

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
HOLIDAY LIGHTING COMPANY AZ, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of August 16, 2012, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town") and Holiday Lighting Company AZ, Inc., an Arizona corporation (the "Contractor").

RECITALS

A. The Town issued Request for Proposals No. 07-12 "Holiday Lighting and Ground Display Services" (the "RFP"), attached hereto as Exhibit A and incorporated herein by reference, seeking proposals from vendors for Holiday lighting decoration and ground display installation services.

B. The Contractor 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 Contractor for Holiday lighting decoration and ground display installation 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 Contractor hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until August 1, 2013 (the "Initial Term"), unless terminated as otherwise provided pursuant to the terms and conditions of this Agreement. After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") if (i) it is deemed in the best interests of the Town, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of the Agreement, the Contractor requests, in writing, to extend the Agreement for an additional one-year term and (iii) the Town approves the additional one-year term in writing (including any price adjustments approved as part of this Agreement), as evidenced by the Town Manager's signature thereon, which approval may be withheld by the Town for any reason. The Contractor's failure to seek a renewal of this Agreement shall cause the Agreement to terminate at the end of the then-current term of this Agreement; provided, however, that the Town may, at its discretion and with the agreement of the Contractor, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

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

3. Compensation. The City shall pay Contractor for the Initial Term and for each subsequent Renewal Term, if any, an annual aggregate amount not to exceed \$27,995.20 for Services at the unit rates as set forth in the as set forth in the Fee Proposal, attached hereto as Exhibit D and incorporated herein by reference.

4. Payments. The Town shall pay the Contractor \$13,997.60 prior to September 1, 2012, and the balance of \$13,997.60 following completion of the installation (intended to be December 1, 2012), upon submission and approval of invoices. All invoices shall document and itemize all work completed to date.

5. Documents. All documents prepared and submitted to the Town pursuant to this Agreement shall be the property of the Town.

6. Contractor Personnel. Contractor shall provide adequate, experienced personnel, capable of and devoted to the successful completion of the Services to be performed under this Agreement. Contractor agrees to assign specific individuals to key positions. Contractor 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, Contractor 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. All work shall be subject to inspection and acceptance by the Town at reasonable times during Contractor's performance. The Contractor shall provide and maintain a self-inspection system that is acceptable to the Town.

8. Licenses; Materials. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor. The Town has no obligation to provide Contractor, 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 Contractor.

9. Performance Warranty. Contractor 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 Contractor 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 Contractor, 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 Contractor, Contractor 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 Contractor. 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 Contractor 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. Contractor'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 Contractor. Contractor 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. Contractor 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, Contractor 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 Contractor. Contractor 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, Contractor 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 Contractor'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 Contractor'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 Contractor's responsibility to forward renewal certificates and declaration page(s) to the Town 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing the RFP number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

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

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

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

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

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

B. Vehicle Liability. Contractor shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Contractor’s owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor’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 Contractor engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor 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 Contractor 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. Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor's employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

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

12. Termination; Cancellation.

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

12.2 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 Contractor for the undisputed portion of its fee due as of the termination date.

12.3 Due to Work Stoppage. This Agreement may be terminated by the Town upon 30 days' written notice to Contractor 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 Contractor for the undisputed portion of its fee due as of the termination date.

12.4 Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. The Town may cancel this Agreement without penalty or further obligations by the Town or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the

Town or any of its departments or agencies is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement.

12.5 Gratuities. The Town may, by written notice to the Contractor, 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 Contractor or any agent or representative of the Contractor to any officer, agent or employee of the Town for the purpose of securing this Agreement. In the event this Agreement is canceled by the Town pursuant to this provision, the Town shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor an amount equal to 150% of the gratuity.

12.6 Agreement Subject to Appropriation. This Agreement is subject to the provisions of ARIZ. CONST. ART. IX, § 5 and ARIZ. REV. STAT. § 42-17106. The provisions of this Agreement for payment of funds by the Town shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The Town shall be the sole judge and authority in determining the availability of funds under this Agreement and the Town shall keep the Contractor 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 Contractor shall be relieved of any subsequent obligation under this Agreement.

13. Miscellaneous.

13.1 Independent Contractor. The Contractor 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. Contractor, 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 Contractor, its employees or subcontractors. The Contractor, and not the Town, shall determine the time of its performance of the services provided under this Agreement so long as Contractor meets the requirements of its agreed Scope of Work as set forth in Section 2 above. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. Town and Contractor do not intend to nor will they combine business operations under this Agreement.

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

13.3 Laws and Regulations. Contractor 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 Contractor is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the

following: (A) existing and future Town and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future Occupational Safety and Health Administration standards.

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

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

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

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

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

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

13.10 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior

written approval of the Town. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used.

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

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

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

13.14 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the Town may offset from any money due to the Contractor any amounts Contractor 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 Contractor any amounts Contractor owes to the Town for delinquent fees, transaction privilege taxes and property taxes, including any interest or penalties.

