

PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
INTERIM PUBLIC MANAGEMENT, LLC

THIS PROFESSIONAL SERVICES AGREEMENT (the "Agreement") is entered into between the Town of Fountain Hills, a municipal corporation of the State of Arizona ("Client") acting through the Council of the Town of Fountain Hills (the "Town Council"), and Interim Public Management, LLC, an Arizona limited liability company ("IPM").

RECITALS

WHEREAS, the Code and Ordinances of Client, Client policies and/or Client's Town Council empower the Mayor and the Town Manager to enter into contracts on behalf of Client for professional services; and

WHEREAS, Client is in need of professional management-level services, at this time and possibly in the future; and

WHEREAS, Client desires to enter into this Agreement for IPM to provide professional services to Client upon the terms and conditions set forth herein and to agree to terms and conditions that will govern other such related services as may be requested by the Client from time to time (the "Services"); and

WHEREAS, IPM desires to provide the Services upon the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the mutual covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Details of Services. For each engagement hereunder, a description of the Services to be provided, the expected start date, fees and expenses, and other details regarding the Services shall be set forth in a Schedule to this Agreement, which Schedule shall be agreed to by the Client and IPM and executed by officers duly authorized to bind the parties; no such Services shall be deemed authorized by the Client and IPM until the fully-executed Schedule is attached hereto. The individuals to be provided by IPM to perform the Services shall be referred to herein each as "Consultant" and collectively the "Consultants." In addition, the Consultants, other IPM

representatives and the Chief Executive Officer of IPM (the "CEO") will be reasonably available by telephone and email to Client for additional workdays and/or hours, subject to appropriate additional charges based on the fee structure set forth in the applicable Schedule, if such additional work and charges have been preapproved in writing (email acceptable) by the Town Manager.

2. Selection of Consultants. IPM and Client will agree from time to time to certain Consultant(s) to provide Services to Client, and each such engagement will become effective upon the Effective Date of the applicable Schedule to this Agreement. IPM shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. IPM agrees to assign specific individuals to key positions. IPM and Client agree each such Consultant has been selected to perform the Services after mutual consultation and is a suitable individual with sufficient education and prior experience to provide the designated Services to Client. IPM agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without written notice to the Client and without Client's consent. If key personnel are not available to perform the Services for a continuous period exceeding 10 business days, or are expected to devote substantially less effort to the Services than initially anticipated, IPM shall immediately notify the Client of same and shall, subject to the concurrence of the Client, replace such personnel with personnel possessing substantially equal ability and qualifications. If a Consultant becomes unavailable to IPM for any reason, IPM will endeavor to provide a reasonably sufficient replacement Consultant within two weeks, and this Agreement and the applicable Schedule shall then apply with respect to that replacement Consultant so long as the Client has found the person to be suitable. IPM may use at its sole cost and expense, secondary vendors to fulfill any or all of its obligations hereunder without securing Client's consent.

3. Term. This Agreement shall commence upon its execution by both parties hereto (the "Effective Date") and shall continue until terminated by either party, with or without cause, by providing the other party 30 days' prior, written notice of termination, for any time period during which a Schedule is not in effect; this Agreement must remain in full force and effort at all times while a Schedule is in effect. Each Schedule shall set forth the terms under which it may be terminated. Any termination of a Schedule shall not automatically terminate this Agreement, unless the Schedule termination is for cause.

4. Fees, Invoicing and Payment.

4.1. In consideration of the Services to be rendered by IPM, Client shall pay to IPM all fees and expenses arising hereunder and arising pursuant to the terms of each active Schedule.

4.2. In addition, if at any time during the term of this Agreement or the applicable Schedule or within one year thereafter Client hires, contracts with or engages in any way, directly or indirectly, any Consultant that has been provided by IPM to provide Services to Client under this Agreement or any Schedule hereto to perform any services for or for the benefit

of Client (other than through IPM), Client hereby agrees to pay IPM an Engagement Fee equal to 20.8% of the annualized salary, excluding any fees or other compensation to be paid to or for the benefit of such Consultant.

