

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
HORIZON REAL ESTATE GROUP, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of June 6, 2013, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town") and Horizon Real Estate Group, Inc., an Arizona corporation, d/b/a NAI Horizon (the "Broker").

RECITALS

A. The Town issued a Request for Qualifications, "Promotion of Commercial Business in Fountain Hills" (the "RFQ"), a copy of which is on file in the Town Clerk's Office, seeking statements of qualifications from vendors for professional real estate consulting and brokerage services.

B. The Broker submitted a Statement of Qualifications (the "SOQ") in response to the RFQ, which is attached hereto as Exhibit A and incorporated herein by reference, and the Town desires to enter into an agreement with the Broker to promote commercial business in Fountain Hills (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 Broker hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until June 30, 2014 (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 Broker 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 Broker'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 Broker, 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. Broker shall provide the Services as set forth in the Scope of Work, attached hereto as Exhibit B and incorporated herein by reference.

3. Exclusive Appointment; Broker Responsibilities. The Town hereby appoints Broker as the sole and exclusive agent of the Town for the purpose of providing the Services in an effort to generate commercial property leases and sales for new and expanding business within the corporate limits of the Town. During the term of this Agreement, the Broker shall use commercially reasonable efforts to promote, obtain, and consummate lease(s) and/or sales of various property within the corporate limits of the Town. Broker shall also provide the following:

3.1 Availability. Broker shall be and remain available at reasonable times and places to consult with the Town in connection with the above-described sales and/or lease(s) of property.

3.2 Time and Effort. Broker shall devote such effort and time as required to provide or perform the Services in a good and workmanlike manner.

3.3 Advertising. Broker may advertise, at its own expense, the various Town-owned properties from time to time in various newspapers, magazines and publications and may prepare and distribute Broker mailers and direct mailers related to properties in Fountain Hills. Such advertisement of Town-owned properties may be in conjunction with advertisement of other properties for which the Broker has authority.

3.4 Cooperation with Other Real Estate Professionals. Broker shall cooperate with and provide real estate professionals with any and all information, records and documentation pertaining to available Fountain Hills properties that are not subject to confidentiality by Broker.

3.5 Broker to Provide Information. During the term of this Agreement, Broker shall provide the Town with any market studies it produces or obtains that relate to property in Fountain Hills or similar projects in the Phoenix metropolitan area. During the term of this Agreement, Broker shall periodically make recommendations to the Town concerning the marketing of Fountain Hills property for sale and ways to improve the marketability of Fountain Hills property for sale. In no event shall the Town be obligated to implement any such recommendations.

3.6 Dual Representation. In its efforts to best represent the Town, Broker will actively solicit the largest possible range and selection of potential buyers in attempting to affect a sale or lease of property in Fountain Hills. In doing so, Town hereby acknowledges that Broker may and is hereby permitted and authorized by Town to solicit such potential buyers and to represent any such potential buyer as that party's agent with respect to any offer to purchase, negotiations of the terms and conditions of said purchase and the actual purchase and sale or lease of property to any such buyer. The Town further acknowledges that Broker's representation of any such buyer may be simultaneous with Broker's representation of the Town and this conflict of interest will prohibit Broker from advocating exclusively on the Town's

behalf while attempting to affect a sale or lease of property. The Town hereby affirms and authorizes the creation of said dual agency.

3.7 Costs. Broker shall be responsible for all costs associated with typical information to be distributed regarding Town-owned properties such as industry-standard single-page, double-sided advertising flyers prepared by Broker for properties that the Town has exclusively listed with the Broker, but shall not, without the prior, written concurrence of the Town, incur costs for items Broker would consider "additional cost items" that Broker expects the Town to pay. Examples of "additional cost items" include third-party reports or studies relating to Town property and large-scale advertising such as full-page newspaper or magazine advertisements or brochures.

4. Broker's Representations. Broker acknowledges that the Town is entering into this Agreement in reliance on Broker's special abilities with respect to the sale and/or leasing of commercial properties similar to property within Fountain Hills. Broker represents and warrants that Broker will use its best reasonable efforts, skill, judgment and abilities to market and show Fountain Hills property, offer such property for sale or lease and procure prospective parties for such property. Broker further represents and warrants that it will perform under this Agreement in accordance with the highest professional standards in compliance with all applicable laws.

5. Town Responsibilities.

5.1 Referrals, Property Data and Owner/Broker Cooperation. During the term of this Agreement, Town agrees to refer to Broker all inquiries with respect to leasing and sale of property within the corporate limits of the Town and shall disclose all prospective tenants to Broker. Town agrees to cooperate with Broker in bringing about the leasing and sale of property and shall provide to Broker all relevant data, records and documentation pertaining to property within Fountain Hills that will assist Broker in promoting leasing and selling the property.

5.2 Advertising. Costs of brochures and other advertising materials approved by the Town shall be paid by the Town, except that the costs of industry-standard single-page, double-sided advertising flyers prepared by Broker shall be paid by Broker as set forth in Subsection 3.7 above.

6. Compensation. The Town shall pay Broker a consulting fee of \$225 per hour for the performance of consulting and marketing services not related to the sale or lease of property owned by the Town. All fees derived by the Broker in connection with sale or lease of property in connection with this Agreement shall be through separate agreement between the Broker and property owners or tenants/buyers. Fees in connection with properties for sale or lease that are owned by the Town will be determined between the Broker and the Town through separate agreement.

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

8. Broker Personnel. Broker shall provide adequate, experienced personnel, capable of and devoted to the successful completion of the Services to be performed under this Agreement. Broker agrees to assign specific individuals to key positions. Broker 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, Broker shall immediately notify the Town of same and shall, subject to the concurrence of the Town, replace such personnel with personnel possessing substantially equal ability and qualifications.

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

10. Indemnification. To the fullest extent permitted by law, each party hereto shall indemnify, defend and hold harmless the other party and each member, officer, employee or agent thereof (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 other party, 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 Broker, Broker 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 Broker. 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 Broker 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. Broker'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 Broker. Broker 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. Broker 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, Broker 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 Broker. Broker 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, Broker 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 Broker'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 Broker'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 Broker'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 RFQ number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFQ 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 RFQ 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) Broker's insurance shall be primary insurance with respect to 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 Broker under this Agreement.

(4) A 30-day advance notice cancellation provision. If ACORD certificate of insurance form 25 (2001/08) is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

11.2 Required Insurance Coverage.

A. Commercial General Liability. Broker 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. Broker shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Broker’s owned, hired and non-owned vehicles assigned to or used in the performance of the Broker’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 Broker engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Broker shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Broker, or anyone employed by the Broker, or anyone for whose negligent acts, mistakes, errors and omissions the Broker 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 Broker 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. Confidential information such as the policy premium or proprietary information 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.