13.15 Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, (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: Kenneth W. Buchanan, 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 Contractor: Holiday Lighting Company AZ
4246 S. 37th Street
Phoenix, AZ 85040
Facsimile: (602) 431-2178
Attn: Marty Roggenten

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.

13.16 Confidentiality of Records. The Contractor 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 Contractor's duties under this Agreement. Persons requesting such information should be referred to the Town. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Agreement.

13.17 Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under subsection 13.18 below, Contractor'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 Contractor and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the Town, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Contractor'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 Contractor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 13.18 below. To the extent necessary for the Town to audit Records as set forth in this subsection, Contractor 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 Contractor pursuant to this Agreement. Contractor 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 Contractor or its subcontractors reasonable advance notice of intended audits. Contractor shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

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

13.19 Scrutinized Business Operations. Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, the Contractor 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 Contractor submitted a false certification, the Town may impose remedies as provided by law including terminating this Agreement pursuant to subsection 12.2 above.

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

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

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

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

Kenneth W. Buchanan
Kenneth W. Buchanan, Town Manager

ATTEST:

Bevelyn J. Bender
Bevelyn J. Bender, Town Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on August 20, 2012, by Kenneth W. Buchanan, the 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

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

“Contractor”

HOLIDAY LIGHTING COMPANY AZ, INC.,
an Arizona corporation

By: Holiday Lighting Company AZ Inc

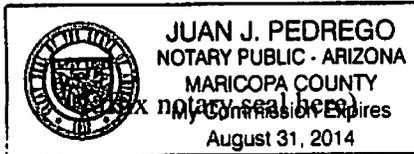
Name: Marty Roggenheil

Title: Vice President

X [Signature] (ACKNOWLEDGMENT)

STATE OF Arizona)
) ss.
COUNTY OF Maricopa)

This instrument was acknowledged before me on Aug. 09, 2012,
by Marty L Roggenheil, as Vice President of Holiday Lighting Company AZ, Inc., an Arizona
corporation, on behalf of the corporation.



[Signature]
Notary Public in and for the State of AZ

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
HOLIDAY LIGHTING COMPANY AZ, INC.

[RFP]

See following pages.



**REQUEST FOR PROPOSALS
FOR
HOLIDAY LIGHTING AND GROUND DISPLAY SERVICES**

SOLICITATION INFORMATION AND SELECTION SCHEDULE

Solicitation Number: **07-12**

Solicitation Title: **Holiday Lighting and Ground Display Services**

Release Date: **July 11, 2012**

Advertisement Dates: **July 11 & 18, 2012 – Fountain Hills Times**
July 11 & 18, 2012 – Arizona Business Gazette

NON-MANDATORY
Pre-Submittal Conference: **July 19, 2012**
10:00 a.m. (local time, Phoenix, Arizona)
Fountain Hills Town Hall – Council Chambers
16705 East Avenue of the Fountains
Fountain Hills, Arizona 85268

Final Date for Inquiries: **July 23, 2012**

Proposal Due Date and Time: **July 25, 2012**
3:00 p.m. (local time, Phoenix, Arizona)

Shortlist Announced for Oral Interviews: **NA**

Oral Interviews (if necessary): **NA**

Target Town Council Award Date: **August 16, 2012**

Anticipated Agreement Start Date: **August 16, 2012**

RFP Administrator: **Paul Mood** **pmood@fh.az.gov**
480-816-5129

* In the event that a Vendor cannot be selected based solely on Proposals submitted, Oral Interviews may be conducted at the Town's sole discretion.

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

This RFP may be picked up at the Town of Fountain Hills or downloaded from the Town's website at:
www.fh.az.gov

SECTION A

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 <u>Section B</u>	
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") seeking proposals ("Proposals") from qualified vendors ("Vendors") interested in providing services consisting of supply, installation, maintenance and removal of Holiday lighting and installation, maintenance, removal and storage of Town-owned Holiday ground displays throughout specified areas of the Town (the "Project"), as more particularly described in the Scope of Work attached to the sample Professional Services Agreement as Exhibit C (the "Services"), and incorporated herein by reference. In accordance with the Town's Procurement Code, the Town will accept sealed Proposals for the Services specified in the Scope of Work in the sample Professional Services Agreement. Town has a maximum budget of \$29,000 for fiscal year 2012-13. Final Holiday lighting scope and fee shall be negotiated with the selected firm. The annual Holiday lighting budget is subject to Council approval.

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. A Proposal 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, are intended to mislead the Town in its evaluation of the Proposal.

2.2 Submittal Quantities. Interested Vendors must submit **one (1) original and four (4) copies (five (5) 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.

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. A Proposal 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 **ten (10)** pages to address the Proposal criteria (excluding resumes and 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, Arial or Times New Roman**. Failure to adhere to the page limit, size and font criteria 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 number and title, **(07-12) Holiday Lighting and Ground Display 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 Proposal not properly addressed or identified.

