



CONTRACT/GRANT INFORMATION SHEET

Date: 9/8/2015	
Staff's Name: Raymond Rees	Department: Development Services
Vendor's Name: Capital Reserve Analysts, LLC	
Address: 21289 E. Lords Way, Queen Creek, AZ 85142	
Phone: 480-840-7130	
Received W9 (if applicable): <input type="checkbox"/> Y <input type="checkbox"/> N	
Business License # (if applicable): Exp. Date: Click here to enter a date.	

ACCOUNTING SUMMARY	Org	Object	Project/#	\$
Accounting Code:	FRAD	6402		\$28,500
Accounting Code:				

CONTRACT SUMMARY

Contract Number Assigned:	C2016-155		
Contract Total:	\$28,500		
Brief Description of Service:	Reserve Analysis		
Contract Beginning Date:	9/8/2015		
Contract Expiration Date:	9/8/2016		
Budgeted Expenditure:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Budget Page #:			
Approved by Council:	<input type="checkbox"/> Yes; Date: Click here to enter a date.	<input type="checkbox"/> No	
Insurance Certificate provided:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Estimate Start Date:	Click here to enter a date.		
Estimate Completion Date:	Click here to enter a date.		

GRANT SUMMARY

Paid for by Grant:	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Name of Grantee:		
Grant Number Assigned:		
Date Council Approved:		

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
CAPITAL RESERVE ANALYSTS, LLC**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of September 1, 2015, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town"), and Capital Reserve Analysts, LLC, an Arizona limited liability company (the "Consultant").

RECITALS

A. Pursuant to Section 7.2 of the Town Procurement Policy and 3-3-16 of the Town Code, the Town may directly select consultants for professional and technical services.

B. The Consultant possesses the specific skill and experience required to perform a reserve study of Town-owned facilities (the "Services").

C. The Town desires to enter into an Agreement with the Consultant to perform the Services, as more particularly set forth in Section 2 below.

AGREEMENT

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

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until August 31, 2016, unless terminated as otherwise provided in this Agreement.

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

3. Compensation. The Town shall pay Consultant an amount not to exceed \$28,500.00 for the Services at the rates set forth in the Fee Proposal, attached hereto as part of Exhibit A.

4. Payments. The Town shall pay the Consultant a 50% deposit for the Services. Thereafter, the Town shall pay Consultant the balance due for the Services upon delivery of the final report and upon submission and approval of the final invoice. The invoice shall document and itemize all work completed. The invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment. The contract number must be referenced on the invoice.

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

6. Consultant Personnel. Consultant shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Consultant agrees to assign specific individuals to key positions. Consultant agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the Town. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Consultant shall immediately notify the Town of same and shall, subject to the concurrence of the Town, replace such personnel with personnel possessing substantially equal ability and qualifications.

7. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the Town at reasonable times during Consultant's performance. The Consultant shall provide and maintain a self-inspection system that is acceptable to the Town.

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

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

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

11. Insurance.

11.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Consultant, Consultant shall purchase and maintain, at its own expense,

hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the Town. Failure to maintain insurance as specified herein may result in termination of this Agreement at the Town's option.

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

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

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

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

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

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

H. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-

insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the Town. Consultant shall be solely responsible for any such deductible or self-insured retention amount.

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

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Consultant will provide the Town with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Consultant's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The Town shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be Consultant's responsibility to forward renewal certificates and declaration page(s) to the Town 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without a reference to this Agreement. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing this Agreement will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

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

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

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

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

(2) Consultant's insurance shall be primary insurance with respect to performance of this Agreement.

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

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

11.2 Required Insurance Coverage.

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

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

C. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Consultant engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. Consultant shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Consultant's employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

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

12. Termination; Cancellation.

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

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

12.3 Due to Work Stoppage. This Agreement may be terminated by the Town upon 30 days' written notice to Consultant in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the Town to the Consultant for the undisputed portion of its fee due as of the termination date.

12.4 Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. The Town may cancel this Agreement without penalty or further

obligations by the Town or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Town or any of its departments or agencies is, at any time while this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

12.5 Gratuities. The Town may, by written notice to the Consultant, cancel this Agreement if it is found by the Town that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the Town for the purpose of securing this Agreement. In the event this Agreement is canceled by the Town pursuant to this provision, the Town shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Consultant an amount equal to 150% of the gratuity.