D. Workers' Compensation Insurance. Broker shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Broker'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 Broker of written notice by the Town.

12.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the Town to the Broker 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 Broker 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 Broker 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 Broker, 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 Broker or any agent

or representative of the Broker to any officer, agent or employee of the Town for the purpose of securing this Agreement. In the event this Agreement is canceled by the Town pursuant to this provision, the Town shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Broker 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 Broker 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 Broker shall be relieved of any subsequent obligation under this Agreement.

13. Miscellaneous.

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

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 INTENTIONALLY LEFT BLANK.

13.14 INTENTIONALLY LEFT BLANK.

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

If to the Town: Town of Fountain Hills
 16705 East Avenue of the Fountains
 Fountain Hills, Arizona 85268
 Attn: Kenneth W. Buchanan, Town Manager

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

If to Broker: NAI Horizon
 2944 N 44th St #200
 Phoenix, AZ 85018
 Attn: Terry A. Martin-Denning

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

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

13.17 Records and Audit Rights. To ensure that the Broker and its subcontractors are complying with the warranty under subsection 13.18 below, Broker'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 Broker 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 Broker'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 Broker'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, Broker 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 Broker pursuant to this Agreement. Broker 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 Broker or its subcontractors reasonable advance notice of intended audits. Broker 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 Broker 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). Broker'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 Broker 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 meaning set forth in ARIZ. REV. STAT. §§ 35-391 or 35-393, as applicable. If the Town determines that the Broker 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 RFQ and the Broker's SOQ, the documents shall govern in the order listed herein.

(in description)

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 June 21 2013, 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]

“Broker”

HORIZON REAL ESTATE GROUP, INC.
an Arizona corporation, d/b/a NAI Horizon

By: Terry A. Martin-Denning

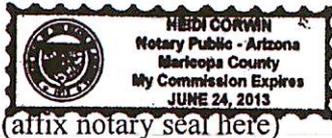
Name: Terry A. Martin-Denning

Title: COO / Designated Broker

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on 6/12, 2013, by Terry A. Martin-Denning as COO / Designated Broker of HORIZON REAL ESTATE GROUP, INC., an Arizona corporation, d/b/a NAI Horizon, on behalf of the corporation.



Heidi Corwin
Notary Public in and for the State of Arizona

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

[SOQ]

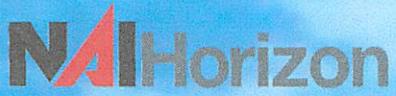
See following pages.

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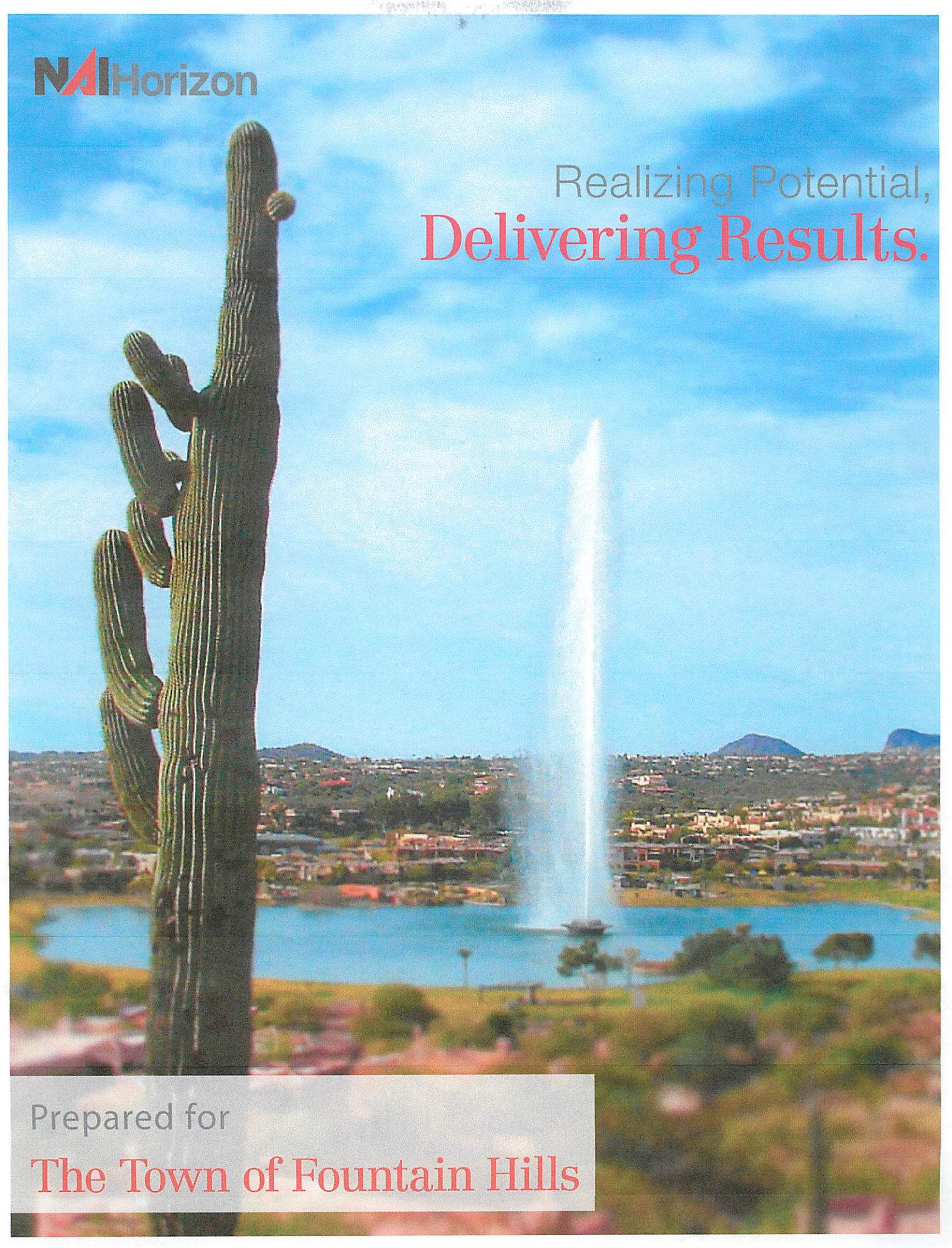
SCOPE OF WORK

The Town is seeking a qualified commercial real estate broker, either individually or with an organization, who is licensed in the State of Arizona, to promote/market the Town for new commercial business on a year-round basis. Responsibilities include, but are not limited to, the following:

1. Provide a minimum of 40 qualified prospective commercial users/new businesses to locate to Fountain Hills annually.
2. Contract with a minimum of three commercial real estate listing services, including Property Line, Co-Star and Loop-Net to help promote Fountain Hills as a potential spot for business.
3. Conduct periodic “meet and greet” opportunities for all potential commercial businesses to see business potential in Fountain Hills; provided that no fewer than 12 such events shall be conducted during any 12-month period.
4. Provide monthly progress reports including, but not limited to, businesses contacted, showings conducted and Fountain Hills business properties advertised or promoted.

