

**CITY OF TOLLESON
REQUEST FOR PROPOSALS (RFP)
FOR
FIREWORKS FOR SPECIAL EVENTS**

The City of Tolleson is issuing this Request for Proposals seeking proposals from qualified vendors to provide fireworks and pyro technicians and produce a twenty-five minute fireworks display for the City's annual 4th of July celebration and possibly other special events, for the year commencing January 1, 2016, and ending December 31, 2016. The vendor that is selected will be responsible for supplying fireworks and necessary ancillary equipment and services to produce the display, as well as providing the necessary personnel for set-up, maintenance, safety measures, production, clean up of debris (other than confetti) or unused materials, and tear down of ancillary equipment used in connection with the display.

This RFP will be listed on the City's website www.tollesonaz.org beginning Thursday, October 29, 2015, and may be obtained from the Parks & Recreation Department at Tolleson City Hall, 9555 W. Van Buren Street, Tolleson, AZ, 85353. Any questions related to this RFP should be directed to Parks & Recreation Programmer Ruth Espinoza in writing at respinoza@tollesonaz.org.

Proposals are due at Tolleson City Hall by 3:00 P.M. on Tuesday, November 17, 2015. The City of Tolleson reserves the right to reject any and all submittals.

Notice Given By: Crystal Zamora
City Clerk
Thursday, October 29, 2015

Published in the: Arizona Business Gazette
Thursday, October 29, 2015
Thursday, November 5, 2015

REQUEST FOR PROPOSALS

**City of Tolleson
9555 West Van Buren Street
Tolleson, Arizona 85353**

SOLICITATION INFORMATION AND SELECTION SCHEDULE

Solicitation Number:	PR-FW-2016
Solicitation Title:	FIREWORKS FOR SPECIAL EVENTS
Release Date:	October 29, 2015
Advertisement Dates:	October 29, 2015 – Arizona Business Gazette November 5, 2015 – Arizona Business Gazette
Pre-Submittal Conference:	NOT APPLICABLE TO THIS SOLICITATION
Final Date for Inquiries	November 10, 2015
Proposal Due Date and Time:	November 17, 2015 3:00 p.m. (local time, Phoenix, Arizona)
Shortlist Announced for Oral Interviews:	November 23, 2015
Oral Interviews (if necessary):	December 2, 2015
Target City Council Award Date:	December 8, 2015
Anticipated Agreement Start Date:	January 1, 2016
RFP Administrators:	Ruth Espinoza (respinoza@tollesonaz.org) Inez Babchuk (ibabchuk@tollesonaz.org)

* **In the event that a Vendor cannot be selected based solely on Proposals submitted, Oral Interviews may be conducted at the City's sole discretion.**

** **The City of Tolleson reserves the right to amend the solicitation schedule as necessary.**

SECTION A

TABLE OF CONTENTS

<u>Section A</u>	<u>Page</u>
I. RFP Process, Award of Agreement	A-1
II. Proposal Format; Scoring	A-6
III. Oral Interviews; Scoring	A-9
IV. Vendor Information Form	A-10
 <u>Section B</u>	
Sample Professional Services Agreement	B-1

SECTION A

PART I. RFP PROCESS; AWARD OF AGREEMENT

1.1 Purpose; Scope of Work. The City of Tolleson (the “City”) is issuing this Request For Proposals (this “RFP”) seeking proposals (“Proposals”) from qualified vendors (“Vendors”) interested in providing fireworks displays and pyro technicians for City sponsored special events (the “Materials and Services”), as more particularly described in the Scope of Work attached to the sample Professional Services Agreement as Exhibit B, and incorporated herein by reference. In accordance with the City’s Procurement Code, the City will accept sealed Proposals for the Materials and Services specified in the Scope of Work.

1.2 Preparation/Submission of Proposal. Vendors are invited to participate in the competitive selection process for the Materials and Services outlined in this RFP. Responding parties shall review their Proposal submissions to ensure the following requirements are met.

A. Irregular or Non-responsive Proposals. The City shall consider as “irregular” or “non-responsive” and reject any Proposal not prepared and submitted in accordance with this RFP, or any Proposal lacking sufficient information to enable the City to make a reasonable determination of compliance to the minimum qualifications. Unauthorized conditions, limitations, or provisions shall be cause for rejection. Proposals may be deemed non-responsive at any time during the evaluation process if, in the sole opinion of the City Manager or authorized designee, any of the following are true:

- (1) Vendor does not meet the minimum required skill, experience or requirements to perform or provide the Materials and Services.
- (2) Vendor has a past record of failing to fully perform or fulfill contractual obligations.
- (3) Vendor cannot demonstrate financial stability.
- (4) Vendor’s Proposal contains false, inaccurate or misleading statements that, in the opinion of the City Manager or authorized designee, are intended to mislead the City in its evaluation of the Proposal.

B. Submittal Quantities. Interested Vendors must submit **one original and four copies (five total submittals)** of the Proposal. Failure to adhere to the submittal quantity criteria shall result in the Proposal being considered non-responsive.