4.3. Client agrees to timely review and approve reports of time worked by IPM employees, if submitted to Client. If Client is unavailable to approve such time reports within eight business days, IPM may approve such reports on Client's behalf. Reports of time worked approved as set forth herein will be conclusive as to the Services provided by each IPM Consultant assigned to Client.

4.4. IPM will invoice Client monthly for all amounts arising hereunder, which invoices are payable by Client on net 15-day payment terms. IPM reserves the right to suspend performance of the Services while any amount due hereunder is past due and remains unpaid.

5. Independent Contractor Status; Obligations and Duties of Parties. With respect to the services provided by IPM hereunder, IPM shall be an independent contractor, and no Consultant shall be construed in any way to be an employee of Client.

5.1. As the employer, IPM will maintain all necessary personnel and payroll records for its employees; calculate their wages and withhold taxes; remit such taxes to the appropriate governmental entity; pay net wages and benefits, if any, to its employees; provide workers' compensation insurance coverage as required by law; and conduct criminal background investigation and retain documentation of no criminal felonies.

5.2. IPM shall be solely responsible for providing proper compensation to the Consultants and all other IPM representatives per IPM's agreed terms therewith, and no employee or contractor of IPM shall be entitled to or have any right to demand salary, wages, benefits, employment or income taxes, reimbursements, workers compensation coverage, retirement, insurance or any other benefit, compensation or remuneration directly from Client, whether or not Client affords any such payment or benefit to its employees. Notwithstanding the foregoing, if applicable, Client shall be responsible to pay any alternative pension contributions as required by state law that arise as a result of the Services provided hereunder; Client agrees that it shall otherwise pay no wages, salary or other forms of direct or indirect compensation, including employee benefits, to any Consultant.

5.3. IPM shall assign and/or remove the Consultants according to the process set forth in Section 2 above. Notwithstanding the foregoing, Client may request in writing that IPM remove or reassign a Consultant, and IPM shall not unreasonably withhold its approval of any such request.

5.4. Client shall provide IPM's employees with a suitable workplace that complies with all applicable safety and health requirements, including adequate instructions, assistance, supervision and time to perform the Services. Where an IPM employee is given access to any of Client's computer equipment or systems, Client is responsible for maintaining a current

backup copy of any data associated with those systems and appropriate written internal control procedures relating thereto. Client agrees to give IPM immediate written notice of any concern or complaint regarding a Consultant's performance or conduct. Client agrees that it shall report all on-the-job illnesses, accidents and injuries of any Consultant to IPM immediately upon Client's receipt of notice or knowledge of same.

6. Compliance with Law. IPM agrees to comply, and to ensure that the Consultants and all other IPM representatives comply, with the provisions of Federal law, State statutes, Client's Code and any and all other applicable laws. Client agrees to comply with its obligations under all applicable laws, regulations and orders, including but not limited to laws relating to workplace safety and employment discrimination. Client represents that its actions under this Agreement do not violate its obligations under any agreement it has with any labor union.

7. Indemnification.

7.1. To the fullest extent permitted by law, IPM shall indemnify, defend and hold harmless the Client and each council member, officer, employee or agent thereof (the Client and any such person being herein called an "Indemnified Party"), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or Services of the Consultant or IPM, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement.

7.2. To the extent permitted by law, Client agrees to indemnify, defend and hold harmless IPM and its officers, directors, employees and agents from and against all Claims imposed upon or incurred by IPM, other than for job-related bodily injury or death of IPM's employees on assignment to Client, arising out of Client's failure to comply with its obligations under applicable laws, regulations or orders. Client's obligation to indemnify, defend and hold harmless will not apply to: indirect, special or consequential Losses, or the extent any Losses are the result of any negligent act or omission or intentional misconduct of Client, its employees or agents.

