NOTICE OF REGULAR MEETING

FOUNTAIN HILLS TOWN COUNCIL

Mayor Ginny Dickey

Vice Mayor Art Tolis	**Councilmember Alan Magazine**
Councilmember Dennis Brown	**Councilmember Mike Scharnow**
Councilmember Sherry Leckrone	**Councilmember David Spelich**

TIME:	**5:30 P.M. – REGULAR MEETING**
WHEN:	**TUESDAY, MARCH 5, 2019**
WHERE:	**FOUNTAIN HILLS COUNCIL CHAMBERS** **16705 E. AVENUE OF THE FOUNTAINS, FOUNTAIN HILLS, AZ**

Councilmembers of the Town of Fountain Hills will attend either in person or by telephone conference call; a quorum of the Town's various Commission, Committee or Board members may be in attendance at the Workshop and/or Council meeting.

Notice is hereby given that pursuant to A.R.S. §1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the Town Council are audio and/or video recorded and, as a result, proceedings in which children are present may be subject to such recording. Parents, in order to exercise their rights may either file written consent with the Town Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the Town will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 have been waived.

REQUEST TO COMMENT

The public is welcome to participate in Council meetings.

TO SPEAK TO AN AGENDA ITEM, please complete a ***Request to Comment*** card, located in the back of the Council Chambers, and hand it to the Town Clerk prior to discussion of that item, if possible. Include the **agenda item** on which you wish to comment. Speakers will be allowed three contiguous minutes to address the Council. Verbal comments should be directed through the Presiding Officer and not to individual Councilmembers.

TO COMMENT ON AN AGENDA ITEM IN WRITING ONLY, please complete a ***Request to Comment*** card, indicating it is a written comment, and check the box on whether you are FOR or AGAINST an agenda item, and hand it to the Town Clerk prior to discussion, if possible.

REGULAR MEETING

1. **CALL TO ORDER AND PLEDGE OF ALLEGIANCE** – Mayor Ginny Dickey

2. **INVOCATION** – Pastor Bill Good, Fountain Hills Presbyterian Church

3. **ROLL CALL** – Mayor Ginny Dickey

4. **MAYOR'S REPORT**

5. **SPECIAL PUBLIC APPEARANCES/PRESENTATIONS**

6. **CALL TO THE PUBLIC**

   Pursuant to A.R.S. 38-431.01(H), public comment is permitted (not required) on matters NOT listed on the agenda. Any such comment (i) must be within the jurisdiction of the Council and (ii) is subject to reasonable time, place, and manner restrictions. The Council will not discuss or take legal action on matters raised during "Call to the Public" unless the matters are properly noticed for discussion and legal action. At the conclusion of the Call to the Public, individual councilmembers may (i) respond to criticism, (ii) ask staff to review a matter, or (iii) ask that the matter be placed on a future Council agenda.

7. **CONSENT AGENDA ITEMS**

   All items listed on the Consent Agenda are considered to be routine, non-controversial matters and will be enacted by one motion and one roll call vote of the Council. All motions and subsequent approvals of consent items will include all recommended staff stipulations unless otherwise stated. There will be no separate discussion of these items unless a councilmember or member of the public so requests. If a councilmember or member of the public wishes to discuss an item on the Consent Agenda, he/she may request so prior to the motion to accept the Consent Agenda or with notification to the Town Manager or Mayor prior to the date of the meeting for which the item was scheduled. The items will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

   A. APPROVAL OF the minutes of the Regular Meeting of February 19, 2019.

   B. CONSIDERATION OF adopting Resolution 2019-09, abandonment of the 10' Public Utility and Drainage Easement at the rear and a portion of the southerly side of Plat 204, Block 11, Lot 6 (11012 N. Walsh Drive), as recorded in Book 142, Page 10, records of Maricopa County, Arizona. (EA 2019-03)

   C. CONSIDERATION OF approving a Special Event Liquor License Application submitted by the Fountain Hills Cultural and Civic Association (Vicky Derksen), for the Dark Skies Fest event to be held at the Community Center and Centennial Circle, 13001 N. La Montana Drive, Fountain Hills, AZ from 4:00PM to 9:30 PM on Saturday, March 30, 2019.

8. **REGULAR AGENDA**

   A. CONSIDERATION OF:

      i. Approval of a Special Event Liquor Application for the Town of Fountain Hills to provide and serve alcohol within Fountain Park, located at 12925 N. Saguaro Boulevard in Fountain Hills, in conjunction with the Town's Fountain Hills Music Fest Celebration, from 4:00 PM to 9:30 PM, on Saturday, April 6, 2019; and

      ii. Approval of an agreement with Bone Haus Brewery to provide and serve alcohol at the above event.

   B. CONSIDERATION OF approval of contract with Willdan for User Fee Study.

   C. CONSIDERATION OF adopting Resolution 2019-14 approving an IGA with the Fountain Hills Sanitary District for two restroom facilities and well control rooms at Fountain Park.

D. CONSIDERATION OF Resolution 2019-015 approving the Town of Fountain Hills, Arizona Town Council Rules of Procedure, amended and restated March 5, 2019.

E. DISCUSSION WITH POSSIBLE DIRECTION relating to any item included in the League of Arizona Cities and Towns' weekly Legislative Bulletin(s) or relating to any action proposed or pending before the State Legislature.

9. COUNCIL DISCUSSION/DIRECTION to the TOWN MANAGER

Item(s) listed below are related only to the propriety of (i) placing such item (s) on a future agenda for action or (ii) directing staff to conduct further research and report back to the Council:

10. SUMMARY OF COUNCIL REQUESTS and REPORT ON RECENT ACTIVITIES by the Mayor, individual Councilmembers, and the Town Manager.

11. ADJOURNMENT.

AGENDA POSTED:

2.28.19
Date

Elizabeth A Burke
Elizabeth A. Burke, Town Clerk

The Town of Fountain Hills endeavors to make all public meetings accessible to persons with disabilities. Please call 480-816-5100 (voice) or 1-800-367-8939 (TDD) 48 hours prior to the meeting to request a reasonable accommodation to participate in the meeting or to obtain agenda information in large print format. Supporting documentation and staff reports furnished the Council with this agenda are available for review in the Clerk's Office.

ITEM 7-A

TOWN OF FOUNTAIN HILLS

TOWN COUNCIL AGENDA ACTION FORM

Meeting Date: 3/5/2019 **Meeting Type:** Regular

Agenda Type: Consent **Submitting Department:** Administration

Staff Contact Information: Elizabeth A. Burke, Town Clerk, 480-816-5115; eburke@fh.az.gov

REQUEST TO COUNCIL (Agenda Language): CONSIDERATION OF approving the Town Council Meeting Minutes from the Regular Meeting of February 19, 2019.

Applicant: NA

Applicant Contact Information: NA

Owner: N/A

Owner Contact Information: NA

Property Location: NA

Related Ordinance, Policy or Guiding Principle: A.R.S. §38-431.01

Staff Summary (background): The intent of approving previous meeting minutes is to ensure an accurate account of the discussion and action that took place at that meeting for archival purposes. Approved minutes are placed on the Town's website and maintained as permanent records in compliance with state law.

Risk Analysis (options or alternatives with implications): NA

Fiscal Impact (initial and ongoing costs; budget status): NA

Budget Reference (page number): NA

Funding Source: NA

If Multiple Funds utilized, list here:

Budgeted; if No, attach Budget Adjustment Form: NA

Recommendation(s) by Board(s) or Commission(s): NA

Staff Recommendation(s): Approve

List Attachment(s): Minutes of the Regular Meeting of February 19, 2019.

SUGGESTED MOTION (for Council use): MOVE to approve the consent agenda as listed.

Prepared by:

Elizabeth A Burke

Elizabeth A. Burke, Town Clerk 2/28/2019

Approved:

Grady E. Miller

Grady E. Miller, Town Manager 2/28/2019

TOWN OF FOUNTAIN HILLS
MINUTES OF THE REGULAR MEETING OF THE
FOUNTAIN HILLS TOWN COUNCIL
FEBRUARY 19, 2019
REGULAR MEETING

1. **CALL TO ORDER AND PLEDGE OF ALLEGIANCE** – Mayor Ginny Dickey

Mayor Dickey called the meeting of February 19, 2019, to order at 5:30 p.m.

2. **INVOCATION** – John Nichols, Harvest Bible Chapel

John Nichols gave the invocation.

3. **ROLL CALL** – Mayor Ginny Dickey

COUNCILMEMBERS PRESENT: Mayor Ginny Dickey; Vice Mayor Art Tolis; Councilmembers Mike Scharnow, Dennis Brown, Alan Magazine, Sherry Leckrone and David Spelich.

COUNCILMEMBERS ABSENT: None.

STAFF PRESENT: Town Manager Grady Miller, Town Attorney Aaron D. Arnson, and Town Clerk Elizabeth A. Burke.

4. **MAYOR'S REPORT**

A. RECOGNITION of outgoing Board/Commission members.

Mayor Dickey read a brief statement and presented Certificates of Appreciation to the following outgoing commissioners:

Tammy Bell	Strategic Plan Advisory Commission
Jim Judge	Community Services Advisory Commission
Patt Canning	Community Services Advisory Commission
Klaus Schadle	McDowell Mountain Preservation Commission
Ken Thornton	McDowell Mountain Preservation Commission

Councilmember Magazine thanked them for their time and effort put in for the Town.

B. REPORT ON creation of an ad hoc committee to plan the 30th Anniversary of the Incorporation of the Town and the 50th Anniversary of the Founding of Fountain Hills.

Mayor Dickey reported that this idea had been brought up by a citizen and she wanted to let everyone know that she would like to move forward. She asked Council and the public to let the Town know if they were interested in serving on an ad hoc committee. She said that anyone interested should notify Nancy Walter with the Town Manager's Office.

5. SPECIAL PUBLIC APPEARANCES/PRESENTATIONS

A. Monthly Report by Captain Larry Kratzer of the Maricopa County Sheriff's Office.

Mayor Dickey reported that she and Councilmember Spelich had recently met with the Town Manager and representatives from the Maricopa County Sheriff's Office. One idea was to have Captain Kratzer give a monthly report at a Council meeting, so she invited Captain Kratzer to come forward.

Captain Kratzer reported on the following:

On 02/10/19 at Fountain Park three vehicles were broken into to steal personal property that had been secured. He said that MCSO wanted to remind everyone to be cognizant of their surroundings and if they do need to secure personal property in their vehicle (which he advised against altogether) that it be placed in the trunk. He said that if anyone saw suspicious persons or activities taking place they should notify MCSO immediately.

He reported that MCSO participated with the Fountain Hills High School, participating with their STEM (Science, Technology, Electronics, Mathematics) program focusing on forensic science.

He reported that there would be a Coffee with a Cop on March 9, 2019, from 8:00 a.m. to 10:00 a.m. in the Sheriff's Office Parking Lot and he encouraged anyone interested to come out. He said that they are also looking into have a representative from the Maricopa County Attorney's Office out there.

Councilmember Tolis thanked Captain Kratzer on his report and asked, after reading disturbing reports online through Fountain Hills Connection, if there was a way to have someone monitor the posts and debunk or confirm statements being made.

Captain Kratzer said that there have been some talks with the Town Manager about a way to respond to social media, and they will probably need to discuss that further. Councilmember Leckrone said that she understands that the public loves to have information about those types of things, but as a law enforcement officer, they are probably needing to protect the information as well. Captain Kratzer said that there are certain things they could not put out there, but they will definitely have a conversation on the matter.

Captain Kratzer said that there had been a rumor that Fountain Hills had been singled out as far as media not having access to the MCSO reports. He clarified that Sheriff Penzone has a Public Information Officer, and all media requests are expected to go through that office. He said that in talking with the Fountain Hills Times and hearing of their frustration in not receiving responses in a timely manner, he has discussed the issue with the PIO's office and they are working on a way to provide more timely responses. He said that oftentimes information has to be redacted and that can take time. He said that they are working with the

Administrative Sergeant about providing a summary report to the local media. They will continue to work on that process.

Mayor Dickey thanked Captain Kratzer and Chief Lopez for their meeting last week. She said that they discussed several issues such as pedestrian safety and intersections. She also noted that there is a new software program for providing tips.

Councilmember Scharnow said that being a former editor of the newspaper, he knows firsthand that the paper has always had a good working relationship and he was dismayed when he heard about the change in practice. Captain Kratzer said that there was no issue locally, it is just a change in policy.

He also reported on the P3 program, working with the High School, the drug Coalition, including the School Resource Officer, etc. He said that the new program, which replaces the Text to Tip, provides a five-minute seminar on how to use it.

6. CALL TO THE PUBLIC

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None

7. CONSENT AGENDA ITEMS

All items listed on the Consent Agenda are considered to be routine, non-controversial matters and will be enacted by one motion and one roll call vote of the Council. All motions and subsequent approvals of consent items will include all recommended staff stipulations unless otherwise stated. There will be no separate discussion of these items unless a councilmember or member of the public so requests. If a councilmember or member of the public wishes to discuss an item on the Consent Agenda, he/she may request so prior to the motion to accept the Consent Agenda or with notification to the Town Manager or Mayor prior to the date of the meeting for which the item was scheduled. The items will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

A. APPROVAL OF the minutes of the Regular Meeting of February 5, 2019, and the Special Meeting of February 7, 2019.

B. CONSIDERATION OF Resolution 2019-08, abandonment of the 10' Public Utility and Drainage Easement at the rear and westerly side of Plat 204, Block 11, Lot 25 (16921 E. Windchime Drive), as recorded in Book 142, Page 10, records of Maricopa County, Arizona. (EA 2019-02)

C. CONSIDERATION OF Resolution 2019-07, abandonment of the 10' Public Utility and Drainage Easement at the rear of Plat 212, Block 11, Lot 5 (16217 E. Keymar Drive), as recorded in Book 141, Page 17, records of Maricopa County, Arizona, with stipulation. (EA 2019-01)

D. CONSIDERATION OF approving a Special Event Liquor License application submitted by Stan Feffer representing Grand Canyon Title Agency located at 3900 E. Camelback Road, Suite 250, Phoenix, Arizona who will be holding a grand opening event for their business located at 16845 E. Avenue of the Fountains, Building D, Suite 110, Fountain Hills, Arizona on March 7, 2019 from 5:00 PM to 7:00 PM.

E. CONSIDERATION OF approving an application for a Temporary Extension of Premises/Patio Permit submitted by Andy Weiner representing Bone Haus Brewing Company located at 14825 E. Shea Blvd., Suite 101, Fountain Hills, Arizona to hold a lobster boil on March 3, 2019.

F. CONSIDERATION OF approving a Special Event Liquor License Application submitted by Carol Caroll representing the Fountain Hills Sister Cities Corporation located at 16957 E. Kiwanis Drive, Fountain Hills, AZ for the purpose of a fundraiser to be held on March 9, 2019, from 5:30 PM to 9:00 PM.

G. CONSIDERATION OF approving a Special Event Liquor License Application submitted by Samuel Coffee representing the Fountain Hills VFW who will be serving beer in conjunction with the Irish Fountain Fest in Fountain Park, on March 16, 2019 from 11:00 AM to 5:00 PM.

Councilmember Brown **MOVED** to approve Consent Agenda Items 7-A through 7-G; **SECONDED** by Councilmember Magazine; passed unanimously.

8. REGULAR AGENDA

A. CONSIDERATION of appointing five (5) citizens to serve on the Community Services Advisory Commission for a two-year term beginning on January 1, 2019, and ending on December 31, 2020.

Councilmember Leckrone **MOVED** to appoint the following commissioners to the Community Services Advisory Commission; **SECONDED** by Councilmember Scharnow; passed unanimously:

Jerry Gorrell
Sharoon Grzybowski
Natalie Varela
Sharon Morgan
Daniel Fecteau

B. CONSIDERATION OF appointing seven (7) citizens to serve on the McDowell Mountain Preservation Commission for a combination of terms including two-year terms beginning on January 1, 2019, and ending on December 31, 2020, and three-year terms beginning on January 1, 2019, and ending on December 31, 2021.

Mayor Dickey said that she was recommending the following names for appointment, but would not include terms as they desire to work that out as a commission. She noted that the Town is working on confirming changes to the commission and later in the agenda they will be talking about another seat for this commission. If they decide to do that, then they will make the changes to the by-laws and she can appoint the eighth commissioner.

Councilmember Magazine **MOVED** to appoint the following individuals to the McDowell Mountain Preservation Commission; **SECONDED** by Councilmember Brown; passed unanimously:

Bill Myers
Bill Craig
Stan Ruden
Tom Barberic
Tom Aiello
Paul Garvey
Scott Grzybowski

C. CONSIDERATION OF appointing one (1) citizen to fill a vacancy on the Municipal Property Corporation for a term beginning on February 19, 2019, and ending on September 28, 2020.

Councilmember Magazine **MOVED** to appoint Debbie Skehen to the Municipal Property Corporation for a term ending on September 29, 2020; **SECONDED** by Councilmember Brown; passed unanimously.

D. ORDINANCE 19-01 (Case #Z2018-09)

i. PUBLIC HEARING to receive comments on Ordinance 19-01, a text amendment to the Fountain Hills Zoning Ordinance, Chapter 12.02.A, to allow residential dwelling units as a Use Subject to Special Use Permits within the "C-0 – Commercial Office" zoning district.

Senior Planner Marissa Moore provided a PowerPoint presentation on Items D-i, D-ii and E regarding a zoning text amendment and an associated Special Use Permit for property located at 16857 East Saguaro.

BACKGROUND

She explained that they have asked to be able to have a residence in an office building and she determined that there were two options to address this:

1) Rezone both of the parcels to C-1, however some of the uses in a C-1 zone were not compatible with the surrounding neighborhood; or

2) Request to add single-family and multi-family resident to the existing use, through a Special Use Permit.

CONSIDERATIONS

She said that they would need to have some upgrades to provide for a residence upstairs because the Uniform Building Code requires fire separation and it would need a different entrance/exit. She said that the property owner is aware of that. She said that they could have five dwelling units on their property at this time, but if they wanted to request more than the one, they would have to request a Special Use Permit which requires two public hearings.

LEGAL STIPULATIONS OF APPROVAL

Ms. Moore said that if the zoning text amendment is approved, it would not take effect for 30 days. It would require a building permit and Certificate of Occupancy for anyone to live there. The Special Use Permit said that the building permit has to be applied for within six months of the Permit. Additionally, the Special Use Permit would run with the property, not the owner. They do not expire.

Mayor Dickey opened the public hearing for Items D-i, D-ii and E.

Ms. Moore said that they did have one e-mail from a resident who owns the property next door and they wanted to know what was going on. At the Planning and Zoning Commission meeting there was one individual

She said that the property was already set up as a residence illegally at some point, most likely before the current property. The property owner communicated to the Town about the use of the second floor. She said that the property owner is there if they had any questions. Her understanding was that they are Creative Prosthetics and sometimes they have patients there to be fitted. While they are waiting for work to be done or adjustments to be made, he likes to have a nice place for them to rest. The property owner said that he is planning to use it for single residence now. If he decides to turn it into multi-family, it would come back to the Town for approval.

Vice Mayor Tolis said that there were two separate examples of things they have approved—one off of Fountain Hills Blvd. and the other on Saguaro. Ms. Moore said that the first item is off of El Pueblo and they did not pull a building permit. It has expired and they are looking into different options. The other one, on Saguaro, had a Special Use Permit for a business on the first floor with a condition that the residence on the second floor be vacated, and it was. She said that fencing was required for that particular business.

She said that the main reasons why they want to look at the residential requests is that the Special Use Permit allows an extra level of scrutiny to see if its use fits into an area, such as the one on Saguaro was near an auto body shop and the School's Bus Barn. They were concerned with future residents that may have young children. Ultimately, the decision would be up to the Council. She said that the one on El Pueblo had a school and daycare nearby so it made sense.

Mayor Dickey closed the public hearing.

ii. Consideration of Ordinance 19-01.

Councilmember Leckrone **MOVED** to adopt Ordinance 2019-01; **SECONDED** by Vice Mayor Tolis; passed unanimously.

E. SPECIAL USE PERMIT (Case #SU2018-03)

i. PUBLIC HEARING to receive comments on a proposed Special Use Permit pursuant to Fountain Hills Zoning Ordinance, Chapter 12.02.A. to allow a single family residential dwelling at 16857 E. Saguaro Blvd. (AKA APN#176-10-207), located in the "C-O – Commercial Office" zoning district.

ii. Consideration of proposed Special Use Permit.

Councilmember Brown **MOVED** to approve the Special Use Permit; **SECONDED** by Vice Mayor Tolis; passed unanimously.

F. ORDINANCE 19-02 (Case #2018-11)

i. PUBLIC HEARING to receive comments on Ordinance 19-02 pursuant to Stipulation #2 of the Town Council approval on June 19, 2018, in reference to reverting the zoning designation of 0.36 acres located at 11639 N. Saguaro Blvd. (AKA APN#176-08-448) from C-3 – General Commercial zoning district to C-1 – Neighborhood Commercial and Professional zoning district.

Ms. Moore briefly reviewed this item indicating that the property was rezoned from C-1 to C-3, with stipulations that the applicant apply for a building permit within six months or it would revert back to C-1. A building permit was not applied for, but Arizona Revised Statutes requires that a reversion of zoning come back before the Council; it does not happen automatically.

LOCATION MAP

RECOMMENDATION

Ms. Moore explained that because the stipulation was approved by Council, and no building permit had been applied for, staff was recommending that it revert back to the previous C-1 zoning. She said that the property owner is present and there was a letter submitted today that requests that the property remain zoned C-3 with the stipulations removed.

The owner of the property, Roger Kuechler, said that the property was under contract to put in an automotive extension of an existing building. A problem with parking and how many cars could fit on the lot became apparent and the buyer backed out.

Ms. Moore gave a brief account of the difference between the C-1 and C-3 zones. She said that C-1 is commercial neighborhood, which has less than ten uses. It uses less of the property. The C-3 includes all of the C-1 uses and has additional uses added to it. It enables businesses with more noise and traffic; it is a more intense use of the property.

Councilmember Magazine noted that he opposed the original rezone request. He had gone up and down the road and counted the number of auto-related services, and he thought there were enough. He did not think they needed C-3 in that location.

Vice Mayor Tolis said that one of the arguments he made was that they have a gluttony of commercial office space that is vacant, and they had an auto dealer interested in expanding their business. He said that they want high-dollar items to be sold as it increases the Town's revenues. He said that the reason it did not work was the parking. He said that by keeping the property C-3 it allows the Town and the property the ability to market to a much broader base. Councilmember Brown said that he could not say it better; he completely agreed.

Councilmember Magazine said, with all due respect, that it seemed that very often they look at applications and say, "we have to increase our tax base," when they really need to look at the whole area and the impact on it.

Councilmember Scharnow said that he had mixed feelings as he is pro-business and the tax base, but he is concerned about other potential uses that could go in there that Council would have no say on. If someone brought in a plan that Council agreed with they could always change the zoning in the future.

Mayor Dickey said that she was there when the property was rezoned before—it was approved 5-2. She said that part of the conversation at that time included Councilmember DePorter talking about kids playing soccer and the increased traffic. She said that she would prefer to see what is going to be planned rather than keeping it in abeyance.

Ms. Moore explained that if the Council approved the property staying at C-3, then any use permitted within the C-3 zone would be allowed and the Council would have no input.

Roger Kuecher, the property owner, said that they would prefer to keep it C-3. He noted that his realtor was present and he could answer any questions Council may have. Ms. Moore noted that the property owner was requesting that the property remain zoned C-3 and the stipulations be removed.

Mr. Dzintars Grauds, the property owner's realtor, said that he has had the lot listed for sale for two and a half years; most of the time the rejection is because of the C-1 zoning.

Mr. Grauds said that Rex Foley wanted to change the property into C-3. His cost was $9,000 and then found that the parking did not work for his use. He said that someone is not going to come in and request a change because of the added costs and time required.

Vice Mayor Tolis said that he would welcome all of the property owners in town moving forward and being proactive with their zoning. He said that it was noteworthy to address the fact that the lot has restrictions with the space. He said that they are not going to get a scary C-3 building. There are a lot of stipulations that would have to be approved, and variances. He would support keeping it C-3.

Ms. Moore noted that if a buyer applied for a variance, that request would go before the Board of Adjustment and an appeal of that decision would go to the Superior Court.

Councilmember Leckrone said that she agreed with what Councilmember Scharnow said; she would prefer to hear a proposed project and then change the zoning if necessary.

Vice Mayor Tolis said that the whole reason why the permit was not pulled for Rex Foley was because of the parking requirements. He thinks that the Council should do anything they can to bring in business. He said that this was not a residential area. It was adjacent to plenty of other commercial businesses.

Councilmember Brown said that, as they discussed in the Retreat, if they are going to help this town grow they are going to need to do some rezoning. This is a perfect example of an opportunity to do that, and he would agree with the Vice Mayor. He said that they need to start looking at zoning differently than they have for the past 50 years.

Mayor Dickey closed the public hearing.

ii. Consideration of Ordinance 19-02.

Vice Mayor Tolis **MOVED** to allow the property to stay C-3 and that they remove the restrictions currently on the property and allow it to be marketed as a C-3 property; **SECONDED** by Councilmember Brown; vote passed with a roll call vote of 4-3:

Councilmember Magazine	NAY
Councilmember Leckrone	AYE
Councilmember Spelich	AYE
Mayor Dickey	NAY
Vice Mayor Tolis	AYE
Councilmember Brown	AYE
Councilmember Scharnow	NAY

G. DISCUSSION AND POSSIBLE DIRECTION to staff to amend McDowell Mountain Preservation Commission by-laws to allow for one additional commission seat and the designation of Emeritus status for one or more members.

Mr. Miller said that during the most recent interview process by the subcommittee for appointments to the McDowell Mountain Preservation Commission, it was recommended that they add an eighth member to the Commission and that up to two of its members be emeritus members. He said that if the Council was okay with that direction, staff would bring back the necessary changes to the Commission by-laws.

Councilmember Brown said that this came about while they were interviewing the applicants. He said that they had eight outstanding people and they struggled as a committee to find any one that they did not want to appoint. Councilmember Leckrone said that not only were they qualified, but they each brought different things to the board and they felt that the diversity was beneficial.

Mr. Miller said that based on the feedback, he heard a consensus from Council to move forward so staff would bring back the necessary changes.

H. DISCUSSION WITH POSSIBLE DIRECTION relating to any item included in the League of Arizona Cities and Towns' weekly Legislative Bulletin(s) or relating to any action proposed or pending before the State Legislature.

Councilmember Magazine reported that he and the Mayor participated in the Monday morning legislative phone call and they then reviewed some of the proposed legislation. Brief discussion was held on how to participate in the future and the need to review the entire wording of proposed legislation.

Councilmember Brown **MOVED** to have staff report that the Council supported S1165 (Distracted Driving) and H2672 (Short-term Rentals); **SECONDED** by Councilmember Magazine; passed unanimously.

Councilmember Scharnow **MOVED** to recommend that the Council also support the League's position on S1460 (TPT Digital Goods and Services); **SECONDED** by Councilmember Magazine; passed unanimously.

9. COUNCIL DISCUSSION/DIRECTION to the TOWN MANAGER

Item(s) listed below are related only to the propriety of (i) placing such item (s) on a future agenda for action or (ii) directing staff to conduct further research and report back to the Council:

None

10. SUMMARY OF COUNCIL REQUESTS and REPORT ON RECENT ACTIVITIES by the Mayor, individual Councilmembers, and the Town Manager.

Vice Mayor Tolis reported that he attended the car show and it was well attended. He said that Rachael and Grace did a great job with planning events and tourism, and he saw the billboard on Beeline which is being paid for by grant funds.

Mayor Dickey reported that the video of the Retreat is now on the website and was 5-1/2 hours long.

She reported that she and Councilmembers Spelich and Scharnow attended the First Time Piece Solution event. She thanked them for attending and also thanked Scott and Mike in Economic Development.

She said that they have been attending a lot of ribbon cuttings and on February 26, 2019, she and the Vice Mayor and Councilmember Scharnow would be holding the Town Talk at the Community Center.

She said that Council was going to hold a special meeting on March 12, to discuss revenues, but not all could attend so it has been changed to March 26, 2019.

11. ADJOURNMENT.

Councilmember Brown **MOVED** to adjourn; **SECONDED** by Vice Mayor Tolis; passed unanimously.

The Regular Meeting of the Fountain Hills Town Council held February 19, 2019, adjourned at 7:20 p.m.

TOWN OF FOUNTAIN HILLS

Ginny Dickey, Mayor

ATTEST AND PREPARED BY:

Elizabeth A. Burke, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Session held by the Town Council of Fountain Hills in the Town Hall Council Chambers on the 19th day of February, 2019. I further certify that the meeting was duly called and that a quorum was present.

DATED this 5th day of March, 2019.

Elizabeth A. Burke, Town Clerk

NOTE: For further details on the discussion of a particular agenda item, please visit http://www.fh.az.gov/agendacenter to view a video of the entire Council Meeting.

ITEM 7-B

TOWN OF FOUNTAIN HILLS

TOWN COUNCIL
AGENDA ACTION FORM

Meeting Date: 3/5/2019

Meeting Type: Regular Session

Agenda Type: Consent

Submitting Department: Development Services

Staff Contact Information: Randy Harrel; Town Engineer; rharrel@fh.az.gov ; 480-816-5112

REQUEST TO COUNCIL (Agenda Language): CONSIDERATION OF Resolution 2019-09, abandonment of the 10' Public Utility and Drainage Easement at the rear and a portion of the southerly side of Plat 204, Block 11, Lot 6 (11012 N. Walsh Drive), as recorded in Book 142, Page 10, records of Maricopa County, Arizona.. (EA 2019-03)

Applicant: Jerry Fitzpatrick

Applicant Contact Information: 11012 N. Walsh Drive; Fountain Hills, AZ 85268; Tele. 480-292-8132; E-mail: jerryfitzpatrickjregmail.com

Owner: Francis Gerard Fitzpatrick, Jr./ Susan Linda

Owner Contact Information: Same

Property Location: Same

Related Ordinance, Policy or Guiding Principle: N/A

Staff Summary (background)**:** This item on the Town Council's agenda is a proposal to abandon the pre-incorporation 10' Public Utility and Drainage Easement at the rear and a portion of the southerly side of Plat 204, Block 11, Lot 6.

All of the public utilities have approved of abandonment of this easement. The front 15' of the existing southerly side PUE/DE should be retained for existing and potential future utility boxes, on and adjacent to the lot there. (The applicant is aware of this requirement.)

With their abandonment application, the applicant submitted, for reference, a potential plan for a swimming pool on this lot. Staff has advised the applicant by e-mail that this lot lies within an Expansive Clay Zone (Category A; 0'-5' depth to the expansive clay), per MCO's pre-incorporation soils report (Sergent, Hauskins & Beckwith Job No. E79-6). That report indicated that "It is not advisable to develop conventional pools on lots in risk category A". Staff will therefore require an acceptable soils report, together with acceptable structural design, for a Building Permit for a swimming pool on this lot. That pool permit will also need to address existing and proposed retaining walls, grade changes, and loadings.

Staff has reviewed the site to determine any on-site drainage issues in addition to the Town's general interest in the easement. There is no need for the Town to retain the drainage easement proposed to be abandoned, with the understanding that the owners of Lot 6 are required to pass the developed flows generated by the upstream lots across their property.

Risk Analysis (options or alternatives with implications)**:** N/A

Fiscal Impact (initial and ongoing costs; budget status)**:** N/A

Budget Reference (page number): N/A

Funding Source: NA

If Multiple Funds utilized, list here: N/A

Budgeted; if No, attach Budget Adjustment Form: NA

Recommendation(s) by Board(s) or Commission(s): N/A

Staff Recommendation(s): Staff recommends approval of Resolution 2019-09, abandonment of the 10' Public Utility and Drainage Easement at the rear and a portion of the southerly side of Plat 204, Block 11, Lot 6.