12.6 Agreement Subject to Appropriation. The Town 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 Town's then current fiscal year. The Town's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the Town concerning budgeted purposes and appropriation of funds. Should the Town 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 Town shall be relieved of any subsequent obligation under this Agreement. The parties agree that the Town has no obligation or duty of good faith to budget or appropriate the payment of the Town'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 shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The Town shall keep Consultant informed as to the availability of funds for this Agreement. The obligation of the Town to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the Town. Consultant hereby waives any and all rights to bring any claim against the Town from or relating in any way to the Town's termination of this Agreement pursuant to this section.

13. Miscellaneous.

13.1 Independent Contractor. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the Town. Consultant, its employees and subcontractors are not entitled to workers' compensation benefits from the Town. The Town does not have the authority to supervise or control the actual work of Consultant, its employees or subcontractors. The Consultant, and not the Town, shall determine the time of its performance of the services provided under this Agreement so long as Consultant meets the requirements of its agreed Scope of Work as set forth in Section 2 above. Consultant is neither prohibited from entering into other

contracts nor prohibited from practicing its profession elsewhere. Town and Consultant do not intend to nor will they combine business operations under this Agreement.

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

13.3 Laws and Regulations. Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future Town and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future Occupational Safety and Health Administration standards.

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

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

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

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

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

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

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

13.10 Subcontracts. No subcontract shall be entered into by the Consultant with any other party to furnish any of the material or services specified herein without the prior written approval of the Town. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Consultant.

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

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

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

13.14 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the Town may offset from any money due to the Consultant any amounts Consultant owes to the Town for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The Town may offset from any money due to the Consultant any amounts Consultant owes to the Town for delinquent fees, transaction privilege taxes and property taxes, including any interest or penalties.

13.15 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: Grady E. Miller, 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 Consultant: Capital Reserve Analysts, LLC
21289 East Lords Way
Queen Creek, Arizona 85142
Attn: Casey Arnett

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 Consultant shall establish and maintain procedures and controls that are acceptable to the Town for the purpose of ensuring that information contained in its records or obtained from the Town or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Consultant's duties under this Agreement. Persons requesting such information should be referred to the Town. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under this Agreement.

13.17 Records and Audit Rights. To ensure that the Consultant and its subcontractors are complying with the warranty under subsection 13.18 below, Consultant's and its subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Consultant and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to

audit and/or reproduction during normal working hours by the Town, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Consultant's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Consultant's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 13.18 below. To the extent necessary for the Town to audit Records as set forth in this subsection, Consultant and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the Town shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the Town to Consultant pursuant to this Agreement. Consultant and its subcontractors shall provide the Town with adequate and appropriate workspace so that the Town can conduct audits in compliance with the provisions of this subsection. The Town shall give Consultant or its subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

13.18 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Consultant's or its 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 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the Scope of Work or the Fee Proposal, the documents shall govern in the order listed herein.

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

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“Town”

TOWN OF FOUNTAIN HILLS,
an Arizona municipal corporation



Grady E. Miller, Town Manager

ATTEST:

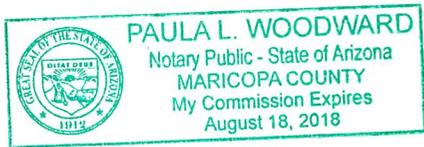


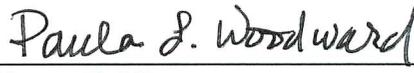
Bevelyn J. Bender, Town Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On September 9, 2015, before me personally appeared Grady E. Miller, the Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the Town of Fountain Hills.





Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

“Consultant”

CAPITAL RESERVE ANALYSTS, LLC,
an Arizona limited liability company

By: 

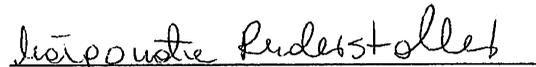
Name: CASEY ARNETT

Title: OWNER

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On SEPTEMBER 3, 2015, before me personally appeared CASEY ARNETT, the OWNER of CAPITAL RESERVE ANALYSTS, LLC, an Arizona limited liability company, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the limited liability company.


Notary Public

(Affix notary seal here)

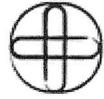


MALGORZATA RUDERSTALLER
Notary Public - Arizona
Maricopa County
Expires 03/16/2018

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
CAPITAL RESERVE ANALYSTS, LLC

[Scope of Work and Fee Proposal]

See following pages.