7.3. INTENTIONALLY OMITTED.

7.4. The party that is seeking indemnity from the other party pursuant to this Section 7 shall give the indemnifying party prompt notice of any such claim, allow the indemnifying party to control the defense and settlement thereof, and cooperate with the indemnifying party relating thereto. If the indemnifying party does not assume control of the defense, the indemnified party may do so at the expense of the indemnifying party. Failure or delay of notice of any claim hereunder shall not relieve an indemnifying party of its obligations

with respect to such claim except to the extent such indemnifying party can demonstrate that its interests have been materially prejudiced by such failure or delay.

7.5. The provisions of this Section 7 shall, for a period of one year, survive the termination of this Agreement and the expiration or termination of any Schedule hereto.

8. Bonding. Client shall provide all required bonding, if any, relating to the performance of Services as set forth herein.

9. Performance Warranty. IPM warrants that the Services rendered by the Consultants will conform to the requirements of this Agreement and to the prevailing professional standards for comparable services in the Phoenix metropolitan area. In the event of breach of the foregoing warranty, IPM will re-perform the deficient Services and correct the breach at no additional cost. Except for the warranties described herein, IPM disclaims all other warranties concerning the Services, express or implied, including without limitation any warranty of merchantability or fitness for a particular purpose and any warranty that might otherwise arise pursuant to applicable law.

10. Insurance.

10.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of IPM, IPM 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 Client. Failure to maintain insurance as specified herein may result in termination of this Agreement at the Client's option.

B. No Representation of Coverage Adequacy. By requiring insurance herein, the Client does not represent that coverage and limits will be adequate to protect IPM. The Client 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 IPM from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

C. Additional Insured. All insurance coverage, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the Client, its agents, representatives, officers, directors, officials and employees as Additional Named 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 Client, unless specified otherwise in this Agreement.

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

F. Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance and necessary endorsements citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

G. Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the Client, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of IPM or its Consultants. IPM shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

H. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the Client. IPM shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, IPM shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the Client and IPM. IPM shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, IPM will provide the Client 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 IPM'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 Client shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be IPM's responsibility to forward renewal certificates and declaration page(s) to the Client 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing this Agreement. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

(1) The Client, 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) IPM's insurance shall be primary insurance with respect to performance of this Agreement.

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

(4) ACORD certificate of insurance form 25 (2014/01) is preferred. If ACORD certificate of insurance form 25 (2001/08) is used, the phrases in the cancellation provision “endeavor to” and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives” shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

K. Endorsements. IPM shall provide the Client with the necessary endorsements to ensure Client is provided the insurance coverage set forth in this Section.

10.2 Required Insurance Coverage.

A. Commercial General Liability. IPM 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 Client, 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. Professional Liability. IPM shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the IPM, or anyone employed by IPM, or anyone for whose negligent acts, mistakes, errors and omissions IPM is legally liable, with an unimpaired liability insurance limit of \$1,000,000 each claim and \$1,000,000 annual aggregate.

C. Workers' Compensation Insurance. IPM shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over IPM's employees and Consultants 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.

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

11. Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the County in the State of Arizona in which Client is located.

12. Miscellaneous.

12.1. Amendments. Except as may be otherwise stated herein, this Agreement or any Schedule hereto may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of Client and IPM.

12.2. 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.

12.3. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors, representatives and assigns.

12.4. Entire Agreement; Interpretation; Parol Evidence. This Agreement and the Schedules hereto collectively represent 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 thereby. 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.

12.5. Waiver. The failure by one party hereto to require performance by the other party shall not be deemed to constitute a waiver of any such breach, nor of any subsequent breach by the other party of any provision of this Agreement, and shall not affect the validity of this Agreement, nor prejudice either party's rights in connection with any subsequent action. This Agreement or any provision hereof may be waived by a party hereto only via a writing signed by such party.

12.6. Force Majeure. IPM will not be responsible for failure or delay in assigning its employees to Client if the failure or delay is due to labor disputes and strikes, fire, riot, war, acts of nature or of God, or any other causes beyond the control of IPM.