C. Required Submittal. The Proposal shall be submitted with a cover letter with an **original ink** signature by a person authorized to bind the Vendor. Proposals submitted without a cover letter with an **original ink signature** by a person authorized to bind the Vendor shall be considered non-responsive. The Proposal shall be a maximum of 15 pages to address the Proposal criteria (excluding resumes and the Vendor Information Form, but including the materials necessary to address the general information, experience and qualifications, key positions and project approach). Each page side (maximum 8 ½” x 11”) with criteria

SECTION A

information shall be counted. Cover, back, table of contents and tabs may be used and shall not be included in the page count, unless they include additional project-specific information or Proposal criteria responses. The minimum allowable font for the Proposal is **11 pt, Arial or Times New Roman**. Failure to adhere to the page limit, size and font criteria shall result in the Proposal being considered non-responsive. Telegraphic (facsimile), electronic (e-mail) or mailgram Proposals will not be considered.

D. Vendor Responsibilities. All Vendors shall (1) examine the entire RFP, (2) seek clarification of any item or requirement that may not be clear, (3) check all responses for accuracy before submitting a Proposal and (4) submit the entire Proposal by the Proposal Due Date and Time. Late Proposals will not be considered. A Vendor submitting a late Proposal shall be so notified. Negligence in preparing a Proposal shall not be good cause for withdrawal after the Proposal Due Date and Time.

E. Sealed Submittals. All Proposals shall be sealed and clearly marked with the RFP solicitation number and title, **PR-FW-2016 Fireworks for Special Events**, on the lower left hand corner of the mailing envelope. A return address must also appear on the outside of the sealed Proposal. The City is not responsible for the pre-opening of, post-opening of, or the failure to open, any Proposals not properly addressed or identified.

F. Pricing. The Vendor shall submit the same number of copies of the Fee Proposal as described in Part I, Subsection 1.2(B) (Submittal Quantities) in a separate, sealed envelope enclosed with the Vendor's Proposal. Pricing shall be inclusive of all of the Materials and Services in the Scope of Work as described in the Professional Services Agreement in Exhibit B. A sample Fee Proposal is attached to the Professional Services Agreement as Exhibit C.

G. Address. All Proposals shall be directed to the following address: City Clerk, 9555 West Van Buren Street, Tolleson, Arizona 85353, or hand-delivered to the City Clerk's office by the Proposal Due Date and Time indicated on the cover page of this RFP.

H. Pricing Errors. If price is a consideration and in case of error in the extension of prices in the Proposal, the unit price shall govern. Periods of time, stated as number of days, shall be calendar days.

I. Proposal Irrevocable. In order to allow for an adequate evaluation, the City requires the Proposal to be valid and irrevocable for **90** days after the Proposal Due Date and Time indicated on the cover of this RFP.

J. Amendment/Withdrawal of Proposal. At any time prior to the specified Proposal Due Date and Time, a Vendor (or designated representative) may amend or withdraw its Proposal. Any erasures, interlineations, or other modifications in the Proposal shall be initialed in **original ink** by the authorized person signing the Proposal. Facsimile, electronic (e-mail) or mailgram Proposal amendments or withdrawals will not be considered. No Proposal shall be altered, amended or withdrawn after the specified Proposal Due Date and Time.

SECTION A

1.3 Cost of Proposal Preparation. The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Proposals submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Vendor is responsible for all costs incurred in responding to this RFP. All materials and documents submitted in response to this RFP become the property of the City and will not be returned.

1.4 Inquiries.

A. Written Inquiries. Any question related to the RFP, including any part of the Scope of Work, shall be directed to the RFP Administrator whose name appears on the cover page of this RFP. Questions shall be submitted in writing by the date indicated on the cover page of this RFP. In the event the City offices are closed on the Final Date for Inquiries, the Vendor may submit the question(s) to the RFP Administrator via e-mail or voicemail. Any correspondence related to the RFP shall refer to the title and number, page and paragraph. However, the Vendor shall not place the RFP number and title on the outside of any envelope containing questions, because such an envelope may be identified as a sealed Proposal and may not be opened until the Proposal Due Date and Time.

B. Inquiries Answered. Verbal or telephone inquiries directed to City staff **will not be answered.** Within two business days following the Final Date for Inquiries listed on the cover page of this RFP, answers to all questions received in writing or via e-mail will be mailed, sent via facsimile and/or e-mailed to all parties who obtained an RFP package from the City and who legibly provided a mailing address, facsimile and/or e-mail address to the City. No questions, submitted in any form, will be answered after the Final Date for Inquiries.