2.6 **Pricing.** The Vendor shall submit the same number of copies of the Fee Proposal as described in Section I, 2.2 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 as described in the Professional Services Agreement in **Exhibit C**. A sample Fee Proposal is attached to the Professional Services Agreement as **Exhibit D**. Town has a maximum budget of \$29,000 for fiscal year 2012-13. Final Holiday lighting scope and fee shall be negotiated with the selected firm. The annual Holiday lighting budget is subject to Council approval.

2.7 **Address.** Each Proposal 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.** [INTENITONALLY OMITTED]

SECTION A

2.9 Proposal Irrevocable. In order to allow for an adequate evaluation, the Town requires the Proposal to be valid and irrevocable for 90 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 RFP Administrator whose name appears 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 or submitted verbally (A) at the Pre-Submittal Conference on the date indicated on the cover page of this RFP (if such Pre-Submittal Conference is held) or (B) after the Pre-Submittal Conference (if any) but before the Final Date for Inquiries indicated on the cover page of this RFP. In the event the Town is closed on the Final Date for Inquiries, the Vendor shall submit the question(s) to the RFP Administrator via e-mail or voicemail. 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 at the Pre-Submittal Conference on the date indicated on the cover page of this RFP (if any). Verbal or telephone inquiries directed to Town staff **will not be answered**. Within two (2) business days following the Final Date for Inquiries, answers to all questions received in writing or via e-mail or verbally to the RFP Administrator will be mailed, sent via facsimile and/or e-mailed to all parties who obtained an RFP package from the Town and who legibly provided their mailing address, facsimile and/or e-mail address to the Town. Questions submitted in any form after the Final Date for Inquiries listed on the cover of this RFP will not be answered.

5. Pre-Submittal Conference. A Pre-Submittal Conference may be held. If scheduled, the date and time of this conference will be indicated on the cover page of this RFP. This conference may be designated as mandatory or non-mandatory on the cover page of this

SECTION A

RFP. Additionally, if the Pre-Submittal Conference is designated as mandatory, failure to attend shall render that Vendor's Proposal non-responsive. Vendors are strongly encouraged to attend those Pre-Submittal Conferences designated as non-mandatory. The purpose of this conference will be to clarify the contents of this RFP in order to prevent any misunderstanding of the Town's requirements. Any doubt as to the requirements of this RFP or any apparent omission or discrepancy should be presented to the Town at this conference. The Town will then determine if any action is necessary and may issue a written amendment or addendum to the RFP. Oral statements or instructions will not constitute an amendment or addendum to this RFP. Any addenda issued as a result of any change in this RFP shall become part of the RFP and must be acknowledged in the Proposal submittal. Failure to indicate receipt of the addendum shall result in the Proposal being rejected as non-responsive.

6. Payment Requirements; Payment Discounts. Any Proposal that requires payment in less than 30 calendar days shall not be considered. Payment discounts of 30 calendar days or more will be deducted from the Proposal price in determining the low Proposal. 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.

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 RFP Administrator 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 Procurement Agent makes a written determination. The Procurement Agent shall review the statement and information and shall determine in writing whether the information shall be withheld. If the Procurement Agent determines to disclose the information, the RFP Administrator 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 11246.

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, Assistant Town Managers, Department Heads, and other Town staff. All contact must be addressed to the Town's Procurement Agent, except for questions submitted as set forth in Section 4, Inquiries, above. 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.

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 Services Agreement including the Scope of Work and other Exhibits.

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. Proposals shall be opened at the time and place designated on the cover page of this RFP. The name of each Vendor and the identity of the RFP for which the Proposal was submitted shall be publicly read and recorded in the presence of witnesses. PRICES SHALL NOT BE READ. The Selection Committee shall 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 evaluation 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 Multiple Award. The Town, at its sole discretion, may elect to enter into Agreements with multiple Vendors who are qualified to provide the Services. The final terms and conditions of the proposed Agreement will be negotiated by the Town with the successful offerors.

12.4 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 shall be required. The Town reserves the right to terminate the selection process at any time.

12.5 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.

12.6 Protests. Any Vendor may protest this RFP issued by the Town, the proposed award of an Agreement, or the actual award of an Agreement. All protests will be considered in accordance with the Town Procurement Code.

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 Services 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 evaluation 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. If necessary, the Selection Committee may conduct oral interviews with at least three (3) of the highest ranked Vendors based upon the Proposal submittal scoring.

Section 1: General Information

5 pts

- A. One page cover letter as described in Section I, 2.3.
- B. Explain the legal organization 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. Identify the location of the Vendor's principal office and the location of the local work office, if different.
- D. Provide a general description of the Vendor that is proposing to provide the Services, including years in business.
- E. 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.
- F. 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.
- G. Vendor Information Form (may be attached as separate appendix).

Section 2: Experience and Qualifications of the Vendor

30 pts

- A. Provide a detailed description of the Vendor's experience in providing similar services to **three (3) Public/Private organizations** of a similar size to the Town in the past **36 months**.
- B. Provide a list of **three (3) Public/Private organizations** of a similar size or similar operation to the Town in which similar work has been completed in the past **36 months**. Provide a copy of the attached Past Performance Verification Form ("PPVF") to the **three (3) Public/Private organizations**, for which you have completed similar work, to fill out a copy of the PPVF. Provide the PPVF to the Owner, or Owner's representative, directly responsible for oversight of the project to complete and submit via email or fax prior to the date and time listed on the form.