12.7. Dispute Resolution. The parties agree in good faith to attempt to resolve amicably, without litigation, any dispute arising out of or relating to this Agreement or any Schedule hereto. In the event that any dispute cannot be resolved through direct discussions, the parties agree to endeavor to settle the dispute by mediation. Either party may make a written demand for mediation, upon which demand the matter shall be submitted to a mediation firm mutually selected by the parties. The mediator shall hear the matter and provide an informal opinion and advice within 20 days following written demand for mediation. Said informal opinion and advice shall not be binding on the parties, but shall be intended to help resolve the dispute. The mediator's fee shall be shared equally by the parties. Each party shall pay its own attorneys' fees and costs. If the dispute has not been resolved, the matter may then be submitted by either party to the judicial system.

12.8. Attorneys' Fees and Costs. Should any legal action, including mediation or other alternative dispute resolution methods, be necessary to enforce any term of provision of this Agreement or to collect any portion of the amount payable hereunder, then all reasonably incurred expenses of such legal action or collection, including witness fees, costs of the proceedings and attorneys' fees, shall be awarded to the substantially prevailing party.

12.9. 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 or email 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 Client: Grady Miller, Town Manager
Town of Fountain Hills
16705 E. Ave. of the Fountains
Fountain Hills, AZ 85268
Email: gmiller@fh.az.gov

A copy to: Aaron Arnson, Town Attorney
Pierce Coleman PLLC
4711 E. Falcon Dr., Suite 111
Mesa, AZ 85215
Email: aaron@pierceland.com

If to IPM: Interim Public Management, LLC
16868 North Stoneridge Court
Fountain Hills, Arizona 85268
Attn: Timothy G. Pickering, CEO
Email: tim@interimpublicmgmt.com

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 the earlier of (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 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.

12.10. Confidentiality of Records. IPM shall establish and maintain commercially reasonable procedures and controls for the purpose of ensuring information contained in its

records or obtained from Client 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 IPM's duties under this Agreement or for the management of IPM's business. Persons requesting such information should be referred to Client.

12.11. Americans With Disabilities Act. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFF Parts 35 and 36. (Non-Discrimination: IPM shall comply with Executive Order 2009-09, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunities, and all other applicable state and federal employment laws, rules and regulations, including the Americans With Disabilities Act. IPM shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, age, national origin or political affiliation or disability.)

12.12. Compliance With Federal and State Laws. IPM understands and acknowledges the applicability to it of the Americans with Disabilities Act, E-Verify, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989.

A. Under the provisions of A.R.S. § 41-4401, IPM hereby warrants to Client that IPM and each of its subcontractors will comply with, and are contractually obligated to comply with, all Federal Immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A) (hereinafter "Contractor Immigration Warranty").

B. Client retains the legal right to inspect the papers of any contractor or subcontractor employee who works on this Agreement to ensure that the contractor or subcontractor is complying with the Contractor Immigration Warranty. IPM agrees to assist Client in regard to any such inspections.

C. Client may, at its sole discretion, conduct random verification of the employment records of IPM and any subcontractors to ensure compliance with Contractor's Immigration Warranty. IPM agrees to assist Client in regard to any random verifications performed.

D. Neither IPM nor any subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if IPM or any subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214, Subsection A.

E. The provisions of this article must be included in any contract that IPM enters into with any and all of its subcontractors who provide services under this Agreement or any subcontract. "Services" are defined as furnishing labor, time or effort in

the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

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

12.14. No Kick-back Certification. No person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that member of Client's Council or any employee of Client has no an interest, financially or otherwise, in IPM's firm.

12.15. Conflict of Interest. From the date of this Agreement through the termination of its service to Client, IPM shall not accept, negotiate or enter into any contract or agreements for services with any other party that may create a substantial interest, or the appearance of a substantial interest in conflict with the timely performance of the work or ultimate outcome of this Agreement and/or adversely impact the quality of the work under this Agreement without the express approval of the Client. Whether such approval is granted shall be in the sole discretion of the Client. The parties hereto acknowledge that this Agreement is subject to cancellation pursuant to the provisions of A.R.S. § 38-511.