The logo for NAI Horizon, featuring the letters 'NAI' in a bold, sans-serif font with a red diagonal line through the 'A', followed by the word 'Horizon' in a smaller, grey, sans-serif font.

NAI Horizon

A large saguaro cactus stands in the foreground on the left. In the background, a tall, thin fountain of water rises from a lake, set against a backdrop of a town and hills under a blue sky with light clouds.

Realizing Potential,
Delivering Results.

Prepared for

The Town of Fountain Hills

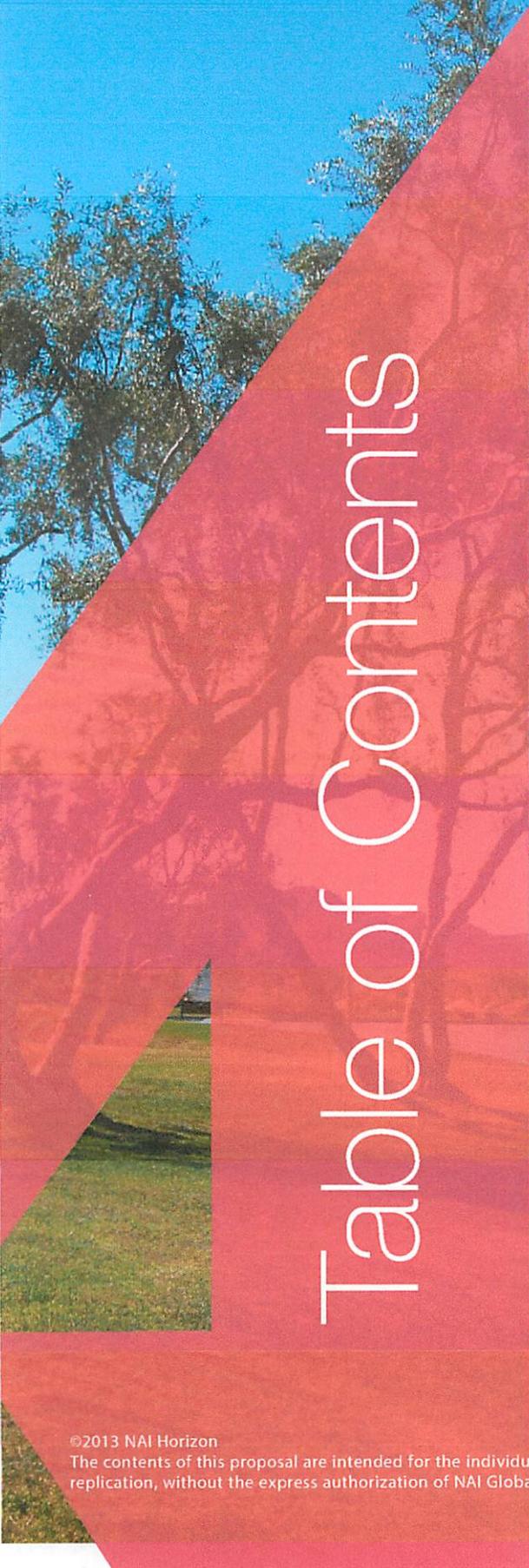


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A vibrant desert landscape featuring a range of mountains in the background under a clear blue sky. The foreground is filled with diverse desert vegetation, including several cholla cacti, yucca plants, and various shrubs. A large, semi-transparent red graphic element, resembling a stylized letter 'A' or a similar shape, is positioned on the left side of the image, partially overlapping the landscape. The text 'About NAI Horizon' is written vertically in white within this red area.

About NAI Horizon

Arizona Advantage

Global Connection

Since 1989, NAI Horizon has provided a full range of real estate services to local, national and international clients. We have the capacity to support all of your commercial real estate needs including site selection, property brokerage, building management and portfolio optimization. Our commercial real estate professionals facilitate millions of dollars in transactions each year and specialize in all commercial property types including office, industrial, retail, land, multifamily and investment sales.

We uniquely combine an agile platform with experienced real estate teams, backed by the institutional strength of one of the world's leading property investment companies. As a member of NAI Global, we are truly set apart in the industry. Collaboration is a rare find, but at NAI, we share best practices and harness our collective intelligence to strategically assist our clients. With offices around the world, we represent the most respected names in each of those markets. Our clients come to us for our deep local knowledge and build their businesses on the power of our global presence.

NAI Horizon's office is located in the Phoenix Arcadia neighborhood, east of Central Phoenix. Just a 30 minute commute to the center of Fountain Hills, the NAI Horizon Phoenix office provides a full service of brokerage, marketing, property management and valuation services to our clients. Horizon Real Estate Group Inc., dba NAI Horizon is an Arizona Corporation licensed to do business in Arizona. Locally owned, NAI Horizon is a member of NAI Global, an international network of over 5,000 agents in 55 countries.

