people to apply who would otherwise be reluctant to respond to an advertisement.
- Mail an information packet supplied by the Town Council to all qualified applicants.
- Respond to all candidate inquiries and produce all correspondence throughout the search.
- Comply with appropriate personnel regulations and state laws (i.e., EEO, Affirmative Action and ADA).
- Independently and objectively assess the qualifications and suitability of candidates for the position.
- Recommend a pool of finalist candidates to the Town Council.
- Coordinate finalist candidate interviews with the Town Council.
- Preserve the confidentiality of inquiries to the degree possible under Arizona law.
- Assist the Town Council in reaching a final decision.
- Assist the Town Council in establishing criteria for evaluating the new Town Manager's performance.
- Follow-up with the Town Council and the new Town Manager during the first year to determine if adjustments need to be made.
- Keep the Town Council closely involved in key decisions and informed of its progress.

2. The Consultant shall provide executive search/recruitment services for the Town Manager position as follows:

- A. Position Analysis - Define work relationships, job qualifications and requirements for the Town Manager position.

Consultant shall conduct extensive consultation with the Town Council, other Town staff and local leaders selected by them, as well as other individuals or groups as required, to determine the Town's vision/mission, goals and objectives, the needs and issues, requirements of the job, and to obtain information about the environment within which the position functions. In addition, Consultant shall spend a considerable amount of time at the beginning of the process in the Town of Fountain Hills in order to determine the level of experience and training needed.

During this process, Consultant shall initiate individual interviews with the Town Council, citizen organizations, department heads and key staff, and others of the

Town's choice to identify expectations, perceptions, and concerns regarding the position. Based on those meetings, Consultant shall prepare a draft position profile and review it with the Town Council in order to arrive at a general agreement regarding the specifications for the position. The final position profile shall include information about the Town of Fountain Hills, the community, major issues to be faced and the selection criteria established.

- B. Recruitment Process - Recruit regionally and nationally for the position and network with professional associations to locate qualified candidates.

Consultant will review its database to determine those candidates whom Consultant may already know and/or already have on file who may meet the Town's specifications.

Consultant shall conduct a nation-wide professional search for the best qualified candidates and invite them to apply for the position, as well as printing and distributing a brochure/job announcement in a form acceptable to the Town.

Consultant shall provide the Town Council with several advertising alternatives with varying degrees of cost and their associated benefits. Based on discussions with the Town Council, Consultant shall place ads in professional journals, in national, in-state and local newspapers, and in various minority and women's publications to encourage applicants to apply.

- C. Resume Review - Identify qualified candidates.

Consultant shall review and analyze each applicant's background and experience against the position description criteria. Consultant shall acknowledge all resumes received and keep candidates informed of their status.

- D. Candidate Screening - Thoroughly screen prospective candidates.

Criteria for the preliminary screening shall be contained in the approved "Recruitment Profile." The criteria will include such items as education, technical knowledge, experience, accomplishments, management style, personal traits, etc. Screening of candidates against those criteria shall be based on data contained in the resumes and other data provided by the candidates and on Consultant's knowledge of the organizations in which they work. At this stage, each prospective candidate must meet the minimum qualifications specified in the Recruitment Profile.

Consultant shall be responsible for screening the applications received. This initial screening will be conducted by telephone and/or interactive video with each prospective candidate. Consultant shall conduct telephone interviews with references who may know the candidate's background and expertise. Where feasible, Consultant shall also conduct personal interviews with top candidates.

Once the initial screening is completed, Consultant shall select the prospective candidates who most closely match the criteria established by the Town Council. Consultant shall prepare a matrix display of the top candidates showing how each rates against the selection criteria established by the Town Council. This matrix shall be reviewed with the Town Council in one-on-one meetings in order to allow the Town Council to narrow the list to an appropriate number to interview as finalists. If the Town Council does not approve of any of the candidates, Consultant shall keep searching until the Town of Fountain Hills's needs are clearly met.

After review by the Town Council, Consultant shall personally interview all candidates using various interview techniques. Consultant shall closely examine their experience, qualifications and achievements in view of the selection criteria and Consultant's professional expertise in evaluating the quality of such qualifications and achievements. All candidates must provide Consultant, in writing, substantial information about their accomplishments and their management style and philosophy. Consultant shall verify this information and, at the Town Council's option, may be further tested by having the finalists' complete management and leadership style inventories. Consultant shall interpret these instruments for the Town Council.

E. Background Investigations - Thoroughly evaluate prospective candidates.

Consultant shall make detailed and extensive reference checks. In conducting such investigations, Consultant shall speak directly to individuals who are now or have previously been in a position to evaluate the candidates' job performance.

Each prospective candidate shall be required to provide Consultant with a large number of references. Consultant will network these references to other persons who know the candidate. In this way, Consultant shall thoroughly evaluate each candidate. These references and evaluations are combined to provide frank and objective appraisals of the top candidates. Consultant shall also verify past employment difficulties.

As part of the evaluation process, Consultant shall verify undergraduate and graduate college degrees. Consultant shall arrange for credit checks, criminal background checks and other checks as reasonably necessary. As an additional option, Consultant will arrange for psychological (or similar) testing of the candidates that may be desired. As a part of this project Consultant can provide the results of a Teleometrics Management Style Inventory on the finalist candidates. Consultant can also conduct a Myers-Briggs analysis of the team with the new team member for team building purposes. (These may be extra cost items, provided that no additional costs may be incurred without prior approval from the Town.) Consultant shall recommend background investigation criteria

to the Town Council which shall make the final decision on the specifics of the background check.

