PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN OF FOUNTAIN HILLS AND FPA, LTD., D/B/A FIREWORKS PRODUCTIONS OF ARIZONA, LTD.

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of May 16, 2016, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town") and FPA, Ltd., an Arizona corporation, d/b/a Fireworks Productions of Arizona (the "Consultant"). The Town and the Consultant are collectively referred to as the "Parties."

RECITALS

A. Pursuant to Section 7.1 of the Town Procurement Policy and Section 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 provide and exhibit fireworks for the Town's display on Monday, July 4, 2016, at Fountain Park in Fountain Hills, Arizona (the "Services").

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

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 September 1, 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 $10,000.00 in accordance with Section 4 below. Additional fees will be incurred, as follows, if the display is rescheduled or canceled pursuant to Section 12.3 below:

3.1 If the display is rescheduled to July 5, 2016, after the display has been set up, the Town will pay Consultant an additional $2,000.00 to have the crew, following the July 4th cancelled show, tear down and clean up the site and return on July 5th to set up the show.

3.2 In the event the display is canceled on either July 4 or 5, Consultant will be reimbursed for Actual Expenses related to the preparation of the unsuccessful display in an

amount not to exceed $7,000.00. "Actual Expenses" shall include properly documented expenses for labor, rentals, permits, set up and dismantling the fireworks display, but shall exclude Consultant's travel or lodging and the cost paid to safeguard the display.

4. Payments. The Town shall pay Consultant $5,000.00 as the initial deposit for the Services no later than June 1, 2016. The balance due will be paid on July 15, 2016.

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. If deemed qualified, the Consultant is encouraged to hire Town residents to fill vacant positions at all levels. 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 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, each Party (each, an "Indemnitor") shall indemnify, defend and hold harmless the other Party and each council member, officer, employee or agent thereof (the Party being indemnified and any such person referred to herein as an "Indemnitee"), 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 Indemnitee 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 Indemnitor, its officers, employees, agents, or any tier of subcontractor in the performance of the Indemnitor's obligations under 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 a reference to 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.

(5) The date of the fireworks display, July 4, 2016.

(6) The date the Consultant will bring the equipment for the fireworks display to the display site and the date the Consultant will remove the equipment for the fireworks display form the display site.

(7) The location of the fireworks display.

(8) The names of all Consultant's personnel engaged in the fireworks display on July 4, 2016.

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 $10,000,000 for each occurrence, $2,000,000 Products and Completed Operations Annual Aggregate and a $10,000,000 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 $10,000,000 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 in the amount of $9,500,000 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 and not later than 24 hours prior to the Display Time (as defined in Exhibit A, Scope of Work). Consultant shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subcontractors to cease such work. If termination occurs more than 30 days before the Display Time, Consultant may retain $1,000.00 from the Town Fee as

compensation in full for Services performed to the date of such termination, but shall return to the Town the remaining $4,000.00 of the Town Fee. If termination occurs between 24 hours and 30 days before the Display Time, Consultant shall be entitled to compensation as set forth in Section 3 above.

12.2 For Cause. The Town may terminate this Agreement with 48 hours' notice for cause in the event of any default by the Consultant, or if the Consultant fails to comply with any of the terms and conditions of this Agreement. Unsatisfactory performance as judged by the Town Manager and failure to provide Town, upon request, with adequate assurances of future performance shall all be causes allowing Town to terminate this Agreement for cause. In the event of termination for cause (A) the Town shall not be liable to Consultant for any amount, and Consultant shall be liable to the Town for any and all damages sustained by reason of the default which gave rise to the termination and (B) Consultant shall return the Town Fee to the Town within ten days of such written notice of termination.

12.3 Weather or Safety Cancellation. If the Parties determine that the date of the fireworks display, July 4, 2016, is impossible or impractical because of inclement weather or safety concerns, the display will be canceled and rescheduled to July 5, 2016; provided, however, that the Town, as represented by the Town's Assistant Fire Chief/Fire Marshal, has final authority to determine whether to cancel if the Parties disagree.

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 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 and in Exhibit A. 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 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

If to Consultant: Fireworks Productions of Arizona (FPA)
17034 South 54th Street
Chandler, Arizona 85226
Attn: Kerry Welty, President

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 and the Scope of Work, the Agreement shall govern.