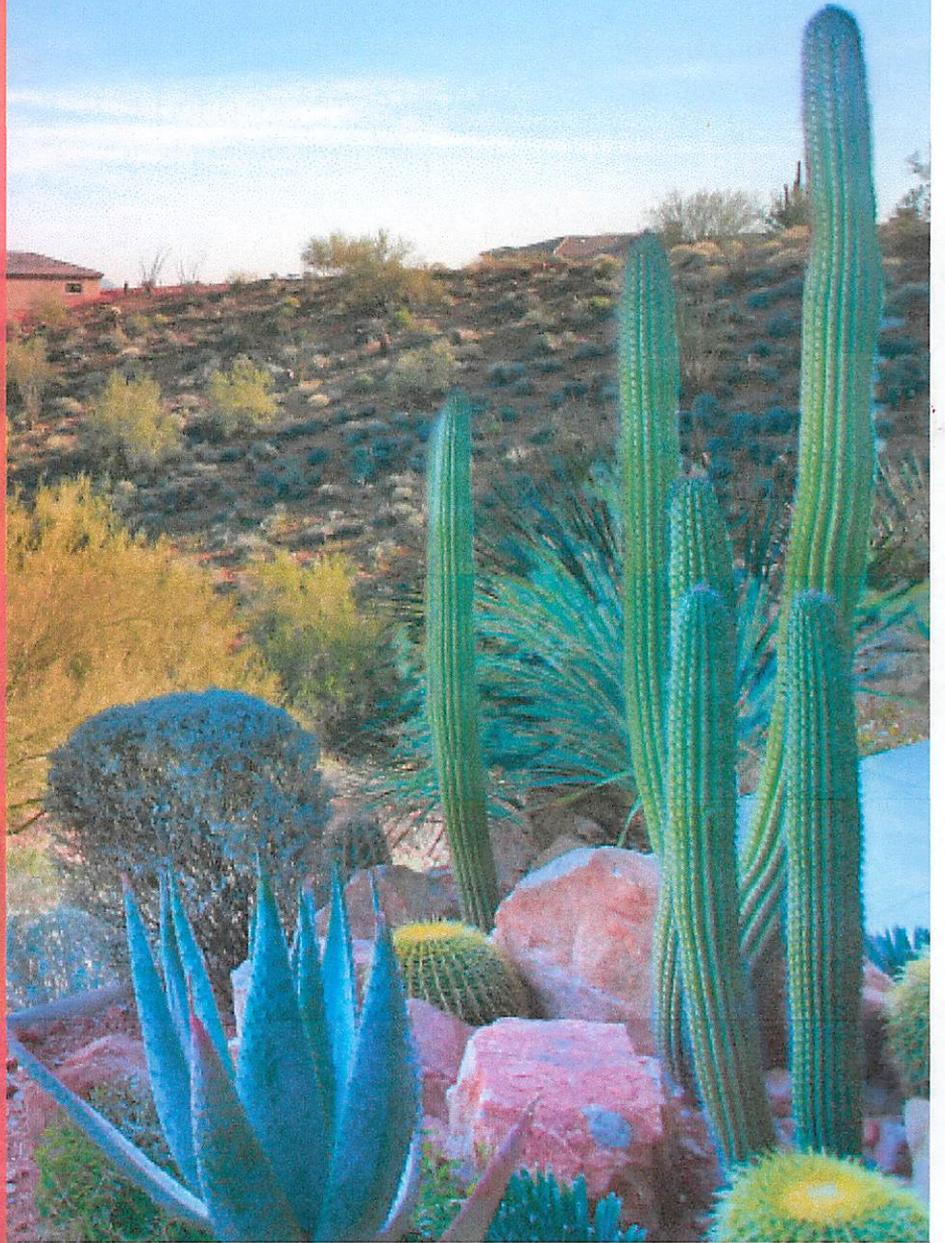
Address: 2944 North 44th Street #200 | Phoenix, AZ 85018
Phone: 602.955.4000
Tax ID#: 86-0706291
Arizona Real Estate License #: CO002715000

Over the past five years some listing contracts have been terminated early because the agent handling the leasing left the firm and joined another brokerage company. The clients requested termination so they could continue to work with that individual agent. On occasion clients will terminate a listing contract because the owner wishes to remove the property from the market. NAI Horizon has never been removed from a service contract for inappropriate actions or unprofessional behavior. We are not able to identify each case going back 5 years.

NAI Horizon was involved in a lawsuit related to a retail shopping center sale in Albuquerque, New Mexico. We represented the seller in the transaction that closed in August 2009. The buyer sued the seller and also named NAI Horizon alleging misrepresentation of financial information related to the property. NAI asserted that it had no role in the preparation or review of the financial information and that the buyer should have investigated that information as part of their due diligence. This lawsuit was dismissed after arbitration resulted in a cash settlement to the buyer.

For questions concerning this SOQ contact: Michael Myrick, CCIM
2944 N 44th Street #200
Phoenix, AZ 85018
602.908.2211

Experiences & Qualifications



Commitment & performance for the client

NAI Global's focus on the client predicates our commitment to perform our commercial real estate services with passion, dedication and expertise to realize maximum potential for our clients. The collaborative services platform provides an expansive yet nimble and responsive structure, enabling us to deliver superior results across the full spectrum of sectors for owners & investors, occupiers and developers of property.

The team environment ensures that a combination of talent, experience, and diverse job responsibilities work together to bring Fountain Hills' goal to a successful completion. In addition to brokerage and valuation services, our extensive list of capabilities include:

- Site selection
- Market analysis
- Due diligence consulting
- Portfolio evaluation
- Sale/leaseback transactions
- Relocation management
- Economic incentives analysis and negotiations
- Build-to-suit
- Acquisition/Disposition
- Investment sales

Client **success stories**



Todd Goldman
9319 N 94th Way
Scottsdale, AZ 85258
(Other contact information
available upon request to
respect our client's privacy)

Over the course of 23 years, NAI Horizon has helped the restaurant chain Zipps grow and expand in the Arizona market. From comprehensive site selection to detailed demographic data, our retail team has become not only a brokerage service to Zipps, but a long standing trusted business advisor. NAI Horizon helped Zipps acquire their first location, Goldie's Neighborhood Cafe in Scottsdale, and will be proud to assist them in opening 3 more locations by the end of the year.



Kevin Kelly
2800 Southampton Rd
Philadelphia, PA 19154
(Other contact information
available upon request to
respect our client's privacy)

Planet Fitness began as a east coast chain of exercise facilities and has made the move to expand to the west coast thanks to NAI Horizon and its retail team. With a two year long relationship building period, NAI Horizon became a trusted advisor and partner in the chain's move to Arizona. Currently, Planet Fitness has entered the market strong with 7 current locations in Arizona and 3 future locations being negotiated.



John Larsen
5365 Mae Anne Ave
Suite A-29
Reno, NV 89523
(Other contact information
available upon request to
respect our client's privacy)

Port of Subs has partnered with NAI Horizon for 12 of its 40 years in business. Due to the longevity of this business relationship, NAI Horizon's retail team has successfully garnered the trust of the company and advises Port of Subs on new opportunities for growth in Arizona. With 12 locations across the Valley, Port of Subs is enjoying a prosperous portfolio due in part to its relationship with NAI Horizon.

Client success stories



Adrian Evarkiou
602-499-4333
(Other contact information
available upon request to
respect our client's privacy)

Michael Myrick and his team were responsible for coordinating the only medical build-to-suit in 2009 during the economic downturn. The project was a huge success and was 90% pre-leased before construction broke ground. Mercy Medical Commons is a 48,000 SF Class A medical office building in a prime location off the Loop 202 in Gilbert, Arizona.