List Attachment(s): Vicinity Map; Aerial Photo Map; Resolution 2019-09 with Exhibit A map.

SUGGESTED MOTION (for Council use): Move to approve Resolution 2019-09, abandonment of the 10' Public Utility and Drainage Easement at the rear and a portion of the southerly side of Plat 204, Block 11, Lot 6.

Prepared by:

Randy L Harrel

Randy Harrel, Town Engineer 2/19/2019

Approved:

Grady E. Miller

Grady E. Miller, Town Manager 2/19/2019

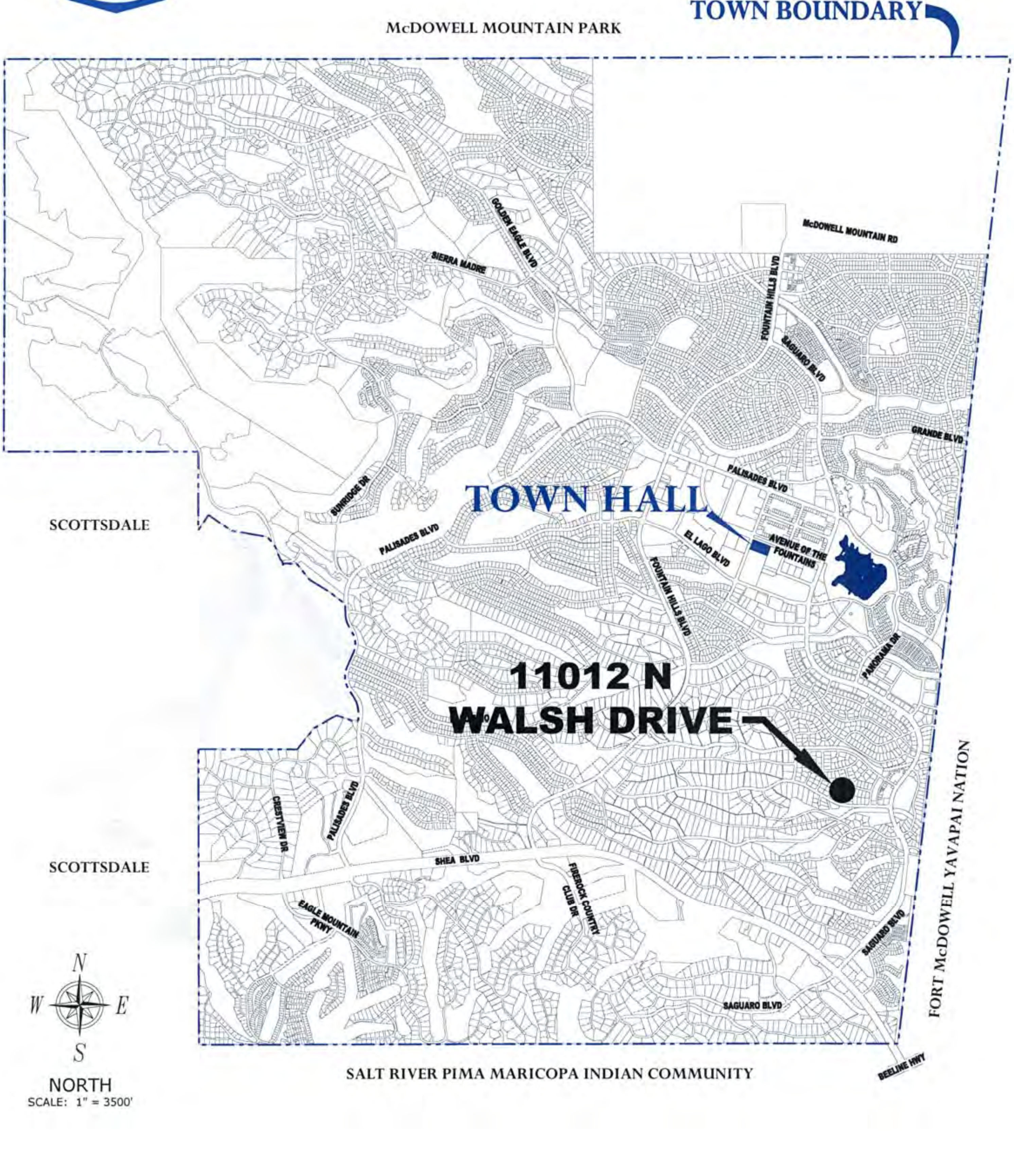
Director's Approval:

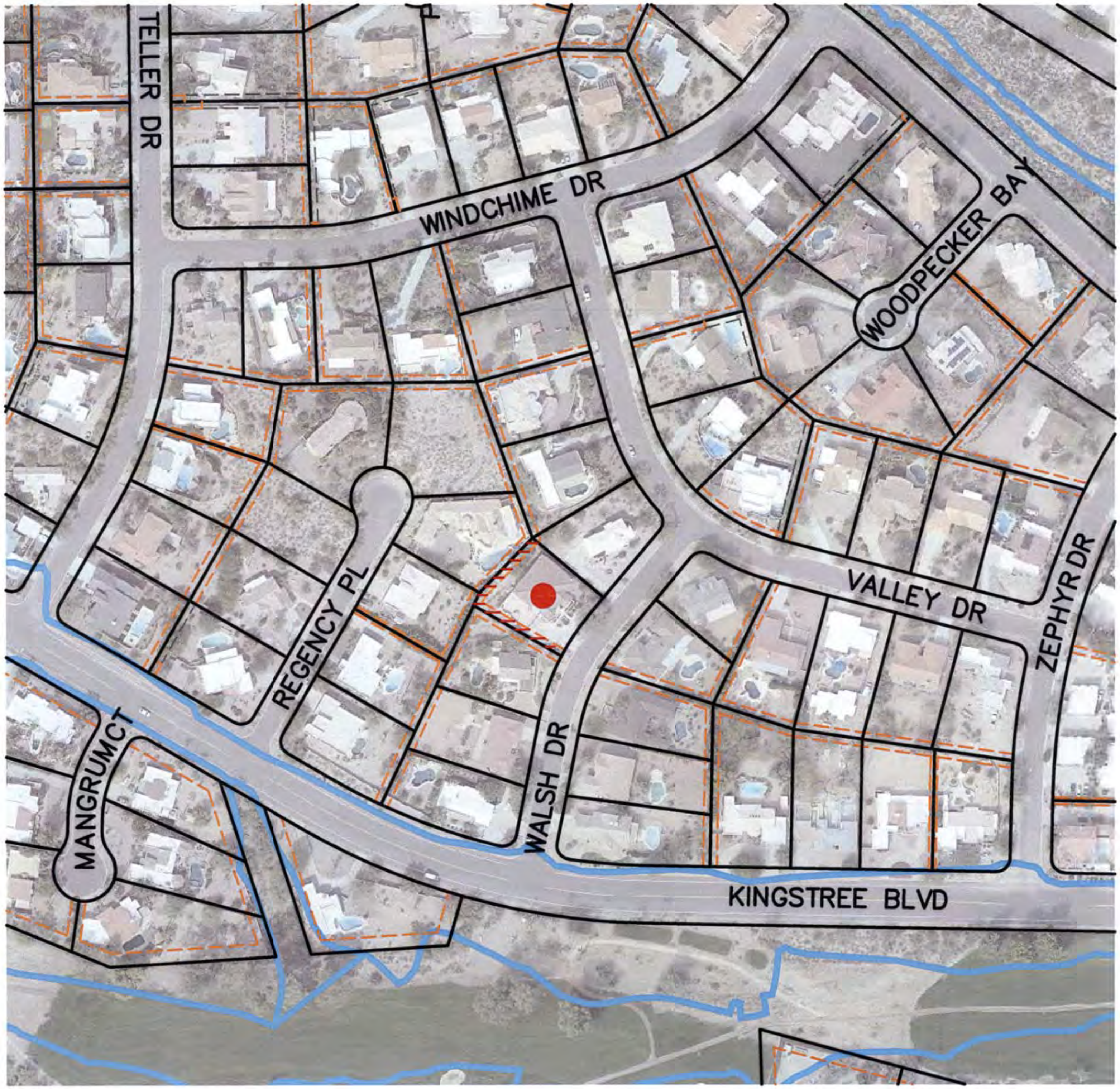
2/20/19

Robert Rodgers, Development Services Director 2/19/2019

TOWN OF FOUNTAIN HILLS
DEVELOPMENT SERVICES DEPARTMENT

VICINITY MAP





DEVELOPMENT SERVICES

AERIAL PHOTO MAP

PLAT 204, BLOCK 11,
LOT 6
11012 N WALSH DR

LEGEND:

LOTLINE
ROW
EASEMENT
FLOODPLAIN

SUBJECT SITE

N
W E
S

0 100' 200'

SCALE: 1" = 200'

AERIAL FLIGHT DATE: 11/17

RESOLUTION 2019-09

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, ABANDONING WHATEVER RIGHT, TITLE, OR INTEREST IT HAS IN THE 10' PUBLIC UTILITY AND DRAINAGE EASEMENT LOCATED AT THE REAR AND A PORTION OF THE SOUTHERLY SIDE PROPERTY LINES OF PLAT 204, BLOCK 11, LOT 6, FOUNTAIN HILLS, ARIZONA, AS RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED IN BOOK 142 OF MAPS, PAGE 10

RECITALS:

WHEREAS, the Mayor and Council of the Town of Fountain Hills (the "Town Council"), as the governing body of real property located in the Town of Fountain Hills (the "Town"), may require the dedication of public streets, sewer, water, drainage, and other utility easements or rights-of-way within any proposed subdivision; and

WHEREAS, the Town Council has the authority to accept or reject offers of dedication of private property by easement, deed, subdivision, plat or other lawful means; and

WHEREAS, all present utility companies have received notification of the proposed abandonment.

ENACTMENTS:

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, as follows:

SECTION 1. That the certain public utility and drainage easement, located at the rear and a portion of the southerly side property lines of Plat 204, Block 11, Lot 6, (11012 N. Walsh Drive) Fountain Hills, as shown in Exhibit A, and as recorded the Office of the County Recorder of Maricopa County, Arizona, Book 142 of Maps, Page 10, are hereby declared to be abandoned by the Town. Certain lots within this subdivision are subject to lot-to-lot drainage runoff. The property owner is required to pass the developed flows generated by the upstream lots across their property.

SECTION 2. That this Resolution is one of abandonment and disclaimer by the Town solely for the purpose of removing any potential cloud on the title to said property and that the Town in no way attempts to affect the rights of any private party to oppose the abandonment or assert any right resulting there from or existing previous to any action by the Town.

PASSED AND ADOPTED BY the Mayor and Council of the Town of Fountain Hills, this 5th day of March, 2019.

FOR THE TOWN OF FOUNTAIN HILLS:

Ginny Dickey, Mayor

ATTESTED TO:

Elizabeth A. Burke, Town Clerk

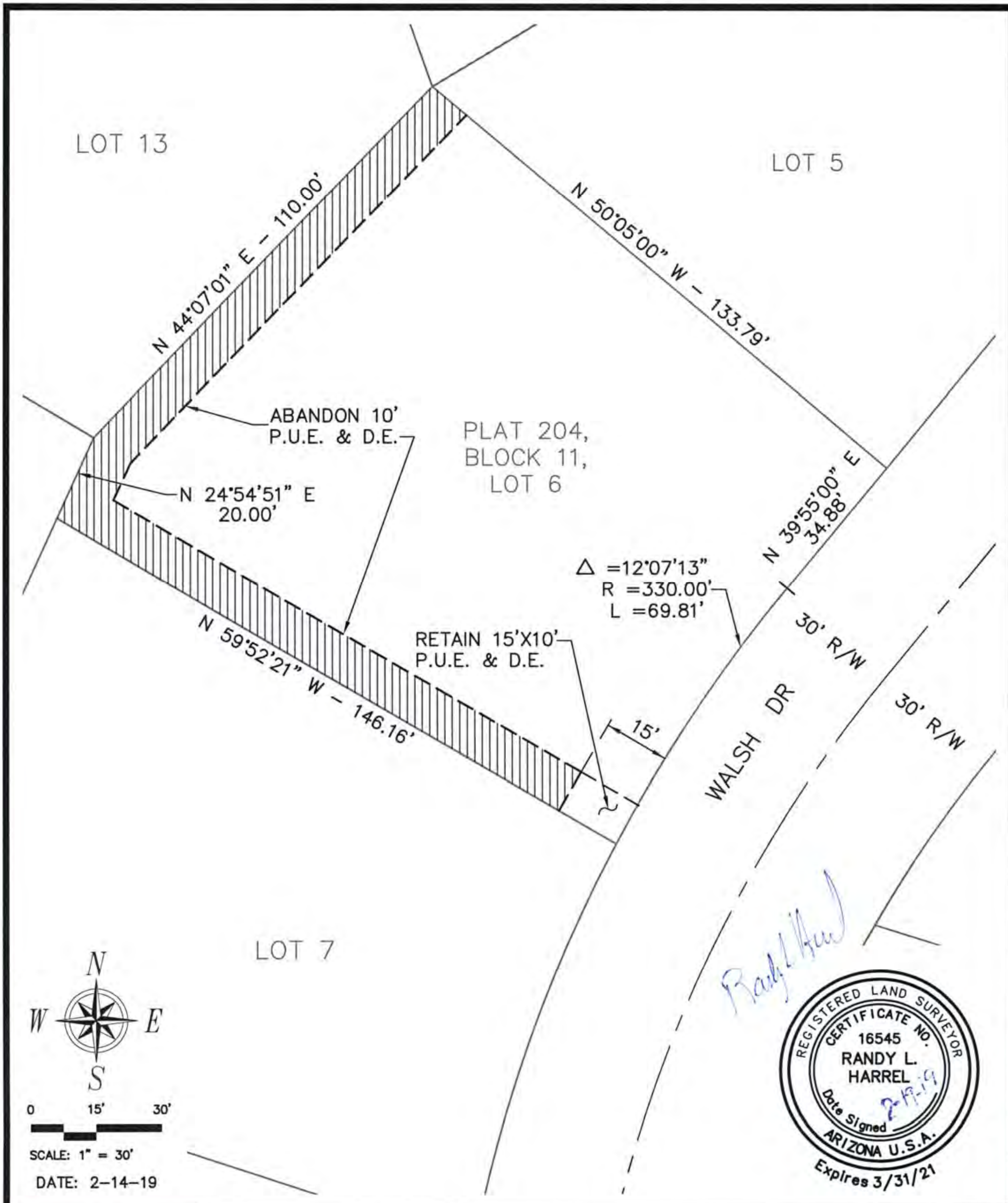
REVIEWED BY:

Grady E. Miller, Town Manager

APPROVED AS TO FORM:

Aaron D. Arnson, Town Attorney

TOWN OF FOUNTAIN HILLS
EASEMENT ABANDONMENT
EXHIBIT "A"
PLAT 204, BLOCK 11, LOT 6



ITEM 7-C

TOWN OF FOUNTAIN HILLS

TOWN COUNCIL AGENDA ACTION FORM

Meeting Date: 3/5/2019

Meeting Type: Regular Session

Agenda Type: Consent

Submitting Department: Community Services

Staff Contact Information: Mike Fenzel, Community Center Manager, mfenzel@fh.az.gov, (480) 816-5116

REQUEST TO COUNCIL (Agenda Language): CONSIDERATION OF approving a SPECIAL EVENT LIQUOR LICENSE APPLICATION submitted by the Fountain Hills Cultural and Civic Association (Vicky Derksen), for the Dark Skies Fest event to be held at the Community Center and Centennial Circle, 13001 N. La Montana Drive, Fountain Hills, AZ from 4:00PM to 9:30 PM on Saturday, March 30, 2019.

Applicant: Vicky Derksen

Applicant Contact Information: (480) 837-5867

Owner: N/A

Owner Contact Information: N/A

Property Location: Fountain Hills Community Center and Centennial Circle, 13001 N. La Montana Drive, Fountain Hills, AZ

Related Ordinance, Policy or Guiding Principle: A.R.S.§4-203.02; 4-261 and R19-1-228, R19-1-235, and R19-1-309, Community Center Operating Policy (Section 15-G).

Staff Summary (background): The purpose of this item is to obtain Council's recommendation regarding the special event liquor license application submitted by Vicky Derksen for submission to the Arizona Department of Liquor.

Risk Analysis (options or alternatives with implications): N/A

Fiscal Impact (initial and ongoing costs; budget status): N/A

Budget Reference (page number): N/A

Funding Source: NA

If Multiple Funds utilized, list here: N/A

Budgeted; if No, attach Budget Adjustment Form: NA

Recommendation(s) by Board(s) or Commission(s): N/A

Staff Recommendation(s): Approve

List Attachment(s): Application

SUGGESTED MOTION (for Council use): Move to approve the Special Event Liquor License

Prepared by:

Mike Fenzel, Community Center Manager 2/19/2019

Director's Approval:

Rachael Goodwin, Community Services Director 2/20/2019

Approved:

Grady E. Miller, Town Manager 2/20/2019

Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

FOR DLLC USE ONLY
Received Date:
Job #:
CSR:
License #:

APPLICATION FOR SPECIAL EVENT LICENSE

Fees: $25.00 per day for 1-10 days (consecutive) *Cash Checks or Money Orders Only*
A service fee of $25.00 will be charged for all dishonored checks (A.R.S § 44-6852)

IMPORTANT INFORMATION: This document must be fully completed or it will be returned.
The Department of Liquor Licenses and Control must receive this application ten (10) business days prior to the event.

SECTION 1 Applicant must be a member of a qualifying nonprofit organization, political party, or Government entity and authorized by an Officer, Director, or Chairperson of the Organization.

1. Applicant: Derksen (Last) Vicky (First) Ann (Middle) [redacted] (Date of Birth)
2. Applicant's mailing address: [redacted] E Fayette Dr. (Street) Fountain Hills (City) AZ (State) 85268 (Zip)
3. Applicant's home/cell phone: (480) 837-5867 Applicant's business phone: (___) ______
4. Applicant's email address: Vickyann95@gmail.com

SECTION 2 Name of Organization, Candidate or Political Party/Gov.:

Name of Licensed Contractor **(if any)**: Fountain Hills Cultural and Civic Association

SECTION 3 Non-Profit/IRS Tax Exempt Number: 86-0358244

SECTION 4 Event Location: Fountain Hills Community Center - A Town of Fountain Hills owned facility.

Event Address: 13001 N. LaMontana, Fountain Hills, AZ 85268

SECTION 5 Dates and Hours of Event. Days must be consecutive but may not exceed 10 consecutive days.
See A.R.S. § 4-244(15) and (17) for legal hours of service.

PLEASE FILL OUT A SEPARATE APPLICATION FOR EACH "NON-CONSECUTIVE" DAY

	Date	Day of Week	Event Start Time AM/PM	License End Time AM/PM
DAY 1:	3/30/19	Saturday	4:00 PM	9:30PM
DAY 2:				
DAY 3:				
DAY 4:				
DAY 5:				
DAY 6:				
DAY 7:				
DAY 8:				
DAY 9:				
DAY10:				

Individuals requiring ADA accommodations call (602)542-2999

SECTION 6 What type of security and control measures will you take to prevent violations of liquor laws at this event?
(List type and number of police/security personnel and type of fencing or control barriers, if applicable.)

________ Number of Police 4 Number of Security Personnel ☒ Fencing ☐ Barriers

Explanation: Off-duty Maricopa County Sherrif's Office deputies.
Beer garden will be fenced off with rope attached to stanchions.
Signs stating "No alcohol beyond this point" will be attached to the rope.

SECTION 7 Will this event be held on a currently licensed premise and within the already approved premises? ☐ Yes ☒ No
(If yes, Local Governing Body Signature not required)

Name of Business	License Number	Phone (Include Area Code)

SECTION 8 How is this special event going to conduct all dispensing, serving, and selling of spirituous liquors? Please read R-19-318 for explanation and check one of the following boxes.

☐ Place license in non-use
☐ Dispense and serve all spirituous liquors under retailer's license
☒ Dispense and serve all spirituous liquors under special event
☐ Split premise between special event and retail location

(IF USING RETAIL LICENSE, PLEASE SUBMIT A LETTER OF AGREEMENT FROM THE AGENT/OWNER OF THE LICENSED PREMISES TO SUSPEND OR RUN CONCURRENT WITH THE PERMANENT LICENSE DURING THE EVENT. IF THE SPECIAL EVENT IS ONLY USING A PORTION OF THE PREMISES, AGENT/OWNER WILL NEED TO SUSPEND THAT PORTION OF THE PREMISES.)

SECTION 9 What is the purpose of this event?

☒ On-site consumption ☐ Off-site (auction/wine/distilled spirits pull) ☐ Both

SECTION 10

1. Has the applicant been convicted of a felony, or had a liquor license revoked within the last five (5) years?
☐ Yes ☒ No **(If yes, attach explanation.)**

2. How many special event days have been issued to this organization during the calendar year? 0
(The number cannot exceed 10 days per year.)

3. Is the organization using the services of a licensed contractor or other person to manage the sale or service of alcohol?
☐ Yes ☒ No **(If yes, must be a licensed contractor or licensee of series 6, 7, 11, or 12)**

4. List all people and organizations who will receive the proceeds. Account for 100% of the proceeds. The organization applying must receive 25% of the gross revenues of the special event liquor sales. Attach an additional page if necessary.

Name Fountain Hills Cultural + Civic Association Percentage: 100%

Address ________

Name ________ Percentage: ________

Address ________
Street City State Zip

Please read A.R.S. § 4-203.02 Special event license; rules and R19-1-205 Requirements for a Special Event License.

Note: ALL ALCOHOLIC BEVERAGE SALES MUST BE FOR CONSUMPTION AT THE EVENT SITE ONLY.

NO ALCOHOLIC BEVERAGES SHALL LEAVE A SPECIAL EVENT UNLESS THEY ARE IN AUCTION WINE OR DISTILLED SPIRITS PULL SEALED CONTAINERS OR THE SPECIAL EVENT LICENSE IS STACKED WITH WINE /CRAFT DISTILLERY FESTIVAL LICENSE.

SECTION 11 License premises diagram. The licensed premises for your special event is the area in which you are authorized to sell, dispense or serve alcoholic beverages under the provisions of your license. Please attach a diagram of your special event licensed premises. Please show dimensions, serving areas, fencing, barricades, or other control measures and security position.

ATTACH DIAGRAM

If the special event will be held at a location without a permanent liquor license or if the event will be on any portion of a location that is not covered by the existing liquor license, this application must be approved by the local government before submission to the Department of Liquor Licenses and Control. *Please contact the local governing board for additional application requirements and submission deadlines. Additional licensing fees may also be required before approval may be granted. For more information, please contact your local jurisdiction.*

NOTARY

I, (Print Full Name) Vicky Ann Derksen, hereby declare that I am the APPLICANT, I have read this document and verify the contents and all statements are true, correct and complete to the best of my knowledge.

X (Signature) Vicky Derk
Applicant Signature

State of Arizona County of Maricopa
the foregoing instrument was acknowledged before me this

30th of January 2019
Day Month Year

My commission expires on: 10-31-21

DAWN WOODS
Notary Public - State of Arizona
MARICOPA COUNTY
My Commission Expires
October 31, 2021

dawn woods
Signature of NOTARY PUBLIC

Community Center
Beer & Wine Garden

'LOCAL GOVERNING BOARD

Date Received: ____________________

I, ______________________________ ______________________________ recommend ☐ APPROVAL ☐ DISAPPROVAL
(Government Official) (Title)

On behalf of ______________________, ______________________, __________, ______________________
(City, Town, County) Signature Date Phone

DLLC USE ONLY

☐ APPROVAL ☐ DISAPPROVAL BY: ____ DATE: ____/____/____

A.R.S. § 41-1030. Invalidity of rules not made according to this chapter; prohibited agency action; prohibited acts by state employees; enforcement; notice

B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.

D. THIS SECTION MAY BE ENFORCED IN A PRIVATE CIVIL ACTION AND RELIEF MAY BE AWARDED AGAINST THE STATE. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, DAMAGES AND ALL FEES ASSOCIATED WITH THE LICENSE APPLICATION TO A PARTY THAT PREVAILS IN AN ACTION AGAINST THE STATE FOR A VIOLATION OF THIS SECTION.

E. A STATE EMPLOYEE MAY NOT INTENTIONALLY OR KNOWINGLY VIOLATE THIS SECTION. A VIOLATION OF THIS SECTION IS CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO THE AGENCY'S ADOPTED PERSONNEL POLICY.

F. THIS SECTION DOES NOT ABROGATE THE IMMUNITY PROVIDED BY SECTION 12-820.01 OR 12-820.0

ITEM 8-A

TOWN OF FOUNTAIN HILLS

TOWN COUNCIL AGENDA ACTION FORM

Meeting Date: 3/5/2019

Meeting Type: Regular Session

Agenda Type: Regular

Submitting Department: Community Services

Staff Contact Information: Grace Rodman-Guetter gguetter@fh.az.gov 480-816-5165

REQUEST TO COUNCIL (Agenda Language): CONSIDERATION OF 1. Approval of a Special Event Liquor Application for the Town of Fountain Hills to provide and serve alcohol within Fountain Park, located at 12925 N. Saguaro Boulevard in Fountain Hills, in conjunction with the Town's Fountain Hills Music Fest Celebration, from 4:00 PM to 9:30 PM, on Saturday, April 6, 2019 2. Approval of an Agreement with Bone Haus Brewery to provide and serve alcohol at the above event.

Applicant:

Applicant Contact Information:

Owner:

Owner Contact Information:

Property Location: Fountain Park

Related Ordinance, Policy or Guiding Principle:

Staff Summary (background): The Town of Fountain Hills is putting forth a liquor license application as well as a partnership agreement with Bone Haus Brewing for the Town of Fountain Hills to have alcohol served within Fountain Park, in conjunction with the Fountain Hills Music Fest event, from 4:00 PM to 9:30 PM, on Saturday, April 6, 2019.

Staff would like to enter in an agreement between the Town of Fountain Hills and Bone Haus Brewing Company where Bone Haus Brewing will provide the following: 1) Staffing to facilitate the beer service at the 2019 Music Fest Event; 2) be in charge of serving all beer during the event; 3) Show responsibilty and integrity taking/accepting money for beer sales and 4) Follow all county alcohol service regulations and best practices; 5) Split the beer sales proceeds by 60%(Town) / 40%(Bone Haus) with the Town. Payment for the split of proceeds will be made in the form of a check provided with accounting to the Town. The beer that will be sold at this 2019 event will be provided by Bone Hause Brewing, therefore all beer sales of the event yielding proceeds will be the the amount that is split between the two partners outlined in the agreement. Due to attendance expectations, the Town of Fountain Hills is requiring Bone Haus Brewing to be prepared with no less than 20 kegs of beer. All proceeds that are shared between the two partners will be calculated and split after Bone Haus Brewing has achieved a cost recovery of $4,000.00 excluding any merchandise sales. All merchandise sale profits will belong exclusively to Bone Haus brewing and will not be shared as part of the partnership.

In return, the Town of Fountain Hills will 1) be solely responsible for hiring the officers and event staff for age identification checks and alcohol monitoring; 2) Provide the fencing and seruring of the alcohol area 3) Hold the county alcohol permit; 3) Provide insureance and indemnify the Town with an additionally insured poilcy as per our special event guidelines.

Risk Analysis (options or alternatives with implications):

Fiscal Impact (initial and ongoing costs; budget status): None as the contracts specifically outlines the budget constraints and cost sharing proposal. There will be no net financial loss to the Town if sales are less than $4,000.00.

Budget Reference (page number):

Funding Source: NA

If Multiple Funds utilized, list here:

Budgeted; if No, attach Budget Adjustment Form: NA

Recommendation(s) by Board(s) or Commission(s):

Staff Recommendation(s): Staff recommends to approve.

List Attachment(s): Contract agreement between Bone Haus Brewery and the Town of Fountain Hills and Liquor application.

SUGGESTED MOTION (for Council use): Move to APPROVE 1. Approval of a Special Event Liquor Application for the Town of Fountain Hills to provide and serve alcohol within Fountain Park, located at 12925 N. Saguaro Boulevard in Fountain Hills, in conjunction with the Town's Fountain Hills Music Fest Celebration, from 4:00 PM to 9:30 PM, on Saturday, April 6, 2019 2. Approval of an Agreement with Bone Haus Brewery to provide and serve alcohol at the above event.

Prepared by:

Grace Rodman-Guetter, Communications & Marketing Coordinator 2/21/2019

Director's Approval:

Rachael Goodwin, Community Services Director 2/21/2019

Approved:

Grady E. Miller, Town Manager Date

Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

FOR DLLC USE ONLY
Received Date:
Job #:
CSR:
License #:

APPLICATION FOR SPECIAL EVENT LICENSE

Fees: $25.00 per day for 1-10 days (consecutive) ***Cash Checks or Money Orders Only***
A service fee of $25.00 will be charged for all dishonored checks (A.R.S § 44-6852)

IMPORTANT INFORMATION: This document must be fully completed or it will be returned.
The Department of Liquor Licenses and Control must receive this application ten (10) business days prior to the event.

SECTION 1 Applicant must be a member of a qualifying nonprofit organization, political party, or Government entity and authorized by an Officer, Director, or Chairperson of the Organization.

1. Applicant: Rodman-Guetter, Grace, Rebecca Aubrey [redacted]
Last First Middle Date of Birth

2. Applicant's mailing address: 16705 E. Avenue of the Fountains Fountain Hills, Arizona 85268
Street City State Zip

3. Applicant's home/cell phone: (480) 816-5165 Applicant's business phone: (480) 816-5165

4. Applicant's email address: gguetter@fh.az.gov

SECTION 2 Name of Organization, Candidate or Political Party/Gov.: Town of Fountain Hills

SECTION 3 Non-Profit/IRS Tax Exempt Number: 86-0650150

SECTION 4 Event Location: Fountain Park

Event Address: 12925 N Saguaro Blvd Fountain Hills, AZ 85268

SECTION 5 Dates and Hours of Event. Days must be consecutive but may not exceed 10 consecutive days.
See A.R.S. § 4-244(15) and (17) for legal hours of service.

PLEASE FILL OUT A SEPARATE APPLICATION FOR EACH "NON-CONSECUTIVE" DAY

	Date	Day of Week	Event Start Time AM/PM	License End Time AM/PM
DAY 1:	4/6/2019	Saturday	4:00 PM	10:00 PM
DAY 2:				
DAY 3:				
DAY 4:				
DAY 5:				
DAY 6:				
DAY 7:				
DAY 8:				
DAY 9:				
DAY10:				

Individuals requiring ADA accommodations call (602)542-2999

SECTION 6 What type of security and control measures will you take to prevent violations of liquor laws at this event?
(List type and number of police/security personnel and type of fencing or control barriers, if applicable.)

2 Number of Police 2 Number of Security Personnel ☐Fencing ☑Barriers

Explanation: A yellow rope barrier will be used to define the event and alcohol area

SECTION 7 Will this event be held on a currently licensed premise and within the already approved premises? ☑Yes ☐No
(If yes, Local Governing Body Signature not required)

Name of Business	License Number	Phone (Include Area Code)

SECTION 8 How is this special event going to conduct all dispensing, serving, and selling of spirituous liquors? Please read R-19-318 for explanation and check one of the following boxes.

☐Place license in non-use
☐Dispense and serve all spirituous liquors under retailer's license
☑Dispense and serve all spirituous liquors under special event
☐Split premise between special event and retail location

(IF USING RETAIL LICENSE, PLEASE SUBMIT A LETTER OF AGREEMENT FROM THE AGENT/OWNER OF THE LICENSED PREMISES TO SUSPEND OR RUN CONCURRENT WITH THE PERMANENT LICENSE DURING THE EVENT. IF THE SPECIAL EVENT IS ONLY USING A PORTION OF THE PREMISES, AGENT/OWNER WILL NEED TO SUSPEND THAT PORTION OF THE PREMISES.)