12.16. Agreement Subject to Appropriation. The Client is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the Client's then-current fiscal year. The Client's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the Town Council concerning budgeted purposes and appropriation of funds. Should the Town Council elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the Client shall be relieved of any subsequent obligation under this Agreement. The parties agree that the Client has no obligation or duty of good faith to budget or appropriate the payment of the Client's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The Town Council shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The Client shall keep IPM informed as to the availability of funds for this Agreement. The obligation of the Client to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the Client. IPM hereby waives any and all rights to bring any claim against the Client from or relating in any way to the Client's termination of this Agreement pursuant to this section.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the parties have executed this Agreement, effective on the Effective Date described above.

Client: Town of Fountain Hills, AZ

CR
4/11/19

Grady Miller 4/11/19
By: Grady Miller, Town Manager Date

ATTEST:

Elizabeth Burke
Elizabeth Burke, Town Clerk

Agreed to and accepted by Interim Public Management, LLC:

Tim Pickering 4.11.19
By: Tim Pickering, CEO Date

**SCHEDULE A
TO
PROFESSIONAL SERVICES AGREEMENT**

Effective Date of Schedule: April 10, 2019

Client: Town of Fountain Hills, Arizona

Services: Interim Development Services Director shall be performed by previously selected key personnel and in accordance with Section 2 of this Agreement.

Expected Commencement Date for Engagement: April 15, 2019

Expected Services Performance Period: Office hours in Fountain Hills' Town Hall, typically Monday through Thursday, including all Town Council and Planning Commission meetings that occur outside of the Client's normal business hours. No additional compensation will be paid for attendance at Town Council or Planning Commission Meetings.

Fees: Client shall pay to IPM the Fees set forth below, in consideration of the Services rendered by IPM hereunder:

Services Fees:	The Client shall pay IPM the following fee for each for each week during which the Consultant performs the Interim Services to the Client: \$3,895 per week, inclusive of all Town Council meetings.
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The Services Fees set forth shall increase by five percent on January 1, 2020, and annually thereafter. Services Fees shall be prorated by IPM as appropriate.

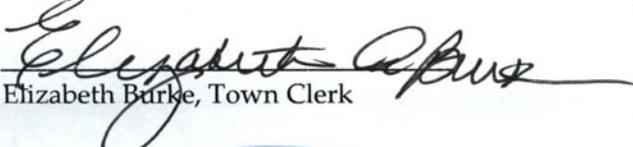
Term: This Schedule shall commence upon its stated Commencement Date above and shall continue until July 15, 2019 and continue month to month after said date. Prior to July 15, 2019, this Schedule may be terminated either (a) by either party without cause by providing the other party 30 days prior written notice of termination; or (b) by either party with cause by providing the other party at least 15 days prior written notice of termination for cause, provided that if the party giving such notice agrees that such cause has been cured during the first seven days of such notice period, then such notice of termination shall have no force or effect. Should the Client terminate this Schedule before July 15, 2019, without cause, Client shall pay to IPM as a termination fee and not as a penalty, 50% of the Services Fee set forth above for each week remaining between the date of Client's early termination and July 15, 2019.

IN WITNESS WHEREOF the parties have executed this Schedule, effective on the Effective Date described above.

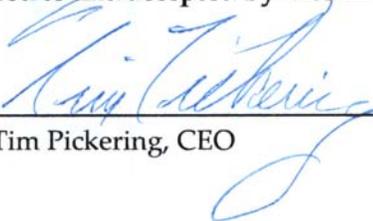
Client: Town of Fountain Hills, AZ


By: Grady Miller 4/10/19
Date

ATTEST:


Elizabeth Burke, Town Clerk

Agreed to and accepted by Interim Public Management, LLC:

By:  4.11.19
Date
Tim Pickering, CEO