Consultant shall keep the Town Council closely informed and involved in decisions concerning the search process at all times. Consultant shall prepare and send to the Town Council weekly e-mail updates and a formal progress report at the mid-point of the search. These reports shall contain a progress report on the recruitment and specific steps to be taken to meet the Town Council's deadlines and an itemization of expenses incurred-to-date and expected to be included during each succeeding project step.

F. Interview Process - Make recommendations and assist in selection.

Based on the preceding steps, Consultant shall provide a list of at least five (5) but not more than seven (7) recommended finalists for the position of Town Manager to the Town Council. Consultant shall prepare a written summary on each finalist. The information will cover, but not be limited to, (1) present position, (2) total years experience, (3) salary requirements, (4) education, (5) previous positions held, (6) notable projects, (7) management style, (8) skills and abilities, (9) interests, and (10) professional goals. This information shall be presented to the Town Council in a detailed written format combined with the results off the background investigation and candidate screening. The Town Council shall make the final decision on which and how many candidates will be interviewed.

Consultant's report shall be presented in a meeting with the Town Council in which Consultant shall discuss its recommendations and provide background information, sample questions and a rating form for the interviews. Consultant shall also assist the Town Council at no extra charge in conducting targeted selection and/or simulation processes with finalists.

In particular, Consultant shall explain which, if any, of the applicants specifically meet the total criteria established by the Town Council or whether the final group simply represents the best available talent.

Consultant shall also provide the Town Council with its recommendations relative to timing, sequencing, location, setting, format and conduct of interviews with the finalists. Consultant shall provide information about trends in employment, employment contracts and agreements, relocation expenses, perquisites, appropriate role for spouses, receptions, etc. Consultant shall arrange schedules for top candidate interviews with the Town Council and shall coordinate the process. Consultant shall be present on the days of the interviews to facilitate interview exercises, orient panels, greet candidates and coordinate activities, including facilitation of panel deliberations.

Consultant shall create and implement an assessment center style interview process with both public and private components, including a problem-solving exercise for candidate evaluation.

- G. Follow-up – Conduct the necessary follow-up to ensure complete integrity of the process.

If an agreement cannot be reached with any of the desired finalists, Consultant shall work with the Town Council to select an alternate candidate.

Consultant shall properly handle any and all media relations. Unless otherwise directed, Consultant shall tell all media that they are working on behalf of the Town Council and that any public statement should come directly from the Town Council. Consultant shall maintain confidentiality of candidate information, to the degree possible, under Arizona law.

Upon request by the Town, Consultant shall notify by letter all unsuccessful candidates who were not recommended for interview with the Town Council of the final decision reached.

Once the new Town Manager has been on board for approximately 30 days, Consultant shall conduct a session with the Town Council and with the new Town Manager in order to establish mutual performance criteria and goals for the position. In this regard, Consultant shall work with the Town Council to define the role of the new Town Manager within the Town of Fountain Hills.

Consultant shall follow-up periodically with the Town Council and the new Town Manager during the first year in order to make any adjustments that may be necessary.

Consultant shall complete other tasks as deemed necessary by the Town, in its sole discretion, for the successful recruitment of a new Town Manager. Consultant shall be expected to expand on the above-referenced tasks where appropriate, and provide suggestions that might lead to efficiencies and enhance the results of the Town's search.

### 3. Schedule.

Consultant shall complete the search process within 90 - 120 days. Consultant shall provide an updated search timeline to include, at a minimum, the following tasks:

- A. Interviews of Town Council and/or others Council wishes to be interviewed
- B. Approve Recruitment Brochure
- C. Access Data Base and Place Ads

- D. Send Recruitment Brochure/Invitation Letter
- E. Follow-up Telephone Calls
- F. Cutoff Date for Receipt of Applications
- G. Screen Applications against Selection Criteria
- H. Meet with or Conference Call with Town Council to Review Top 15 Candidates
- I. Conduct Reference and Background Checks
- J. Send Interview Guide to Town Council on Top 5 Candidates
- K. Town Council to Conduct Interviews on Top 5 Candidates
- L. Make Selection
- M. Negotiate Agreement
- N. Selected Candidate On-Board
- O. Close of Search Process

FEE SCHEDULE

A. Consultant's Fee for the Services shall be an amount to not to exceed \$15,000.00, as set forth below:

Position Analysis	\$ 2,000
Outreach Campaign	2,000
Resume Review	1,750
Candidate Screening	4,500
Background Investigation	4,750
Interview Process	1,000
Negotiation and Follow-up	<u>500</u>
TOTAL FEE	\$16,500
DISCOUNT ON SEARCH	\$ 1,500
TOTAL FEE FOR SEARCH	\$15,000

The Town of Fountain Hills' liability to The Mercer Group, Inc. for services rendered under this Agreement shall not exceed the agreed upon price unless an increase is authorized by the Town Council in writing.

Consultant shall submit regular invoices for fees and expenses. Consultant shall bill one-third at the start of the search, one-third upon delivery of the semi-finalist application materials, and one-third upon delivery of the Final Report (Interview Guide). Expenses will be billed in addition and shown as a separate figure.

B. The Town shall reimburse Consultant an amount not to exceed \$5,000.00 for out-of-pocket expenses and disbursements incurred in the performance of the Services, such as out-of-town travel, lodging and per diem and long distance telephone charges, delivery charges, and reasonable reproduction costs. Reimbursement of expenses shall be made upon presentation of actual receipts and any other supporting documents therefor as required by the Town.

Because of Consultant's other ongoing consulting and search work and their experience, expenses should be kept to a minimum. The cost for final candidates to travel to interview with the Town Council is not included. Such costs are typically paid by the client on a reimbursement basis, directly to the candidates. These costs are extremely difficult to estimate because they depend on where the candidates are located. Typically, out-of-state costs run about \$750 to \$1,000 per person.