SECTION 9 What is the purpose of this event?

☑On-site consumption ☐Off-site (auction/wine/distilled spirits pull) ☐Both

SECTION 10

1. Has the applicant been convicted of a felony, or had a liquor license revoked within the last five (5) years?
   ☐Yes ☑No **(If yes, attach explanation.)**

2. How many special event days have been issued to this organization during the calendar year? 1
   (The number cannot exceed 10 days per year.)

3. Is the Organization using the services of a Licensed Contractor?

   ☐Yes ☑No If yes, please provide the following: Name of Licensed Contractor: ______

4. Is the organization using the services of a series 6, 7, 11, or 12 licensee to manage the sale or service of alcohol?

   ☐Yes ☑No If yes, please provide the following: Name of Licensee______ License #: ______

5. List all people and organizations who will receive the proceeds. Account for 100% of the proceeds. The organization applying must receive 25% of the gross revenues of the special event liquor sales. Attach an additional page if necessary.

Name Town of Fountain Hills Percentage: 60%

Address 16705 E Avenue of the Fountains Fountain Hills, AZ 85268

Name Bone Haus Brewing Percentage: 40%

Address 14825 E Shea Blvd. #101 Fountain Hills, AZ 85268

Street City State Zip

Please read A.R.S. § 4-203.02 Special event license; rules and R19-1-205 Requirements for a Special Event License.

Note: ALL ALCOHOLIC BEVERAGE SALES MUST BE FOR CONSUMPTION AT THE EVENT SITE ONLY.

NO ALCOHOLIC BEVERAGES SHALL LEAVE A SPECIAL EVENT UNLESS THEY ARE IN AUCTION WINE OR DISTILLED SPIRITS PULL SEALED CONTAINERS OR THE SPECIAL EVENT LICENSE IS STACKED WITH WINE /CRAFT DISTILLERY FESTIVAL LICENSE.

SECTION 11 License premises diagram. The licensed premises for your special event is the area in which you are authorized to sell, dispense or serve alcoholic beverages under the provisions of your license. Please attach a diagram of your special event licensed premises. Please show dimensions, serving areas, fencing, barricades, or other control measures and security position.

ATTACH DIAGRAM

If the special event will be held at a location without a permanent liquor license or if the event will be on any portion of a location that is not covered by the existing liquor license, this application must be approved by the local government before submission to the Department of Liquor Licenses and Control. ***Please contact the local governing board for additional application requirements and submission deadlines. Additional licensing fees may also be required before approval may be granted. For more information, please contact your local jurisdiction.***

I, (Print Full Name) Grace Rodman-Guetter **, hereby swear under penalty of perjury and in compliance with A.R.S. § 4-210(A)(2) and (3) that I have read and understand the foregoing and verify that the information and statements that I have made herein are true and correct to the best of my knowledge.**

Applicant Signature: [signature]

LOCAL GOVERNING BOARD

Date Received: ____________________

I, ______________________ ______________________ recommend ☐APPROVAL ☐ DISAPPROVAL
(Government Official) (Title)

On behalf of ______________________, ______________________, ____________, ______________
(City, Town, County) Signature Date Phone

DLLC USE ONLY

☐APPROVAL ☐DISAPPROVAL BY: ______________________________ DATE: ____/____/____

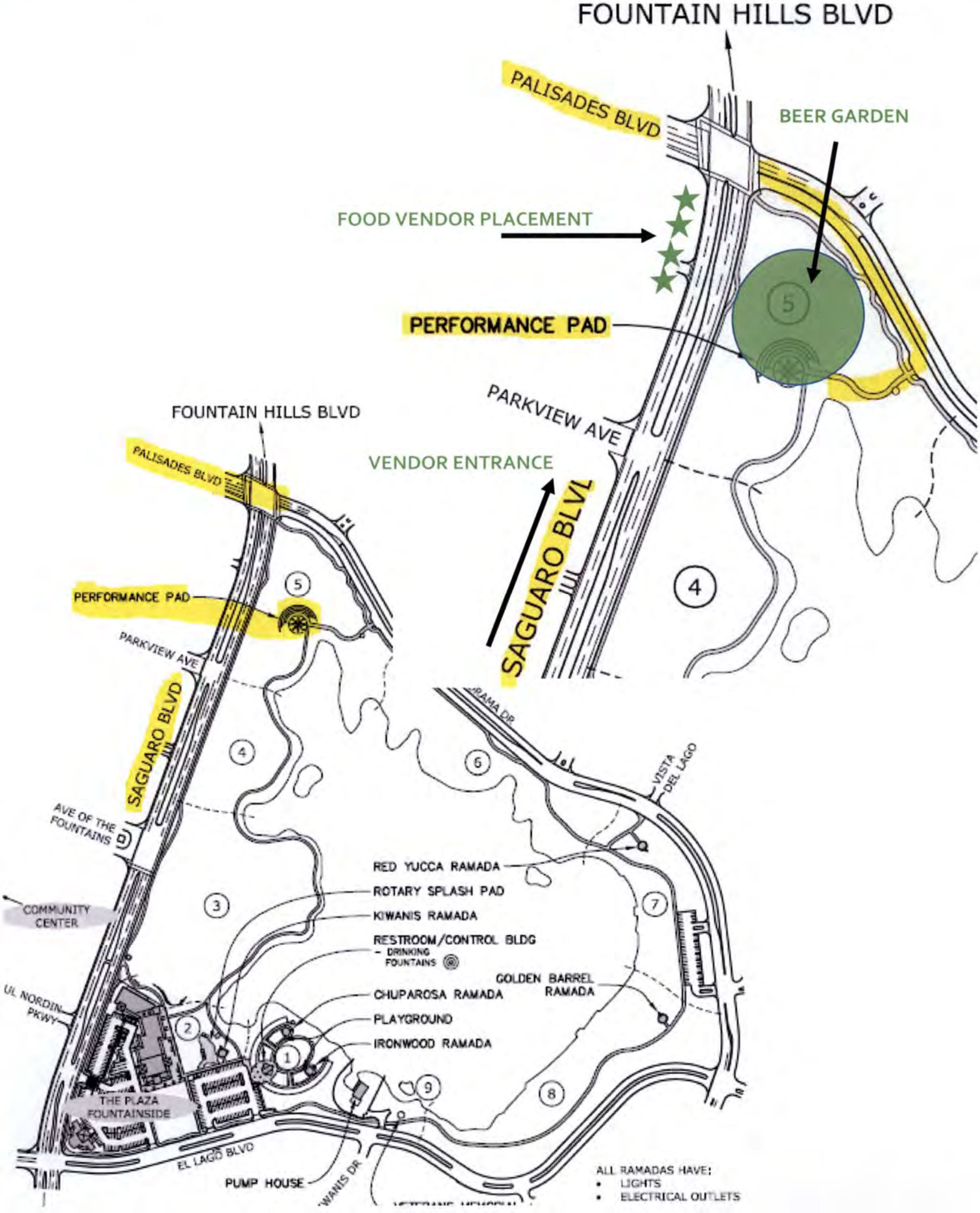
A.R.S. § 41-1030. Invalidity of rules not made according to this chapter; prohibited agency action; prohibited acts by state employees; enforcement; notice

B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.

D. THIS SECTION MAY BE ENFORCED IN A PRIVATE CIVIL ACTION AND RELIEF MAY BE AWARDED AGAINST THE STATE. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, DAMAGES AND ALL FEES ASSOCIATED WITH THE LICENSE APPLICATION TO A PARTY THAT PREVAILS IN AN ACTION AGAINST THE STATE FOR A VIOLATION OF THIS SECTION.

E. A STATE EMPLOYEE MAY NOT INTENTIONALLY OR KNOWINGLY VIOLATE THIS SECTION. A VIOLATION OF THIS SECTION IS CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO THE AGENCY'S ADOPTED PERSONNEL POLICY.

F. THIS SECTION DOES NOT ABROGATE THE IMMUNITY PROVIDED BY SECTION 12-820.01 OR 12-820.


FOUNTAIN HILLS BLVD
PALISADES BLVD
BEER GARDEN
FOOD VENDOR PLACEMENT
PERFORMANCE PAD
PARKVIEW AVE
VENDOR ENTRANCE
SAGUARO BLVD
4
5
FOUNTAIN HILLS BLVD
PALISADES BLVD
PERFORMANCE PAD
PARKVIEW AVE
SAGUARO BLVD
AVE OF THE FOUNTAINS
COMMUNITY CENTER
PAUL NORDIN PKWY
THE PLAZA FOUNTAINSIDE
EL LAGO BLVD
PUMP HOUSE
VISTA DEL LAGO
RED YUCCA RAMADA
ROTARY SPLASH PAD
KIWANIS RAMADA
RESTROOM/CONTROL BLDG
- DRINKING FOUNTAINS
CHUPAROSA RAMADA
GOLDEN BARREL RAMADA
PLAYGROUND
IRONWOOD RAMADA
1
2
3
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8
9
ALL RAMADAS HAVE:
• LIGHTS
• ELECTRICAL OUTLETS

Contract No. 2019-065

AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
BONE HAUS BREWING LLC

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of March 5, 2019, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town") and Bone Haus Brewing LLC, an Arizona limited liability company ("Bone Haus"), collectively referred to as the "Parties."

RECITALS

A. WHEREAS, Bone Haus operates a brewery and tap room and has the ability to facilitate off-site beer service;

B. WHEREAS, the Town will hold a permit for the sale of alcoholic beverages, namely beer, at the 2019 Fountain Hills Music Fest; and

C. WHEREAS, the Parties desire to enter into this Agreement for the purposes of obtaining remuneration from the provision of services as set forth in this Agreement.

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 Bone Haus hereby agree as follows:

1. Purpose. The purpose of this Agreement is to articulate the rights and responsibilities of the Parties with respect to the sale and service of alcoholic beverages, namely beer, at the 2019 Fountain Hills Music Fest (the "Music Fest") to be held on April 6, 2019 and to establish compensation for Bone Haus's services.

2. Scope of Work. Bone Haus shall perform the following (the "Services"):

2.1 Provide no fewer than 20 kegs of beer for sale at the Music Fest.

2.2 Provide staffing to facilitate the service of alcoholic beverages for the duration of the Music Fest or as otherwise agreed by the Parties;

2.3 Serve all alcoholic beverages for the duration of the Music Fest or as otherwise agreed by the Parties;

2.4 Implement and follow reasonable procedures to manage the service of alcoholic beverages consistent with all applicable laws and regulations;

2.5 Implement and follow reasonable procedures to accept and account for revenue obtained from alcohol sales;

2.6 Add the Town as an additional insured on an acceptable general liability insurance policy, in accordance with Section 7 below; and

2.7 Provide the Town with its portion of the revenue from alcohol sales in connection with the Music Fest, as set forth in Section 4 below.

3. Town Responsibilities. The Town shall be responsible to perform only the following:

3.1 Obtain and hold a County-issued alcohol permit for the sale of alcoholic beverages at the Music Fest;

3.2 Hire officers and event staff for age identification checks and monitoring of alcohol consumption; and

3.3 Provide fencing for or otherwise securing the alcohol sales and service area.

4. Compensation. All revenues from the sale of alcohol in excess of $4,000.00, exclusive of merchandise sales, shall be divided between the parties as follows: 60% of revenues to the Town; 40% of revenues to Bone Haus.

5. Payments. Payment shall be made in a single installment by check made out to the Town of Fountain Hills. Payment shall be made within 30 calendar days following the conclusion of the Music Fest. Payment will be accompanied by an accounting of the proceeds.

6. Indemnification. To the fullest extent permitted by law, Bone Haus 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, breach of contract, in connection with the work or services of Bone Haus, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement.

7. Insurance.

7.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Bone Haus, Bone Haus 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 Bone Haus. 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 Bone Haus 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. Bone Haus'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 Bone Haus. Bone Haus 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. Bone Haus 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, Bone Haus shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Agreement and insurance requirements set forth herein protecting the Town and Bone Haus. Bone Haus 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, Bone Haus 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 Bone Haus'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 Bone Haus's responsibility to forward renewal certificates and declaration page(s) to the Town 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing the RFP number and title or this Agreement. A $25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

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

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

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

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

(2) Bone Haus'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 Bone Haus 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.

7.2 Required Insurance Coverage.

A. Commercial General Liability. Bone Haus 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. Bone Haus shall maintain Business Automobile Liability insurance with a limit of $1,000,000 each occurrence on Bone Haus's owned, hired and non-owned vehicles assigned to or used in the performance of Bone Haus'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 Bone Haus engages in any professional services or work in any way related to performing the work under this Agreement, Bone Haus shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by Bone Haus, or anyone employed by Bone Haus, or anyone for whose negligent acts, mistakes, errors and omissions Bone Haus 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. Bone Haus shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Bone Haus'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.

7.3 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.

8. Miscellaneous.

8.1 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. Bone Haus 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. Bone Haus, its employees and subcontractors are not entitled to workers' compensation benefits from the Town. Bone Haus is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. Town and Bone Haus do not intend to nor will they combine business operations under this Agreement.

8.2 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.

8.3 Laws and Regulations. Bone Haus 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 Bone Haus 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.

8.4 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 Bone Haus.

8.5 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.

8.6 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.

8.7 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.

8.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Bone Haus without prior, written permission of the Town, signed by the Town Manager. Any attempted assignment or delegation by Bone Haus in violation of this provision shall be a breach of this Agreement by Bone Haus.

8.9 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 Bone Haus 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.

8.10 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.

8.11 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:	Pierce Coleman PLLC 4711 East Falcon Drive, Suite 111 Mesa, Arizona 85215 Attn: Aaron D. Arnson, Town Attorney
If to Bone Haus:	Bone Haus Brewing LLC 14825 East Shea Boulevard #101 Fountain Hills, Arizona 85268 Attn: Andy Weiner

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.

8.12 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, Bone Haus 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). Bone Haus's or its subcontractors' 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.

8.13 Israel. Bone Haus 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 ARIZ. REV. STAT. § 35-393, of Israel.

8.14 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 Bone Haus to any other party of this Agreement with respect to the subject matter of this Agreement.

[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

CR
2/25/19

____
Grady E. Miller, Town Manager

ATTEST:

____
Elizabeth A. Burke, Town Clerk

APPROVED AS TO FORM:

____
Aaron D. Arnson, Town Attorney

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On ___________________, 2019, 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]

"**Bone Haus**"

BONE HAUS BREWING LLC
a(n) Arizona limited liability company

By:________________________________

Name:______________________________

Title:_______________________________

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On ___________________, 2019, before me personally appeared _________________, the __________________ of BONE HAUS BREWING LLC, a(n) Arizona limited liability company, 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 limited liability company.

____
Notary Public

(Affix notary seal here)

4836-8934-5160 v.1

ITEM 8-B

TOWN OF FOUNTAIN HILLS

TOWN COUNCIL
AGENDA ACTION FORM

Meeting Date: 3/5/2019

Meeting Type: Regular Session

Agenda Type: Regular

Submitting Department: Administration

Staff Contact Information: Craig Rudolphy, Finance Director, 480-816-5162; crudolphy@fh.az.gov

REQUEST TO COUNCIL (Agenda Language): CONSIDERATION OF APPROVING Contract 2019-062 with Willdan Financial Services for the performance of a comprehensive user fee study in the amount of $36,865.

Applicant:

Applicant Contact Information:

Owner:

Owner Contact Information:

Property Location:

Related Ordinance, Policy or Guiding Principle:

Staff Summary (background): The Town issued a Request for Proposals (RFP) AD2019-01 on January 2, 2019, for a comprehensive user fee study. The Town has not had a professional study of user fees performed. A pre-submittal conference was held on January 14. Responses were received on January 28 from eight firms. An evaluation committee was formed and the responses were reviewed by the committee. The committee is recommending award to the firm of Willdan Financial Services. This firm has also recently completed the second audit of the Town's development impact fees and is familiar with the Town, having served as a contracted inspection firm.

Risk Analysis (options or alternatives with implications): The completion of this study will provide a basis for the Town revising existing user fees. Without the study, the Town will arbitrarily set the fees without regard to the cost of providing the service.

Fiscal Impact (initial and ongoing costs; budget status): **$36,865**

Budget Reference (page number):

Funding Source: General Fund

If Multiple Funds utilized, list here:

Budgeted; if No, attach Budget Adjustment Form: Yes

Recommendation(s) by Board(s) or Commission(s):

Staff Recommendation(s): Recommend approval

List Attachment(s): Contract C2019-062

SUGGESTED MOTION (for Council use): Move to approve contract C2019-062 with Willdan Financial Services.

Prepared by:

NA 8/2/2017

Director's Approval:

Craig Rudolphy, Finance Director 2/19/2019

Approved:

Grady E. Miller, Town Manager 2/19/2019

Contract No. 2019-062

PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
WILLDAN FINANCIAL SERVICES, INC.

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of March 5, 2019, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town") and Willdan Financial Services, Inc., a(n) California corporation (the "Consultant").

RECITALS

A. Pursuant to Section 7.1 of the Town's Procurement Policy and Section 3-3-26 of the Town Code, the Town may directly select certain consultants for professional and technical services.

B. The Consultant possesses the specific skill and experience required to perform a user fee study for the Town.

C. The Town desires to enter into an Agreement with the Consultant to perform the Services, 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 March 5, 2020 (the "Initial Term"), unless terminated as otherwise provided in this Agreement. After the expiration of the Initial Term, this Agreement may be renewed for up two successive one-year terms (the "Renewal Term") if (i) it is deemed in the best interests of the Town, subject to availability and appropriation of funds for renewal, (ii) at least 30 days prior to the end of the then-current term of this Agreement, the Consultant requests, in writing, to extend this Agreement for an additional one-year term and (iii) the Town approves the additional one-year term in writing (including any price adjustments approved as part of this Agreement), as evidenced by the Town Manager's signature thereon, which approval may be withheld by the Town for any reason. The Consultant's failure to seek a renewal of this Agreement shall cause this Agreement to terminate at the end of the then-current term of this Agreement; provided, however, that the Town may, at its discretion and with the agreement of the Consultant, elect to waive this requirement and renew this Agreement. The Initial Term and the Renewal Term are collectively referred to

herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

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

3. Compensation. The Town shall pay the Consultant an aggregate amount not to exceed $36,865.00 at the rates set forth in the Proposal and included in Exhibit B.

4. Payments. The Town shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment. This Agreement must be referenced on all invoices.

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 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 with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

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, breach of contract, 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 Agreement 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 the RFP number and title or this Agreement. A $25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

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

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

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

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

(2) 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 in any way related 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. This Agreement is subject to the provisions of ARIZ. CONST. ART. IX, § 5 and ARIZ. REV. STAT. § 42-17106. The provisions of this Agreement for payment of funds by the Town shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The Town shall be the sole judge and authority in determining the availability of funds under this Agreement and the Town shall keep the Consultant fully informed as to the availability of funds for this Agreement. The obligation of the Town to make any payment pursuant to this Agreement is a current expense of the Town, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the Town. If the Town Council fails to appropriate money sufficient to pay the amounts as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the Town and the Consultant shall be relieved of any subsequent obligation under this Agreement.

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 as agreed 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 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.

13.8 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. Any attempted assignment or delegation by Consultant in violation of this provision shall be a breach of this Agreement by Consultant.

13.9 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.

13.10 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.

13.11 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.

13.12 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.

13.13 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.

13.14 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:	Pierce Coleman PLLC 4711 East Falcon Drive, Suite 111 Mesa, Arizona 85215 Attn: Aaron D. Arnson, Town Attorney
If to Consultant:	Willdan Financial Services, Inc. 27368 Via Industria, Suite 200 Temecula, California 92590 Attn: Chris Fisher, Vice 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.

13.15 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.

13.16 Records and Audit Rights. To ensure that the Consultant and its subcontractors are complying with the warranty under subsection 13.17 below, Consultant's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any 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 13.17 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.

13.17 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 subcontractors' 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.

13.18 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 ARIZ. REV. STAT. § 35-393, of Israel.

13.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the Proposal, any Town-approved invoices, and the RFP, 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

CR
3/25/19

____
Grady E. Miller, Town Manager

ATTEST:

____
Elizabeth A. Burke, Town Clerk

APPROVED AS TO FORM:

____
Aaron D. Arnson, Town Attorney

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On ________________, 2019, 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**"

WILLDAN FINANCIAL SERVICES, INC.,
a(n) California corporation

By:______________________________

Name: Mark Risco

Title: President & CEO

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On __________________, 2019, before me personally appeared __________________, the ________________ of WILLDAN FINANCIAL SERVICES, INC., a(n) California corporation, whose identity was proven to me on the basis of satisfactory evidence to be the ______________________ of the corporation.

____
Notary Public

(Affix notary seal here)

See attached

4822-1320-9736 v.1

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Riverside)
On February 22, 2019 before me, Nicolle Stormon Notary Public,
Date *Here Insert Name and Title of the Officer*
personally appeared Mark Risco
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

NICOLLE STORMON
Notary Public - California
Riverside County
Commission # 2260199
My Comm. Expires Sep 28, 2022

Signature
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Professional Services Agreement
Document Date: March 5, 2019 Number of Pages: 53
Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: Mark Risco
☐ Corporate Officer — Title(s): President
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other:
Signer Is Representing: Willdan Financial Services

Signer's Name:
☐ Corporate Officer — Title(s):
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other:
Signer Is Representing:

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
WILLDAN FINANCIAL SERVICES, INC.

[Consultant's Proposal]

See following pages.

TOWN OF **FOUNTAIN HILLS**

PROPOSAL FOR

COMPREHENSIVE USER FEE STUDY

WILLDAN

WILLDAN
FINANCIAL SERVICES

January 25, 2019

Mr. Craig Rudolphy, Finance Director
Town of Fountain Hills
16705 East Avenue of the Fountains
Fountain Hills, AZ 85268

Re: Town of Fountain Hills RFP – Comprehensive User Fee Study

Dear Mr. Rudolphy:

As you are well aware, it is critical for towns and cities to ensure that their fees for requested services have been developed or updated to ensure maximum appropriate cost recovery, so that the revenues generated by fees cover the cost of those services to the best extent possible. Policymakers need a clear understanding of standards, service levels, and the associated costs to provide them. Recognizing this, the Town of Fountain Hills ("Town") has responded by soliciting proposals for a Comprehensive User Fee Study. To properly address the needs of the Town, Willdan is partnering with Pat Walker Consulting, LLC.

Experience with the Town of Fountain Hills — Willdan successfully partnered with the Town of Fountain Hills on the recent SDF Biennial Audit and will bring this same level of professionalism and expertise to this proposed engagement. Through this project, our incorporated project team has gained a strong and unique working knowledge of the organization, and positive relationships with Town staff. Our knowledge of the Town, procedures, and staff will allow us to effectively gather data and information and clarify questions. ***We will leverage our knowledge of the Town's operations and key staff to facilitate this study in a cost-effective and efficient manner; focusing less time on data gathering, and more on analysis, resulting in lower project cost and higher value.***

Unique Combination of Services and Expertise/Public Engagement — Willdan has provided the requested services to municipal clients for nearly two decades; and is the only firm providing these types of consulting services that also has a long history of providing contract staff support to public agencies for the delivery of municipal services. This direct experience as "staff" provides us with firsthand understanding of Town operations and is uniquely useful in determining the full effort associated with service delivery and in developing a fee schedule that is easy to communicate and implement.

Our models and project approach are geared toward delivering work on schedule and presenting analysis results at public meetings and Council workshops. The Willdan Team is experienced at communicating complex analytical results in a manner that is easy to understand by non-finance-oriented individuals and facilitates discussion. I have coordinated or participated in numerous public and staff workshops regarding fees and cost of service-based charges.

Our objective is to provide useful, detailed information to the Town Council and staff, so that they have the information necessary to make important decisions. Our experience ensures that we can meet this objective. Whether policymakers are considering subsidizing or increasing fees, the process may be subject to public discussion among the Town Council and community stakeholders. Our response to these sensitive political issues is to employ a real-world approach to completing user fee studies, in determining the technically defensible reasonable costs of providing services. Our intimate knowledge of each portion of the service delivery function provides for greater accuracy, reduces the likelihood of potential challenges, results in fee schedules that are easier to implement, and increases the likelihood of acceptance by stakeholders.

We are excited about this opportunity to use our skills and expertise to continue to assist the Town of Fountain Hills. Willdan acknowledges herein its willingness to maintain all specified fees and services for a period of ninety (90) days from the closing date of January 28, 2019.

Sincerely,

WILLDAN FINANCIAL SERVICES

Mark Risco, President & CEO

Table of Contents

Qualifications and Experience

Firm Profile

Willdan Financial Services is one of four operating divisions within Willdan Group, Inc. (WGI), which was founded in 1964 as an engineering firm working with local governments. Today, WGI is a publicly-traded company on NASDAQ (ticker: WLDN). WGI, through its subsidiaries, provides professional technical and consulting services that ensure the quality, value and security of our nation's infrastructure, systems, facilities, and environment. The firm has pursued two primary service objectives since its inception—ensuring the success of its clients and enhancing its surrounding communities.

ENGINEERING, PLANNING & INFRASTRUCTURE

ENERGY EFFICIENCY & SUSTAINABILITY

FINANCIAL & ECONOMIC CONSULTING SERVICES

NATIONAL PREPAREDNESS & TRAINING

In doing so, Willdan has gained a notable reputation for technical excellence, cost-effectiveness, and client responsiveness in providing superior consulting services. The company's service offerings span a broad set of complementary disciplines that include engineering and planning, energy efficiency and sustainability, financial and economic consulting, and national preparedness. Willdan has crafted this set of integrated services so that, in the face of an evolving environment—whether economic, natural, or built—Willdan can continue to extend the reach and resources of its clients.

Currently, WGI has 1,200 employees operating from offices in ***Arkansas, Arizona, California, Colorado, Connecticut, District of Columbia, Florida, Illinois, Kansas, Kentucky, Maryland, Nevada, New Jersey, New York, Ohio, Oregon, Utah, Texas, and Washington.***

Willdan Financial Services

Established on June 24, 1988, Willdan Financial Services, a California Corporation, is a national firm, and is one of the largest public sector financial consulting firms in the United States. Our staff of 80 full-time employees supports our clients by conducting year-round workshops and on-site training to assist them in keeping current with the latest developments in our areas of expertise.

Primary Contacts

Contact Information	
Corporate Office Contacts	**Local Office Contact**
Chris Fisher	Kevin Burnett
Vice President – Group Manager	Senior Project Manager
27368 Via Industria, Suite 200	1440 East Missouri Avenue, Suite C170
Temecula, CA 92590	Phoenix, AZ 85014
Tel#: (951) 587-3500 | Fax #: (888) 326-6864	Tel#: (800) 755-6864 | Fax #: (888) 326-6864
Email: CFisher@Willdan.com	Email: KBurnett@Willdan.com

Financial Responsibility

Willdan Group, Inc. (WGI) has sustained a healthy financial performance record due to the outstanding performance of the four operating divisions and a strong, dependable reputation in municipal consulting. A snapshot of WGI's financial statistics are provided to the right demonstrating our financial position and stability.

As a publicly traded company (NASDAQ ticker: WLDN), must provide public financial information as required by the SEC. Detailed financial statements and annual reports are included on our webpage (http://ir.willdangroup.com/).

Financial Stability

- **In business for over 50 years**
- **Market capitalization of $242.6M (as of end of 2nd Quarter, 2017)**
- **Fiscal 3rd Quarter 2018 revenue (3 months) of $71.5M**
- **Fiscal Year 2017 revenue of $273.49M**
- **$35 million Line of Credit with the ability to increase up to $60 million (as of end of 3rd Quarter, 2018)**
- **$16.7M in cash and cash equivalents (as of end of 3rd Quarter, 2018)**

Cancelled Contracts

In the previous five years, Willdan Financial Services has not had an agreement cancelled for performance.

Current Litigation

Willdan Financial Services is not currently involved in any condition (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede our ability to complete this engagement.

Past Litigation

The following information is provided solely to comply with the requirements identified within the Fountain Hills RFP. A summary of the litigation initiated against Willdan Financial Services is as follows.

City of Glendale v. Willdan Financial Services. Orange County Superior Court Case No. 30-2014-00761905-CU-PN-CJC. The City of Glendale alleged that a water cost of services analysis prepared by WFS was in error resulting in the City collecting less revenue than expected. This matter has been settled to the satisfaction of both Parties.

Background and Project Summary Schedule

Project Understanding

Willdan Financial Services ("Willdan") is confident that we can meet the Town of Fountain Hills's request for a Comprehensive User Fee Study.

The end product will include a user-friendly Excel-based model, which Town staff will retain, and can be easily updated to add or remove services and/or costs, update budgets in future years, determine the proper allocation of expenditures, and on-going full cost of services provided by the Town. Most importantly, we will ensure that the results and recommendations are clear and understandable, defensible, and easily implementable.

We will coordinate directly with departmental representatives at the Town at the beginning of the project, to discuss the approach and process for the studies. Discussions will include ways to combine tasks and efforts among the Study components in order to maximize efficiencies and ensure adherence to specified timelines.

It is important to have a thorough understanding of specific Town policies and objectives, the structure and organization of the Town, and the relationships between the central and operating departments for a successful and effective engagement.

We will work directly with personnel at the Town who provide the services, in order to understand the services provided to residents and customers, the procedures and processes involved in providing those costs, and identify the associated costs. The cost of the services will primarily include direct staff costs (salaries and benefits) associated with personnel involved in the activities, along with appropriate overhead allocations from both the department and Town levels.

Willdan possesses the resources, practical experience, creative thinking, and collaborative consulting skills necessary to complete this important project. Key distinct advantages that Willdan brings to the Town include the following:

On-site Data Gathering

Our experience has taught us that working together, via face-to-face discussions, is the most efficient and thorough way to ensure that results are accurate, and that studies are completed in a timely manner, which again, is critical in this proposed engagement. Consequently, through on-site interviews with your staff, Willdan will collect the majority of required data for studies. This method is better than the typical "time and motion surveys" that are provided to agency staff when studies like these are conducted. This process ensures that we gather the data we need in one coordinated step, rather than having to go through repeated follow-up and clarification. ***This approach and the dedication of our staff will help ensure we meet the Town's timeline and objectives and provide important information to Town staff and the Town Council as soon as possible.***

Public Engagement

Our models and project approach are geared toward delivering our work on schedule and presenting our analysis results at public meetings and Council workshops. While we understand that the Town Council and local business community may be generally supportive of increasing fees where necessary, it will be important to present recommendations to them in a way that clearly demonstrates the rationale and supporting analysis.

The Willdan Team is experienced at communicating complex analytical results in a manner that is easy to understand by non-finance-oriented individuals and facilitates discussion. Our proposed project manager for this engagement has coordinated or participated in numerous public and staff workshops regarding fees and cost of service-based charges. As previously mentioned, our objective is to provide useful, detailed information to the Town Council and Town staff, necessary to make important decisions. Our experience ensures that we can meet this objective.

User-friendly Models and Reports

Willdan prides itself on creating user-friendly Excel-based models that the Town can retain and ***conducting our analyses and developing the models collaboratively with Town staff.*** With Town staff's immediate input and collaboration, Willdan will design extremely flexible, intuitive Excel-based models. In the future, as the Town assumes new responsibilities, modifies existing processes, and/or eliminates unnecessary services or programs, the models will be capable of adding or deleting funds, objects, departments, programs, staff positions, and activities. Willdan understands that issues facing the Town are unique; consequently, we design our models to match your immediate and desired needs to ensure that end-results exceed staff expectations.

The models are then the Town's to retain, after our services are completed, and allows for the creation of revenue projections, highlighting potential new revenues, and levels of subsidy.