Zero points will be awarded for projects:

If a PPVF is received after the date and time specified on the form.

If a project is not listed in the proposal.

If the person responding was not directly responsible for project oversight.

SECTION A

It is the responsibility of the firm submitting the proposal to ensure that the Town receives all of the Past Performance Verification Forms prior to the Proposal Due Date and Time.

C. Identify each key personnel member that will render services to the Town including title and relevant experience required, including the proposed Service Representative.

D. If a subcontractor will be used for all work of a certain type, include information on this subcontractor. A detailed plan for providing supervision must be included.

E. Attach a résumé and evidence of certification, if any, for each key personnel member and/or subcontractor to be involved in this Project. Résumés should be attached together as a single appendix at the end of the Proposal and will not count toward the Proposal page limit.

Section 3: Project Approach

45 pts

A. Describe the Vendor's approach to performing the required Services in the Scope of Work described in the sample Professional Services Agreement in Exhibit C, and its approach to contract management, including its perspective and experience on customer service, quality control and safety.

B. Provide proposed design plans for each of the areas described in the Scope of Work attached as Exhibit C to the sample Professional Services Agreement. Design Plans should include, but are not limited to, the following:

- (i) Conceptual drawings indicating which trees will be illuminated to produce the most dramatic effect.
- (ii) Style and size of décor and decoration of trees.
- (iii) Number of strands needed and types of decorations to be used.
- (iv) Method of installation of lights in relation to plan and type of tree (i.e., type of lift).
- (v) Conceptual drawings indicating placement and grouping of Ground Displays.
- (vi) Conceptual drawings indicating style and placement of lighting on Town Buildings.

C. Provide information relating to secure climate controlled storage of Ground Displays during off-season and indicate ability and commitment to provide insurance as set forth in the Scope of Work.

D. Describe any alternate approaches if it is believed that such an approach would best suit the needs of the Town. Include rationale for alternate approaches, and indicate how the Vendor will ensure that all efforts are coordinated with the Town's general concept.

Section 4: Project Schedule:

15 pts

Provide a Project schedule showing key project milestones and deliverables. The schedule shall demonstrate Vendor's ability to meet the designated milestones as listed below. All design, supply and installation Services of the successful Vendor must reach full completion on or before December 1, 2012, and removal Services must be completed on or before January 11, 2013. Assumptions used in developing the schedule shall be identified and at a minimum the proposed schedule shall include the following schedule parameters.

- | | | |
|----|--------------------------------------|--|
| A. | Contract Award Date: | On or about August 16, 2012 |
| B. | Installation Date (tree lighting): | On or about September 21, 2012 |
| C. | Installation Date (ground displays): | November 26, 27, and 28, 2012 |
| D. | Tree Lighting Ceremony Support: | 4:00 p.m. – 8:00 p.m. December 1, 2012 |
| E. | Project Completion and Removal Date: | On or before January 11, 2012
(Or as otherwise directed or approved by the Town, in its sole discretion.) |

Section 5: Pricing

5 pts

Vendor shall submit the same number of copies of the Fee Proposal as described in Section I, 2.6 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. The Fee Proposal must be provided in the format attached as Exhibit D of the Professional Services Agreement. Fee Proposals must itemize all costs, including, at a minimum, installation of Vendor-owned or leased lighting and equipment, Town-owned ground displays, labor charges for inspection, repair or replacement of lights as necessary, emergency call out service for repairs and the costs of replacement lights in the event of vandalism or climatic conditions.

Total Possible Points for Proposal:

100

SECTION A

III. ORAL INTERVIEWS; SCORING

In the event that a Vendor cannot be selected based solely on the Proposals submitted, up to three Vendors may be selected for oral interviews. The selected Vendors will be invited to participate in discussions with the Selection Committee on the date indicated on the cover page of this RFP and awarded points based upon the criteria as outlined below. Vendors may be given additional information for these oral interviews. These discussions will relate less to the past experience and qualifications already detailed in the Proposals and relate more to identification of the Vendor's project approach and to an appraisal of the people who would be directly involved in this Services for this RFP.

Oral Interview

5	General Information
30	Experience and Qualifications of the Vendor
45	Project Approach
15	Schedule
<u>5</u>	Pricing
100	Total Possible Points for Oral Interview

Total Points Possible for this RFP:

200

SECTION A

IV. 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:

E-MAIL 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.

SECTION A

PAST PERFORMANCE VERIFICATION FORM (PPVF)

Directions: Request Public/Private Agencies, for which you have **completed similar work in the past 36 months**, to fill out a copy of the PPVF for three (3) similar projects. Provide this form to the Owner or Owner's representative **directly responsible** for oversight of the project to complete and submit via fax or email prior to the date and time listed below. If the form is received after the date and time specified it will not be accepted.