EXPRESS SCRIPTS®

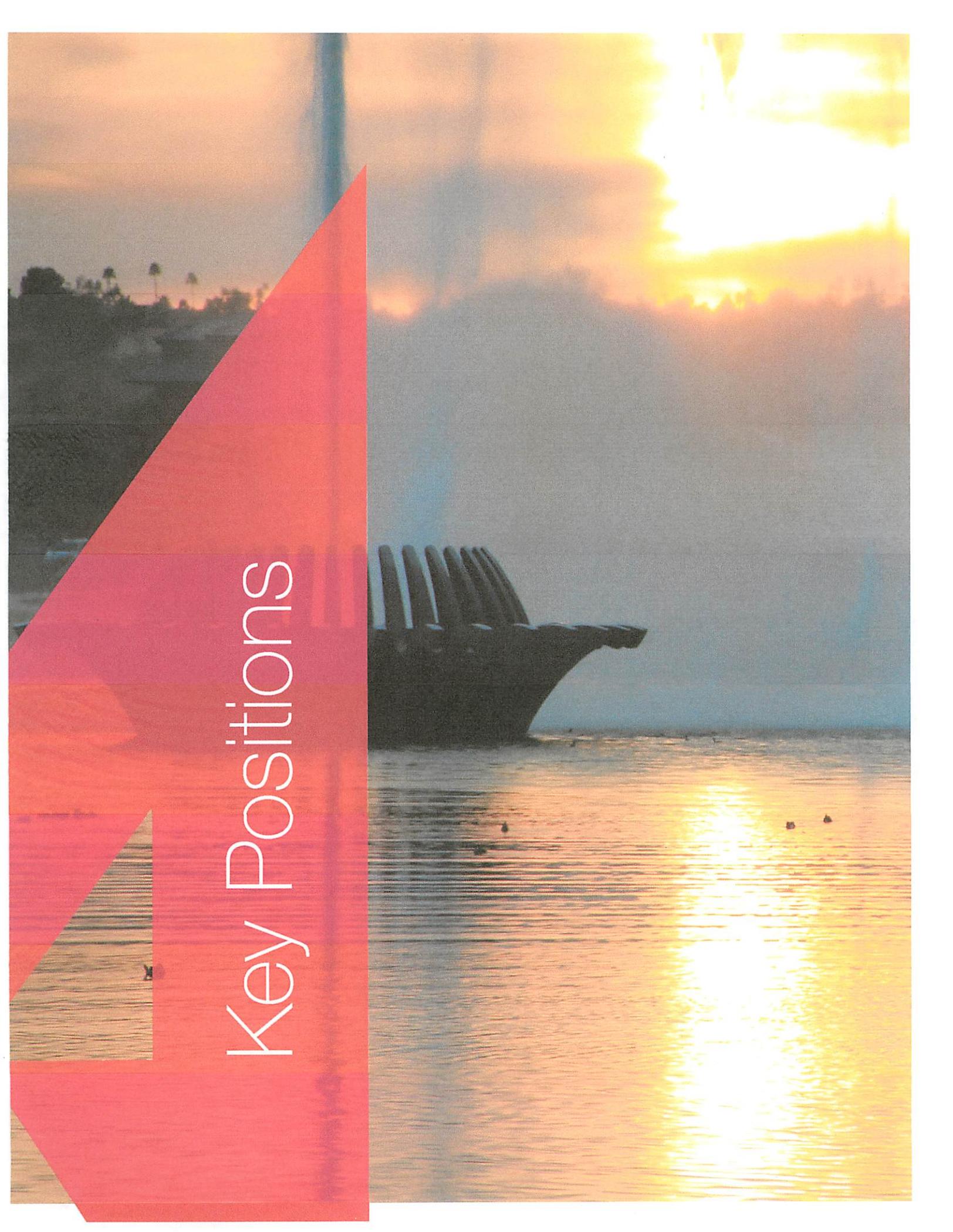
JD Kelly
Express Scripts
(Other contact information
available upon request to
respect our client's privacy)

Michael Myrick and his team were involved in site selection, tenant representation, and negotiations with the city regarding tax increment financing and tax credits to bring Express Scripts to Tempe. Founded in 1986, Express Scripts makes the use of prescription drugs safer and more affordable for tens of millions of consumers through thousands of employers, government, union and health plans. By assisting in the move to Tempe, Myrick and his team aided in the creation of 1,000 high paying jobs locally.



Larry Bergman
Duro Bag Board of Investors
4695 Lake Forest Dr
Cincinnati, OH 45242
(Other contact information available
upon request to respect our client's
privacy)

Duro Bag Company, based in Florence, KY is the world's largest manufacturer of paper grocery bags. Towards the expiration of the lease term at Duro Bag's manufacturing plant in Phoenix, NAI Horizon was engaged to prepare a top-down assessment of the current plant and to provide a report focused on costs, logistics and supply chain management to determine the viability of this location. Following the recommendations and counsel provided in the report, NAI Horizon successfully renegotiated a 7 year lease term for Duro Bag. As well, our strategy called upon Duro Bag to lease a 2nd location across from the primary plant. Duro Bag saved over \$2,700,000 by avoiding relocation and reducing plant expenses. By establishing a 2nd location to inventory raw materials and control finished product, Duro Bag has been able to realize additional monthly savings of \$15,000 in reducing their overhead.



Key Positions

Team Profile



Michael R. Myrick, CCIM, PRIMARY CONTACT

As a tenant advisor, Mike guides his clients through the complicated process of negotiating a lease or purchase that fits the clients overall business strategy. On the landlord side, Mike's deep tenant relationships, and his understanding of tenant needs, allows Mike to get a completed lease transaction that makes economic sense for all parties. Throughout his brokerage career, Mike has been involved in more than 500 million square feet of agency leasing transactions.



Alexandra Loye, Associate

Alexandra closely tracks the office market and measures the financial and economic trends affecting the Phoenix market. This market awareness allows her to better serve her clients in an "Advisory" capacity as well as the traditional Transactional capacity. Alexandra has had three years of experience in Commercial Real Estate Research and Office Brokerage. She has been involved in agency leasing and tenant representation transactions.



Chris Gerow, Senior Vice President

Named by AZRE magazine as Retail Broker of the Year and awarded the NAI Global Retail Leadership Award. Chris provides 23 years of retail leasing expertise in landlord and tenant representation. He maintains attentive, ongoing relationships with regional and national tenants. Additionally, he works with developers, retailers and restaurateurs in strategizing expansion plans locally and nationally through the NAI system (see professional profile which follows).