A key element of these studies is presenting results and recommendations in a straightforward manner, that allows the Town Council and Town staff to confidently make fee setting policy decisions and understand the impacts of those decisions. Rather than using an inflexible proprietary software program, we construct our models from the ground up, as previously discussed, mirroring the Town's budget format wherever possible. As a result, the information contained in our models is easy for Town staff to interpret, and the familiar software ensures ease of navigation. As the models are being designed and constructed, we will work together with Town staff to determine the best and most effective features to include. After the project is completed, we will provide training, so that your staff can independently and efficiently evaluate the effects of changes in certain factors. Created directly from the models, our reports clearly and graphically illustrate bases for the full cost recovery level of fee programs, provide projections of revenue from fee programs, both at full cost recovery and at recommended levels, and present the fee methodologies.

The models will be developed to allow the Town to run "what-if" scenarios to address possible changes in staffing levels,

User Fee Study Methodology

The following describes our project understanding, proposed approach, and work plan for a User Fee Study.

To comprehensively update fees, the Town should develop a user fee schedule that accurately accounts for the true cost of providing services. Once the study is complete, the fee study model must be flexible so that the Town can add, delete, and revise fees in the future. To meet this goal, we will bring our expertise and unique perspectives to your fee study by approaching the project with these three principles:

1) Defensibility

Our user fee projects have not been legally challenged since the inception of this practice area in our firm. We have accomplished this by closely working with legal counsel familiar with user fee studies, our engineering division and with agency staff. In this way, we can tailor the correct approach to ensure full cost recovery combined with a sound and reasonable basis for each user fee you implement.

2) Project and Staff Time

The Town must have a sound and technically defensible fee schedule to ensure costs are appropriately recovered, as applicants approach the Town for its services. Our standards and approaches serve to get to the issues of your fee study quickly. Starting with the project kick-off, we will make certain that your staff understands the purpose and scope of the study and its corresponding on-site departmental interview. As Willdan is able to communicate directly with the service providers, this face-to-face interaction provides valuable time estimates.

3) Responsiveness

We take great pride in providing responsive service to our client agencies. Frequent communication is critical to a successful user fee study experience. We will provide a list of data requirements in advance of the project kick-off. Due to this simple step, the introductory meeting can focus on the survey input process, answering questions, determining policy goals, and defining next steps in the project. We will follow up weekly with you at each step in the fee study process to make sure that staff "buys in" to the fee study approach and results.

Approach

Our approach to preparing the user fee study and documentation for Fountain Hills includes:

- Close coordination with your staff to devise a consensus approach. Different programs and/or different service delivery methods will necessitate different approaches. We will discuss specific pros and cons with Town staff as we determine which methods work best for various categories of fees;
- Strict adherence to key legal and policy issues with regard to user fees, including the percent of cost recovery that the Town seeks to achieve. A user fee shall not be set higher than the reasonable cost of providing a fee-generating service. Our approach provides you with a fee schedule that achieves maximum legal cost recovery while ensuring that each fee is supported by technically defensible documentation; and
- Technical analysis necessary for project participants to resolve policy issues.

As described below, there are two basic approaches to calculating user fees:

Approach 1: Case Study Method

This is also sometimes referred to as a cost build-up approach. Using a time and materials approach, the "Case Study Method" examines the tasks, steps and Town staff involved in providing a particular 'unit' of service, such as a permit review, and then uses that information to develop estimates of the actual labor and material costs associated with providing a unit of service to a single user. It is often used when a service is provided on a regular basis, and staff and other costs associated with the service can be segregated from available budget data.

A typical case study fee model should comprise the following three general cost layers:

1) Central Services Overhead: This category may involve such costs as labor, services, and supplies that benefit more than one department, division, or project. The exact benefits to specific areas are impossible to ascribe to a single activity. Examples are purchasing, human resources, and liability insurance. As part of the user fee study, these costs are calculated in the overhead cost review.

2) Department Overhead: This category may include expenses related to such items as office supplies, outside consultants, and membership dues. It may include management, supervision, and administrative support that are not provided to a direct fee-generating service. Typically, these items are charged, on an item-by-item basis, directly to the department, division, or project.

3) Personnel Costs: This category refers to direct salary and benefit costs of staff hours spent on providing a fee-generating service (e.g., on-site building inspector).

Approach 2: Average Cost Method

This is also sometimes referred to as a programmatic approach, because it looks at costs at a program level, and then allocates them to participants on an occurrence basis. By taking total service costs across a substantial sample period (a year) and dividing by the total number of service units delivered over that same period, costs per unit of service is estimated.

This approach is useful when services or programs are provided in a more aggregate manner, where it might be difficult to identify a specific sequence of steps associated with one user or participant; or where it is not feasible to cost-effectively segregate costs associated with specific activities.

Work Plan

Our proposed work plan, described in detail by task, is provided below. We propose to maximize efficiency and cost-effectiveness by combining meetings and data gathering efforts between the studies wherever possible.

We explain how each task will be accomplished and identify associated meetings and deliverables. We want to ensure our work plan provides quality and clarity and is responsive to the Town's needs and specific local circumstances. We will work in concert with the Town to adjust scopes as needed during the course of the studies.

User Fee Study

Task 1:	**Initial Document Request**
Objective:	Initial due diligence; obtain study-related data.
Description:	Prior to the kick-off meeting, we will obtain and review relevant documentation to further enhance our understanding of the services, fees, and rates to be studied. A written request for data will be sent to the Town. Please note that Time Survey data is not part of this request and will be gathered during the on-site interviews described in Task 5. We will request information and documentation on current fees and fee programs, activity levels, and budget and staffing information (to the extent not already available) related specifically to programs and activities which have associated fees, and for which the Town has this level of detail.
Deliverables:	**Willdan Team:** Submit information request to Town. **Town:** Provide requested data to Willdan (prior to Task 3, Kick-off Call/Refine Scope). As with the cost allocation plan, we will follow up with the Town to confirm receipt of requested data and information and highlight data elements that are outstanding.

Task 2:	**Compile Inventory of Current and Potential Fees/Review Existing Cost Allocation Method**
Objective:	The Willdan Team will identify a schedule of fees and methodology for calculating the fees, obtain and review the Town's current methodology and approach to allocating indirect service costs, and obtain staffing, salary and benefit information.
Description:	Based on the results of the initial document request and independent research, incorporate into our model the existing fees, provided by the Town, to comprise the parameters of the fee study. As mentioned in the Project Understanding, we will work with staff to incorporate reasonable indirect overhead factors to include central service cost support. This engagement does not include the development of a full Town-wide cost allocation plan. We will obtain data necessary to confirm or develop indirect cost allocation percentages to use in developing fully-burdened hourly personnel rates. We will gather and review data and supporting analysis as necessary, related to the Town's cost allocation approach. This information will be used to verify the allocation of indirect service costs to operating departments, and then will be incorporated with staffing, and salary and benefit data to develop a comprehensive schedule of Fully-Burdened Hourly Rates (FBHR). If an indirect cost plan is not currently in use by the Town, we utilize a Town-wide overhead factor determined by budget analysis or utilize the more stringent "de minimis" rate established by the Office of Management and Budget for federal cost allocation compliance. These rates will form a basis for the calculation of the costs of providing services to residents and customers, for which fees are charged.
Meetings:	It is possible that a conference call with the Town may be necessary to discuss new fees to implement or existing fees that may no longer be required.

Deliverables:	**Willdan Team:** One (1) draft list of current fees based on initial data provided (to be discussed and finalized during the kick-off call), and a schedule of Fully-Burdened Hourly Rates. **Town:** Review completed fee schedules with comments/revisions to be discussed during the kick-off meeting.

Task 3:	**Kick-off Conference Call / Refine Scope**
Objective:	Confirm goals and objectives for the User Fee Study. Identify and resolve policy issues typically raised by a User Fee Study, address gaps in data, and refine appropriate existing or new fee categories (based on Task 2).
Description:	Verify our understanding of the Town's goals, the Town's cost-recovery policy for user fees, and to fill any gaps in data/information necessary for the project. It is important for the Town and the Willdan Team to identify and address any foreseeable problems and maintain open communication throughout the process. During this call, we will ask that the Town identify a project manager who will serve as the primary contact for the project. The project manager shall have responsibility for ensuring that all available data is provided in a timely manner, thereby maintaining adherence to the project's schedule.
Meetings:	One (1) project kick-off call to initiate the entire project, discuss data needs, and address policy issues.
Deliverables:	**Willdan Team:** 1) Revised project scope and schedule (if needed); and 2) brief summary of policy decisions (if needed). **Town:** 1) Provide further data needs; and 2) determine/introduce Town's project manager.

Task 4:	**Develop User Fee Model, Incorporate Town Overhead Factors**
Objective:	Develop and test model.
Description:	This task involves the development of the model ultimately used to calculate the fees, based on data and information gathered in previous tasks and in the Time Survey Interviews described in Task 5, and based on Indirect Overhead allocation factors or percentages provided by the Town. To ensure that Town policies are met through the imposition of the calculated fees, the model will be formatted to include appropriate costs. Key model inputs will include staff and allocated overhead costs per position, and relevant budget data on salaries and benefits. This information will be obtained directly from the Town and incorporated directly into the user fee model. We will request clarification and/or additional data if necessary. As this project does not include the development of a separate Cost Allocation Plan, we will utilize the Town's existing indirect cost allocation methodology/plan/analysis or include the calculations of said factors as described in Task 2, to determine the appropriate indirect cost factors to apply to personnel rates, to develop fully-burdened hourly rates. These rates will serve as a basis for calculating the full cost of providing services.
Deliverables:	**Willdan Team:** One (1) user-friendly model in Microsoft Excel format, which, when finalized, Town staff can use to calculate fee changes annually, or as often as deemed appropriate by the Town Council.

Task 5:	**Time Survey Interviews and On-site Information Gathering**
Objective:	Meet with Town staff to complete Time Surveys and understand service delivery processes.
Description:	In order to assist staff with the completion of the survey worksheets, we will schedule one (1) full day of on-site meetings with staff; however, the number of meetings needed may vary depending on the number of staff and departments involved. The Willdan Team will conduct interviews with supervisors/managers, as well as other staff, as deemed appropriate and/or necessary, from each department involved in the user fee

study to determine the average time required by Town staff to provide each of the services for which a fee is collected.

The fee model is designed so that full cost recovery fees are calculated immediately upon input of staff time. These full costs are also compared to current cost recovery levels. This will allow the Willdan Team and Town staff to conclude with a final meeting to review the draft full cost recovery fees, and adjust any times as necessary, once all information has been compiled and input into the fee model. We will schedule the interviews with staff to minimize any disruption to their normal workflow.

Meetings: One (1) full business day of on-site meetings/staff interviews.

Deliverables: **Willdan Team and Town:** Time surveys and draft full cost recovery fees.

Task 6:	**Common Fees Comparison**

Objective: Examine the user fees charged by up to five (5) cities within Maricopa County, or jurisdictions that are similar to the Town.

Description: We will access and use our knowledge of other jurisdictions to benchmark the Town's five (5) most common fees or highest yielding fees with comparable jurisdictions agreed.

Fee schedules are rarely readily or directly comparable from agency to agency due to definitional and operational differences. For example, a grading permit in one jurisdiction may include the plan check service, while the same permit in another jurisdiction may not, resulting in similar sounding services with widely varying costs. For this reason, the Willdan Team takes a selection of the Town's most commonly used and/or highest yielding fees.

The survey will contain the following, a comparison of common or similar fees and charges used by the Town and other jurisdictions; current and proposed fees and charges unique to the Town of Fountain Hills; fees and charges used by other public entities not currently used in the Town; and If possible, identify characteristics and processes unique to the Town that account for significant variances in fees and charges used by other jurisdictions.

Deliverables: **Willdan Team:** Recommendations provided in Task 8 will incorporate the data gathered during our examination.

Task 7:	**Data Analysis and Final User Fee Schedule**

Objective: Incorporate information obtained from on-site surveys to fully develop model.

Description: We will update the model, based on information received during the on-site surveys, to generate a comprehensive user fee schedule. In addition, it is very common that a supplemental data request may be necessary, based on new fees identified that the Town is not currently collecting. Where appropriate, we will suggest and discuss with staff alternate approaches to existing fee programs (i.e. building fees) and suggest potential areas where fees could be collected where they are not currently. We will present the full cost recovery level for fees, both current and projected under the new calculated fees, and revenue projections, given certain assumptions about the levels of subsidy for different fees. Current levels of cost recovery will be compared to actual full costs calculated during the course of this study. Cost will be calculated at reasonable activity levels and include all appropriate direct and indirect costs and overhead.

The user fee data analysis and model development may take three (3) to four (4) weeks with frequent correspondence with Town staff to discuss current cost recovery amounts, necessary to recover full cost and frequency activity.

Meetings: Conference calls to finalize fee schedule.

Deliverables: Final user fee model for Town Council presentation and discussion.

Task 8:	Prepare and Present Draft Report
Objective:	Prepare draft report.

Description: This task involves the preparation of the draft report that discusses the study's background, the methodologies utilized in the study, and the results and presentation to various stakeholder groups. As noted below, meetings may occur during this or the next task as appropriate. The calculations used to generate the user fee study will be included textually, as well as in easy to understand tables. Individual fee summaries by department and a comprehensive fee schedule will be included.

The draft report will include the following:

- Key results and findings;
- Basic descriptions of each service;
- The full cost of each service and current cost recovery levels;
- Costs broken down graphically into indirect and direct components, with a graphic display of the level of cost recovery;
- Fee recommendations with associate levels of cost recovery;
- Projections of potential fee revenue;
- Assessment of reasonableness of each Town's costs;
- Review of reasonableness of current consultant cost structure;
- As appropriate, recommend alternative methodologies for building permit fee calculation; and
- Summary and recommendations.

The objective of the report is to communicate the recommendation of appropriate fees, which include the appropriate subsidy percentage for those fees where full cost recovery may be unrealistic.

Meetings: One (1) meeting with the Town Staff and/or Committee, to present draft results address questions and receive feedback.

Deliverables: **Willdan Team:** Draft report for Town review and comment.

Town: Review of draft report, with comments and edits.

Task 9:	Revise Draft Report/Determine Cost Recovery Levels for Recommended Adoption
Objective:	Review of draft report and fee model.

Description: The goal of this task is to conduct an in-depth review of the draft report and model, incorporate feedback and changes as a result of previous discussions, and arrive at an optimum fee structure. Often through the course of an engagement, Town staff will volunteer insightful likes and dislikes regarding the existing fee structure. We listen to this feedback carefully because your staff members know the community best.

Comments usually revolve around issues of:

- Understandability;
- Fairness to applicants;
- Ease of calculation;
- Appropriate levels of cost recovery; and
- Full cost recovery hourly rates.

When adjusting fee recovery levels, we believe it is important to address these concerns.

Following one (1) round of comments from Town staff on the draft report and feedback from Town staff, we will prepare the final report for presentation to the Town Council.

Meetings: One (1) online demonstration (WebEx) to review the model.

Deliverables: Draft report, revised draft /final report.

Task 10:	**Prepare and Present Final Report/Train Staff on Model**
Objective:	Prepare and present final report to the Town Council. Train staff on the operation and use of the model for future modifications.
Description:	This task is the culmination of the entire project. Based on staff comments received regarding the draft report, we will prepare the final report for presentation.
Meetings:	One (1) meeting with the Town Council to present the results and adopt the updated fee schedule. We will also provide staff training on the operation and use of the model on the same day, during regular business hours.
Deliverables:	Provide one (1) electronic PDF file copy of the final report and models; and if requested provide five (5) bound copies, and one (1) unbound copy to the Town. Using Microsoft Word and Excel, an updateable electronic copy of the study and models, as well as related schedules, will also be provided on CD/ROM.

Town Staff Support

To complete our tasks, we will need the cooperation of Town staff. We suggest that the Town of Fountain Hills assign a key individual to represent the Town as the project manager who can function as our primary contact. We anticipate that the Town's project manager will:

Coordinate responses to requests for information;

Coordinate review of work products; and

Help resolve policy issues.

We will ask for responses to initial information requests in a timely manner. If there are delays on the part of the Town, we will contact the Town's project manager to steer the project back on track. We will keep the Town's project manager informed of data or feedback we need to keep the project on schedule.

Willdan will endeavor to minimize the impact on Town staff in the completion of this project.

The Willdan Team will rely on the validity and accuracy of the Town's data and documentation to complete this project. The Town of Fountain Hills acknowledges that the Willdan Team is relying upon the accuracy of the information provided by the Town or their designees, and that the Willdan Team shall not be liable for any inaccuracies contained therein.

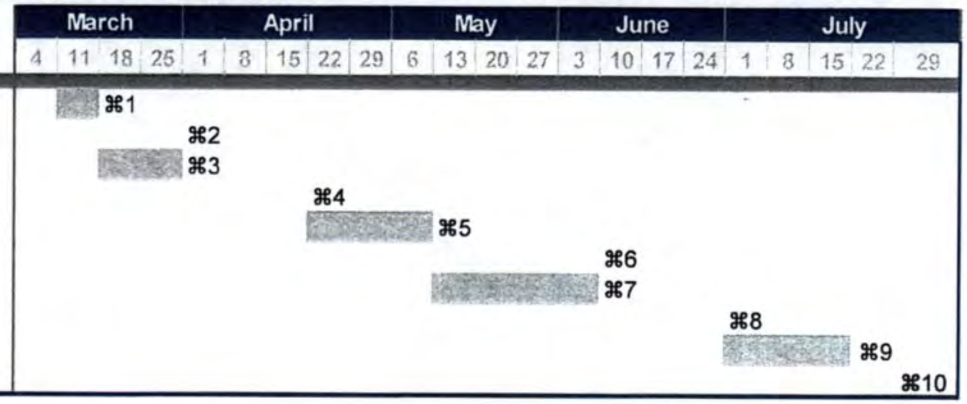
Schedule

Willdan understands time is of the essence for the Town to begin this engagement. This schedule can only be met with the cooperation of Town staff. Delays in responding to our requests for data and review will result in corresponding delays to the project schedule. If that is the case, we will notify the Town immediately of the possible impact on the schedules.

Town of Fountain Hills
Comprehensive User Fee Study
Implementation Schedule

Scope of Services

Task 1: Initial Document Request
Task 2: Compile Inventory of Current and Potential Fees/Review Existing CAP
Task 3: Kick-off / Refine Scope *(conference call)*
Task 4: Develop User Fee Model and Overhead Allocation Factors
Task 5: Time Survey Interviews and On-site Information Gathering *(meetings)*
Task 6: Common Fees Comparison
Task 7: Data Analysis and Final User Fee Schedule *(conference calls)*
Task 8: Prepare and Present Draft Report *(conference call)*
Task 9: Revise Draft Report/Determine Cost Recovery Levels *(conference call)*
Task 10: Prepare and Present Final Report/Train Staff on Model *(meeting)*



Legend:

⌘1: Information Request
⌘2: Revised Project Scope and Schedule *(if needed)*
⌘3: Draft List of Current Fees
⌘4: User-friendly Model in Microsoft Excel
⌘5: Time Surveys and Draft Full Cost Recovery Fees
⌘6: Common Fee Comparison
⌘7: Draft Fee and Rate Model Review
⌘8: Draft Report
⌘9: Revised Draft Report/Final Report
⌘10: Final Report – Hard and Electronic Copies

Staffing

Key Personnel

Our management and supervision of the project team is very simple: staff every position with experienced, capable personnel in sufficient numbers to deliver a superior product to the Town, on time and on budget. With that philosophy in mind, we have selected experienced professionals for this engagement. We are confident that our team possesses the depth of experience that will successfully fulfill your desired work performance.

Willdan has conducted studies for public agencies throughout the United States. Our employees know and understand the problems facing local government under the current economic climate, and we have oriented our practice to support an agency's modified budget policies and public service priorities.

Mr. **Chris Fisher** will administer the Town of Fountain Hills project as the **Principal-in-Charge**. He will apply his extensive financial rate design/modeling experience and ability to clearly communicate results through the facilitation of numerous stakeholder forums. In this role, he will attend meetings and presentations, provide technical guidance, produce key study elements, and will be responsible for work deliverables.

Mr. **Tony Thrasher** will serve as the **Technical Project Manager** and primary contact for the User Fee Study portion of the engagement. He will work closely with Mr. Fisher to develop the analyses under the Town's scope of services and develop complete and accurate models that will best fit the project needs.

Mr. **Kevin Burnett** will serve as **Lead Analyst**; he will assist in presentations and discussions as well as share his knowledge of the Town with the project team. He will provide analytical support for this project based upon extensive knowledge and experience throughout Arizona.

Ms. **Priti Patel** will provide **Analytical Support** as the project analyst, she will work closely with Mr. Burnett and Mr. Thrasher, and the Town, to ensure that data is collected, interpreted, researched, and correctly entered into the model.

Ms. **Pat Walker** will provide quality assurance/quality control to this engagement in the role of **Local Liaison, Quality Assurance/Technical Advisor.** Ms. Walker will review the models as a third-party internal reviewer prior to their submittal to Town staff. Her continual review of data entry and model development assures that the draft, and final products have been thoroughly evaluated for potential errors; thus, providing quality client deliverables, and high levels of integrity and outcomes throughout the duration of the project.

Staff Continuity

Mr. Fisher has been assigned to serve as the Town's representative; and has been selected for this role due to his extensive experience, which includes the preparation and supervision of numerous Fee Studies, as well as his experience presenting to governing bodies, stakeholders, and industry groups.

It is important to note that Mr. Fisher has been with Willdan for more than 19 years ensuring the Town of Fountain Hills of continuity and dedication in staffing during the completion of the project.

Project Management

Furthermore, to ensure that the project stays on schedule, and is properly focused on Town objectives, Mr. Fisher in collaboration with the entire project team, will provide Town staff with updates to summarize our progress against the project timeline, and update the status of upcoming deliverables. We will also document discussions leading to important policy decisions and/or the choice of critical assumptions used in constructing the analysis and model.

The Project Team will utilize a detailed Project Management Plan from the outset of the engagement to manage and control all proposed activities, deliverable deadlines, client and stakeholder engagement, and quality control.

Willdan will meet with staff to enhance our understanding of the project objectives, review the project timelines, and seek assistance in identifying the best information sources to obtain the necessary inputs to evaluate the Town.

Finally, following key stakeholder discussions, we will schedule a call to summarize findings and direction with Town staff, to make certain that we are in agreement with stated objectives, and that feedback is incorporated as appropriate. These steps guarantee that as the project moves forward success will be achieved by continually aligning our approach and work with stakeholder and Town objectives, adjusting where necessary.

Sub-Consultant

Pat Walker Consulting, LLC

Pat Walker Consulting, LLC ("PW Consulting") is an Arizona based firm with over 40 years "hands on" experience in municipal finance, management, and planning services and has worked with municipalities throughout the United States. As the City of Chandler Arizona's Management Services Director/CFO, Ms. Walker was responsible for the City's financial statements and budget, and had direct oversight of the City's information management, human resources, accounting, purchasing, utility billing, customer service, meter reading, sales tax, risk management, environmental services and fleet operations. While serving Chandler, she was also responsible for developing numerous budgets, user and impact fee studies, financial models and capital financing plans. In 2007, she became a municipal management and financial consultant to cities, towns and utilities across the country.

In 2012, she formed Pat Walker Consulting LLC to continue her consulting work independently to municipalities, garnering the respect of numerous client cities throughout Arizona and beyond. The key to a successful project is listening to the needs of each community, creating a variety of problem resolutions, and collaborating with the client to bring a solid solution. PW Consulting uses this approach for each project and specializes in preparing impact and user fee studies, budget preparation, and strategic financial planning. Ms. Walker has completed numerous fee studies throughout Arizona.

Ms. Walker has a strong ongoing working relationship with Willdan over the past 5 years, conducting numerous projects with the Financial Consulting Services Group.

Resumes

Resumes for Willdan's project team are presented on the following pages.

Chris Fisher

Principal-in-Charge

Education
San Francisco State University, Bachelor of Science, Finance

Areas of Expertise
Cost of Service Analyses

Multi-disciplinary Team Management

Special District Formations

Client Presentations

Proposition 218

Affiliations
California Society of Municipal Finance Officers

Municipal Management Association of Northern California

California Municipal Treasurers Association

19 Years' Experience

Mr. Chris Fisher, Vice President and Group Manager of Willdan's Financial Consulting Services group, will serve as Principal-in-Charge for the Town of Fountain Hills's project. He will also share his extensive knowledge related to cost-of-service principles with members of the project team.

Mr. Fisher joined Willdan in April of 1999, and during that time has managed an array of financial consulting projects for public agencies in California, Arizona, Colorado and Florida, coordinating the activities of resources within Willdan, as well as those from other firms working on these projects. He is one of the firm's leading experts for special district financing related to public infrastructure, maintenance, and services, including public safety.

Related Experience

City of Richmond, CA – Cost Allocation Plan: As principal-in-charge, Mr. Fisher oversaw the development and review of the recent Cost Allocation Plan study for the City of Fountain Hills. He provided review of deliverables, and technical guidance as necessary.

City of Petaluma, CA — Overhead Cost Allocation Plan and OMB Circular A-87 Plan, User Fee Study, CIP Rate Analysis, and Hourly Overhead Rate Study: Mr. Fisher served as project manager for the project team and provided oversight for this thorough and intensive study for the City of Petaluma.

City of Hayward, CA — Cost Allocation Plan and User Fee Study: Mr. Fisher served as the project manager for the City's full overhead cost allocation plan and OMB A-87 cost allocation plan, along with a comprehensive master user fee study. He worked with the City and Willdan staff to gather the necessary data and is overseeing Willdan's development of the cost allocation model. The City has a complicated and detailed budget and the cost allocation plan that Willdan developed is tailored to their structure and includes provision for several Internal Service Funds.

City of Irvine, CA — OMB Cost Allocation Plan and Comprehensive User Fee Study: Willdan completed a cost allocation plan and user fee study for the City of Irvine. Mr. Fisher managed and provided quality assurance to this project, ensuring the accuracy of the models, as well as the final reports. He also presented the results to the City's Finance Commission and to the City Council.

City of Belmont, CA — Master Fee Study and Cost Allocation Refinement: Mr. Fisher served as the project manager for Willdan's work with the City of Belmont and the Belmont Fire Protection District's fee study. Willdan completed a Master Fee Study and an analysis and review of the existing Cost Allocation Plan for the City of Belmont, and a Fee and Rate Study for the Belmont Fire Protection District.

City of Salinas, CA — Comprehensive Fee Study and Full Cost Allocation Plan: Mr. Fisher served as the project manager for the City of Salinas engagement, to prepare an OMB compliant full cost allocation plan and comprehensive fee study for the development of a master list of fees. Mr. Fisher led an all-departments overview meeting, where the framework and general process was reviewed, and global practical and policy questions were addressed. Immediately following the overview meeting, individual meetings were held with representatives from each department to discuss their specific fee related activities and gather necessary information to update fees.

C. Fisher
Resume Continued

City of Union City, CA — Comprehensive Fee and Rate Study & Overhead Cost Allocation Plan: Mr. Fisher served as the principal-in-charge for the City's fee study. He oversaw the development of an overhead cost allocation plan, OMB compliant cost allocation plan, as well as a comprehensive user fee study.

City of Pittsburg, CA —Cost Allocation Plan and User Fee Study: Mr. Fisher provided policy guidance and quality assurance to the City's update and development of a comprehensive user fee study for the development of a master user fee and rate schedule and a cost allocation plan to recover overhead costs related to central service activities.

City of Signal Hill, CA – Cost Allocation Plan and User Fee Study: As principal-in-charge, Mr. Fisher oversaw the development and review of a Full and OMB compliant cost allocation study and a comprehensive user fee and rate study for the City's master list of fees.

Sacramento Public Library Authority, CA — Cost Allocation Plan and OMB Circular: In April 2014, as Project Manager, Mr. Fisher completed the final report for the Sacramento Public Library Authority. Throughout the project, he provided quality assurance to the project, which involved the development of a methodology for this unique venture. Mr. Fisher presented the final report to the Library Authority Board, as well as the Joint Powers Authority. An update to the CAP has just been completed and presented to the Board.

Tony Thrasher

Technical Project Manager

Education
Bachelor of Science in Finance (Econometrics); California State Polytechnic University, Pomona

Areas of Expertise
Cost Allocation Plans

Fiscal Analysis for User Fees and Rates

Utility Rate Studies

11 Years' Experience

Due to his cost allocation and user fee analyses experience, Mr. Tony Thrasher has been selected to serve as Project Manager for the Town of Fountain Hills's engagement.

Currently, Mr. Thrasher is a Project Manager within the Financial Consulting Services group, whereby his responsibilities include managing projects and conducting fiscal analyses for cost allocation plans, user fees, and utility rate studies.

Mr. Thrasher's prior employment was as a financial analyst working in bond, equity, and mortgage-backed security markets for Wells Fargo Bank, Bank of New York Mellon, and Deutsche Bank. His experience includes portfolio accounting, differential analysis, and forecasting.

Related Experience

City of DeSoto, TX — Comprehensive User Fee Study: Mr. Thrasher is serving as the project manager for the City of DeSoto's ongoing User Fee Study engagement.

City of Richmond, CA — Cost Allocation Plan: Mr. Thrasher serves as the Project Manager for the city's engagement. He works directly with City Staff, and coordinates Willdan resources, to develop the Cost Allocation Model, analysis and report. He coordinates gathering and verification of data, development of the model and report, and delivery of final results.

City of Salinas, CA — Full Cost Allocation Plan and Comprehensive Fee Study: Mr. Thrasher provided analytical support for the City of Salinas OMB compliant full cost allocation plan and comprehensive fee study engagement. He worked closely with City staff to gather and analyze data to produce reports, participated in multiple meetings, and assisted the City appointed Project Manager in the adoption of the new fees.

City of Hayward, CA — Cost Allocation Plan and User Fee Study: For this project, Mr. Thrasher provided analytical support, and was largely responsible for the development of the models. Primary duties include gathering and verifying necessary data, finalizing model figures and generating reports.

City of Petaluma, CA — Overhead Cost Allocation Plan and OMB Circular A-87 Plan, User Fee Study, CIP Rate Analysis, and Hourly Overhead Rate Study: Mr. Thrasher provided analytical support for this engagement. His primary duties were to work with City staff to gather data, provide assistance to the project manager, and produce reports.

City of Irvine, CA — OMB A-87 Cost Allocation Plan and Comprehensive User Fee Study: Serving as the project's analyst, Mr. Thrasher provided analytical support; and designed micro-level allocation models to ensure full-cost recovery for public safety, public works, community development, community services, and administrative departments.

City of Mission Viejo, CA — Cost Allocation Plan and User Fee Study: Mr. Thrasher was assigned to work with the City on this project, providing analytical support, gathering data, working with staff to make refinements, and developing cost allocation and fee models to ensure full-cost recovery for building and safety, planning, community development, and public works departments.

City of Cerritos, CA — Development Services User Fee Study: Mr. Thrasher served as the technical project manager for this engagement, whereby he designed micro-level allocation models to ensure full-cost recovery for building and safety, planning, community development, and public works departments.

T. Thrasher
Resume Continued

City of West Covina, CA — Cost Allocation Plan and Comprehensive User Fee Study: Mr. Thrasher provided analytical support in association with the gathering of budget and allocation basis data, and in the development of the model and report for the project. He worked directly with the City contact throughout the engagement.

City of Galt, CA — Cost Allocation Plan: As the assigned technical lead, Mr. Thrasher worked directly with City Staff to develop the Cost Allocation Model and report and worked with Staff to test and adjust the model and methodology where appropriate before finalizing. Following completion of the initial CAP, he worked with the City to update the model for the subsequent budget update.

City of Bellflower, CA — OMB Cost Allocation Plan and Comprehensive User Fee Study Update: In Willdan's initial engagement with the City, Mr. Thrasher provided analytical support, with his primary duties including finalizing model figures and generating reports. In the subsequent update of both the CAP and the Fee Study, Mr. Thrasher assumed a lead technical role, working directly with the client to develop a new Cost Allocation Model, update the comprehensive fee model, and resolve policy and fee setting issues. He was directly responsible for delivery of reports and presentations to the City.