Proposal Due Date and Time: July 25, 2012 at 3:00pm (local time, Phoenix, Arizona)

PROJECT NAME: _____

NAME OF COMPANY TO BE EVALUATED: _____

NAME OF AGENCY OR FIRM SUBMITTING EVALUATION: _____

NAME/PHONE NUMBER OF PERSON SUBMITTING EVALUATION: _____

QUESTIONS:

1. What type of services did this firm provide on the project referenced? _____

2. On a scale of 1 to 10 (1 being lowest, 10 highest), rate this company's performance on the following: (complete all)

- a. Overall how would you rate work performed by this firm on your project? _____
- b. Was the project setup and take down completed on time? _____
- c. Was the project setup, takedown and maintenance performed in a safe manner? _____
- d. What was the quality of the work performed? _____
- e. Was staff proactive in solving problems that may have occurred on your project? _____
- f. Was staff response time to inspections and maintenance issues acceptable? _____
- g. Would you be willing to contract with this firm again? (10 = Yes, 1 = No) _____

TOTAL POINTS _____

3. Any additional comments. _____

Please fax or email to Paul Mood, Development Services Director at 480-837-3145, PMood@fh.az.gov by the date and time shown above.

SECTION B OF THE REQUEST FOR PROPOSALS FOR HOLIDAY LIGHTING AND GROUND DISPLAY SERVICES (THE SAMPLE PROFESSIONAL SERVICES AGREEMENT) HAS BEEN INTENTIONALLY OMITTED FOR SPACE REASONS. A COMPLETE COPY OF THE RFP IS ON FILE WITH THE TOWN CLERK.

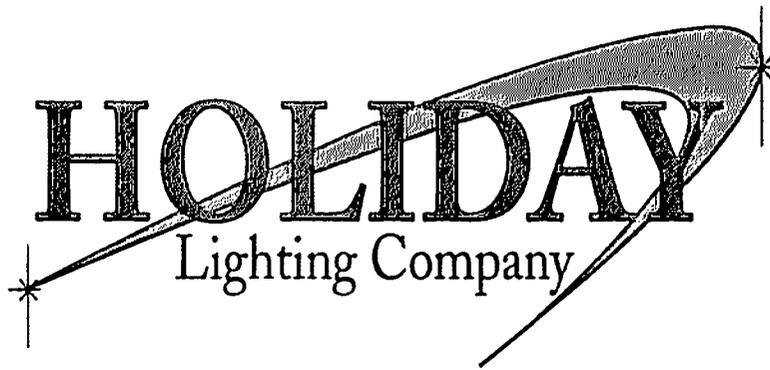
**EXHIBIT B
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
HOLIDAY LIGHTING COMPANY AZ, INC.**

[Contractor's Proposal]

See following pages.

ORIGINAL

RFP# 07-12





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GENERAL INFORMATION/COVER PAGE	1)
VENDOR INFORMATION FORM	2)
PPVF/EXPERIENCE/QUALIFICATIONS	3)
PROJECT APPROACH	4)
DRAWING/MAP	5)
PROJECT SCHEDULE	6)
PRICE SHEET	7)

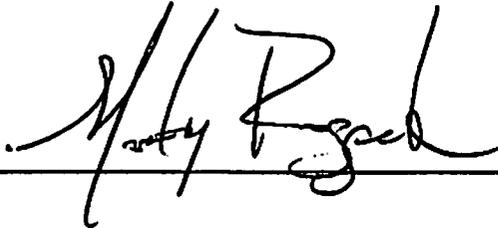


Subject: GENERAL INFORMATION/COVER PAGE

Responses to the following areas per Town of Fountain Hill's request:

- Legal Name: Holiday Lighting Company, Inc. Az.
- Business Operations—4246 S. 37th Street Phoenix, AZ 85040. Office Hours: Monday thru Friday from 9am-5pm. Service Hours: 24 hours, 7 days a week.
- Equipment—HLC owns all equipment, 43 foot Bucket truck, tools, commercial ladders and commercial trucks to perform the contract at hand.
- No Contracts have been terminated in the last 5 years
- No Claims in the last 5 years

NAME MARTY ROGGENTIEN

SIGNATURE 



Subject: GENERAL INFORMATION/COVER PAGE

Responses to the following areas per Town of Fountain Hill's request:

- Legal Name: Holiday Lighting Company, Inc. Az.
- Business Operations—4246 S. 37th Street Phoenix, AZ 85040. Office Hours: Monday thru Friday from 9am-5pm. Service Hours: 24 hours, 7 days a week.
- Equipment---HLC owns all equipment, 43 foot Bucket truck, tools, commercial ladders and commercial trucks to perform the contract at hand.
- No Contracts have been terminated in the last 5 years
- No Claims in the last 5 years

NAME

MARTY ROGGENTIEN

SIGNATURE

A handwritten signature in black ink, appearing to read "Marty Roggentien", is written over a horizontal line. The signature is fluid and cursive, with the first name "Marty" and last name "Roggentien" clearly visible.