Shelby Tworek, First Vice President

Shelby has led successful leasing assignments for large and small centers while working with numerous notable developers. He has also built a reputation of being one of the region's most respected tenant representatives and maintains strong relationships with local economic development and community organizations. Shelby exclusively represents regional and national retailers in Arizona.



Gabriel Ortega, Vice President

Gabe specializes in retail project leasing, pad and land sales. He is responsible for developing and implementing a merchandising plan and marketing strategy for each property, in addition to aggressively negotiating transactions. Gabe also participates in select tenant representations accounts (see professional profile which follows).



Isy Sonabend, Senior Vice President

With over 25 years of commercial real estate experience in both Arizona and California, Isy focuses his expertise on industrial properties in the Phoenix area. He has extensive knowledge in the areas of development planning and investment sales and analysis, and is a member of the NAI Global Industrial Council and NAI Global Logistics.

OFFICE

RETAIL

INDUSTRIAL

Primary Objectives:

- Market the community of Fountain Hills to as many tenants that fit the specified criteria.
- Obtain maximum cooperation from the brokerage community for the negotiation of the space.
- Successfully secure businesses to locate within existing and future properties.
- Maintain a long term relationship so our services become part of your development strategy.

A Comprehensive, Proactive Strategy. A Talented, Diverse Team.

The Marketing Strategy will be carried out by Retail Service's experienced Landlord and Tenant Representation specialists. The strengths of each agent will be used collectively to expedite the marketing process. We formulate strategies for tenant mix, ground up development and project leasing. With an exceptional breadth of market knowledge, creativity and experience, we offer innovative approaches to maximizing a property's potential. To successfully execute the marketing strategy and facilitate the leasing process of your property, the following methods are utilized:

Brochures: NAI Horizon will prepare a professional brochure with pertinent information promoting property opportunities, including information about buildings and available space. Brochures may also receive other detailed materials which might include but are not limited to: maps, comparable studies, plat maps, demographics, site plan, aerial photos, etc.

Signage: NAI Horizon standard signs will be installed on the properties with owner permission. Qualified projects may be considered for additional signage along with costs and allocations if approved by the owner(s).

Target Marketing/Cold Calling: One of the most important aspects of our marketing effort will be contacting prospects specifically for the purpose of presenting your property. This has proven to be one of the most effective marketing tools we use. Targeted tenants will be called and given information about the market and available properties. A follow up call will also be made to verify that the Tenant is aware of the property, its benefits and the availability.

Direct Mailer: Direct, hard-copy mailers will be sent to any and all possible prospects, which will be followed up with a phone call.

Internal Communication/Team Effort: Weekly team meetings are held to discuss implementation and execution of strategies for each of our property listings. In addition, each listing will be presented to all in-house agents at the company's monthly sales meeting.

Technology: NAI Horizon has invested in the most recent cutting edge computer technology to aid all agents in various transactions. A database has been established and is continuously updated, enabling agents to distribute property availability to Tenants for their specific requirements. This assures the owner quick and efficient exposure to prospects who are most likely to have an interest in the property.



Stephanie Van Dyken
Marketing Coordinator

- Coordinates eBlasts, website information, print marketing



Andrew Starkman
Marketing Coordinator

- Social media marketing, presentation materials and listing packages



Marissa Russo
Research/GIS Manager

- Conducts research and geographic analysis, coordinates long term marketing plans

Broker Cooperation: A broadcast e-mail will be sent out to area brokerage companies with each new listing. We continue to market listings on a regular basis with thorough broadcast e-mails. Other modern marketing tools include internet sites such as Loopnet, Property Line, Co-Star, and the local and national networks of NAI Horizon and NAI Global.

Advertising: NAI Horizon has always believed that direct solicitation through personal contacts, mail, or telephone calls are the most effective ways to achieve success. However, advertising a property in select publications such as the Arizona Republic and local newspapers may be beneficial and may be used in the marketing campaign.

Leverage Key Relationships: As a result of our agents cumulative experience in the metro Phoenix area, our team is able to utilize key relationships with retailers, developers and brokers. This enables us to monitor current trends in the market and ensure that your transaction is completed quickly and efficiently.

Accountability & Reporting: We will follow the detailed marketing plan described above to successfully facilitate the leasing or sales process. We will also provide monthly reports to the owner(s) to document our efforts which will allow the owner to monitor the progress of the project. At owner's request, we will use NAI's Web Based Transaction Management System (REALTrac), which provides 24/7 real time accountability of the project activities.

Commercial Listing Services

CoStar Property - www.costar.com

CoStar Property Professional™ is much more than a listing service. In addition to agent contributions, CoStar Property Professional™ is backed by the industry's largest professional research organization including a highly trained team of more than 700 researchers, analysts and photographers.



Property Line - www.propertyline.com

Property line is an online listing service that allows commercial agents to advertise and post their properties to other professionals in the real estate industry. In addition to the listing information, property photos, site plans, and brochures can also be posted.



LoopNet - www.loopnet.com

LoopNet is the Internet's largest and most heavily used commercial real estate service on the web, displaying over 143,000 local and national brokers' listings. LoopNet's property listing service enables the widest possible exposure and is used as a search engine by many major companies. LoopNet users can search listings by geographic region, square footage, price and other criteria.