Sacramento Public Library Authority, CA — Cost Allocation Plan and OMB Circular: Mr. Thrasher provides analytical support. His primary duties included finalizing model figures and generating reports.

Priti Patel

Analyst

Education

Bachelor of Arts; Business Management, Information Systems and International Business, University of Cincinnati

Areas of Expertise

Cost Allocation Plans

User Fee Studies

Proposition 218

7 Years' Experience

Ms. Priti Patel is a Senior Analyst within the Financial Consulting Services group, whereby she supports project managers in conducting utility rate analyses, fee studies, cost allocation plans, monitoring Proposition 218 compliance, and forming special districts.

Coordinating and conducting activities associated with Cost Allocation Plans and User Fee Studies, including database integration and manipulation, revenue and expenditure analyses, and documentation preparation are just some of Ms. Patel's duties. With these duties, she interacts with clients on a regular basis.

Ms. Patel joined Willdan, in 2015, as an analyst with the District Administration Group, while with DAS she performed research and analysis needed for local government financial issues related to district administration, including document data entry and updating, database management, research and report preparation. She also provided general information on questions pertaining to Assessment Districts and special taxes (such as Mello-Roos Pools), as well as the status of property delinquencies. Ms. Patel came to Willdan with more than five years' experience as an Analyst.

Related Experience

City of DeSoto, TX — Comprehensive User Fee Study: Ms. Patel is serving as the lead analyst for the City of DeSoto's ongoing User Fee Study engagement. She provides analytical support, gathers budget and allocation basis data for this engagement.

City of Richmond, CA — Cost Allocation Plan: Ms. Patel serves the lead analyst for the City of Fountain Hills's ongoing Cost Allocation Plan project. She provides analytical support, gathers budget and allocation basis data for this engagement. She also develops the Cost Allocation Model and prepares the report summarizing the results.

City of National City, CA — Cost Allocation Plan, OMB Compliant Cost Allocation Plan, User Fee Study, and ISF Allocation Study: Ms. Patel is providing analytical support in the preparation of this study, her primary duties include development of the models, finalizing model figures and results, and generating reports.

City of Dinuba, CA — Cost Allocation Plan Update and Utility Rate Study: Ms. Patel assisted with a utility rate study and a cost allocation plan update for the City. Duties included reviewing relevant documentation, gathering information related to indirect staffing and functions, assisting in the preparation of a comprehensive draft cost allocation model and plan, and testing and reviewing the model and results with project management staff.

City of Yucaipa, CA — Cost Allocation Plan and Comprehensive User Fee Study: Currently providing analytical support in the preparation of a cost allocation plan and OMB compliant cost allocation plan and comprehensive fee study for the development of a master list of fees. Ms. Patel is working to identify and take into account direct and indirect costs, along with changes in staffing, structure, and service delivery methods. She is also assisting in the preparation of user-friendly Excel-based models that City staff can easily update in the future to determine the proper allocation of expenditures and ongoing full cost of City-provided services.

City of Laguna Hills, CA — Cost Allocation Plan and Comprehensive User Fee Study: Ms. Patel provided analytical support in the preparation of a full cost allocation plan and comprehensive fee study for the development of a master list of fees.

P. Patel
Resume Continued

City of Fillmore, CA — Full Cost Allocation Plan and User Fee Study: Ms. Patel helped develop a cost allocation plan and model that fully allocated central overhead costs to appropriate operating departments, funds, and/or programs. She assisted in the completion of the model and report and worked directly with senior staff to their feedback and revisions.

City of San Fernando, CA — Cost Allocation Plan and Comprehensive User Fee Study: Ms. Patel is currently providing support to senior team members in the preparation of a cost allocation plan, OMB compliant plan and comprehensive user fee study. The cost allocation plan is being used as a component of the comprehensive user fee study. The user fee study is in progress and expected to be completed in early 2017.

City of Lake Elsinore, CA — User Fee Study and Cost Allocation Plan: Ms. Patel is providing analytical support and gathering budget and allocation basis data for this engagement.

Rainbow Municipal Water District, CA — Cost Allocation Plan and OMB Compliant Plan: Ms. Patel provided analytical support to ensure that the District's Cost Allocation Plan and OMB compliant cost allocation model and plan fairly allocated general and administrative overhead service costs to appropriate activities and departments.

Kevin Burnett

Lead Analyst

Education
Master of Arts, Economics, State University of New York, Buffalo

Bachelor of Arts, University of Waterloo, Ontario

Areas of Expertise
Financial Planning

Cost of Service Studies

Rate Design

Impact Fees

Bond Feasibility

Affiliations
American Water Works Association

18 Years' Experience

Mr. Burnett is proposed to serve in the role of lead analyst for the Town's project. He has been selected for this role due to his 18 years of financial consulting experience, which is centered upon financial analysis, utility and non-utlity development impact fees in Colorado, Arizona and New Mexico. Mr. Burnett is a senior project manager in Willdan's Financial Consulting Services group.

Select Project Experience

Town of Fountain Hills, AZ – System Development Fee Audit: Mr. Burnett served as the project manager for the Town's biennial SDF audit. The audits also reviewed the SDF revenues generated as compared to SDF related expenditures, ensuring that only those expenditures that were SDF eligible were funded. The Town's level of service standards was analyzed, and a sample of permits were reviewed to ensure that fees were correctly assessed.

Town of Gilbert, AZ – System Development Fee Audit: Mr. Burnett served as project manager for the Town's first two biennial SDF audits. The purpose of the audits was to review development projections over a two-year period and note any significant variances from projected development per the SDF study.

Town of Paradise Valley, AZ – Sewer Impact Fee Review: Mr. Burnett served as lead analyst on a study to update the Town's sewer impact fees. The prior completed study was reviewed to understand what had changed (capital projects and development projections) in order to help explain to the Town Council the reason for the revision to the Town's sewer impact fees. In addition to the review and update of capital needs and development projections, Willdan staff updated the Town's sewer impact fees to be assessed to new development.

City of Bullhead City, AZ – Sewer Cost of Service Rate and Connection Fee Study: Mr. Burnett served as the project manager for the City's comprehensive study to update sewer rates and connection fees. The study examined the possibility of assessing differential rates based on customer classifications and looked at miscellaneous fees (returned checks, ACH payments) to evaluate whether or not the City was recouping their costs for providing various services. The connection fee review and update was premised upon the idea that new development should be responsible for paying for the cost of infrastructure to serve their new developments and not burden existing customers with growth related costs. Mr. Burnett worked with staff to identify connection fees that were technically defensible and met the needs and goals of the City.

City of Chandler, AZ – System Development Charge Study: Mr. Burnett served as project manager for an update to the City's water system water resource and sewer system development charges. Fees were developed to distinguish between residential and non-residential customers, based on the impact each customer class was anticipated to place on the system. Meetings were held with the development community to obtain buy-in to the process undertaken to update the City's charges.

Town of Buckeye, AZ – Utility and Non-Utility Impact Fees: Served as analyst on a study to develop both utility and non-utility impact fees for the Town. Given the uniqueness of the Town, impact fees were developed by zones in order to accommodate growth projections for distinct service areas within the Town.

Town of Prescott Valley, AZ – Utility Connection Fee and Non-Utility Impact Fee Study: Served as project manager for a comprehensive study to update the Town's water and sewer connection fees as well as non-utility impact fees such as general government, library, police and fire. The project involved multiple meetings with a citizen

K. Burnett
Resume Continued

committee, comprised of various members of the Town, including both residents and developers to help generate support for the updated fees.

Town of Parker, AZ – Water and Roads Impact Fee Study: Served as project manager on a study (and the subsequent update) to develop first time water and roads fees for the Town, a landlocked nearly built-out community of one square mile. The Town acquired property for a future community named Parker South, an annexed parcel of land 20 miles south of the original Town. Existing water usage patterns and estimates of water production was used to estimate the per equivalent dwelling unit water service to the undeveloped community of Parker South.

City of Lake Havasu City, AZ – Non-Utility Impact Fee Study: Mr. Burnett served as project manager for a non-utility impact fee study that examined impact fees for police, fire, general government and transportation. The study identified the proportionate costs to serve each customer class. Meetings were held with the development community in order to explain the process undertaken to develop the fees and to educate the community on the use and application of the fees.

City of Flagstaff, AZ – Water and Sewer Capacity Fee Study: Mr. Burnett served as project manager and lead analyst for a study updating the City's water and sewer capacity fees. Two water capacity fee options were developed, one of which examined the need for long term water resource acquisition. Mr. Burnett met with the City's water advisory group to seek input and recommendations to carry forward to City Council. A component of the water advisory group presentations was educating the members on how the prior capital and land use assumptions had changed and the impact that had on the new capacity fees.

Town of Queen Creek, AZ – Water and Sewer Capacity Fee Review: Mr. Burnett served as lead analyst on a peer review study of the Town's water and sewer capacity fees. The initial purpose of the study was to review the prior study and identify any inconsistencies and any areas of concern with the study methodology, projections and the use of projections. Once the analysis was complete a presentation was made to Town staff identifying areas of concern and inconsistencies with the application of data. The review resulted in a new contract for Willdan to update the Town's water and sewer capacity fees.

Triview Metroplitan District, CO – Utility and Non-Utility Impact Fee Study: Mr. Burnett served as the project manager for the District's comprehensive update to the water and sewer impact fees, as well as storm drainage, park and road impact fees. The purposes of the fees were to ensure that growth was paying for its proportionate share of development costs and did not unecessarily burden existing development.

Pat Walker

Quality Assurance

Education

Master in Organizational Management, University of Phoenix

Bachelor of Science in Business Management, University of Illinois

Areas of Expertise

Impact Fee Studies

Public Presentations

Cost of Service Analyses

Affiliations

Government Finance Officers Association

National Growth and Infrastructure Consortium

American Water Works Association

Water Environmental Federation

40 Years' Experience

With more than 40 years of experience in local government and municipal finance, Ms. Walker has provided a broad array of management and financial planning services. She served the City of Chandler, Arizona for 23 years as Chief Financial Officer. In this role, she developed numerous budgets, user and impact fee studies, financial models and capital financing plans. In 2007, Ms. Walker became a municipal management and financial consultant to cities, towns and utilities across the country. In 2012, she formed Pat Walker Consulting LLC to continue her consulting work to municipalities. She recently served on the AZ Model City Ordinance Development Impact Fee Committee and is on the board for the National Growth and Infrastructure Consortium. Ms. Walker has extensive experience presenting and facilitating meetings before Councils, City staff, and formal/informal stakeholder groups in a community.

Selected Relevant Experience

Town of Fountain Hills, AZ – General Government Impact Fee Study and Update: Ms. Walker served as the project manager for the two studies. In 2008, the Town's prior general government impact fee study was updated by applying an inflationary factor. The second was completing a full impact fee study and IIP in 2009 according to new Arizona legislation on impact fees. She also served as the Project Manager for the 2011 update.

City of Flagstaff, AZ – Water and Wastewater Capacity Fee Study: Ms. Walker recently served as co-project manager for the City's utility capacity fee study. The proposed fees developed by Willdan and PWC were presented and adopted by Council in 2016.

City of Glendale, AZ – Cost Allocation Study: Project Manager for a 2016 Cost Allocation Plan to identify the City's costs related to rendering internal central support services and the allocation of those cots to operating departments or programs that utilize and benefit from them, in a fair and equitable manner.

Town of Queen Creek – Water and Sewer Capacity Fee Study: This is an on-going study to update the Town of Queen Creeks water and sewer capacity fees. Ms. Walker is serving as co-project manager, technical and policy advisor.

Town of Paradise Valley, AZ –Sewer Rate and Capacity Fee Study: Ms. Walker was the Project Manager on a sewer rate and capacity fee study in conjunction with Willdan. The updated sewer rates were adopted in 2016 and the sewer capacity fee was adopted in 2017.

City of Goodyear, AZ – Water and Sewer Cost of Service Study/Organizational Effectiveness: Served as the project lead on the organizational effectiveness study for the water and sewer cost of service rate study. Ms. Walker also facilitated numerous Citizen Rate Committee meetings.

City of Surprise, AZ – Water and Sewer Cost of Service Rate Study: Ms. Walker served as project manager for the City's cost-of-service rate study for water and sewer.

City of Surprise, AZ – General Government and Utility Impact Fee Update: Project manager for impact fee update required per SB1525. Completed study, presented and City adopted in December 2011.

City of Lake Havasu, AZ – Water Rate/Impact Fee Study: As project manager, developed financial plan cost of service and rate structure alternatives.

Town of Oro Valley, AZ – General Government Impact Fee Update: As project manager for the update, required per SB1525, completed the study, presented the report and fees were adopted in December 2011.

References

Below are recent project descriptions, including client contact information, that are similar in nature to those requested by the Town. We are proud of our reputation for customer service and encourage you to contact these clients regarding our commitment to completing the projects within budget and agreed upon timelines. All projects included in the reference section have been conducted by the team members included within this proposal.

Town of Paradise Valley, AZ

Planning and Engineering Fee Study

The City of Paradise Valley was in need of a Planning and Engineering User Fee Study, as one had not been completed in some time. Willdan completed this study in a manner that would fully identify and take into account all direct/indirect costs. Willdan reviewed and analyzed existing user fee programs, and based upon conversations with staff, made suggestions, as necessary, for fees that may need to be added to the City's fee schedule for which fees were not currently being charged.

Willdan provided guidance in the noticing process to ensure the City is in compliance with the requirements of the Government Code; the fees were recently adopted by the City Council.

Client Contact:	Ms. Dawn Marie Buckland, Deputy Town Manager Tel #: (480) 348-3555 | Email: dbuckland@paradisevalleyaz.gov	
Project Dates:	August 2016 – January 2017	***Project Fees:*** $16,485

City of Glendale, AZ

Cost Allocation Plan

In collaboration with Pat Walker, Willdan assisted in the preparation of a cost allocation plan for the City of Glendale. The City was seeking an outside consultant to complete a review and update of their current cost allocation plan

Our primary objective for the cost allocation study was to ensure that general government costs were fairly and equitably allocated to appropriate programs and funds, which are based on tailored and well thought out allocation factors in accordance with Office of Management and Budget Cost Principles.

Client Contact:	Mr. Tom Duensing, Assistant City Manager Tel #: (480) 734-6953 | Email: TDuensing@Glendaleaz.Com	
Project Dates:	November 2015 – August 2017	***Project Fees:*** $54,470

City of Union City, CA

Comprehensive User Fee and Rate Study and Full & OMB Compliant Cost Allocation Plan

The City of Union City sought an outside consultant to prepare a comprehensive study of the City's user fees, as well as the preparation of a Full Cost Allocation Plan. Willdan completed these studies in a manner that would fully identify and take into account all direct/indirect costs. Our primary objective for the cost allocation study update was to ensure that general government costs are fairly and equitably allocated to appropriate programs and funds, based on tailored and well thought out allocation factors. The Cost Allocation Plan was also created to develop OMB compliant overhead allocations and indirect rates.

Willdan reviewed and analyzed existing user fee programs, and based upon conversations with staff, made suggestions, as necessary, for fees that may need to be added to the City's fee schedule for which fees were not currently being charged. We developed a cost of service analysis and model that updated existing fees and incorporated new fees and used it to create an updated comprehensive fee schedule.

Client Contact:	Mr. Mark Carlson, Finance Director Tel. #: (510) 675-5338 | Email: MCarlson@unioncity.org	
Project Dates:	September 2016 – May 2017	***Project Fees:*** $36,585

City of Petaluma, CA

Overhead Cost Allocation Plan and OMB Circular A-87 Plan, User Fee Study, CIP Rate Analysis, and Hourly Overhead Rates

Willdan provided an Overhead Cost Allocation Plan and OMB Circular A-87 Plan, User Fee Study, CIP Rate Analysis, and Hourly Overhead Rates to the City of Petaluma. After reviewing the City's 2014 Master Fee Schedule, we developed an Overhead Cost Allocation Study, which is OMB A-87 compliant, and a User Fee Study that accurately accounts for the true cost of providing various services within and to each City operation, including capital projects.

As part of this effort, we also developed fully burdened hourly rates for City employees that can be used for work orders, or to charge to specific activities. This included an analysis of administrative and overhead costs associated with activities that are delivered directly to the public, where hourly rates may be charged, to ensure appropriate recovery of costs. Willdan completed these studies concurrently, in a manner that fully identifies and takes into account direct and indirect costs, along with changes in staffing, structure, and methods of service delivery.

Willdan was re-selected to provide an update to the Cost Allocation Plan.

Client Contact:	Ms. Corey Garberolio, Acting Finance Director Tel. #: (707) 778-4352 | Email: cgarberolio@ci.petaluma.ca.us		
Project Dates:	March 2014 – March 2016	***Project Fees:***	$39,875
Recent Project Dates:	December 2016 – April 2017	***Project Fees:***	$5,900

City of Hayward, CA

Full Overhead Cost Allocation Plan, OMB A-87 Cost Allocation Plan, and Comprehensive Master User Fee Study

Willdan completed a full overhead cost allocation plan and OMB A-87 cost allocation plan, along with a comprehensive master user fee study for the City of Hayward. The Willdan team worked with City staff to gather the necessary data to develop the cost allocation model. The City had a complicated and detailed budget and the cost allocation plan that Willdan developed is tailored to their structure and includes provisions for several Internal Service Funds. Willdan staff worked through the course of reorganizing staff functions and/or reducing staff, it was important to revisit the manner and methodology by which indirect overhead costs were distributed to the operating departments and, as appropriate, other chargeable funds and programs. The City was in need of a new cost allocation plan that would ensure the fair and equitable allocation of government expenses to appropriate departments, programs, and funds, while utilizing tailored and well thought out allocation factors.

Furthermore, Willdan updated many of its user fee programs, and the information developed during the cost allocation plan served as the basis for the study.

Willdan has been re-selected to provide Cost Allocation Plan and User Fee updates for multiple years.

Client Contact:	Mr. Dustin Claussen, Director of Finance Tel. #: (510) 583-4010 | Email: Dustin.Claussen@hayward-ca.gov	
Project Dates:	March 2013 – September 2015	***Project Fees:*** $49,265
Recent Project Dates:	October 2018 – Ongoing	***Project Fees:*** $29,300

Similar Services

Listed in the table below, are public agencies in which similar services have been completed, or are currently in progress, in the previous five years.

Willdan Financial Services Cost Allocation Plan and User Fee Study Experience	
Contracting Agency	**Project Description**
Burney Fire Protection District, CA	Ambulance User Fee Study
City of Banning, CA	Cost Allocation Plan, User Fee Study and User Fee Study and Development Impact Fee Study
City of Bell, CA	User Fee Study
City of Bellflower, CA	Overheard and OMB A-87 Cost Allocation Plan and Citywide User Fee Study
City of Bellflower, CA	Cost Allocation Plan, OMB Compliant Plan, User Fee Study and Development Impact Fee Study
City of Belmont, CA	User Fee Study and Refinement of Cost Allocation Plan
City of Blythe, CA	Cost Allocation Plan and OMB Compliant Plan
City of Brea, CA	Police Department Cost Allocation Plan
City of Brea, CA	Police Department Cost Allocation Plan (Placentia Dispatch)
City of Calexico, CA	EMS User Fee Study
City of Cerritos, CA	Development Services User Fee Study
City of Chino Hills, CA	Cost Allocation Plan, and Comprehensive User Fee Study
City of Claremont, CA	Cost Allocation Plan and User Fee Study
City of Coalinga, CA	User Fee and Rate Study
City of Colton, CA	User Fee Study
City of Compton, CA	Master Fee Study and Development Impact Fee Study
City of Dinuba, CA	Cost Allocation Plan
City of El Centro, CA	Comprehensive User Fee Study
City of El Cerrito, CA	Cost Allocation Plan and Community Development Department User Fee Study
City of Encinitas, CA	Development Services User Fee Study and Cost Allocation Plan
City of Escondido, CA	Cost Allocation Plan, OMB Compliant Plan, and Comprehensive User Fee Study
City of Fillmore, CA	Cost Allocation Plan, OMB Compliant Plan, and User Fee Study
City of Fullerton, CA	Community Development Department User Fee Study
City of Galt, CA	Cost Allocation Plan and OMB Compliant Plan
City of Gardena, CA	Cost Allocation Plan
City of Gilroy, CA	Cost Allocation Plan, OMB Compliant Plan, and User Fee Study
City of Glendale, AZ	Cost Allocation Plan
City of Goleta, CA	Cost Allocation Plan, OMB Compliant Plan, and Comprehensive User Fee Study
City of Hawthorne, CA	Cost Allocation Plan

Willdan Financial Services Cost Allocation Plan and User Fee Study Experience	
Contracting Agency	**Project Description**
City of Hawthorne, CA	Comprehensive User Fee Study
City of Hayward, CA	Comprehensive Master User Fee Study
City of Hayward, CA	Full Overhead Cost Allocation Plan
City of Hayward, CA	Rental Inspection Program Fee Analysis
City of Hemet, CA	Cost Allocation Plan and User Fee Study
City of Hesperia, CA	Cost Allocation Plan
City of Indian Wells, CA	Comprehensive User Fee Study
City of Irvine, CA	Comprehensive User Fee Study and Full Cost Allocation Plan
City of Irvine, CA	Cost Allocation Plan and Fee Analysis Services
City of Irwindale, CA	Cost Allocation Plan, User Fee Study and Development Impact Fee Study
City of La Mirada, CA	Cost Allocation Plan and User Fee Study Update
City of La Puente, CA	Cost Allocation Plan, OMB Compliant Plan, and User Fee Study
City of Laguna Hills, CA	Comprehensive User Fee Study and Cost Allocation Plan Update
City of Lake Elsinore, CA	Cost Allocation Plan, OMB Compliant Plan, User Fee Study and Development Impact Fee Study
City of Los Banos, CA	Full Cost Allocation Study, OMB Compliant Plan, and Comprehensive User Fee Study
City of Lynwood, CA	User Fee Study and Cost Allocation Plan
City of Lynwood, CA	City Hall Renovation Cost Allocation Plan
City of Mesquite, TX	Cost Allocation Plan and OMB Compliant Plan
City of Mission Viejo, CA	Comprehensive User Fee Study and Cost Allocation Plan
City of Missouri City, TX	Full and OMB Compliant Cost Allocation Plan and User Fee Study
City of Montebello, CA	Cost Allocation Plan Update
City of Montebello, CA	Transit Cost Allocation Plan
City of Monterey Park, CA	Cost Allocation Plan and User Fee Study, and Updates
City of Monterey Park, CA	Cost Allocation Plan Update
City of Monterey, CA	Cost Allocation Plan and Indirect Cost Rate
City of Monterey, CA	Cost Allocation Plan Update
City of Murrieta, CA	Comprehensive User Fee Study, Cost Allocation Plan, and OMB Compliant Plan
City of National City, CA	Cost Allocation Plan, OMB Compliant Cost Allocation Plan, User Fee Study, and ISF Allocation Study
City of Oroville, CA	Cost Allocation Plan
City of Pacifica, CA	Comprehensive Citywide User Fee Study and Charges Rate Study
City of Palm Desert, CA	Ambulance User Fee Study
City of Patterson, CA	Comprehensive User Fee Study, Full Cost Allocation Plan, and OMB Compliant Plan

Willdan Financial Services Cost Allocation Plan and User Fee Study Experience	
Contracting Agency	**Project Description**
City of Petaluma, CA	Cost Allocation Plan, User Fee Study, CIP Admin Rate & Work Order Rate Analysis, Hourly Overhead Rates, and ISF Allocation Study
City of Petaluma, CA	Cost Allocation Plan Update
City of Pittsburg, CA	User Fee Study and Cost Allocation Plan
City of Red Bluff, CA	Cost Allocation Plan
City of Rocklin, CA	User Fee Study
City of Richmond, CA	Cost Allocation Plan and Updates
City of St. Helena, CA	Cost Allocation Plan, OMB Compliant Plan, User Fee Study and Development Impact Fee Study
City of Salinas, CA	Full Cost Allocation Plan and Comprehensive Fee Study
City of San Anselmo, CA	Full Cost Allocation Plan and Comprehensive User Fee Study
City of San Bruno, CA	Comprehensive User Fee Study, Cost Allocation Plan, and OMB Compliant Plan
City of San Fernando, CA	Cost Allocation Plan, OMB Compliant Plan, User Fee Study and Development Impact Fee Study
City of Santa Ana, CA	User Fee Study
City of Signal Hill, CA	Comprehensive User Fee Study, Cost Allocation Plan, and OMB Compliant Plan
City of Soledad, CA	User Fee Study
City of Surprise, AZ	Full Cost Allocation Plan
City of Tulare, CA	Comprehensive User Fee and Rate Study, Full Cost Allocation Plan, and OMB Compliant Plan
City of Twentynine Palms, CA	Comprehensive User Fee and Rate Study, Full Cost Allocation Plan, and OMB Compliant Plan
City of Union City, CA	Comprehensive User Fee and Rate Study, Full Cost Allocation Plan, and OMB Compliant Plan
City of Watsonville, CA	Comprehensive User Fee and Rate Study, Cost Allocation Plan, and OMB Compliant Plan
City of West Covina, CA	Cost Allocation Plan and User Fee Study
City of Yucaipa, CA	Comprehensive User Fee and Rate Study, Full Cost Allocation Plan, and OMB Compliant Plan
County of San Benito, CA	User Fee Study and Development Impact Fee Study
Kentuckiana Works, KY	OMB Cost Allocation Plan and Updates
Rainbow Municipal Water District, CA	Cost Allocation Plan and OMB Compliant Plan
Sacramento Public Library, CA	Cost Allocation Plan, and Updates
Town of Paradise Valley, AZ	Planning and Engineering Services Fee Study

Required Forms

Vendor Information Form

SECTION A | **TOWN OF FOUNTAIN HILLS FINANCE DIVISION**

IV. **VENDOR INFORMATION FORM**

By submitting a Proposal, the submitting Vendor certifies that it has reviewed the administrative information and draft of the Professional Services Agreement's terms and conditions and, if awarded the Agreement, agrees to be bound thereto.

Willdan Financial Services
VENDOR SUBMITTING PROPOSAL

33-0302345
FEDERAL TAX ID NUMBER

Mark Risco, President & CEO
PRINTED NAME AND TITLE

AUTHORIZED SIGNATURE

27368 Via Industria, Suite 200
ADDRESS

(800) 755-6864 — (888) 326-6864
TELEPHONE — FAX #

Temecula, California 92590
CITY STATE ZIP

January 25, 2019
DATE

WEB SITE: www.Willdan.com

E-MAIL ADDRESS: MRisco@Willdan.com

SMALL, MINORITY, DISADVANTAGED AND WOMEN-OWNED BUSINESS ENTERPRISES (check appropriate item(s):

______ Small Business Enterprise (SBE)
______ Minority Business Enterprise (MBE)
______ Disadvantaged Business Enterprise (DBE)
______ Women-Owned Business Enterprise (WBE)

Has the Vendor been certified by any jurisdiction in Arizona as a minority or woman-owned business enterprise?

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

Addendum 1

Request for Proposals

Comprehensive User Fee Study

Contract AD2019-01

Addendum No. 1

The following changes are made to RFP document:

- Page A-2 – Section 2.2 F – Pricing: the RFP indicates a sample fee proposal is attached. There is no sample and Vendors are free to submit their pricing in the format they deem best.
- Page A-4 – Section 1.10 – Vendor Licensing and Registration: The requirements of this section do not need to be submitted with the Proposal or prior to the award. The requirements must be met prior to the execution of the contract.
- Page A-8 – Section 2.2 E – Project Schedule: Remove statement "shall not exceed 60-day period". The schedule will be mutually agreed upon by the Vendor and the Town.
- Page B-1 – Section 1 – Term of Agreement: The date and renewals contained in this section are subject to mutual agreement by the parties.

Questions that were asked:

- Are building fees to be included in the study? Answer: Yes, all fees listed on the Town's fee schedule, excluding development impact fees, are to be included in the study.
- When was the Building Code and Fire Code last updated? Answer: The Codes were last updated in 2012. A current effort is underway to adopt the 2018 Codes by June, 2019.
- What prompted the study? Answer: To the best of our knowledge, the Town has never had a fee study performed. Based on new statutory language requiring justification for any fee changes, the Town wants a study to support any possible fee changes.
- Does the City have a cost allocation plan currently in place, allocating citywide overhead across all programs? If yes, I assume that it will be made available so that the consultant may incorporate that overhead into the user fee calculations. If no, are you interested in having a quote for cost plan services as an additional option to the user fee study? Answer: The Town does not have a cost allocation plan. Since the Town has not and does not anticipate receiving any Federal funds, the need for a cost allocation plan is not apparent and therefore not requested as part of this study.
- According to the RFP, the pricing information is to be submitted separately from the rest of the proposal. Does the separate pricing section count against the 20-page limit? Answer: The pricing section does not count toward the 20-page limit.
- The RFP indicates a 60-day timeframe for project completion. Is there a reason for this timeframe? Our experience is that a 60-day schedule is fairly aggressive. If you've had a study done in the recent past, that would be helpful. But if there hasn't been a study done fairly

recently (or at all), then I would suggest you consider the amount of time that may be necessary for staff to understand the process and methodology, provide time estimates and volume statistics, absorb the results, and develop thoughtful recommendations for possible fee adjustments. Answer: As stated previously, the 60-day completion is being removed from the RFP. The schedule will be mutually agreed upon by the Vendor and the Town.

- Can you explain the schedule? I saw your note regarding completion by 6/30 but you said you'd explain on the call. Answer: The 60-day requirement is being eliminated. The schedule will be mutually agreed upon by the Vendor and the Town.
- The last page of the RFP, Schedule C, indicates there are pricing forms but there were no additional pages following the header sheet for Schedule C. can you circulate? Answer: There will not be a sample pricing form. Each Vendor may submit their pricing in their own format.
- Regarding the rental rates for park facilities and community center rooms and equipment, is the Town intending these items to be part of the scope of work? Answer: Yes.
- Pertaining to Submittal Quantities noted on page A-1, Part 1.2, item B: instead of a CD-ROM, is a PDF file provided via Flash Drive approved by the Town? Answer: Yes.
- Has the Town of Fountain Hills prepared or had prepared a recent full cost allocation plan? Answer: To my knowledge, the Town has never had a full cost allocation plan prepared.
- Regarding the rental rates for park facilities and community center rooms and equipment, is the Town intending these items to be part of the scope of work? Answer: Yes.
- Pertaining to Submittal Quantities noted on page A-1, Part 1.2, item B: instead of a CD-ROM, is a PDF file provided via Flash Drive approved by the Town? Answer: Yes.

Vendor acknowledges that Vendor has received and read this ADDENDUM NO. 1, and that the information contained herein has been incorporated in formulating Vendor's Bid.

	January 25, 2019
Signed	Date

Mark Risco

Print Name

President & CEO

Title

Willdan Financial Services

Vendor Name

27368 Via Industria, Suite 200

Address

Temecula, CA 92590

City, State, Zip Code

END OF ADDENDUM NO. 1

WILLDAN

1555 South Havana, Suite F-305
Aurora, Colorado 80012
800.755.6864 | Fax: 888.326.6864
www.willdan.com

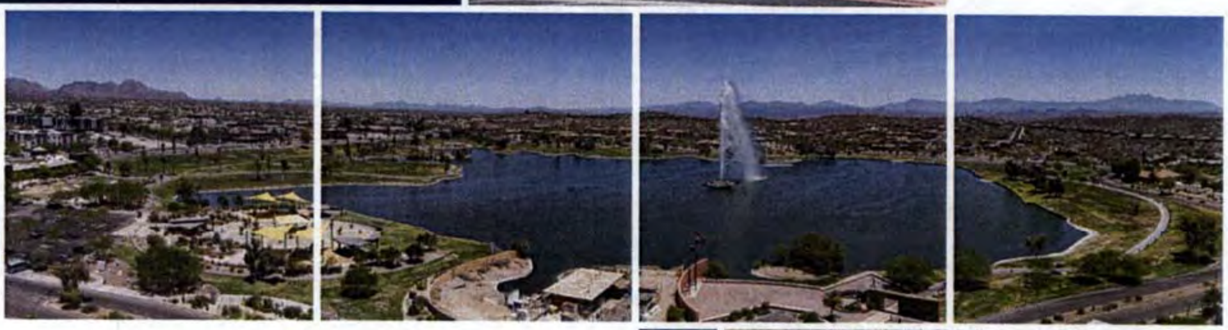


EXHIBIT B
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
WILLDAN FINANCIAL SERVICES, INC.