TOWN OF FOUNTAIN HILLS
DEVELOPMENT SERVICES DEPARTMENT

SECTION A

07-12

IV. 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.

Holiday Lighting Co.
VENDOR SUBMITTING PROPOSAL

161-1599781
FEDERAL TAX ID NUMBER

Marty Roggenien
PRINTED NAME AND TITLE

[Signature]
AUTHORIZED SIGNATURE

4246 S. 37th St
ADDRESS

(602)431-2253 (602)431-2178
TELEPHONE FAX #

Phoenix AZ 85040
CITY STATE ZIP

7-25-2012
DATE

WEB SITE: _____

E-MAIL ADDRESS: Marty@holidaylightingco.com

WWW.HolidayLightingCo.Com Email@HolidayLighting Co.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?

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



Subject: Project Approach

Holiday Lighting Company (HLC) has been in business since 2004.

HLC has a staff of up to 20 installers during our peak decorating time. Since HLC has been in business we have had an exemplary safety record with zero insurance claims. We take pride in ensuring all of HLC installers are trained in proper installing and safety procedures.

Over the years we have decorated thousands of commercial and residential properties. Specializing in exterior decorating with some interior. We have worked with municipalities, large and small shopping centers, office buildings, medical facilities, golf courses, auto dealers, restaurants and more.

Our staff at Holiday Lighting Company has utilized all types of industrial equipment to complete our projects. From 25' Scissor lifts to 125' Aerial Lifts, Bucket Trucks and Cranes.

Our 3500 square foot warehouse is equipped with A/C throughout the facility.

Lastly, we here at Holiday Lighting Company take pride in our work and treat each customer with the upmost urgency and professionalism. We are free to answer any questions you may have about our service or we are more than happy to meet with you to provide lighting demonstrations or review the project.

We greatly appreciate your interest in working with us!

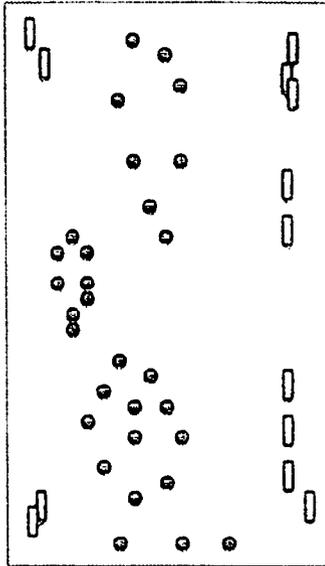
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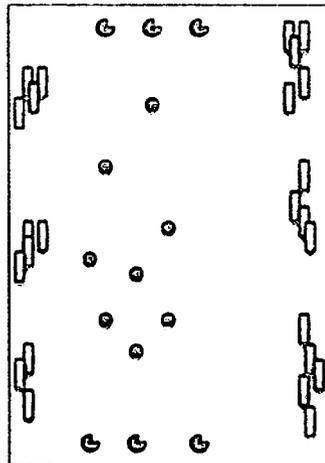
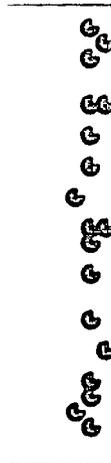
DRAWING/MAP



Aves of Fountains



Verde River



La Montana

Aves of Fountains

KEY

Ground Displays. A total of 38. Each theme will be grouped together for the best visual effect.

Palm Trees. A total of 45. Bark wrapped in clear min lights on the trunks only.

Trees in various sizes & various designs. A total of 43 with over 700 light strands. From the ground up to 40 feet high. No two trees will look alike. Colors: Clear, red, green, multi, amber, blue incandescent mini lights. Design: Clusters, coco's, streamers, canopy wrap, snowflakes, stars, balloons, candy canes, lollipops, etc....

Community Center---
1500 linear feet of C-9
lightline and bulbs.
Two Levels

City Hall---
700 linear
feet of C-9
lightline and
bulbs. Single
level

Library---1500 linear
feet of C9 lightline
and bulbs. Two
Levels



Subject: Project Schedule

Installation date for the TREE LIGHTING: September 21st -October 5th, 2012

Installation date for the GROUND DISPLAYS: November 26th, 27th and 28th, 2012

Tree lighting ceremony support: December 1st, 2012 from 4pm-8pm

Removal date of the above items: On or before January 11th, 2013



PO Box 61013
Phoenix, AZ 85082

Phone: 602-431-2253
Fax: 602-431-2178
Email: email@holidaylightingco.com
Website: www.holidaylightingco.com