Crystal Johnson

Firm Administrator

- Coordinates listing process, press releases, transaction closings



Mark Kirkander

Reprographics Manager

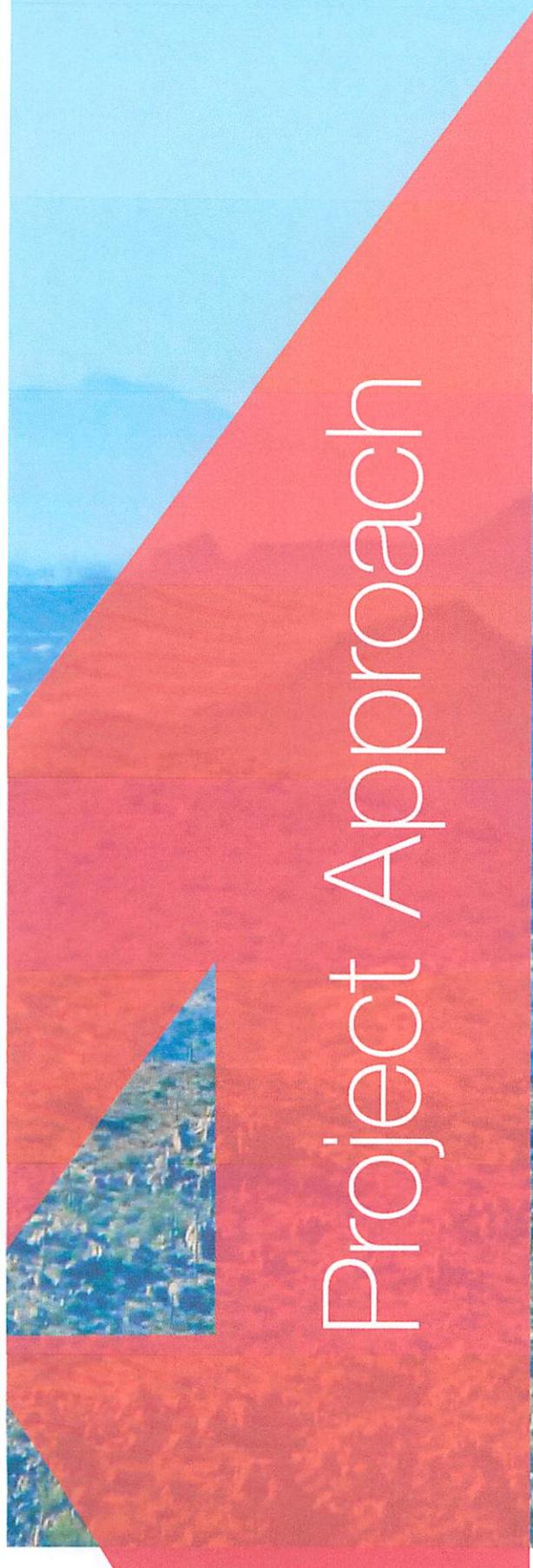
- Processes printed marketing materials, coordinates mailers and postcard marketing



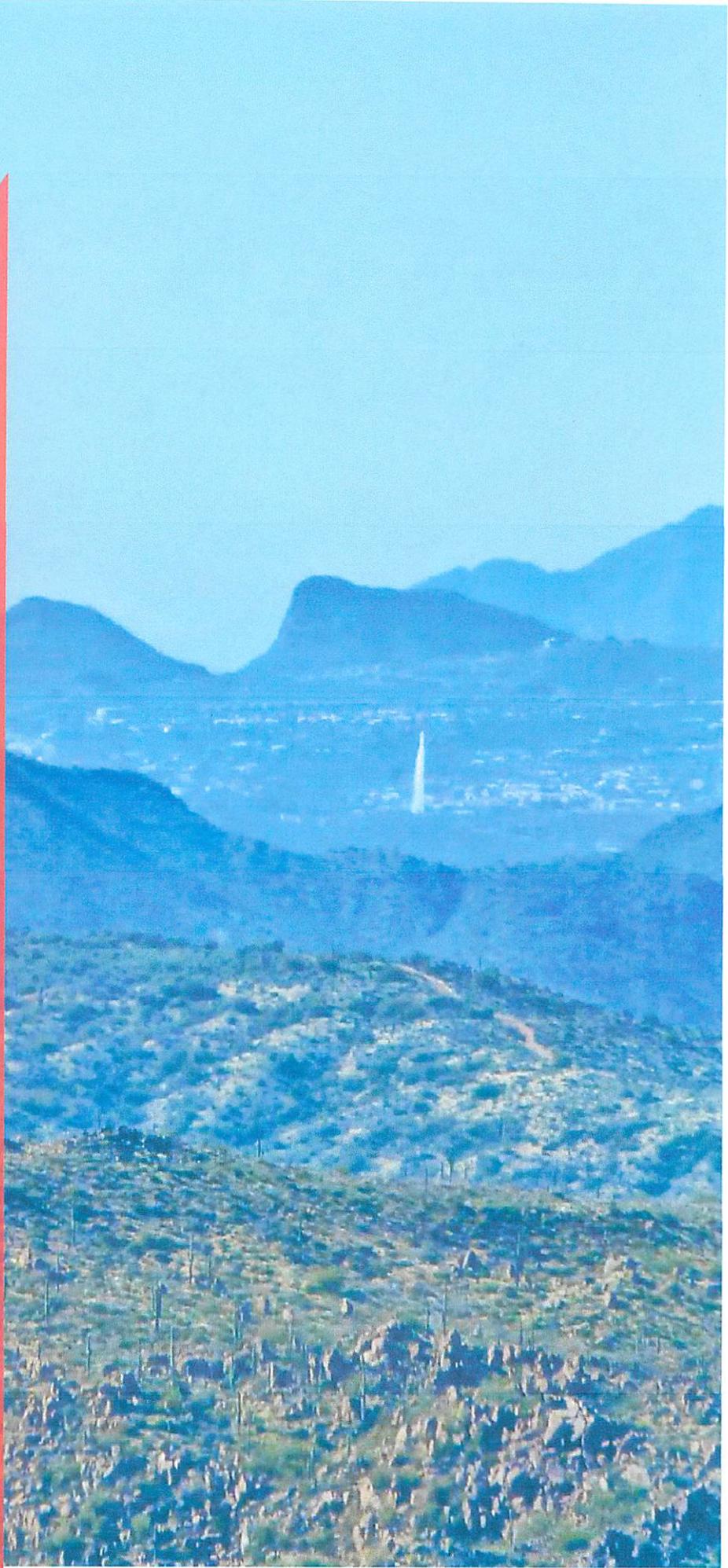
Courtney Luedemann

Transaction Coordinator

- Assists throughout the transaction process, acts as liaison between agents and marketing department.



Project Approach



Growth plan

Through our decades of experience as a collaborative team at NAI Horizon, we have identified certain areas that we feel would be the best focus of time and effort to continue the growth of Fountain Hills. Dining; fast food, quick service, and sit down restaurants, along with entertainment and recreation are some of the most underserved areas in the Town. Not only do these areas affect these businesses directly, but the ability to stay in Fountain Hills to enjoy these things can also reduce the amount of dollars spent in other cities for all expenditures. Another area of focus would be household resources and furnishings, which are big ticket spending opportunities that are predominately spent outside of Fountain Hills. The recent retail market study conducted by Fountain Hills supports our view, showing that the top 3 retail categories that show a future deficit in 2016 as “Food Away from Home”, “Recreation and Entertainment” and “Household Furnishing and Equipment”, totaling almost 200,000 of needed square footage in just 3 years. While several areas show trade leakage in Fountain Hills, we believe that by focusing on recreation, entertainment, and dining, the Town will be seen overall as a more desirable location and result in increased foot traffic and time spent, resulting in the ability to expand other sectors of the retail market.