[Fee Proposal]

See following pages.

WILLDAN
FINANCIAL SERVICES

January 25, 2019

Mr. Craig Rudolphy
Finance Director
Town of Fountain Hills
16705 East Avenue of the Fountains
Fountain Hills, AZ 85268

Re: Town of Fountain Hills RFP –Comprehensive User Fee Study

Dear Mr. Rudolphy,

Willdan Financial Services ("Willdan") is pleased to present the following Fee Proposal to the Town of Fountain Hills ("Town") to conduct a Comprehensive User Fee Study. This submission reflects our understanding of the Town's Request for Proposal (RFP).

Willdan acknowledges herein its willingness to maintain all specified fees and services for a period of ninety (90) days from the closing date of January 28, 2019.

Willdan is excited about this opportunity to continue to serve the Town of Fountain Hills. To discuss any aspect of our technical and/or fee proposal, please contact Mr. Chris Fisher at (800) 755-6864 or via e-mail at CFisher@Willdan.com.

Sincerely,
WILLDAN FINANCIAL SERVICES

Mark Risco
President & CEO

Cost Proposal

Comprehensive User Fee Study

Willdan Financial Services ("Willdan") proposes a ***fixed fee of $36,865*** for the Comprehensive User Fee Study engagement. Below we have presented a breakdown of each specific phase of the project.

Town of Fountain Hills
Comprehensive User Fee Study
Fee Proposal

		C. Fisher Principal-in-Charge	T. Thrasher Tech Project Manager	P. Patel Analytical Support	K. Burnett Lead Analyst	P. Walker Local Liaison QA/TA	Total Hours	Total Cost
		$ 250	$ 165	$ 125	$ 185	$ 200		
Scope of Services								
Task 1:	Initial Document Request	-	-	1.0	1.0	-	2.0	$ 310
Task 2:	Compile Inventory of Current and Potential Fees	-	1.0	2.0	-	-	3.0	415
Task 3:	Kick-off /Refine Scope	-	4.0	1.0	4.0	4.0	13.0	2,325
Task 4:	Develop User Fee Model, Incorporate Overhead	1.0	6.0	16.0	12.0	4.0	39.0	6,260
Task 5:	Time Survey Interviews and Information Gathering	0.5	2.0	8.0	4.0	4.0	18.5	2,995
Task 6:	Common Fees Comparison	-	2.0	12.0	8.0	4.0	26.0	4,110
Task 7:	Data Analysis and Final Fee and Rate Schedule	1.0	4.0	24.0	16.0	8.0	53.0	8,470
Task 8:	Prepare and Present Draft Report	0.5	4.0	12.0	4.0	4.0	24.5	3,825
Task 9:	Revise Draft/Determine Cost Recovery Levels	0.5	6.0	8.0	4.0	4.0	22.5	3,655
Task 10:	Prepare and Present Final Report/Train Staff on Model	0.5	4.0	-	4.0	4.0	12.5	2,325
Total Labor – User Fee Study		**4.0**	**33.0**	**84.0**	**57.0**	**36.0**	**214.0**	**$ 34,690**
Expenses – User Fee Study								**$ 2,175**
Total Cost – User Fee Study								**$36,865**

Notes

- The cost of preparing the User Fee Study can be included in the resulting new fee schedule. Therefore, over time, the Town can recover the initial outlay of funds that was required to complete the studies.
- Our fee includes all direct expenses associated with the project.
- We will invoice the Town monthly based on percentage of project completed.
- Additional services may be authorized by the Town and will be billed at our then-current hourly overhead consulting rates.

Hourly Fee Schedule

Our current hourly rates are listed below.

Willdan Hourly Rate Schedule

Position	Hourly Rate
Group Manager	$250
Managing Principal	$240
Principal Consultant	$210
Senior Project Manager	$185
Project Manager	$165
Senior Project Analyst	$135
Senior Analyst	$125
Analyst II	$110
Analyst I	$100

ITEM 8-C

TOWN OF FOUNTAIN HILLS

TOWN COUNCIL
AGENDA ACTION FORM

Meeting Date: 3/5/2019

Meeting Type: Regular Session

Agenda Type: Regular

Submitting Department: Community Services

Staff Contact Information: Rachael Goodwin, Community Services Director, 480-816-5135

REQUEST TO COUNCIL (Agenda Language): CONSIDERATION OF adopting Resolution 2019-14 approving an IGA with the Fountain Hills Sanitary District for two restroom facilities and well control rooms in Fountain Park

Applicant: Dana Trompke, Fountain Hills Sanitary District

Applicant Contact Information: 16941 E. Pepperwood Circle, Fountain Hills, AZ 85268-2901

Owner:

Owner Contact Information:

Property Location:

Related Ordinance, Policy or Guiding Principle: NA

Staff Summary (background): In 1999 – 2000, the Fountain Hills Sanitary District constructed three effluent Aquifer Storage and Recovery (ASR) Wells (Nos. 1, 2, and 4) within the boundaries of Fountain Park. The wells consist of a drilled 26" diameter borehole and a 14" diameter casing installed to a depth of approximately 760 feet. A submersible pump is installed inside each well at the end of long string of column pipe, approximately 450 feet below land surface. On top of each well, a 10 ft. diameter metal vault was placed to house the well flow control equipment and provide access to the wellhead.

The wells have been successfully operating for nearly 18 years however over this time, the metal vaults have severely corroded and must be replaced. In order to provide better access to the equipment, the FHSD would like to construct two above-ground structures to house the well control equipment. In addition to well access, the FHSD has proposed that the two control buildings also include public restroom facilities. These facilities would be considered supplemental to the existing restrooms with Fountain Park. The proposed facilities would feature an architectural look similar to the existing ramadas and restrooms within the Park. The two structures will be located adjacent to existing well sites; specifically, on the eastern edge of Fountain Park, near the parking lot, and at the north west corner of the park, adjacent to the amphitheater area.

The two proposed well control/ restroom buildings will require park layout changes, including sidewalk rerouting, irrigation modifications, and installation of retaining walls. These changes are intended to help minimize public impact during well work and other FHSD activities by creating easier access for vehicles and equipment. The cost for the structures, including design and build of both the restroom and control sides, as well as the surrounding park infrastructure, would be the responsibility of the FHSD.

Risk Analysis (options or alternatives with implications): The proposed improvements are put forth by the Fountain Hills Sanitary District as a result of their need for better and safer well access. The Town will assume responsibility for a portion of the facilities once completed and will need to maintain and operate the restrooms accordingly.

Fiscal Impact (initial and ongoing costs; budget status): $5,000 per restroom, ongoing annual cost

Budget Reference (page number):

Funding Source: NA

If Multiple Funds utilized, list here:

Budgeted; if No, attach Budget Adjustment Form: NA

Recommendation(s) by Board(s) or Commission(s):

Staff Recommendation(s): NA

List Attachment(s): NA

SUGGESTED MOTION (for Council use): Motion to adopt Resolution 2019-14 approving an IGA with the Fountain Hills Sanitary District for two restroom facilities and well control rooms in Fountain Park.

Prepared by:

Rachael Goodwin, Community Services Director 2/21/2019

Director's Approval:

Rachael Goodwin, Community Services Director 2/21/2019

Approved:

Grady E. Miller, Town Manager 2/21/2019

RESOLUTION NO. 2019-14

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF FOUNTAIN HILLS, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF FOUNTAIN HILLS, ARIZONA AND THE FOUNTAIN HILLS SANITARY DISTRICT FOR RESTROOM FACILITIES AND WELL CONTROL ROOMS IN FOUNTAIN PARK

ENACTMENTS:

NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF FOUNTAIN HILLS as follows:

SECTION 1. That the Intergovernmental Agreement between the Town of Fountain Hills, Arizona and the Fountain Hills Sanitary District, to provide for two restroom facilities and well control rooms in Fountain Park, is hereby approved in substantially the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. That the Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to execute said document and take all steps necessary to carry the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Mayor and Council of the Fountain Hills, Maricopa County, Arizona, this 5th day of March, 2019.

FOR THE TOWN OF FOUNTAIN HILLS:

Ginny Dickey, Mayor

ATTESTED TO:

Elizabeth A. Burke, Town Clerk

REVIEWED BY:

Grady E. Miller, Town Manager

APPROVED AS TO FORM:

Aaron D. Arnson, Town Attorney

INTERGOVERNMENTAL AGREEMENT
BETWEEN THE TOWN OF FOUNTAIN HILLS
AND THE
FOUNTAIN HILLS SANITARY DISTRICT
RELATING TO VAULT/BATHROOM STRUCTURES

This Intergovernmental Agreement ("Agreement" or "IGA") is entered into this 5th day of March, 2019 (the "Effective Date"), by and between the Town of Fountain Hills, Arizona, a municipal corporation of the State of Arizona ("Town") and the Fountain Hills Sanitary District, a political subdivision of the State of Arizona ("District"). Town and District shall be referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

A. Town owns and operates Fountain Park for general public use, including the provision of restroom facilities as it deems necessary and appropriate.

B. District owns and operates three Aquifer Storage and Recovery ("ASR") Wells within the boundaries of Fountain Park, referred to as ASR Wells 1, 2 and 4.

C. ARIZ. REV. STAT. § 11-952 authorizes the governing bodies of Town and District to contract for services or jointly exercise any powers common to the Town and District or to contract with each other for joint or cooperative action.

D. When installed approximately 18 years ago, each ASR well included a ten-foot diameter metal vault, buried below grade with a concrete slab and hatch-style lids exposed at ground level, located on top of each well (each, a "Vault") to house the well flow control equipment and provide access to the wellhead.

E. Due to age, wear and safety issues with the exiting Vaults, District intends to replace or significantly update and improve all three Vaults in the normal course of updating its facilities.

F. District and Town have discussed a concept for a joint use facility at two of the well locations. A mutually agreeable alternative for the third well will be discussed and developed at a later date.

G. Based on the mutually agreeable concept described above, District has authorized securing designs and construction cost estimates of two nearly identical above grade structures, one near Well 2 (eastern side of Fountain Lake) and one near Well 4 (northern tip of Fountain Lake).

H. The current design has each structure's exterior measuring approximately 16 feet by 40 feet (or approximately 640 square feet), with approximately one-third of each structure dedicated for District's exclusive use as a well equipment control room and approximately two-thirds of each structure used for two partitioned restrooms, each containing two stalls, one sink, and a small janitor's closet, which, pursuant to the terms and conditions of this Agreement, the public may use.

I. District is still evaluating alternatives and feasible construction cost budgets. The decision to proceed with construction, which has not yet been made, rests exclusively with the District Board of Directors.

J. In order to encourage District to proceed with construction of the restrooms and, if constructed, permit their use by the public, Town is willing to assume full responsibility for the operation and maintenance of the restrooms under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the promises and consideration described herein, Town and District agree as follows:

AGREEMENT

1. **INCORPORATION:** The Recitals and introductory paragraphs set forth above are incorporated herein and are part of the Agreement.

2. **PURPOSE:** To establish the respective rights, responsibilities and obligations of District and Town relating to any combination access, well equipment and bathroom structures District may construct at any of District's ASR Wells within Fountain Park ("Joint Use Structure").

3. **DURATION:** This Agreement shall commence on the Effective Date, and its initial term shall terminate on June 30, 2040. Subject to compliance with ARIZ. REV. STAT. § 11-952(F), as applicable, this Agreement shall thereafter be automatically renewed from year to year, until terminated by either Party in accordance with Section 14 herein or as otherwise permitted by this Agreement.

4. **DESIGN AND CONSTRUCTION:** District shall be solely responsible for designing, constructing, equipping and furnishing the Joint Use Structures, including any landscaping and relocation of existing sidewalk or irrigation facilities and paying the cost thereof. The Joint Use Structures will be designed with an architectural look similar to the existing Ramadas and restrooms within Fountain Park, unless otherwise agreed in writing by the Parties.

5. **CONSULTATION WITH TOWN:** In a good faith effort to reach a mutually beneficial design of the Joint Use Structure, the District has solicited input from Town staff and Town Council and has provided Town a copy of the proposed site and floor plans, an illustration of its elevation (exterior view), and necessary site modifications, including relocating a small portion of sidewalk, and duly considered the comments supplied by Town relating to the design of the restroom portion and the architectural look of the Joint Use Structure. District agrees that in designing and constructing the Joint Use Structures, District shall incorporate Town's comments and input with respect to the design of the restroom portion and the architectural look of the Joint Use Structure received as of January 31, 2019 to the extent reasonably possible.

6. **COORDINATION WITH FOUNTAIN PARK ACTIVITIES:** District shall in earnest try to schedule and conduct construction activities associated with the Joint Use Facilities in a manner to avoid or minimize unnecessary disruption of normal activities and regularly scheduled activities within Fountain Park. However, District retains the right to access its facilities as District deems necessary regardless of activities scheduled within the Fountain Park. During construction, District shall be responsible for vehicular and pedestrian traffic control, fencing and any other

measures appropriate to safeguard the public and the construction site associated with the District's construction activities for the Joint Use Structures.

7. ALTER ACCESS TO ASR WELLS: As part of any construction of a Joint Use Structure, District may relocate the sidewalk in the area of the ASR Well to a location that will allow District's access to well and associated Joint Use Structure for normal daily maintenance activities without interfering with the pedestrian walking path or impacting with the grass. District shall be responsible for the costs of any sidewalk relocation.

8. INTENDED SCOPE OF USE BY PUBLIC: Town and District recognize the restroom facilities included in the Joint Use Facilities are intended as additional restroom facilities to supplement the currently existing restroom facilities owned and operated by Town elsewhere within Fountain Park.

9. DISTRICT RESPONSIBILITIES: After a Joint Use Structure is constructed and accepted by District, District will, subject to Section 16 (Insurance) and Section 17 (Indemnification):

a. Provide and pay for the upkeep of the exterior of the Joint Use Structure, including without limitation to the roof and exterior walls, but excluding surrounding landscape;

b. Pay all electrical costs associated with use of the Joint Use Structure, including without limitation to the ASR well, well equipment control room, exterior lighting, and the restrooms;

c. Secure the well equipment control room and access thereto in a manner deemed sufficient by District;

d. Provide and pay for any security equipment District deems necessary and appropriate for the well equipment control room of the Joint Use Structure;

e. Secure and pay for all appropriate insurances on the Joint Use Structure, employees and contractors of District entering the Joint Use Structure, including but not necessarily limited to:

- Property insurance;
- Liability insurance with minimum coverage of not be less than $2,000,000 per occurrence/aggregate (District coverage to be primary only for claims arising from action or inaction of District employees and contractors); and
- Workers Compensation insurance;

f. Have sole and exclusive use of the one-third portion of each Joint Use Structure containing the well equipment control room; and

g. Have full and complete discretion on whether to proceed with construction of the two Joint Use Structures that are the subject of this Agreement.

10. TOWN RESPONSIBLITIES: After a Joint Use Structure is constructed and accepted by District, Town will, subject to Section 16 (Insurance) and Section 17 (Indemnification):

a. Provide and pay for maintenance and cleaning of the interior of the restrooms, including without limitation providing all supplies, such as paper products, light bulbs, soaps;

b. Provide and pay for the repair and replacement of the interior of restrooms, including, without limitation, toilets, sinks, tile, stalls, etc., as well as the drinking fountains on the outside of the Joint Use Structures;

c. Provide and pay for maintenance of landscaping surrounding each Joint Use Structure;

d. Provide and pay for any security equipment, including without limitation locks for the restroom doors, Town deems necessary and appropriate for the restroom area of the Joint Use Structure;

e. Pay for all potable water costs associated with use of the Joint Use Structure, whether by District, Town or the public;

f. Determine the hours the public will have access to the restrooms; provide signage to notify the public thereof; secure the restrooms when public access is not permitted; and take appropriate steps to provide for the safety and security of the public the Town permits to access the restrooms; and

g. Secure and pay for all appropriate insurances associated with use of the restrooms in each Joint Use Structure by Town employees, contractors and the public, including but not necessarily limited to:

- Liability insurance with minimum coverage of not be less than $2,0000,000 per occurrence/ aggregate (Town policy to be primary except for claims arising from action or inaction of District employees and contractors); and

- Workers Compensation insurance;

11. OWNERSHIP: District shall own the Joint Use Structures, including all equipment installed therein, regardless whether replaced by Town. Town shall have no ownership interest in the Joint Use Structures or the equipment therein.

12. NO LIMIT OF AUTHORITY: This Agreement only applies to the Joint Use Structures. This Agreement does not limit District's rights to construct and maintain any other District facility, including replacement, rehabilitation or improvement of the existing Vaults and/or wells at ASR Wells 1, 2 and 4, existing sewer facilities, or District effluent mains and facilities, except for such Joint Use Structures.

13. AGREEMENT SUBJECT TO APPROPRIATION: Town and District understand that the provisions of this Agreement for payment of funds by District or Town shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. Each Party shall be the sole judge and authority in determining the availability of funds for it to perform any act under this Agreement and shall keep the other Party fully informed as to the availability of funding for the Agreement. The obligation of either Party to make any payment pursuant to this Agreement is a current expense of the Party, payable exclusively from that Party's annual appropriations, and is not a general obligation or indebtedness of the Party.

14. TERMINATION; CANCELLATION: Either Party may terminate or cancel this Agreement:

a. At the end of the then current term, provided notice of termination is provided to the other Party not less than thirty (30) days' prior thereto;

b. In the event no Joint Use Facility has been substantially constructed within two years of the Effective Date upon written notice provided to the other Party no later than thirty (30) days following the second anniversary of the Effective Date;

c. For the material breach of the terms of this Agreement provided the terminating Party (i) is not in material breach of this Agreement, (ii) has unsuccessfully pursued the meet and confer process set forth in Section 21; (iii) and thereafter provided the other Party not less than thirty (30) days written notice of its intent to terminate and of a final opportunity to cur; or

d. Pursuant to the provisions of ARIZ. REV. STAT. § 38-511.

15. CONFIDENTIALITY: Town and District will make commercially reasonable efforts to safeguard confidential information (i.e., information, regardless of form, that is known to Town or District solely due to the negotiation or performance of this Agreement or is by law required to be maintained in confidential manner, including without limitation 16 C.F.R. Part 681 and ARIZ. REV. STAT. §§ 41- 4172, 44-1373, -7501 and-7601, as applicable) against disclosure by employing the same means to protect such confidential information as that Party uses to protect its own non-public, confidential or proprietary information.

16. INSURANCE: In addition to and without limiting the duties and obligations set forth in Sections 9 and 10 of this Agreement, the Parties, at all times during the term of this Agreement, shall maintain at their own expense insurance policies, including commercial general liability and, as applicable, property insurance, to cover the risk of loss that may arise out of the terms, obligations, operations and actions as set forth in this Agreement. The Parties, however, agree that existing insurance policies maintained by the Parties shall be presumed to satisfy the insurance requirements of this Agreement, provided that each will secure such additional coverage and add the other Party to existing policies as an additional insured if the other Party provides written notification that such action is reasonably deemed necessary to provide full and adequate coverage of risks that may arise out of the terms, obligations, operations and actions as set forth in this Agreement. The acquisition of insurance or the maintenance and operation of a self-insurance program may fulfill the insurance requirement.

17. INDEMNIFICATION: To the fullest extent permitted by law, each Party shall indemnify and hold harmless each other, each other's agents, representatives, officers, officials and employees for, from and against all claims, damages, losses and expenses of third parties, including, but not limited to attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent acts, errors, omissions or mistakes of the indemnifying Party related to the Joint Use Facilities. The Parties' duty to indemnify and hold harmless each other, each other's agents, representatives, officers, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property, including loss of use resulting therefrom, caused by any negligent acts, errors, omissions or mistakes, related to the Joint Use Facilities or the use thereof, excluding those arising from the negligent acts, errors, omissions or mistakes of the Party seeking indemnification or of its agents, representatives, officers, officials and employees.

18. RELATIONSHIP OF PARTIES: Each party to this Agreement shall act in its individual capacity and not as an agent, employee, partner, joint venture, associate, or any other representative capacity of the other. Each party shall be solely and entirely responsible for its acts or the acts of its agents and employees during the performance of this Agreement.

19. SHARED EMPLOYEE PROVISIONS: The Parties do not intend this Agreement to involve the sharing of employees between the Parties for the purposes of ARIZ. REV. STAT. § 23-1022, the Arizona Workers' Compensation laws or otherwise.

20. E-VERIFY: Under Arizona law, Town and District are also obligated to include certain provisions in every contract relating to E-verify, records and audits. To the extent applicable under ARIZ. REV. STAT. § 41-4401, Town and District and their respective subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under ARIZ. REV. STAT. § 23- 214(A). The Parties' or a subcontractor's breach of the above-mentioned warranty shall be deemed a material breach of this Agreement and may result in the termination of the Agreement by either Party under the terms of this Agreement. The Parties each retain the legal right to randomly inspect the papers and records of the other Party and the other Party's subcontractors who work under this Agreement to ensure that the other Party and its subcontractors are complying with the above-mentioned warranty. The Parties warrant to keep their respective papers and records open for random inspection during normal business hours by the other Party. The Parties and their respective subcontractors shall cooperate with the other Party's random inspections including granting the inspecting Party entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

21. REMEDIES AND ATTORNEYS FEES: In the event of an alleged breach of this Agreement by either party, as a condition precedent to pursuing legal action, the non-breaching party shall provide written notice of the action alleged to constitute the breach and request to meet and confer with the other Party ("M&C Notice"). The Parties' representatives shall meet and confer at a mutually convenient time and place within 30 days of delivery of the M&C Notice and in good faith attempt to reach a reasonable resolution. If no mutually agreeable resolution is reached within 60 days of delivery of the M&C Notice, the Parties may pursue any and all remedies available at law or equity, to address the action(s) identified in the M&C Notice. The successful party in any such court action shall be entitled to an award of its reasonable attorney fees and costs of litigation incurred, provided the successful Party acted in good faith to resolve the matter through the meet and confer process set forth herein.

22. NOTICE AND REQUESTS: Any notice or other communication required or permitted to be given under this Agreement, including a change of the names or address of listed below, shall be in writing and shall be deemed to have been duly given if (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (iii) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to Town: Town of Fountain Hills
16705 East Avenue of the Fountains
Fountain Hills, Arizona 85268
Attn: Grady E. Miller, Town Manager

With copy to: Pierce Coleman PLLC
4711 East Falcon Drive, Suite 111
Mesa, Arizona 85215
Attn: Aaron D. Arnson, Town Attorney

If to District: Fountain Hills Sanitary District
16941 East Pepperwood Circle
Fountain Hills, Arizona 85268
Attn: Dana Trompke, District Manager

With Copy to: William P. Sullivan PLLC
3240 East Union Hills Drive, Suite 117
Phoenix, AZ 85050
Attn: William Sullivan, District Attorney

23. ENTIRE AGREEMENT: This Agreement embodies the entire understanding of Town and District and supersedes any other agreement or understanding between the Parties relating to the subject matter of this Agreement.

TOWN OF FOUNTAIN HILLS

Date: ____________________

ATTEST:

____
Grady Miller, Town Manager

____
Town Clerk

Date: ____________________

FOUNTAIN HILLS SANITARY DISTRICT

ATTEST:

____

Dana Trompke, District Manager

____

Administrative Services Manager

In accordance with the requirements of ARIZ. REV. STAT. § 11-952(D), the undersigned attorneys acknowledge that (i) they have received the above Agreement on behalf of their respective clients and (ii) as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

______________________________	______________________________
Attorney for the Town of Fountain Hills	Attorney for the Fountain Hills Sanitary District

ITEM 8-D

TOWN OF FOUNTAIN HILLS

TOWN COUNCIL
AGENDA ACTION FORM

Meeting Date: 3/5/2019

Meeting Type: Regular

Agenda Type: Regular

Submitting Department: Administration

Staff Contact Information: Elizabeth A. Burke, Town Clerk, 480-816-5115; eburke@fh.az.gov

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REQUEST TO COUNCIL (Agenda Language): CONSIDERATION OF adopting Resolution 2019-15 approving the Town of Fountain Hills, Arizona Town Council Rules of Procedure, Amended and Restated March 5, 2019

Applicant: NA

Applicant Contact Information: NA

Owner: N/A

Owner Contact Information: NA

Property Location: NA

Related Ordinance, Policy or Guiding Principle: A.R.S. §38-431.01

Staff Summary (background): As you will recall, Council discussed the proposed changes to the Town's Rules of Procedure recently at the Council Retreat on February 7, 2019. The attached amended and restated Rules are being proposed to reflect that discussion, and provide an opportunity for any further discussion prior to adoption.

The following summarizes the main changes being proposed other than those many housekeeping items (to reflect changes in meeting days and times, etc.).

2.3 – Consent Agenda – removes roll call vote
5.2 – Amends Mayor's Report to be:
  Reports by Mayor, Councilmembers and Town Manager
  Removes Reports at the end of the meeting
  Public Hearings opened at the beginning of the item
9.1 – Updates listing of boards/commission
9.2 – Centralizes membership records, advertising and receipt of applications with Town Clerk
  Clarifies post-appointment process

To further the above-referenced changes regarding the boards/commissions, individual ordinances will be brought before Council for consideration to authorize each of them through an ordinance, making them part of the Town Code. These ordinances will include the direction previously given to each of the respective boards and commissions through their authorizing resolutions.

These changes will facilitate standardization of the application form, membership requirements, term length and rotation, and the agendas/minutes format. The purpose of this effort is to bring consistency in the process for all boards/commissions, which in turn provides more transparency to the general public.

Risk Analysis (options or alternatives with implications): NA

Fiscal Impact (initial and ongoing costs; budget status): NA

Budget Reference (page number): NA

Funding Source: NA

If Multiple Funds utilized, list here:

Budgeted; if No, attach Budget Adjustment Form: NA

Recommendation(s) by Board(s) or Commission(s): NA

Staff Recommendation(s): Adopt Resolution 2019-015

List Attachment(s): Legislative Bulletin Issue 7; Notes from Legislative Call of 02/25/19

SUGGESTED MOTION (for Council use): ADOPT Resolution 2019-15, approving the Town of Fountain Hills, Arizona Town Council Rules of Procedure, Amended and Restated March 5, 2019

Prepared by:

Elizabeth A. Burke, Town Clerk 2/25/2019

Approved:

Grady E. Miller, Town Manager 2/25/2019

RESOLUTION NO. 2019-15

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF FOUNTAIN HILLS, MARICOPA COUNTY, ARIZONA, APPROVING THE TOWN OF FOUNTAIN HILLS, ARIZONA TOWN COUNCIL RULES OF PROCEDURE, AMENDED AND RESTATED MARCH 5, 2019

ENACTMENTS:

NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF FOUNTAIN HILLS as follows:

SECTION 1. That the Town of Fountain Hills, Arizona Town Council Rules of Procedure, Amended and Restated March 5, 2019, are hereby approved in substantially the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. That the Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Mayor and Council of the Fountain Hills, Maricopa County, Arizona, this 5th day of March, 2019.

FOR THE TOWN OF FOUNTAIN HILLS:	**ATTESTED TO:**
Ginny Dickey, Mayor	Elizabeth A. Burke, Town Clerk
REVIEWED BY:	**APPROVED AS TO FORM:**
Grady E. Miller, Town Manager	Aaron D. Arnson, Town Attorney

EXHIBIT A

TOWN OF FOUNTAIN HILLS, ARIZONA

TOWN COUNCIL RULES OF PROCEDURE

AMENDED AND RESTATED

MARCH 5, 2019

SECTION 1. RULES OF PROCEDURE/AUTHORITY

1.1 PROCEDURES

The following are the basis for and are used in conjunction with these basic Rules of Procedure for meetings of the Council, Boards, Commissions and Committees:

A. State Law

B. Town Code, including these Council Rules

C. Parliamentary Procedure at a Glance, New Edition, by O. Garfield Jones

D. Roberts Rules of Order, 10th edition, as amended

In case of inconsistency, conflict, or ambiguity among the documents listed above, such documents shall govern in the order in which they are listed.

1.2 PRESIDING OFFICER

As provided by the Town Code, the Mayor, or in the Mayor's absence, the Vice-Mayor, is the Presiding Officer of all meetings of the Council. In the absence or disability of both the Mayor and the Vice-Mayor, the meeting shall be called to order by the Town Clerk, whereupon, the Town Clerk shall immediately call for the selection of a temporary Presiding Officer. If a majority of the Councilmembers present are unable to agree on a Presiding Officer for the meeting, the meeting shall automatically be adjourned and all agenda items shall be carried over to the next regular Council meeting.

1.3 PARLIAMENTARIAN

The Town Attorney shall serve as Parliamentarian for all meetings. The Town Clerk shall act as Parliamentarian in the absence of the Town Attorney and the Town Manager shall act as Parliamentarian in the absence of both the Town Attorney and Town Clerk.

1.4 SUSPENSION OF THE RULES

The Council, by a three-quarter vote of all members present, may suspend strict observance of these Council Rules or other policies and procedures for the timely and orderly progression of the meeting; provided, however, that a simple majority of the Council may cause a change in the order of items on the agenda.

SECTION 2. DEFINITIONS

2.1 AGENDA

As set forth in the Order of Business, an agenda is a formal listing of items to be considered by (i) the Council at a noticed meeting of the Council or (ii) the applicable Board, Commission or Committee at a noticed meeting of that body. The content of the agenda may not be changed less than 72 hours prior to the public meeting, except in exceptional circumstances, but in no event shall the agenda be altered less than 24 hours prior to the public meeting, unless otherwise authorized by State law.

2.2 AGENDA PACKET

A compilation of documents supporting the items listed on the agenda and requiring Council consideration or action, which may be used by Council, staff and the public for more in-depth information than may be presented in an oral report. The agenda Packet is organized as set forth in the Order of Business in Section 5 below and is made available electronically to the Council or to any citizen on the Town's website: www.fh.az.gov by 6:00 p.m. the Thursday prior to the date of the meeting.

2.3 CONSENT AGENDA

Items listed on the Consent Agenda are considered to be routine, non-controversial matters and will be enacted by one motion and vote of the Council. All motions and subsequent approvals of Consent Agenda items will include all recommended staff stipulations unless otherwise stated. There will be no separate discussion of these items unless a Councilmember or member of the public so requests. If a Councilmember or member of the public wishes to discuss an item on the consent agenda, he/she may request so prior to the motion to accept the Consent Agenda or by notifying the Town Manager prior to the date of the meeting. The item will be removed from the Consent Agenda and considered in its normal sequence on the-agenda.

2.4 COUNCIL

Collectively, the Mayor and Common Council of the Town of Fountain Hills.

2.5 COUNCIL RULES

These Town of Fountain Hills, Arizona Town Council *Rules of Procedure*.

2.6 MEETING

The gathering, in person or by technological devices, of a quorum of the Council, Boards, Commissions or Committees, at which the Councilmembers, Board members, Commissioners, or Committee members discuss, propose or take legal action, including any deliberations by a quorum with respect to such action. If a quorum is not present, those in attendance will be named for the record by the Town Clerk or the staff liaison for a Board, Commission or Committee.

2.7 NEWSPAPER

A daily or weekly paid publication of general circulation within the Town of Fountain Hills, Arizona.

2.8 NOTICE

A formal announcement to the public that sets the date, time and the place at which a meeting will be held. Such notice of meetings shall be in accordance with the State l aw, the Town Code and these Council Rules.