Estimate

Date	Estimate #
7/24/2012	10043

Name / Address

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

Terms	Rep	Job Site
	Marty	Town of Fountain Hills

Description	Total
<p>AREA ONE: Trunk wrap 43 trees up to 40' high and hang a variety of small displays in canopies of medium trees throughout median. Trunk wrap 45 palm trees along sides of Avenue of Fountains. Mini light sets, 100 lt count, 42' length, clear, red, multi, amber, blue and green light sets (700). Tree canopy displays. Hardware and electrical accessory package, extension cords, 3-ways, adapters and timers. Labor and Material for installation/maintenance/removal.</p>	18,200.00
<p>AREA TWO: Set up Town-owned Holiday ground displays (38) throughout the Avenue of Fountains median. Hardware and electrical accessory package, extension cords, 3-ways, adapters and timers. Annual Storage and Transportation. Labor and Material for installation/maintenance/removal.</p>	750.00 1,500.00
<p>AREA THREE: (A) Outline rooflines of Maricopa County Library, Fountain Hills Branch, (B) Fountain Hills Community Center and (C) Town Hall with C-9 bulbs and wire. C-9 bulbs, clear 7w, wire, male/female ends and clips (3700). Hardware and electrical accessory package, extension cords, 3-ways, adapters and timers. Labor and Material for installation/maintenance/removal.</p>	5,180.00
X _____ Date	

Subtotal	\$25,630.00
Sales Tax (0.00)	\$0.00
Total	\$25,630.00

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EXHIBIT C
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
HOLIDAY LIGHTING COMPANY AZ, INC.

[Scope of Work]

See following pages.

SCOPE OF WORK

Note: The final Scope of Work will be revised and completed subject to negotiations with the selected Contractor and approval by the Town.

1. General Scope of Work. The Contractor shall provide Holiday lighting services as more particularly set forth herein (the "Services"). The Services will include (A) design, supply, installation, maintenance, repair and removal of tree illumination Holiday lighting, (B) design, installation, maintenance, repair, removal and storage of Town-owned Holiday ground display décor, and (C) design, supply, installation, maintenance, repair and removal of Holiday lighting to outline three Town-owned buildings. Contractor shall be responsible for installing, repairing and maintaining all equipment, lights, cords, programmable timers (if utilized), etc., as necessary to ensure proper configuration and operation of the Holiday lighting environments for the Town. The Contractor shall be required to maintain supported Holiday lighting systems in a good, serviceable and working condition for the duration of the Holiday Schedule (as described below). The Town reserves the right to adjust the Scope of Work to eliminate tasks as necessary to accommodate time and/or budgetary constraints.

2. Repairs. Contractor shall be responsible for providing priority repair service to supported Holiday lighting within 24 hours of notification as necessary to repair or replace any outage or damage including, but not limited to, outages and damage due to vandalism, storms or other unforeseen events. The Contractor shall provide regularly scheduled maintenance and repairs. The Town's regular business hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m. Town offices are closed to the public Friday, Saturday, and Sunday. Performance of the Services may be required both during and outside of Town's regular business hours, including weekends and Holidays.

3. Representation.

3.1 The Town will appoint a representative (the "Town Representative") for the scheduling activities concerning this Agreement. The Town Representative will serve as the contact person for the Town.

3.2 The Contractor will appoint a representative (the "Service Representative") to serve as the central contact person for the Contractor for all scheduling, repair or service issues arising in connection with this Agreement.

3.3 The Town Representative and the Service Representative will meet as deemed necessary by the Town, in its sole discretion, to discuss the design, installation, repairs, maintenance and quality of the Services rendered, and as necessary to schedule and/or revise the Scope of the Services for subsequent Renewal Term(s), if any.

4. Detailed Scope of Work.

4.1 Area One: Trees on the Avenue of the Fountains. Contractor shall provide all lighting, labor, equipment and materials for design and installation for Holiday

lighting of trees along Avenue of the Fountains (Saguaro to La Montaña), including, but not limited to, light strands, cords, programmable timers (if utilized), etc., as more particularly set forth in its Proposal, attached hereto and incorporated herein by reference.

4.2 Area Two: Avenue of the Fountains Ground Displays.

A. Contractor shall provide all labor, equipment and materials necessary for installation of Town-owned Holiday ground display décor (the “Ground Displays”) throughout the Avenue of the Fountains median, including, but not limited to, cords, programmable timers (if utilized), etc. Ground Displays shall be grouped according to specific design and plan as more particularly set forth in the Proposal. The Ground Display décor to be installed and maintained pursuant to this Agreement is as described as follows:

- One (1) custom white and blue Fountain (3 pieces).
- One (1) white and blue Star of David.
- One (1) 6-ft. tall Menorah.
- Five (5) piece Manger Scene (stable, manger, two (2) kneeling figures and Bethlehem star).
- One (1) animated flying Angel.
- One (1) color Camel and Wise man.
- Two (2) color Wise men.
- One (1) Seasons Greetings sign.
- One (1) Happy Holidays sign.
- One (1) animated Angel Arch with JOY sign.
- One (1) Skier.
- One (1) Snowman.
- One (1) 4-piece color Animated Elf Scene (elves decorating Christmas tree).
- One (1) 3-piece Train Scene.
- One (1) 3-piece animated Train Set.
- One (1) 7-ft. tall Santa with Pack.
- One (1) 3-dimensional Sleigh.
- Four (4) Deer (Standing Buck, Leaping Buck, Standing Doe, Baby Deer)
- One (1) Small Merry Mouse.
- One (1) 8-3/4 ft. tall Saguaro with Star.
- One (1) 10-ft. tall Saguaro.
- Two (2) 8-ft. tall Cowboys.
- One (1) animated Campfire.
- One (1) 10-ft. tall Stagecoach drawn by four (4) horses.
- One (1) Biker Santa.
- One (1) Skater Pulling Sled and Dog.
- One (1) 6’ Toy set.
- One (1) Gift Set (Bear and Gifts)
- One (1) Santa in Golf Cart.