CAPITAL RESERVE ANALYSTS

21289 East Lords Way, Queen Creek, Arizona | 480.840.7130 | support@azreservestudy.com | www.azreserveanalysts.com

Town of Fountain Hills

c/o Raymond Rees

Subject: Reserve Study Proposal

Dear Raymond:

Thank you for contacting Capital Reserve Analysts for your Reserve planning needs. Enclosed you will find a copy of our official Project and Financial proposal along with a sample Reserve Study. We also provide a free Microsoft Excel spreadsheet with your completed Reserve Study so you can do your own analysis throughout the year between your formal study updates.

As a Reserve Study consulting firm wholly dedicated to "Bringing the Future into the Present" by performing Reserve Studies for our residential, educational, recreational, and worship facility clients, we are dedicated to the present and future success of our clients. We appreciate the opportunity to assist you with a realistic long-term Reserve Study that helps you anticipate and prepare for major capital needs.

If you have any questions about our proposal or about our company in general, please do not hesitate to contact me.

Best regards,

Casey Arnett

Capital Reserve Analysts

480.840.7130

www.azreserveanalysts.com

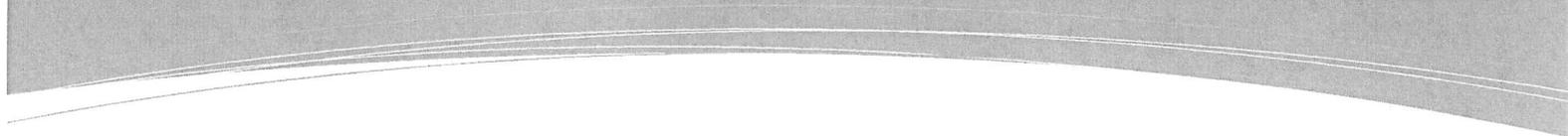


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1.1 Project Description:

The Town of Fountain Hills is seeking a proposal for Reserve Study services on the following projects:

- **Town Center Complex** - Town Hall, Community Center, Physical Plant (Cooling towers & Chillers) and Library/Museum. Address: 16705 East Avenue of the Fountains, Fountain Hills Arizona 85268
- **Fire Station(s) #1 & #2** – Rural Metro Stations #822 and #823. Defibrillators, hydraulic equipment, SCBA (tanks, masks, regulators), Vehicle radios, Thermal imaging cameras and personnel radios. Address: 16426 East Palisade Boulevard, Fountain Hills Arizona 85268. 16831 East Saguaro Boulevard, Fountain Hills Arizona 85268. ***Replacement of Fire Station #2 and Addition of Fire Station #3 to be included in analysis**
- **(4) Parks** –
 - ***Fountain Park***: (29-acre Lake - lake liner, piping system, multiple pumps, large fountain, dam and aeration system, 18-hole disc golf course, 5 picnic Ramadas, playground with splash pad, parking lots, restrooms, 7,200 linear feet of walkways complete with bollard lighting and various pieces of park furniture)
 - ***Golden Eagle Park***: (25-acre area, 1 small picnic Ramada and 1 large picnic Ramada with barbecues, 1 medium size Ramada, 2 playgrounds, 2 lighted basketball courts, 2 lighted sand volleyball courts, 4 lighted multipurpose ball fields, 4 lighted tennis courts, A horseshoe pit, restroom building, Shaded picnic area adjacent to the sand volleyball court)
 - ***Four Peaks Park***: (15-acre area, 100-foot pedestrian footbridge, 18 foot by 24 foot group Ramada with a barbecue, 2 lighted basketball courts, 2 lighted tennis courts, 2 multipurpose ball fields with lights and spectator seating, 50 parking spaces, 5 chilled drinking fountains, 750 square foot restroom/control building, playground, Lighted 150 foot by 300 foot soccer field with spectator seating)
 - ***Desert Vista Park***: (3-acre facility, 8 shade structures, 6 drinking fountains, restroom/control building, area lighting, playground, various pieces of park furniture, skate park, and walking track)
- **Community Theater** – (2) Buildings (~ 2,315 Sq. Ft. & ~ 3,330 Sq. Ft.) Address: 1145 East Rand Drive, Fountain Hills Arizona 85268
- **Kiwanis Building** – (1) ~ 3,745 Sq. Ft. building. Address: 16957 East Kiwanis Drive, Fountain Hills Arizona 85268