2.9 QUORUM

The minimum number of Members of the Council, Board, Commission, or Committee that must be present in order for business to be legally transacted. With a seven-member body, a quorum is four members, unless otherwise specifically authorized by State law.

2.10 TOWN

The Town of Fountain Hills, an Arizona municipal corporation.

SECTION 3. MEETINGS

3.1 REGULAR MEETINGS

A. Regular Meeting Date; Time. The Council shall hold regular meetings on the first and third Tuesday of each month at 5:30 P.M. When deemed appropriate, any regular meeting date of the Council may be changed or cancelled by a majority of the Council. Notice of the rescheduled or cancelled meeting shall be given to the public as is reasonable and practicable under the circumstances. All regular meetings shall be held at the Town Hall Council Chambers or at such place as may be prescribed by the Mayor or the Town Manager. The Council may provide for a "Call to the Public" at such regular meetings.

B. Holidays. When the day for a regular meeting of the Council falls on a legal holiday, no meeting shall be held on such holiday, but such meeting shall be held at the same time and the same location on the day designated by the Council that is not a holiday, unless the meeting is otherwise cancelled by the Council.

3.2 ADJOURNED MEETINGS

Any meeting may be adjourned to a time, place and date certain, but not beyond the next regular Council-meeting. Once adjourned, the meeting may not be reconvened except at the time, date and place provided for in the motion to adjourn.

3.3 SPECIAL MEETINGS

The Mayor, the Town Manager, or the Town Clerk (upon the written request of three Councilmembers), may convene the Council at any time after giving at least 24 hours' notice of such meeting to members of the Council and the general public. The notice shall include the date, place, hour and purpose of such special meeting. In the case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances.

3.4 WORK SESSIONS

A. How Convened; When Convened; Notice. The Mayor or the Town Manager (at his own discretion or upon the written request of three Councilmembers) may convene the Council in a work session at any time after giving notice at least 24 hours in advance of such work session to members of the Council and the general public. The notice shall include the date, place, hour and purpose of such work session.

B. Purpose._Work sessions are held for the purpose of presentations and discussions on such issues that require more in-depth consideration of the Council than may be possible at a regular meeting. No formal action of the Council may be taken at such work session, other than general consensus or conveying direction to staff for further action. These work sessions shall not provide for a "Call to the Public."

3.5 EXECUTIVE SESSIONS

Subject to applicable State law, the Council may hold such closed executive sessions as necessary to conduct the business of the Town.

3.6 EMERGENCY MEETINGS

As provided for by State law, the Mayor and Council or the Town Manager may call a special emergency meeting to discuss or take action on an unforeseen issue where time is of the essence and sufficient time does not provide for the posting of a meeting notice 24 hours or more before the-meeting. Notice of an emergency meeting of the Council will be posted within 24 hours following the holding of an emergency meeting. The notice will include the emergency meeting's agenda and a brief but complete description of the nature of the emergency. Emergency meetings shall not provide for a "Call to the Public."

3.7 MEETINGS TO BE PUBLIC

A. Open to Public. With exception of executive sessions, all regular, special and work session meetings of the Council, Boards, Commissions, and Committees shall be open to the public.

B. Public Comment. Public comment (Call to the public) is not taken at work sessions, emergency meetings or at special meetings, unless the special meetings is held in place of a regular meeting, or unless the special meeting includes a public hearing on the agenda.

3.8 MINUTES OF MEETINGS

A. Staffing. The Town Clerk shall ensure staff attendance at all regular, special, work session, emergency and executive session meetings of the Council for the purpose of taking notes and/or audio recordation of the meeting. The Town staff liaison to each Board, Commission or Committee shall ensure staff attendance at all meetings for the purpose of taking notes and/or audio recordings of the meetings.

B. Recordings; written minutes. To the extent possible, all open, public meetings shall be recorded by means of audio or video technology. In addition, written minutes reflecting legislative intent shall be taken so that an accounting of the issues discussed and actions taken is compiled and entered into the permanent Minute Book of the Town and kept on file and of record in the Office of the Town Clerk. Audio or video recordings of meetings will be retained for a period of time in accordance with the current Town of Fountain Hills and/or State of Arizona approved records retention and disposition schedules. Minutes shall identify speakers by name and shall indicate whether they are Fountain Hills residents, and whether they support or oppose the proposed action (i.e. "for" or "against") along with a summary of the speakers' verbal comments provided at the meeting.

C. Availability. All meeting minutes of the Council, Boards, Commissions, and Committees are deemed to be public records, with the exception of executive session minutes, which, while they fall under the definition of and are considered public records by State law, are deemed confidential and are only available under limited conditions or by Court Order. Transcribed minutes, or the audio or video recordings of all open meetings of the Council, Boards, Commissions, and Committees must be available for public review by 5:00 p.m. on the third working day following each meeting, or as provided by State law. The Town Clerk or designee shall ensure that the minutes of all regular~~,~~ and special meetings and work sessions of the Council, Boards, Commissions, and Committees are made available through the Town's Web Site, www.fh.az.gov within two working days following their approval, or as provided by State law.

D. Executive Sessions. Minutes of executive sessions (1) shall be confidential; (2) are maintained and secured by the Town Clerk; and (3) may be accessed only as provided by State law.

E. Approval. Minutes of all meetings of the Council (other than executive sessions) may be approved under the consent agenda, unless removed for discussion and separate action.

SECTION 4. NOTICE AND AGENDA

4.1 POSTING NOTICES

A. Time. The Town Clerk, or authorized designee, shall prepare all public meeting notices of the Council, and shall ensure posting of the meeting notices no less than 24 hours before the date and time set for said meetings in accordance with State law. The staff liaison to each Board, Commission or Committee shall ensure that agendas are posted in the same manner as for the Council.

B. Locations. Meeting notices shall be posted at a minimum of three locations within the Town, including the Community Center, Town Hall and the Town's website [www.fh.az.gov].

4.2 AGENDA PREPARATION

A. Availability. The Town Manager, or authorized designee, shall prepare the agendas for all meetings of the Council as set forth below. Agendas of all meetings of the Council shall generally be available to the public no less than 72 hours prior to said meetings, except in exceptional circumstances. In no event shall the agenda be made available less than 24 hours prior to said meeting. Agendas and agenda packet materials are made available through the Town's web site. The staff liaison to each Board, Commission or Committee shall ensure that the agenda is available in the same manner as required for the Council.

B. Submittal Process. Items may be placed on the Council agenda for discussion and possible action by the following process (the agenda process for Boards, Commissions or Committees shall be as determined by the applicable Department Head which shall be substantially the same as the Council agenda submittal process):

1. All Departments: Preparation of the Agenda Action form with signatures of the department director and staff (including all attachments) provided to the Town Clerk for submittal to the Town Manager not later than two business days prior to agenda packet preparation day (the Tuesday prior to meeting date). Town Manager approves/amends items and signs off, finalizing the item for inclusion in the agenda packet.

2. Mayor and Councilmembers: The Mayor or three Councilmembers may direct the Town Manager through a written request to place an item on an agenda for action. Any Councilmember may direct the Town Manager to place an item on a future agenda during the "Council Discussion/Direction to Town Manager" portion of a meeting.

3. Town Manager and Town Attorney: The Town Manager or Town Attorney may place an item on the agenda by including appropriate documentation.

4. Citizen or Group: A citizen or group may apply to have an item placed on the agenda as follows:

    a. Obtain a "Scheduled Public Appearance/Presentation" form from the Town Clerk and, when completed, return it to the Town Clerk for submission to the Town Manager.

    b. The Town Manager or authorized designee shall research the issue to determine if it may be handled administratively or will require Council discussion. If it is determined that the matter should be placed before the Council, the Town Manager shall ensure that documentation, if any, is compiled and the material included in the agenda packet. If the Town Manager determines that the subject should not be placed on the agenda, an individual wishing to have an item on the agenda as a "Scheduled Public Appearance" may (i) ask that the request be forwarded to the Mayor for consideration or (ii) obtain the written request of three members of the Council to place the item on the agenda, and submit that request to the Town Manager.

    c. The Town Manager may postpone the requested appearance/ presentation date, if additional staff time is needed to research a proposed agenda item.

C. <u>Time Lines for Submission of Items</u>.

1. Agenda items shall be submitted to the Town Manager by 2:00 p.m., not less than nine calendar days prior to regular and special meetings to ensure timely delivery to Councilmembers.

2. Agenda items for work sessions shall be submitted to the Town Manager by 2:00 p.m., not less than seven calendar days prior to the meeting to ensure timely delivery to Councilmembers.

3. The Town Manager may approve exceptions to the schedule above in order to ensure that the distribution of all agenda packets to the Council is in conformance with these Council Rules.

4. Any requests requiring audio/visual support must be submitted to the Town Clerk for coordination with the information and technology division a minimum of 48 hours prior to the meeting to ensure proper coordination and preparation. Department directors are responsible for obtaining presentation materials from applicants or presenters involved in their respective agenda items.

D. Agenda Item Submittals for Council Executive Sessions. Items may be placed on the agenda for Council executive session discussion (if in compliance with the Town Code and applicable State Statutes) by the following process:

1. Submission by a Councilmember, the Town Manager or the Town Attorney (with notice to all Councilmembers).

2. Submission by the Mayor (with notice to all Councilmembers).

3. The Town Manager and the Town Attorney shall review the submittal for executive session discussions prior to placement on the agenda, to ensure that the item is the proper subject of an executive session pursuant to state law.

4. The Town Attorney shall advice the Town Clerk regarding the appropriate agenda language of executive session items.

E. Agenda Packets. Full agenda packets for all noticed meetings (except executive session documentation) of the Council shall be made available to Council members electronically, five days before regular meetings and work sessions; provided, however, that agenda packets may be supplemented later under special circumstances so long as no agenda packet material is made available less than 72 hours prior to the meeting, except in the case of exceptional circumstances or an emergency meeting.

F. Removal Requests. Requests to remove items from the Consent Agenda occurring after the 72 hour posting deadline will be announced by the Mayor at the beginning of the meeting at which the item was scheduled. The posted agenda will remain unchanged.

4.3 DISTRIBUTION OF NOTICES AND AGENDAS

A. Copies. The Town Clerk shall ensure that the Mayor and Council receive copies of all meeting notices and agendas and any documentation provided for said meeting electronically, not less than 72 hours prior to the meeting, unless exceptional circumstances require a later delivery.

B. Distribution. The Town Clerk shall ensure that the meeting notices, agendas and packet documentation, as deemed necessary, are posted to the Town's website: www.fh.az.gov and made available to the Mayor and Council, the public, Town Manager, Town Attorney, and staff electronically by 6:00 p.m. on the Thursday prior to the date of the meeting.

C. Amendments. A posted agenda may be amended up to 72 hours prior to such meeting. In exceptional circumstances, such agenda may be amended up to, but not less than, 24 hours prior to the designated meeting, unless otherwise authorized by State Law. Amended agendas shall indicate the date amended.

SECTION 5. ORDER OF BUSINESS

5.1 ORDER OF BUSINESS

The Order of Business of each meeting shall be as contained in the-agenda. The agenda shall be a sequentially numbered listing by topic and a brief description of business items that shall be taken up for consideration.

5.2 REGULAR MEETINGS

The agenda shall be prepared substantially in the following order, but may be amended for brevity:

AGENDA

Call to Order & Pledge of Allegiance

Invocation/Moment of Reflection

Roll Call

Reports by Mayor, Councilmembers and Town Manager (including proclamations) (No discussion)

Scheduled Public Appearances/Presentations (if any)

Call to the Public (Non-agenda items) (preceded by the following paragraph)

Pursuant to ARIZ. REV. STAT. § 38-431.01 (H), public comment is permitted (not required) on matters not listed on the agenda. Any such comment (i) must be within the jurisdiction of the Council and (ii) is subject to reasonable time, place and manner restrictions. The Council will not discuss or take legal action on matters raised during "Call to the Public" unless the matters are properly noticed for discussion and legal action. At the conclusion of the call to the public, individual Councilmembers may (i) respond to criticism, (ii) ask staff to review the matter or (iii) ask that the matter be placed on a future Council agenda.

Consent Agenda (preceded by the following explanatory paragraph)

All items listed are considered to be routine, non-controversial matters and will be enacted by one motion and vote of the Council. All motions and subsequent approvals of consent items will include all recommended staff stipulations unless otherwise stated. There will be no separate discussion of these items unless a Councilmember or member of the public so requests. If a Councilmember or member of the public wishes to discuss an item on the consent agenda, he/she may request so prior to the motion to accept the Consent Agenda or with notification to the Town Manager or Mayor prior to the date of the meeting for which the item was scheduled. The item will be removed from the Consent Agenda and considered in its normal sequence on the-agenda.

Action Items (grouped by subject to the extent possible)

Council Discussion/Direction to Town Manager (Items for future agendas)

Adjournment

All agendas shall have the following statement placed at the bottom:

The Town of Fountain Hills endeavors to make all public meetings accessible to persons with disabilities. Please call 837-2003 (voice) or 1-800-367-8939 (TDD) 48 hours prior to the meeting to request a reasonable accommodation to participate in this meeting or to obtain agenda information in large print format.

A. Roll Call. Following the Call to Order and the Pledge of Allegiance, the Moment of Reflection or Invocation and before proceeding with the business of the Council, the Presiding Officer shall direct the Town Clerk or authorized designee to call the Roll, and the names of Councilmembers both present and absent shall be entered into the minutes. The order of roll call shall be: Mayor, Vice Mayor and then Councilmembers from the Mayor's far right to the Mayor's far left.

B. Reports by Mayor, Councilmembers and Town Manager

The Mayor may use Reports to read proclamations or conduct other ceremonial matters as listed on the posted agenda and reports may be given by the Mayor, Councilmembers and Town Manager on current events and/or activities. (The Arizona Open Meeting Law does not allow discussion or action on any matter mentioned during the reports.)

C. Scheduled Public Appearances/Presentations. The process set forth in Subsection 4.2(B) (4) above applies to members of the public or groups wishing to place an item on the agenda under "Scheduled Public Appearances/Presentations". If the request is approved by the Town Manager, the item will appear on the agenda. The Town Manager shall endeavor to limit the total time for such presentations to ten minutes individually and 30 minutes collectively per Council meeting. Councilmembers may use "Scheduled Public Appearances/Presentations" section to provide an update of official activities, as listed on the posted agenda.

D. <u>Call to the Public.</u>

1. All citizens and interested parties will be limited to a maximum of three minutes to address the Council on a non-agenda item.

2. All citizens and interested parties wishing to speak before the Council shall fully complete a Request to Comment form (Request Form). Request forms

submitted by those who indicate they will not speak will be grouped together in the order in which the cards were received and by the categories of "for" and "against" relating to the item indicated on the request forms. The Town Clerk will announce the number of cards received, if any, and number received per category.

3. At the conclusion of each citizen's comments, the Presiding Officer may take any or all of the following actions:

    a. Thank speaker for addressing issue.
    b. Ask staff to review matter.
    c. Ask that a matter be put on a future agenda.
    d. Permit individual Councilmembers to respond to criticism raised during the Call to the Public

4. At the discretion of the Presiding Officer light and/or sound signals may be used to indicate the commencement of the time for speaking and a warning light may flash to show that the appropriate time has passed. A red light will signal that there is no longer any remaining time.

E. Consent Agenda

1. The Consent Agenda includes items that are of such a nature that discussion is not required, or issues that have been previously studied by the Council. These items may be adopted by one motion and vote.

2. There is no detailed discussion on items listed under the Consent Agenda, unless a member of the Council or any member of the public in attendance at the meeting requests that an item or items be removed for discussion. Councilmembers or the public may not ask a question without removal of the item from the Consent Agenda.

3. Items removed from the Consent Agenda are considered in their normal sequence as listed on the agenda, unless called out of sequence as provided under Section 1.4 (Suspension of the Rules) above.

F. Action Items.

1. At the time each business item is presented to the Council, the Town staff shall present a report on the subject and the applicant, if any, may also speak. The Mayor or the Town Clerk, or authorized designee, will then call the request forms of those citizens desiring input and comments. All citizens and interested parties wishing to speak before the Council shall fully complete request forms and submit the forms to the Town Clerk, or authorized designee, prior to Council discussion of that agenda item.

Sufficient request forms shall be located in the Council Chamber's Lobby (the public entry area into the Chamber) and at the Town Clerk's position on the dais. Completed request forms will be retained by the Town Clerk until the draft minutes are approved by the Council at a subsequent meeting. Speakers' names and comments will be summarized and included in the meeting minutes. Speakers will be called in the order in which the request forms were received. If a speaker chooses not to speak when called, such speaker will be deemed to have waived his/her opportunity to speak on that matter.

2. Those speaking before Council will be allowed three contiguous minutes to address Council, but time limits may be waived by (a) discretion of the Town Manager upon request by the speaker not less than 24 hours prior to a meeting, (b) consensus of the Council at a meeting or (c) the Mayor either prior to or during a meeting. Speakers may not (a) reserve a portion of their time for a later time or (b) transfer any portion of their time to another speaker.

3. The purpose of all public comments is to provide information and the speaker's views for Council consideration. It is not appropriate for the speakers to question directly, or debate the matter under consideration with staff, other speakers, the audience or Councilmembers; all remarks will be addressed to the Presiding Officer and not to individual Councilmembers. All comments shall be addressed through the Presiding Officer who shall decide if any response is warranted and who, if anyone, shall address the concern. Councilmembers may request, upon recognition by the Presiding Officer, clarification of comments or materials presented by the speakers, any applicant's representatives or Town staff; provided, however, that no Councilmember shall engage in debate directly with such speakers, representatives or Town staff.

4. Proper decorum, in accordance with Section 6.4 below, must be observed by Councilmembers, by speakers in providing testimony and remarks and by the audience. In order to conduct an orderly business meeting, the Presiding Officer shall keep control of the meeting and shall require the speakers and audience to refrain from abusive or profane remarks, disruptive outbursts, applause, protests or other conduct that disrupts or interferes with the orderly conduct of the business of the-meeting. Personal attacks on Councilmembers, Town staff or members of the public are not allowed.

5. Generally, agenda items requiring public hearings, other than those of a quasi-judicial nature, shall be conducted in the following order:

   a. The Presiding Officer will announce the matter that is set forth for a public hearing, will then open the public hearing, and, if appropriate, ask the staff to provide a report of the matter.

   b. The Presiding Officer will the ask the applicant to speak regarding the matter.

c. After all public comments are heard, the Presiding Officer will close the public hearing, and may ask staff or the applicant to respond to the comments.

d. The Presiding Officer may then call for a motion and second, if applicable, and ask if Council wishes to discuss the issue. Council may then proceed to discuss the matter.

e. Upon the conclusion of Council comment, the Presiding Officer will call for action on the motion.

f. Exhibits, letters, petitions, and other documentary items presented or shown to the Council on a public hearing item become part of the record of the public hearing and shall be maintained by the Town Clerk.

g. Ten collated sets of written or graphic materials should be provided by the speaker to the Town Clerk prior to the commencement of the hearing to allow for distribution to the Council, key Town staff and the Town Clerk for inclusion in the public record. Reduced copies (8" x 11") of large graphic exhibits should be provided as part of the sets of materials for distribution as provided above. The appropriate staff member shall be responsible to notify applicants of this requirement.

6. Questions or comments from the public shall be limited to the subject under consideration. Depending upon the extent of the agenda and the number of persons desiring to speak on an issue, the Presiding Officer may, at the beginning of the agenda item, limit repetitive testimony, but in no event to less than three minutes per topic. Upon approval of (a) the Presiding Officer or (b) a majority of the Council, persons may be allowed to speak longer than three minutes. Councilmembers may ask the individual speaker questions through the Presiding Officer.

7. Quasi-judicial hearings shall be conducted in accordance with the principles of due process, and the Town Attorney shall advise the Council in this regard.

G. Council Discussion/Direction to Town Manager. The Council may (1) give direction to the Town Manager to follow-up on matters presented at that meeting, (2) to bring an item before the Council on a future agenda for discussion and possible action, or (3) direct staff to conduct further research and report back to the Council.

H. Adjournment. The open, public meeting of the Council may be adjourned by consensus of the Council.

5.3 SPECIAL MEETINGS

A. <u>As Substitute for Regular Meeting.</u> If a special meeting is being held as an extension of or in place of a regular meeting, the agenda shall be as set forth for a regular meeting.

B. <u>Generally.</u> For all other special meetings, the agenda shall be prepared in the following order:

AGENDA

Call to Order
Roll Call
Consent Agenda (if needed – explanatory paragraph same as regular meeting)
Action Items (grouped by subject to the extent possible)
Adjournment

5.4 WORK SESSION MEETINGS

The primary purpose of work sessions is to provide the Council with the opportunity for in-depth discussion and study of specific subjects. Public comment is not provided for on the agenda and may be made only as approved by consensus of the Council. In appropriate circumstances, a brief presentation may be permitted by a member of the public or another interested party on an agenda item if invited by the Mayor and Council to do so. The Presiding Officer may limit or end the time for such presentations.

The work session agenda shall be prepared in the following order:

Call to Order

Roll Call

Work Session Statement (explanatory statement)

All Items Listed Are for Discussion Only. No Action Can or Will Be Taken. The primary purpose of work sessions is to provide the Council with the opportunity for in-depth discussion and study of specific subjects. Public comment is not provided for on the agenda and may be made only as approved by consensus of the Council. In appropriate circumstances, a brief presentation may be permitted by a member of the public or another interested party on an agenda item if invited by the Mayor or the Town Manager to do so. The Presiding Officer may limit or end the time for such presentations.

Agenda Items for Discussion (Items Numbered for Order)

Adjournment

SECTION 6. PROCEDURES FOR CONDUCTING THE MEETING

6.1 CALL TO ORDER

A meeting of the Council shall be called to order by the Presiding Officer, (the Mayor or in his/her absence, by the Vice-Mayor). In the absence of both the Mayor and Vice-Mayor, the meeting shall be called to order by the Town Clerk, who shall immediately call for the selection of a temporary Presiding Officer.

6.2 PARTICIPATION OF PRESIDING OFFICER

The Presiding Officer may debate from the Chair, subject only to such limitations of debate as are imposed on all Councilmembers, and he/she shall not be deprived of any of the rights and privileges of a Councilmember by reason of his/her acting as Presiding Officer. However, the Presiding Officer is primarily responsible for the conduct of the meeting.

6.3 QUESTION TO BE STATED

The Presiding Officer shall verbally restate, or shall ask the Town Clerk to verbally restate, each question immediately prior to calling for discussion and the vote. Following the vote, the Presiding Officer shall ask the Town Clerk or authorized designee to verbally announce the results of voting, including the ayes, nays and abstentions. The Presiding Officer shall publicly state the effect of the vote for the benefit of the audience before proceeding to the next item of business. Formal votes shall not be taken at work sessions or executive sessions.

6.4 RULES/DECORUM/ORDER

A. <u>Points of Order.</u> The Presiding Officer shall determine all points of order after consultation with the Parliamentarian, subject to the right of any member to appeal such determination to the whole Council. If any appeal is taken, the question (motion) shall be substantially similar to the following: "Shall the decision of the Presiding Officer be sustained?" In which event, following a second, a majority vote shall govern, and conclusively determine such question of order.

B. Order and Decorum

1. Councilmembers: Any Councilmember desiring to speak shall address the Presiding Officer and, upon recognition by the Presiding Officer, may speak.

2. Employees: Members of the administrative staff and employees of the Town shall observe the same rules of procedure and decorum applied to Councilmembers. The Town Manager shall ensure that all Town employees observe such decorum and will direct the participation of any staff member in the discussion of the Council. The Town Manager shall first be recognized by the Presiding Officer prior to addressing the Council. Any staff member desiring to speak shall first be recognized by the Town Manager.

3. Public: Members of the public attending the meetings shall observe the same rules of order and decorum applicable to the Council. Unauthorized remarks or demonstrations from the audience, such as applause, stamping of feet, whistles, boos or yells shall not be permitted by the Presiding Officer, who may direct a law enforcement officer to remove such offender/s from the room.

C. Enforcement of Decorum. Proper decorum is to be maintained during all meetings by the Council, staff and guests. It is the responsibility of the Presiding Officer of the meeting to ensure compliance with this Policy. The Presiding Officer shall request that a speaker refrain from improper conduct; if the speaker refuses, the Presiding Officer may end the speaker's time at the podium. If the speaker refuses to yield the podium after being asked to do so by the Presiding Officer, the Presiding Officer may (1) recess the meeting for a brief time (2) end the speaker's time at the podium or (3) direct a law enforcement officer present at the meeting to remove from the meeting the person whose conduct is disorderly or disruptive.

6.5 TELECONFERENCE PROCEDURE

Meetings may be conducted by teleconference as follows:

A. Prior Notice. When a Councilmember is unable to attend a meeting and desires to participate in the meeting by telephone, the Councilmember shall be permitted to do so provided he/she gives the Town Clerk, or authorized designee, notice of his/herinability to be present at the meeting at least 48 hours prior to the meeting.

B. Notation on Agenda. The notice of the meeting and the agenda shall include the following: "Councilmembers of the Town of Fountain Hills will attend either in person or by telephone conference call."

C. Public Access. Facilities will be used at the meeting to permit the public to observe and hear all telephone communications.

D. Notation in Minutes. The minutes of the meeting shall clearly set forth which members are present in person and which are present by telephone.

6.6 ADDRESSING THE COUNCIL

A. Manner of Addressing the Council.

1. Any member of the public desiring to address the Council shall proceed to the podium after having been recognized by the Presiding Officer. There shall be no loud vocalization (shouting or calling out) from the seating area of the Council Chamber. At the podium, the speaker shall clearly state his/her name for the record and shall indicate if he/she is a Town resident.

2. Special assistance for sight and/or hearing-impaired persons can be provided. Anyone requiring such assistance should contact the Town Clerk 48 hours before a meeting to request an accommodation to participate in the meeting.

B. Limitation Regarding Public Comment and Reports. The making of oral communications to the Council by any member of the public during the "Call to the Public: (Non-agenda Items)" or under an action item, shall be subject to the following limitations:

1. All citizens wishing to address the Council shall complete and submit a request form as set forth in Subsection 5.2(F) above.

2. The Presiding Officer may limit the number of speakers heard on non--agenda topics at any single meeting to allow the meeting to proceed and end in a timely manner.

3. If it appears that several speakers desire to provide repetitive comments regarding a single topic, the Presiding Officer may limit the number of speakers.

C. Motions.

1. Processing of Motions: When a motion is made and seconded, it shall be stated by the Presiding Officer before debate.

2. Precedence of Motions: When a motion is before the Council, no motion shall be entertained except the following, which shall have precedence in the following order:

a. Fix the time to adjourn
b. Adjourn
c. Recess
d. Raise a question of Privilege
e. Table
f. Limit or extend limits of debate
g. Postpone to a certain time and date
h. Amend
i. Postpone Indefinitely
j. Main Motion

3. Motion to Postpone Indefinitely: A motion to postpone indefinitely is used to dismiss an item on the agenda. This motion is debatable, and because it can be applied only to the main question, it can, therefore, only be made while the main question is immediately pending (a motion and second is on the floor). This motion is commonly used to postpone an item until a more appropriate time.

4. Motion to Table: A motion to table enables the assembly to lay the pending question aside temporarily when something else of immediate urgency has arisen, in such a way that there is no set time for taking the matter up again. A motion to table shall be used to temporarily by-pass the subject. A motion to table shall not be debatable and shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the matter may be "taken from the table" at any time prior to the end of the next regular meeting.

5. Motion to Limit or Terminate Discussion: Such a motion shall be used to limit or close debate on, or further amendment to, the main motion. This is referred to as "Call for the Question" and is the motion used to cut off debate and to bring the group to an immediate vote on the pending motion; it requires a two-thirds vote. The vote shall be taken by voice. If the motion fails, debate shall be reopened; if the motion passes, a vote shall be taken on the main motion.

6. Motion to Amend:

   a. A motion to amend shall be debatable only as to the amendment. A motion to amend an amendment on the floor shall not be in order.

   b. An amendment modifying the intention of a motion shall be in order, but an amendment relating to a different matter shall not be in order.

   c. Amendments shall be voted on first, prior to consideration of subsequent amendments. After all amendments have been voted on, the Council shall vote on the main motion (as amended, if applicable).

7. Motion to Continue: Motions to continue shall be debatable only as to the propriety of postponement. Motions to continue to a definite time shall be amendable and debatable as to propriety of postponement and time set only.

D. Addressing the Council after Motion is made. After the motion has been made, or after a public hearing has been closed, no member of the public shall address the Council without first securing permission from the Presiding Officer.

E. Voting Procedure. After discussion has been concluded and the Mayor, the Councilmember who made the motion or the Town Clerk has restated the motion under consideration, the following procedure shall apply:

1. Casting a Vote:

   a. In acting upon every motion, the vote shall be taken by casting a mechanical yes/no vote, voice, roll call or any other method as determined by the Presiding Officer, by which the vote of each member of the Public Body can be clearly ascertained and recorded in the meeting minutes. Upon the request of the Mayor or a Councilmember, the vote shall be taken by roll call.

b. The vote on each motion shall be entered into the record by names of the Councilmembers voting for or against. The Record also shall include the names of any member not casting a vote by reason of being absent from the room at the time of the vote.

c. If a Councilmember has declared a Conflict of Interest, the Town Clerk shall include a statement such as "Abstained due to declared Conflict of Interest" in the official minutes as part of the results of the vote.

d. If the roll call method of voting is used, the Town Clerk or designee shall call the names of all members in random order with each new vote. Members shall respond "Aye" or "Nay."

2. Failure to Vote:

a. All Councilmembers in attendance at a duly called meeting that requires formal Council action are required to vote. A member may abstain from voting only if he/she has a conflict of interest under State law, in which case such member shall take no part in the deliberations on the matter in question.

b. Should a Councilmember fail to vote or offer a voluntary abstention, his/her vote shall be counted with the majority of votes cast, unless the Councilmember's vote is excused by the State law; however, in the event of a tie vote, his/her vote shall be counted as "Aye."

3. Reconsideration: Any Councilmember who voted with the majority may move a reconsideration of any action at the same or next regular meeting. To ensure that the open meeting law requirements are met, a written request from such Councilmember must be submitted to the Town Clerk's Office at least nine days prior to the next regular meeting. After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without the unanimous consent of the Council.

4. The affirmative vote of a majority of a quorum shall be required for passage of any matter before the Council.

SECTION 7. CONFLICT OF INTEREST

7.1 INTRODUCTION

Occasionally, a Councilmember may find himself/herself in a situation that requires a Councilmember remove himself/herself from participation in discussion and voting on a matter before the Council. This situation exists when the Councilmember has a "conflict of interest" as defined by the Arizona Conflict of Interest Law. This law establishes minimum standards for the conduct of public officers and employees who, in their official capacity, are, or may become involved with, a decision, which might unduly affect their personal interests or those of their close relatives.

7.2 PURPOSE OF CONFLICT OF INTEREST LAWS

The purpose of Arizona's Conflict of Interest Law is to prevent self-dealing by public officials and to remove or limit any improper influence, direct or indirect, which might bear on an official's decision, as well as to discourage deliberate dishonesty.

7.3 APPLICABILITY OF THE ARIZONA CONFLICT OF INTEREST LAW

The Arizona Conflict of Interest Law as now set forth or as amended in the future, applies to all actions taken by Councilmembers, Board members, Commissioners, and Committee members.

7.4 DISCLOSURE OF INTEREST

Any Councilmember, Board member, Commissioner, or Committee member who may have a conflict of interest should seek the opinion of the Town Attorney as to whether a conflict exists under the State law. Any member who has a conflict of interest in any decision must disclose that interest at the meeting and in writing on a form provided by the Town Clerk. The disclosure of the conflict shall include a statement that the member withdraws from further participation regarding the matter. The Town Clerk or designee shall maintain for public inspection all documents necessary to memorialize all disclosures of a conflict of interest by a member.