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.

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:

Nancy Walter

~~Bevelyn J. Bender~~, Town Clerk
Acting

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On May 23, 2016, 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.

RHONDA M. BRENNEMAN
Notary Public - State of Arizona
MARICOPA COUNTY
My Commission Expires June 30, 2019

Rhonda M. Brenneman
Notary Public

(Affix notary seal here)

2661635.3

"**Consultant**"

FPA, LTD., an Arizona corporation,
d/b/a Fireworks Productions of Arizona

By:_____

Name: KERRY J. WELTY

Title: PRESIDENT

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

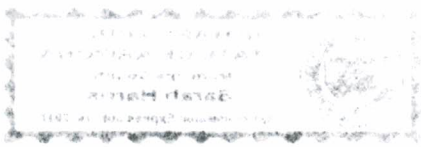
On May 18, 2016, before me personally appeared _____ Kerry Welty, the President, of FPA, LTD., an Arizona corporation, d/b/a Fireworks Productions of Arizona, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the corporation.

_____
Notary Public

(Affix notary seal here)

NOTARY PUBLIC
STATE OF ARIZONA
Maricopa County
Sarah Harris
My Commission Expires July 14, 2017

2661635.3



SCOPE OF WORK

1. Fireworks Display.

1.1 The Town will host a fireworks display on July 4, 2016, at Fountain Park in Fountain Hills, Arizona ("Display Site"). The Display Site has been approved by the Consultant with the appropriate perimeter for safety, and a map of the Display Site prepared by the Consultant is attached to the Scope of Work. The Consultant will provide a 15-20 minute fireworks display scheduled to begin at 9 p.m. (local time, Phoenix, Arizona) (the "Display Time").

1.2 The fireworks display will be fired from a cleared area at least 280 feet from spectator seating. The spectators will be seated along the perimeter of Fountain Park.

1.3 The Consultant will set up the equipment and fireworks at Fountain Park on July 4, 2016, and will remove the equipment, exploded fireworks and related debris after the fireworks display is over and the equipment, exploded fireworks and related debris have had a chance to cool down, on July 4, 2016 (or July 5, 2016, if rescheduled).

2. Services to be Performed. The Consultant shall:

2.1 Provide an on-site trained and experienced Project Manager who will be responsible for all aspects of the fireworks display, including set-up and clean-up relating to the fireworks display services, and additional technicians and assistants as necessary for the safe and timely set up, discharge and post firing cleanup of the fireworks display. The Project Manager must hold an Alcohol, Tobacco and Firearms license or be an employee possessor under the Alcohol Tobacco and Firearms User Permit.

2.2 Comply with all verbal and written directives and requirements of the Town of Fountain Hills Fire Department in connection with the fireworks display.

2.3 Preview the firing site at least one month prior to the event to determine if there are any hazards or safety issues that need to be addressed. Any hazards or safety issues shall be immediately brought to the attention of the Town upon discovery.

2.4 Agree that the Display Site and perimeter is safe for the fireworks display and coordinate with the Town regarding the security precautions necessary for the fireworks display.

2.5 Set-up and prepare the firing site. This shall include safe and secure storage of the fireworks on the event day.

2.6 Coordinate with the Town on all permits, planning meetings, documentation requirements and miscellaneous items.

2.7 Secure all necessary permits, licenses and approvals required by applicable local, state or federal laws and regulations as well as regulations imposed by local police and fire departments.

2.8 Clean up the site after the fireworks display, including sweeping the area for any unfired pyrotechnics, removal of all boxes, frames, lumber and equipment and refilling holes.

2.9 Store any equipment owned by the Consultant.

2.10 Provide for Consultant and Consultant's staff travel accommodations to the site.

3. Security. The Town shall furnish all necessary materials for and will set up restraining lines pursuant to instructions supplied by Consultant and in compliance with most recent edition of the National Fire Protection Association 1123 Code for Fireworks Display. The Town will provide, at its own cost and expense, adequate private or public security personnel to ensure that no vehicles are parked within the Display Site and that no individuals, other than those specifically authorized by Consultant, enter the Display Site. The security personnel will remain on the perimeter of the Display Site and will not enter the Display Site before, during, or immediately following the fireworks display.