Major building and site elements to be quantified and inspected as part of our visual field inspection at each of the above listed locations include but are not limited to: Roofs, gutters & downspouts, Exterior façade (including windows and exterior doors), Interior finishes (carpet, interior paint, lighting, and office furniture), Kitchen fixtures and equipment, Mechanical equipment (generators, chillers, cooling towers, HVAC, boilers, elevators etc.), Site lighting and signage, Pump systems, Control panels and Filters, Concrete sidewalks, Fences, Landscape improvements, Retaining walls, Asphalt parking lots, Storm water management features, Playground equipment, Restroom facilities, Lake mechanical equipment, lake liners and Irrigation systems.

1.2 Proposed Scope of Work:

Since The Town of Fountain Hills has not prepared a “Full” Level I Reserve Study report in the past, we recommend a **Level I “Full” Reserve Study to be performed.**

According to National Reserve Study Standards of the CAI the following five tasks are performed with a Level I “Full” Reserve Study:

- Component Inventory (based on on-site visual observations and measurements)
- Condition Assessment
- Life and Valuation Estimates
- Fund Status
- 30-Year Funding Plan

The primary scope of work will include:

1. **A visual field inspection** of the building elements and site improvements described in section 1.1 of this document to determine the existing condition of these elements. The building elements and site improvements will be inspected in order to determine the typical or “average” condition of the elements. The building elements and site improvements will be field-measured, and the component quantities derived from these measurements will be included in the Reserve Study.

2. **Estimation of the remaining life and the probable replacement/rehabilitation costs** of the various components, based upon the field inspection of the components and any site-specific conditions that may affect the remaining life or replacement cost of these components.

3. **Annual funding recommendations** will be developed (with multiple funding goal scenarios considered) based upon the estimated life cycles of the observed components, the estimated replacement/rehabilitation costs of the observed components, and information supplied by the client for use in this analysis, and for the initial fiscal year of the analysis (as selected by the client) and the following thirty (30) fiscal years that constitute the standard 30-year analysis time window.

4. **A report of our observations**, Client-supplied information (as relevant to the analysis), and our conclusions will be prepared; and will include a schedule of the components considered in the analysis, including the estimated current replacement costs and life cycles of the considered components, projections of the estimated expenditures and recommended annual funding scenarios over the analysis time window, and a break-down of the projected capital projects considered in the analysis by fiscal year over the analysis time window.

The estimated current replacement costs and life cycles are based upon industry pricing standards, the costs of recent projects administrated by Capital Reserve Analysts, and any documentation provided by the Client, however, we will adjust these numbers based upon our estimates of the effects of actual site variables upon the life cycles and replacement costs of the considered components.

1.3 Schedule and Fees:

Capital Reserve Analysts will submit the Reserve Study to the client (Town of Fountain Hills) within (60) working days of receiving the 50% deposit fee. In an effort to conserve paper, we will provide electronic copies of the Reserve Study. Additional bound copies will be provided for a nominal fee.

Fees:

The cost for a Reserve Study described section 1.2 of this document will be **Twenty eight thousand five hundred dollars (\$28,500)**.

Additional services such as attendance of board meetings, supplemental site visits requested by the client, or other services not outlined in section 1.2 of this document will be invoiced at an hourly rate of \$140/hour.

Terms: 50% deposit upon acceptance of this proposal and 50% upon delivery of final report. Project timeline does not begin until receipt of 50% deposit.

1.4 Financial Proposal:

We are presenting all (3) industry levels of service for future planning purposes.

SERVICE LEVEL	WHAT YOU GET	PRICE	TURNAROUND
Level I "With-Site-Visit"	Component List is developed from a full set of new measurements. Report includes full-color photographic inventory.	\$ 28,500	8-Weeks
Level II "With-Site-Visit"	Component List from a prior professional Reserve Study is updated, based on visual observations, but no re-measuring. Report includes full-color photographic inventory.	\$ 18,300	6-Weeks
Level III "Update-No-Site-Visit"	Component List from a prior professional Reserve Study is updated, based on a series of interviews. Report does not include a photographic inventory.	\$ 3,000	3-Weeks