7.5 WITHDRAWAL FROM PARTICIPATION

Having disclosed the conflict of interest and withdrawn in the matter, the Councilmember, Board member, Commissioner, or Committee member must not communicate about the matter with anyone involved in the decision making process in any manner. Further, the member should not otherwise attempt to influence the decision and should remove himself/herself from the Council Chamber, or other location where a meeting is being held, while the matter is considered. Failure to disclose any conflict of interest is addressed in Section 7.8 below.

7.6 RULE OF IMPOSSIBILITY

In the unlikely situation that the majority of Councilmembers, Board members, Commissioners, or Committee members have a conflict of interest and the Council, Board, Commission or Committee is unable to act in its official capacity, members may participate in the discussion and decision after making known their conflicts of interest in the official records.

7.7 IMPROPER USE OF OFFICE FOR PERSONAL GAIN

Public officers and employees are prohibited from using or attempting to use their official positions to secure valuable things or benefits for themselves, unless such benefits are (A) part of the compensation they would normally be entitled to for performing their duties or (B) otherwise permitted according to State Law.

7.8 SANCTIONS FOR VIOLATIONS

Violations of the conflict of interest provisions set forth herein shall be punished as provided for in State law.

7.9 NON-STATUTORY CONFLICTS OF INTEREST

Occasionally, a Councilmember, Board member, Commissioner, or Committee member may feel that he/she should ethically refrain from participation in a decision even though the circumstances may not amount to a conflict of interest under the State law described above. It is the policy of the Council to encourage members to adhere to strongly held ethical values, which are exercised in good faith. However, subsection 6.6(E) (2) above encourages participation in the decision making process unless the matter involves a statutory conflict of interest set forth by State law.

SECTION 8. CODE OF ETHICS

The purpose of this policy for the Town is to ensure the quality of the Town Government through ethical principles that shall govern the conduct of the Council and members of the Town's boards, commissions, and committees.

In furtherance of this purpose, we shall:

8.1 OBEY THE CONSTITUTION AND LAWS OF THE UNITED STATES OF AMERICA, THE CONSTITUTION, AND LAWS OF THE STATE OF ARIZONA AND THE LAWS OF THE TOWN OF FOUNTAIN HILLS.

8.2 BE DEDICATED TO THE CONCEPTS OF EFFECTIVE AND DEMOCRATIC LOCAL GOVERNMENT THROUGH DEMOCRATIC LEADERSHIP.

We shall honor and respect the principles and spirit of representative democracy and shall set a positive example of good citizenship by scrupulously observing the letter and spirit of laws, rules, and regulations.

8.3 AFFIRM THE DIGNITY AND WORTH OF THE SERVICES RENDERED BY THE TOWN GOVERNMENT AND MAINTAIN A DEEP SENSE OF SOCIAL RESPONSIBILITY AS A TRUSTED PUBLIC SERVANT.

8.4 BE DEDICATED TO THE HIGHEST IDEALS OF HONOR, ETHICS, AND INTEGRITY IN ALL PUBLIC AND PERSONAL RELATIONSHIPS.

A. Public Confidence. We shall conduct ourselves so as to maintain public confidence in Town government and in the performance of the public trust.

B. Impression of Influence. We shall conduct our official and personal affairs in such a manner as to give a clear impression that we cannot be improperly influenced in the performance of our official duties.

8.5 RECOGNIZE THAT THE CHIEF FUNCTION OF LOCAL GOVERNMENT IS AT ALL TIMES TO SERVE THE BEST INTERESTS OF ALL THE PEOPLE.

We shall treat our office as a public trust, only using the power and resources of public office to advance public interests and not to attain personal benefit or pursue any other private interest incompatible with the public good.

8.6 KEEP THE COMMUNITY INFORMED ON MUNICIPAL AFFAIRS; ENCOURAGE COMMUNICATION BETWEEN THE CITIZENS AND ALL MUNICIPAL OFFICERS; EMPHASIZE FRIENDLY AND COURTEOUS SERVICE TO THE PUBLIC; AND SEEK TO IMPROVE THE QUALITY AND IMAGE OF PUBLIC SERVICE.

A. Accountability. We shall ensure that government is conducted openly, efficiently, equitably, honorably, and in a manner that permits the citizens to become fully informed to allow them to hold Town officials accountable.

B. Respectability. We shall safeguard public confidence in the integrity of Town government by being honest, fair, caring, and respectful, and by avoiding conduct creating the unexplainable appearance of impropriety, or impropriety of which is otherwise unbefitting a public official.

8.7 SEEK NO FAVOR; BELIEVE THAT PERSONAL BENEFIT OR PROFIT SECURED BY CONFIDENTIAL OR PRIVILEGED INFORMATION OR BY MISUSE OF PUBLIC TIME IS DISHONEST.

A. Private Employment. We shall take any steps necessary to ensure that we comply with the State law regarding conflicts of interest when we engage in, solicit, negotiate for, or promise to accept private employment or render services for private interests or conduct a private business.

B. Confidential Information. We shall not disclose to others, or use to further our personal interest, confidential information acquired in the course of our official duties.

C. Gifts. We shall not directly or indirectly, in connection with service to the Town, solicit any gift or accept or receive any gift - of any value - whether it be money, services, loan, travel, entertainment, hospitality, promise, or any other form of gratuity. This policy shall not apply to hospitality, transportation or other assistance provided to Town officials when such hospitality, transportation of other assistance is (i) directly related to their participation in community events as a representative of the Town or (ii) of inconsequential value and accepted as a courtesy.

D. Investment in conflict with official duties. We shall not invest or hold any investment, directly or indirectly, in any financial business, commercial or other private transaction that creates a conflict with our official duties.

E. Personal relationships. Personal relationships shall be disclosed in any instance where there could be the appearance of conflict of interest or a conflict of interest

8.8 CONDUCT BUSINESS OF THE TOWN IN A MANNER, WHICH IS NOT ONLY FAIR IN FACT, BUT ALSO FAIR IN APPEARANCE.

8.9 PROMOTE UNDERSTANDING, MUTUAL RESPECT AND TRUST AMONG MEMBERS OF COUNCIL, BOARDS, COMMISSIONS AND COMMITTEES CONCERNING THEIR ROLES AND RESPONSIBILITIES WITH RESPECT TO TOWN STAFF'S RESPONSIBILITY FOR IMPLEMENTING THE COUNCIL'S POLICIES.

All members of the Council, boards, commissions, or committees shall acknowledge in writing, on a form provided by the Town Clerk, receipt of these provisions relating to ethics.

SECTION 9. BOARDS, COMMISSIONS, AND COMMITTEES

The Fountain Hills' Council may create such boards, commissions, and committees as deemed necessary to assist in the conduct of the operation of Town government. The Council may authorize and direct the Town Manager to establish ad hoc committees as needed in order to provide additional flexibility with regard to conducting Town business.

9.1 REGULARLY SCHEDULED OR UNSCHEDULED BOARDS, COMMISSIONS AND COMMITTEES

A. Classification. All boards, commissions, and committees of the Town shall be classified as regularly scheduled or unscheduled boards, commissions, and committees. Regularly scheduled boards, commissions, and committees are those that meet on a regularly-scheduled basis or may be quasi-judicial in nature. Unscheduled boards, commissions, and committees meet on an as-called basis.

B. Regularly Scheduled. Regularly scheduled boards, commissions, and committees include:

1. Planning and Zoning Commission

2. Community Services Advisory Commission

3. McDowell Mountain Preservation Commission

4. Strategic Planning Advisory Commission

5. Sister Cities Advisory Commission

6. Municipal Property Corporation

C. Unscheduled. Unscheduled boards, commissions, and committees:

1. Ad Hoc Committees

2. Board of Adjustment

3. Building Safety Board of Appeals

D. Sunset. Except for the Planning and Zoning Commission and Board of Adjustment, any board, commission, or committee created shall cease to exist (1) upon the accomplishment of the special purpose for which it was created or (2) when abolished by a majority vote of the Council.

9.2 SELECTION OF BOARD, COMMISSION, OR COMMITTEE MEMBERS

A. Call for Applications. The call for applications to fill vacant seats for boards, commissions and committees shall include a request for:

1. A cover letter of interest.

2. A resume.

3. The application that describes the applicant's skills, experience, and education background needed to ensure the successful filling of the vacancy.

4. Responses to the supplemental questionnaire specific to a board, commission, or committee application, if such questionnaire is included.

5. The consent to executive session form.

6. If a member whose term will be expiring wishes to reapply for an additional term on the same board, commission or committee, such member is exempt from filing those items listed in Subsections 9.2 (A)(1-4). However, such member shall submit in writing, on a form provided by the Town Clerk that includes a

request for the Council's consideration of reappointment in addition to the consent to executive session as listed in Subsection 9.2(A)(5). The member may include any new or additional information that is relevant to the original application already on file.

B. Advertising/Timing and Location. The Town Clerk shall be responsible for advertising to fill vacant seats to boards, commissions, and committees for at least two weeks and no later than two months, prior to the expiration of the current board, commission, or committee member(s) term, via:

1. The Town's government access channel.

2. Newspaper advertising.

3. The Town website.

4. The Town's official posting sites as listed in Section 2-4-3 of the Fountain Hills Town Code. The downloadable application packet will be placed on the Town's website for public access with hard copies made available to the public through the Customer Service Representative.

C. Advertisement Contents. Advertisement of vacancies shall include the following:

1. The name of the board, commission, or committee.

2. The number of vacancies to be filled.

3. A brief description of the board, commission, or committee.

4. A brief description of the qualifications, skills and experience background applicants should possess, if any.

5. An overview of when the board, commission, or committee meets.

6. The deadline for submitting applications.

7. Listing of applicant information required and location where application packets may be obtained.

8. Staff liaison contact information.

9. The dates of publication in the local paper.

D. Staff Review. Individuals applying for boards, commissions, or committees must submit to the Town Clerk those items as listed in Subsection 9.2(A) above by the published deadline. The Town Clerk and Staff Liaison will review the application(s) to ensure that the applicant(s) meet the qualifications as listed in Subsection 9.4(A) below.

E. Council Materials. The staff liaison to the board, commission, or committee will assemble and copy all application packets and provide all supporting materials to all Councilmembers.

F. Subcommittee Review/Interview. The Council subcommittee shall interview all applicants, unless there are more than five applicants for each vacancy, in which case the subcommittee may choose, at its discretion, to limit the number of interviewed applicants to five per vacancy after meeting to review all of the applications. The staff liaison will schedule an appropriate time to interview qualified applicants in person or via telephone, and shall prepare and post the agenda for an executive session in accordance with the Arizona open meeting law for said interviews. Interviews shall be conducted in Executive Session unless the applicant requests the interview be held at a public meeting.

G. Subcommittee Recommendation. After the interviews have concluded, the staff liaison, Town Clerk or the Council Subcommittee chair shall advise the Mayor of the subcommittee's discussion and appointment recommendation(s).

H. Council Consideration. The Town Clerk shall prepare the agenda action form according to the submission deadline for the next appropriate Council meeting agenda, including the following information: (1) a review of the steps taken to recruit applicants, (2) the number of vacancies to be filled along with the names of those members whose terms expire, (3) the number of applications received and (4) the specific term to be filled.

I. Notification of Council Meeting. The staff liaison shall notify the appointee(s) that he/she is a possible candidate for appointment to a board, commission, or committee and suggest that he/she may want to be present at the scheduled meeting when the recommendation is presented to the Council.

J. Notification of Council Action. Following the Council's approval of the Mayor's appointment(s) to a board, commission, or committee, the Town Clerk shall notify appointees as to their appointment and provide them with an Oath of Office, Ethics Policy and Open Meeting Law Affirmation for their signature and return. Those applicants not chosen to fill a vacancy on a board, commission, or committee, will be provided written notification by the Town Clerk outlining the Council's appointments and they will be provided with an application of interest for consideration of applying for any other board, commission and committee vacancies.

K. Appointee Orientation. The staff liaison will provide specific details to the new appointees relative to: (1) their attendance at the "official" board, commission, or committee orientation, and (2) all official literature, agendas, minutes, or other materials specific to their appointment.

9.3 RECOMMENDATIONS FOR APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

A. Appointments Subcommittee. The Mayor may annually appoint Council Subcommittees for board, commission and committee appointments. Each subcommittee shall be made up of three Councilmembers. The Mayor may appoint himself/herself to this subcommittee. If no such subcommittee is appointed, at a minimum, a quorum of the Fountain Hills Council shall review applications and conduct interviews for the various boards, commissions, and committees to fill vacancies based upon the applicants' skills, experience, and background as required under Section 9.4 below.

B. Subcommittee Purpose. The purpose of this Council Subcommittee is to review applications, interview applicants (typically in Executive Session) and provide a recommendation to the Mayor for possible appointment to fill vacancies based upon the applicants' skills, experience, and background as required under Section 9.4 below.

C. Appointment Timing. The process of application review and interviews will be conducted in such a manner as to allow for the appointments to coincide with the term expiration of the current board, commission or committee member(s) term or as soon thereafter as reasonably possible.

9.4 QUALIFICATIONS FOR APPOINTMENTS; EMPLOYEES OR APPOINTED OFFICERS AS MEMBERS

A. Minimum Qualifications. All members of boards, commissions, and committees shall meet the following minimum qualifications upon their appointment to any board, commission, or committee. Each member must be:

1. Eighteen years of age or older, for any board, commission, or committee seats, designated by Council; except for members appointed to Youth Commissioner position for youth representation.

2. A Fountain Hills resident for at least one year, unless the Council specifically waives this time or residency requirement for a specific board, commission or committee.

3. A qualified elector, except youth appointees.

B. Prohibited Appointees. Town employees or appointed officers shall not be eligible for appointment to any board, commission, or committee but may be requested to provide staff support thereto. Councilmembers are prohibited from serving on regularly scheduled commissions as listed in Subsection 9.1(B) above and the Board of Adjustment.

C. Ex-Officio Members. The Mayor, with the consent of the Council, may from time to time appoint ex-officio members to those boards, commissions or committees as set forth in the bylaws of such body. Such members shall serve at the pleasure of the

Mayor and Council. Ex-officio members shall not be entitled to vote on any matter brought before the commission.

9.5 TERMS, VACANCIES, REMOVAL

A. Terms. All members of unscheduled boards, commissions, and committees shall serve a term of up to three years, or until the board, commission, or committee is dissolved, unless Council action, Town Code, or Arizona Revised Statutes specifically designates terms.

B. Staggered Terms for Smaller Boards. For those regularly scheduled boards, commissions, and committees having five members or fewer, the terms of office shall be staggered so that no more than three terms shall expire in any single year when possible; provided, however, that no staggering of terms shall be required for any boards, commission, or committee that will be in existence for a single term.

C. Staggered Terms for Larger Boards. For those boards, commissions, and committees having more than five members but less than eight members, the terms of office shall be staggered so that no more than four terms shall expire in any single year when possible; provided, however, that no staggering of terms shall be required for any board, commission, or committee that will be in existence for a single term.

D. Simultaneous Service Limitation. No individual may serve as a voting member on more than one regularly scheduled or unscheduled board, commission, and committee at one time.

E. Vacancies. A vacancy on a board, commission, or committee shall be deemed to have occurred upon the following:

1. Death or resignation of a member of a board, commission, or committee.

2. A member ceasing to be a resident of the Town of Fountain Hills, unless the Council has provided that such member may be a non-resident.

3. Three successive unexcused or unexplained absences by a member from any regular or special board, commission, or committee meetings. However, the term of all members shall extend until their successors are appointed and qualified.

F. Removal. Any board, commission, or committee member may be removed as a member to that board, commission, or committee upon a vote of not less than four Councilmembers for any cause as determined by the Council.

G. Filling Vacancy. Whenever a vacancy has occurred on one board, commission, or committee procedures described in Sections 9.2, 9.3, and 9.4 above will be used to generate applicants, interview applicants, and make a recommendation for a potential appointee.

H. Re-appointment. An incumbent member of a board, commission, or committee seeking reappointment shall submit, in writing on a form provided by the Town Clerk that includes a request for the Council's consideration of reappointment in addition to the consent to executive session form by the published deadline in order to be considered for appointment by the Council. The member may include anyone or additional information that is relevant to the original application already on fil

9.6 APPLICABILITY OF THE ARIZONA OPEN MEETING LAW

All boards, commissions, and committees are subject to the Arizona Open Meeting Law and therefore shall attend the Town's Annual Open Meeting Law training.

9.7 RESIDENCY REQUIREMENT

Members of all boards, commissions or committees shall be residents of the Town.

ITEM 8-E

TOWN OF FOUNTAIN HILLS

TOWN COUNCIL AGENDA ACTION FORM

Meeting Date: 3/5/2019 **Meeting Type:** Regular

Agenda Type: Regular **Submitting Department:** Administration

Staff Contact Information: Elizabeth A. Burke, Town Clerk, 480-816-5115; eburke@fh.az.gov

REQUEST TO COUNCIL (Agenda Language): DISCUSSION with possible direction relating to any item included in the League of Arizona Cities and Towns' weekly Legislative Bulletin(s) or relating to any action proposed or pending before the State Legislature.

Applicant: NA

Applicant Contact Information: NA

Owner: N/A

Owner Contact Information: NA

Property Location: NA

Related Ordinance, Policy or Guiding Principle: A.R.S. §38-431.01

Staff Summary (background): This agenda item will appear on the Regular Meeting agendas through the end of this year's Legislative session. It is intended to provide an opportunity for Council to discuss any proposed or pending legislation before the State Legislature, and possibly take action in response thereto.

Risk Analysis (options or alternatives with implications): NA

Fiscal Impact (initial and ongoing costs; budget status): NA

Budget Reference (page number): NA

Funding Source: NA

If Multiple Funds utilized, list here:

Budgeted; if No, attach Budget Adjustment Form: NA

Recommendation(s) by Board(s) or Commission(s): NA

Staff Recommendation(s): Approve

List Attachment(s): Legislative Bulletin Issue 7; Notes from Legislative Call of 02/25/19

SUGGESTED MOTION (for Council use): Council may give direction to the Town Manager to express a position to the Legislature or other body with respect to any item on the League update.

Prepared by:

Elizabeth A. Burke, Town Clerk 2/25/2019

Approved:

Grady E. Miller, Town Manager 2/25/2019

Elizabeth Burke

From: Faith Ballor <fballor@azleague.org>
Sent: Friday, February 22, 2019 5:09 PM
To: Bulletin & E-Newsletter Group
Subject: League of Arizona Cities and Towns: Legislative Bulletin Issue 7 - February 22, 2019

League of Arizona Cities and Towns WWW.AZLEAGUE.ORG LEGISLATIVE BULLETIN

Issue 7 – February 22, 2019

Legislative Update

Today is the 40th day of session. Committees in both chambers wrapped up the first round of hearings in time before the deadline; however, the Appropriations Committees will have an additional week to hear legislation. As a result, bills that were not heard in standing committees to which they were assigned will not be moving forward, including some that the League was monitoring very closely.
For example, HB2108 real estate signs; cities; counties, restricting municipalities from regulating placement of real estate signs on private property and within rights-of-way, and HB2635 prohibition; photo radar, prohibiting cities and towns from utilizing a photo radar enforcement, will not be moving forward this session.
However, there are still several problematic bills remaining in the process, including legislation exempting certain software products from taxation, requiring voters to retain municipal judges, mandating city and town elections to be partisan, among others. Next week is crossover week, which means many of these bills will be moving to the floor for debate and a vote. Now is the time to speak with your delegation and ask they vote **NO** on these measures.

CALL TO ACTION – Short-Term Rentals

As previously reported, the League has been working with Representative John Kavanagh (R-Fountain Hills) on a bill to provide cities and towns an enforcement tool to control the problems caused by short-term rentals. That bill is HB2672 vacation rentals; short-term rentals; regulation, which was heard in House Government this week.

Throughout this process the League has been working with the sponsor to address the concerns of other stakeholders and to build strong bipartisan support for the measure. In addition to the sponsor, the bill currently has 55 co-sponsors, including 29 Republicans (19 in the House, 10 in Senate), 26 Democrats (16 in the House, 10 in the Senate), the Speaker of the House and the President of the Senate.

During the hearing legislators and other stakeholders raised several concerns, most frequently the occupancy limits established by the bill, arguing that larger homes should be allowed a higher occupancy and that these restrictions would unduly harm responsible short-term rental owners. From the League's perspective, the most important provisions of the bill are: 1.) allowing cities and towns to receive, share internally, and use TPT license information about these properties and their owners; and 2.) having a forceful mechanism to stop bad actors from continuing to allow their transient renters to be a nuisance to the community. The League will continue to work with the sponsor and other stakeholders to ensure our members' top priorities are addressed but that we have the political support to ensure passage.

After a very lengthy discussion on the bill, it passed out of committee on a mixed vote of 8 ayes, 2 nays, and 1 legislator voting present. The League has agreed to work with the other stakeholders to address their concerns to alleviate the concerns that legislators expressed during committee. The League will be meeting with the legislators on the committee and other members of the House majority to continue building support.

The League asks that you reach out to your House members and emphasize how important this legislation is to your community. While we are confident that the final bill will be a reasonable compromise that provides substantial relief for cities and towns, we want to ensure a strong vote on the House floor as the bill continues to move through the process.

Distracted Driving

SB1165 S/E: texting while driving; prohibition, sponsored by Senator Kate Brophy McGee (R-Phoenix), passed the Senate Transportation and

Public Safety Committee 7-1 on Wednesday. The committee members listened to testimony from victims of traffic accidents caused by distracted drivers – including the family of the Salt River Police officer who was struck and killed by a distracted driver while conducting a traffic stop. The League testified in support and provided for the committee's record letters of support signed by mayors from across the state.

The bill is an emergency measure that establishes a statewide hands-free law that bans holding a wireless device while driving, with certain exceptions. Drivers may operate their device by a single tap or swipe to activate a feature or while using hands-free features, such as talk-to-text or Bluetooth accessories. The law will establish an education period to expire in January 1, 2021 allowing drivers to adapt to the new requirements. During this time, law enforcement will only be issuing warnings for violations.

The bill will preempt local distracted driving ordinances; however, cities, towns and counties will have the option to continue enforcing their existing hands-free ordinances and penalties until January 1, 2021 when the new state law and penalties take effect or amend their existing ordinance to mirror SB1165.

The bill has been assigned to a Rules Committee hearing next Monday and could soon move to the full Senate for debate and a vote.

HURF Distribution

On Wednesday night the House Appropriations Committee considered HB2047; HURF distribution; cities, towns, counties, sponsored by Representative David Cook (R-Globe) that directs an initial $18 million to rural counties and cities before calculating the additional funds based on the traditional formula.

The League testified in opposition, indicating that the root cause of the HURF funding problem is that the available pool of money is too small because the gas tax has not been raised since 1991. The current gas tax of 18 cents, adjusted for inflation, is 33 cents in today's dollars, and the purchasing power of the pool of HURF funds will continue to decline if not addressed. This year the League is supporting legislation proposed by Representative Noel Campbell (R-Prescott), HB2536 fuel; electric cars; hybrids; taxes that, among other provisions, would gradually increase the state's tax on gas and diesel sales, and thereafter be adjusted by changes in the GDP implicit price deflator.

Now that HURF sweeps have been eliminated in the Governor's proposed budget, rural and urban cities and counties would all be better served by addressing the lack of overall funds in HURF and HB2536 provides that solution. Unfortunately, HB2047 was voted out of committee 9-1.

Online Lodging Marketplace Collections

HB 2027: online lodging marketplace; local taxation, sponsored by Representative John Kavanagh (R-Fountain Hills), passed out of the House Ways and Means Committee Wednesday on a unanimous vote. The bill fixes a technical problem relating to the authority of the Department of Revenue to collect taxes from online lodging marketplace companies such as Airbnb and VRBO and remit them to cities and towns. Its next stop is the House Rules Committee.

Wayfair Implementation

The bill that implements the US Supreme Court's *Wayfair* decision in Arizona, HB 2702: TPT; marketplace facilitators; nexus, sponsored by Representative Ben Toma (R-Peoria), moved out of the House Ways and Means Committee on an 8-2 vote. The bill establishes an "economic nexus" for out of state sellers doing business in Arizona at 200 transactions or $100,000 a year. Once an online seller crosses that line, they are required to collect state and local taxes on all future transactions. Most online sellers are already complying with this process under the previous "physical nexus" test. The bill provides for a single point of collection, the state Department of Revenue, and does not apply retroactively. In-state brick and mortar businesses, business organizations, shopping center operators and online sellers such as Amazon, all testified in support of the bill in committee. To further implement this decision, the Municipal Tax Code Commission met on Friday and adopted amendments to the Model City Tax Code that conform the MCTC definition of retail transactions with the state definition. The League thanks Rep. Toma for his leadership on this very important topic.

Municipal Food Tax

HB 2638: municipal tax; exemption; food, sponsored by Representative Shawnna Bolick (R-Phoenix), was approved by the House Ways and Means committee on a 6-4 vote. This version of the bill has a population threshold that means it would only apply to the City of Phoenix, which currently does not have a tax on food for home consumption, but it could be easily amended to apply to some or all other cities and towns. This tax is a critical source of revenue for many cities and towns, particularly in rural and tourist areas. The state does not tax food, so the rate of this tax is low, usually around $1 in tax for every $50 grocery sale. It provides more than $115 million in revenue to cities and towns across the state. Please ask your House members to oppose this bill.

Reconstruction Contracting/Land Deduction

On Wednesday morning the House Ways & Means Committee considered HB2357; reconstruction contracting; local tax; exemption, sponsored by Representative Ben Toma (R-Peoria). A mirror bill, SB1367; reconstruction contracting; local tax; exemption, sponsored by Senator J.D. Mesnard (R-Chandler), was heard Wednesday afternoon in Senate Finance Committee. The bills were originally drafted to address some issues developers had identified with a lack of clarity in the speculative builder section of the Model City Tax Code.

Over the past two weeks the League has met with proponents of the bill to identify their issues and understand the intent of the legislation. Through that process, the League identified that builders had been incorrectly assessed taxes on certain speculative builder projects and that we could resolve the industries' issues with some simple amendments at the Municipal Tax Code Commission (MTCC).

In addition to the changes where the League and proponents identified incorrect application, the builders also included language in the bill requiring cities to select Option N under the speculative builder code resulting in a 20% land deduction for each speculative builder property sale. The impact of this change for the cities and towns without Option N would be a 20% decrement in revenue totaling approximately $6.8 million per year.

The League testified in opposition, indicating that many of the issues of the industry would be satisfied at the next meeting of the MTCC. However, if the industry were to pursue further the land deduction portion of the bill, cities and towns were collectively opposed. We believe, now that the MTCC has made the industry-desired changes unrelated to the land deduction, there is a high likelihood the proponents will no longer pursue the additional language on the bill.

Unfortunately, despite our testimony in opposition, HB2357 passed out of House Ways & Means on strict party line vote 6-4 and SB1367 passed out of Senate Finance 9-1.

Legislative Bill Monitoring

All bills being actively monitored by the League can be found here.

Legislative Bulletin is published by the League of Arizona Cities and Towns.
Forward your comments or suggestions to league@azleague.org.

League of Arizona Cities and Towns

Legislative Update Conference Call

February 25, 2019

Notes

SB 1155: S/E remote sellers; taxation; study committee (Gowan)

- Sponsored by Rep. David Gowan, this bill establishes the Taxation of Remote Sellers Study Committee and outlines Committee membership, powers and duties. The intent of the bill is to delay implementation of the US Supreme Court Wayfair decision in Arizona for two years and ultimately to eliminate the Model City Tax Code. The League opposes this bill, and it will be heard tomorrow in Senate Appropriations Committee at 11:00 a.m.

SB 1460 TPT: digital goods and services (Ugenti-Rita)

- Sponsored by Sen. Michelle Ugenti-Rita, this bill would exempt "software as a service" from state and local TPT. SaaS is the fastest growing segment of the pre-written software industry and hard-copy versions of the same software is currently subject to taxation. The bill was heard in Senate Finance and passed out of Committee 6-4. The League is currently working on an amendment to this bill that would tax similar products similarly, regardless of how they are delivered to the consumer. We encourage you to contact your Senate members to vote against this bill unless the amendment is adopted.

HB 2702: TPT; marketplace facilitators; nexus (Toma)

- Sponsored by Rep. Ben Toma, this bill would implement the Wayfair decision in Arizona by creating an economic presence test for nexus purposes. We have met with 34 members of the House, and 32 legislators have expressed their support for this bill, and it passed out of House Ways and Means Committee last week 8-2.

HB 2638: municipal tax; exemption; food (Bolick)

- Sponsored by Rep. Shawnna Bolick, this bill prohibits a city or town with a population of 625,000 persons or more from imposing a tax on food for home consumption. However, if passed, the language of this bill can be easily amended to affect all cities and towns in the state. It passed out of House Ways and Means last week 6-4. The League strongly opposes this bill.

HB 2536: fuel; electric cars; hybrids; taxes (Campbell)—Top three road projects in your city/town

- Sponsored by Rep. Noel Campbell, this bill gradually increases the motor and use fuel taxes and imposes new taxes on natural gas, propane and electric vehicles. The bill passed out of House Ways and Means Committee last week 7-3, and Rep. Campbell is reaching out to those who are in support of this legislation asking for the top three road projects in your community or city. If you would like to send information regarding your road projects, please reply to this email. The League supports this bill.

HB 2043: municipal judges; retention elections (Kavanagh)

- Introduced by Rep. John Kavanagh, this bill would implement a retention election system for municipal judges. It is already difficult to recruit and keep municipal judges and this bill may exacerbate that problem. The bill passed out of House Elections Committee last week 6-4 and is likely to go to the floor. We encourage you to reach out to your House members to oppose this bill.

HB 2047: HURF distribution; cities, towns, counties (Cook)

- Sponsored by Rep. David Cook, this bill re-distributes $18 million of the Highway User Revenue Fund (HURF) to counties with a population of less than 250,000 people and to cities with a population of less than 7,500 people. The bill passed out of House Appropriations 9-1. The League opposes a change in the distribution formula and contends that the problem of revenue shortfalls for road and highway maintenance is not solved with in this bill.

HB 2672: vacation rentals; short-term rentals; regulation (Kavanagh)

- Sponsored by Rep. John Kavanagh, this bill allows cities and towns to have an effective enforcement tool for owners of short-term rentals that are causing problems for neighborhoods with party houses, event venues and excessive occupancy. The bill also requires contact information of the posting individual to be accessible to cities and towns. The bill was heard in House Government Committee last week and passed with an 8-2-1 vote. The subject of a League Resolution, the League supports this bill.

League of Arizona Cities and Towns

HB 2115: landlord tenant; state preemption (Griffin)

- Sponsored by Rep. Gail Griffin, this bill establishes that the regulation of landlords and tenants within Arizona is of statewide concern and preempts further regulation by a city or town. The bill passed out of House Rules last week 5-3 and will be heard in House Committee of The Whole today. We encourage you to advise your legislators to know the impacts of this bill and vote against it.

HB2201: partisan offices; cities; towns (Carroll)

- Sponsored by Rep. Frank Carroll, this bill would require a municipality to print, on the ballot, the party designation of all candidates for mayor or city or town council. It also requires a runoff election even if a candidate receives an outright majority in the primary. This is an unnecessary bill, as the work of cities and towns is non-partisan issues and requiring two elections in all cases would increase costs. The League opposes this legislation.

HB 2026: public resources; influencing elections; penalties (Kavanagh)

- Sponsored by Rep. John Kavanagh, this bill gives individuals a right of action if they believe a city or town is using public resources to influence an election. Under current law, a citizen can complain to the county attorney or attorney general about alleged violations, and those agencies would conduct an investigation. Furthermore, this bill would allow individuals to collect damages from cities and towns in the event they sue and are successful, which will likely lead to an increase in lawsuits. The League opposes this bill.