B. Contractor shall be responsible for maintaining and repairing the Ground Displays each year, prior to installation. Contractor shall provide storage of Ground Displays in an enclosed climate controlled secure storage facility during the off-

season. Contractor shall be responsible for the transportation to and from the storage facility. Contractor shall return ground displays to the Town at the end of the contract term.

C. Contractor shall maintain replacement insurance on the Ground Displays while they are in the Contractor's possession. Contractor shall maintain and cover complete cost of replacement while Ground Displays are in their approved storage facility.

4.3 Area Three: Town Owned Buildings. Contractor shall provide all lighting, labor, equipment and materials for design and installation for Holiday lighting as necessary to outline the rooflines of the (A) Maricopa County Library, Fountain Hills Branch, (B) Fountain Hills Community Center and (C) Town Hall (collectively, the "Town Buildings") with clear c-9 bulbs, including, but not limited to, lights, cords, programmable timers (if utilized), etc. Town Building lighting shall be installed according to specific design and plans as more particularly set forth in the Proposal.

4.4 Holiday Schedule.

A. The Contractor shall complete the installation of the light displays prior to the first Saturday in December. Installation shall be coordinated with the Town's representative to accommodate overseeding of the median along the Avenue of the Fountains and the Chamber of Commerce Art Fair.

B. Contractor shall have staff members on-site (if requested) for the official lighting ceremony on December 1st between the hours of 4:00 pm to 8:00 pm in order to assist with the lighting process. In subsequent years, if any, the Town will coordinate the dates of official lighting with the Contractor. All lights must be tested and fully functional prior to the ceremony (Stroll in the Glow).

C. Contractor shall provide automatic timers for lights and Ground Displays (if utilized) except where Town personnel turn lights on and off. Timers are to be turned on and set from 6:00 pm to 12:00 pm, seven days per week or as directed by the Town's representative.

D. Contractor shall remove all lighting, decoration and Ground Displays and provide storage for Ground Displays as set forth in the Proposal. Contractor shall remove the light displays no earlier than the first Friday in January and in no event later than the second Friday in January (or as otherwise directed by the Development Services Director or his authorized designee). All Ground Displays shall remain the property of the Town of Fountain Hills.

EXHIBIT D
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
HOLIDAY LIGHTING COMPANY AZ, INC.

[Fee Proposal]

See following page.



PO Box 61013
Phoenix, AZ 85082

Phone: 602-431-2253
Fax: 602-431-2178
Email: email@holidaylightingco.com
Website: www.holidaylightingco.com

Estimate

Date	Estimate #
8/6/2012	10060

Name / Address

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

Terms	Rep	Job Site
	Marty	Town of Fountain Hills

Description	Total
<p>OPTION #2</p> <p>AREA ONE: Trunk wrap 43 trees up to 40' high and hang a variety of small displays in canopies of medium trees throughout median. Trunk wrap 56 palm trees along sides of Avenue of Fountains. Keep the 2 extra large eucalyptus trees. Mini light sets, 100 lt count, 42' length, clear, red, multi, amber, blue and green light sets (700). Tree canopy displays. Hardware and electrical accessory package, extension cords, 3-ways, adapters and timers. Lease/installation/removal. A total of 3 NEW underwater light fixtures for the water features in the center medians Labor and Material for installation/maintenance/removal.</p> <p>AREA TWO: Set up Town-owned Holiday ground displays (38) throughout the Avenue of Fountains median. Hardware and electrical accessory package, extension cords, 3-ways, adapters and timers. Annual Storage and Transportation. Labor and Material for installation/maintenance/removal.</p> <p>AREA THREE: (A) Outline rooflines of Maricopa County Library, Fountain Hills Branch, (B) Fountain Hills Community Center and (C) Town Hall with C-9 bulbs and wire. C-9 bulbs, clear 7w, wire, male/female ends and clips (3700). Hardware and electrical accessory package, extension cords, 3-ways, adapters and timers. Labor and Material for installation/maintenance/removal.</p> <p>TERMS: 50% Deposit (\$13,997.60) due September 1st, 2012 50% Balance (\$13,997.60) due December 1st, 2012</p>	<p>1,430.00</p> <p>19,135.20</p> <p>750.00</p> <p>1,500.00</p> <p>5,180.00</p>
<p>X</p>	<p>Date</p>

Thank you for your business.

Subtotal	\$27,995.20
Sales Tax (0.00)	\$0.00
Total	\$27,995.20

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