As defined in the scope of work, monthly open houses are requested to promote commercial real estate in Fountain Hills. In our experience, creating a more diverse and creative plan for promotion can garner better results. As a liaison to the Town, NAI Horizon would recommend creating a presence for commercial real estate in Fountain Hills by promoting at events the Town organizes such as Movie in the Park events or the Fountain Festival of Arts & Crafts. By creating a commercial real estate booth hosted by the Town and manned by NAI Horizon agents, a local initiative would be formed to promote growth in Fountain Hills. Other ideas include holding CRE open houses at Town meeting spaces providing useful information such as analytic maps, brochures, and future concepts and projects to potential businesses or other CRE agents to increase foot traffic in the city and tout its benefits. Working with other brokers that are currently in the market, NAI Horizon with the Town of Fountain Hills can become a point of information for all transactions and promotion for the Town. These types of activities would be conducted in lieu of monthly open houses that we feel may not always be appropriate, depending on what properties are available in the Town.

NAI Horizon could also act in an advisory capacity to the Town to guide promotional efforts in Metropolitan Phoenix, keeping the Town informed of upcoming events in the CRE market that would benefit Fountain Hills by having a presence. As an active member of the CRE brokerage community, NAI Horizon has experienced insight as to what other cities in Arizona are doing to promote themselves, and how Fountain Hills can step into that realm. Through local and national events such as ICSC (International Council of Shopping Centers), Fountain Hills could promote the Town with inside CRE guidance from NAI Horizon, creating the most economically beneficial marketing approach for the Town.

To market properties and the Town, we subscribe to CoStar, Loopnet, and PropertyLine. While these are listing services tailored to market specific properties, by working with Fountain Hills we could creatively list Town land to gain exposure in the CRE market through these services. Not only would this increase Fountain Hills presence on these subscription services, it would increase NAI Horizon’s authority as a partner with the Town.

In addition to all of these unique efforts for the specific needs of Fountain Hills, NAI Horizon marketing team along with the brokerage team would use all our resources deemed successful through experience to market properties in Fountain Hills for which we hold listing agreements.

Prospecting pyramid

Marketing Medium

Direct Contact

Impact
Employer/
Business

Marketing Flyer/Package

Select Businesses
& Industries

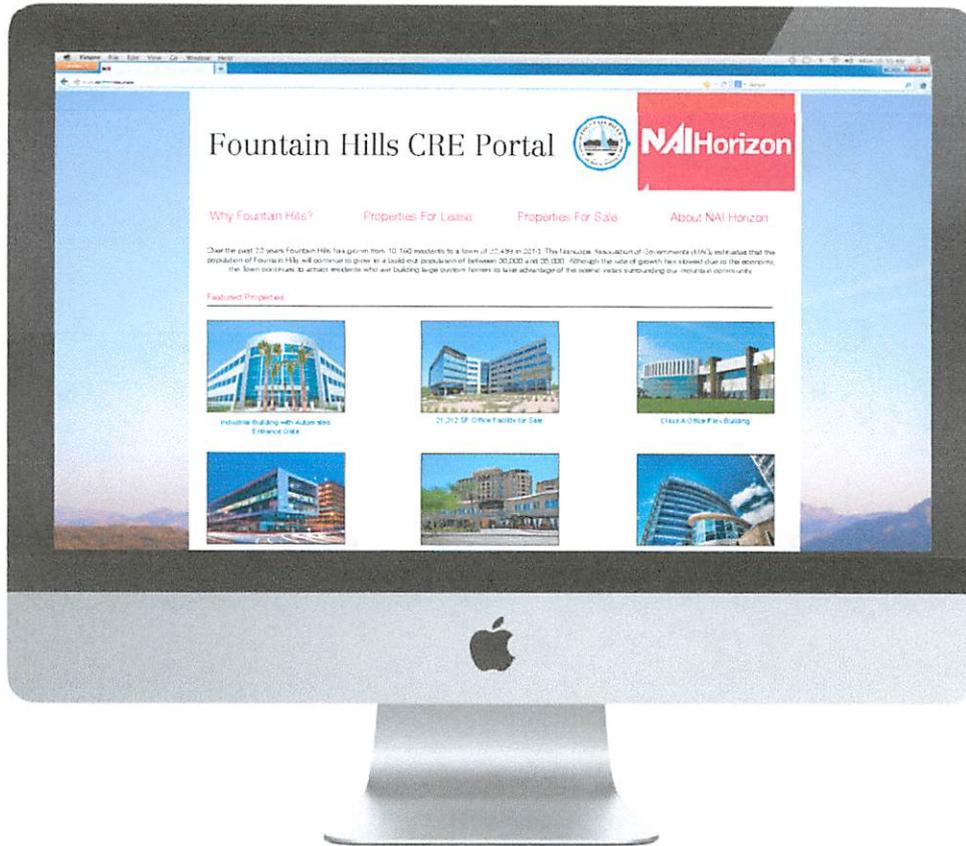
Email Marketing
Campaign

Phoenix Metro CRE Brokers

Fountain Hills
CRE Portal

Commercial Businesses

Web-based marketing



In addition to marketing individual properties represented by NAI Horizon, our marketing team has the capabilities to create a Commercial Real Estate Portal for the Town of Fountain Hills. In this portal, current available properties can be displayed along with quick access to information regarding why Fountain Hills meets their business needs. This website could act as a landing page for interested parties to find contact information quickly and easily, along with useful demographics, current incentives and Fountain Hills success stories. This portal could be linked to existing Fountain Hills websites as the Town sees fit.

Social Media

NAI Horizon also offers a full online media platform including our own website, blog, Facebook, LinkedIn and Twitter presence.

NAI Horizon *Blog*

facebook

Linked in

twitter



Project Schedule

Marketing **timeline**

monthly

- Provide monthly progress reports
- Coordinate open houses for listed properties as needed (with the listing agent)
- Market the Town/listed properties via eBlasts
- Market Town owned properties through CoStar, Loopnet, and PropertyLine
- Update the Fountain Hills CRE Portal with new information/listings

quarterly

- Conduct outreach efforts such as manning a CRE booth at Town events or organized business events
- Meet with Town officials to discuss progress and gather additional ideas/input
- Market the Fountain Hills CRE Portal through eBlasts to the CRE brokerage community and business clients

biannual

- Plan events to promote CRE in Fountain Hills for the next 6 months
- Meet with MAG and GPEC regarding Fountain Hills prospects

annually

- Provide summary of businesses recruited
- Status update on the progress of relationships brought to the Town through NAI's marketing campaign