C. Pre-Submittal Conference. A Pre-Submittal Conference may be held. If scheduled, the date and time of this conference will be indicated on the cover page of this RFP. This conference may be designated as mandatory or non-mandatory on the cover page of this RFP. Additionally, if the Pre-Submittal Conference is designated as mandatory, failure to attend shall render that Vendor's Proposal non-responsive. Vendors are strongly encouraged to attend those Pre-Submittal Conferences designated as non-mandatory. The purpose of this conference will be to clarify the contents of this RFP in order to prevent any misunderstanding of the City's requirements. Any doubt as to the requirements of this RFP or any apparent omission or discrepancy should be presented to the City at this conference. The City will then determine if any action is necessary and may issue a written amendment or addendum to this RFP. Oral statements or instructions will not constitute amendments or addenda to this RFP.

1.5 Addenda. Any addendum issued as a result of any change in this RFP shall become part of the RFP and must be acknowledged in the Proposal submittal. Failure to indicate receipt of the addendum shall result in the Proposal being rejected as non-responsive.

1.6 Payment Requirements; Payment Discounts. Any Proposal that requires payment in less than 30 calendar days shall not be considered. Payment discounts of 30 calendar days or

SECTION A

less will not be deducted from the Proposal Price in determining the low Proposal. The City shall be entitled to take advantage of any payment discount offered, provided payment is made within the discount period. Payment discounts shall be indicated on Fee Proposal.

1.7 Federal Excise Tax; Transaction Privilege Tax. The City is exempt from Federal Excise Tax, including the Federal Transportation Tax. Transaction privilege tax, if any, shall be included in the unit price for each line item. It shall not be considered a lump sum payment item.

1.8 Public Record. All Proposals shall become the property of the City and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Code.

1.9 Confidential Information. If a Vendor believes that a Proposal or protest contains information that should be withheld from the public record, a statement advising the RFP Administrator of this fact shall accompany the submission and the information shall be clearly identified. The information identified by the Vendor as confidential shall not be disclosed until the Procurement Agent makes a written determination. The Procurement Agent shall review the statement and information with the City Attorney and shall determine in writing whether the information shall be withheld. If the City Attorney determines that it is proper to disclose the information, the RFP Administrator shall inform the Vendor in writing of such determination.

1.10 Vendor Licensing and Registration. Prior to the award of the Agreement, the successful Vendor shall (A) be registered with the Arizona Corporation Commission and authorized to do business in Arizona and (B) have a completed Request for Vendor Number on file with the City Financial Services Department. The Vendor shall provide licensure information with the Proposal. Corporations and partnerships shall be able to provide a Certificate of Good Standing from the Arizona Corporation Commission.

1.11 Certification. By submitting a Proposal, the Vendor certifies:

A. No Collusion. The submission of the Proposal did not involve collusion or other anti-competitive practices.

B. No Discrimination. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246.

C. No Gratuity. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor or service to a City employee, officer or agent in connection with the submitted Proposal. It (including the Vendor's employees, representatives, agents, lobbyists, attorneys, and subcontractors) has refrained, under penalty of disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a part in the selection process, including the Selection Committee, elected officials, the City Manager, Assistant City Managers, Department Heads, and other City staff. All contact must be addressed to the City's Procurement Agent, except for

SECTION A

questions submitted as set forth in Part I, Subsection 1.4 (Inquiries), above. Any attempt to influence the selection process by any means shall void the submitted Proposal and any resulting Agreement.

D. Financial Stability. It is financially stable, solvent and has adequate cash reserves to meet all financial obligations including any potential costs resulting from an award of the Agreement.

E. No Signature/False or Misleading Statement. The signature on the cover letter of the Proposal and the Vendor Information Form is genuine and the person signing has the authority to bind the Vendor. Failure to sign the cover letter and the Vendor Information Form, or signing either with a false or misleading statement, shall void the submitted Proposal and any resulting Agreement.

F. Professional Services Agreement. In addition to reviewing and understanding the submittal requirements, it has reviewed the attached sample Professional Services Agreement including the Scope of Work and other Exhibits.

1.12 Award of Agreement.

A. Selection. A Selection Committee composed of representatives from the City will conduct the selection process according to the schedule listed on the cover page of this RFP. Proposals shall be opened at the time and place designated on the cover page of this RFP. The name of each Vendor and the identity of the RFP for which the Proposal was submitted shall be publicly read and recorded in the presence of witnesses. PRICES SHALL NOT BE READ. The Selection Committee shall award the agreement to the responsible and responsive Vendor whose Proposal is determined, in writing, to be the most advantageous to the City and best meets the overall needs of the City taking into consideration the evaluation criteria set forth in this RFP. The amount of applicable transaction privilege or use tax of the City shall not be a factor in determining the most advantageous Proposal. After the City has entered into an Agreement with the successful Vendor, the successful Proposal and the scoring documentation shall be open for public inspection.

B. Line Item Option. Unless the Proposal states otherwise, or unless otherwise provided within this RFP, the City reserves the right to award by individual line item, by group of line items, or as a total, whichever is deemed most advantageous to the City.

C. Multiple Award. The City, at its sole discretion, may elect to enter into Agreements with multiple Vendors who are qualified to provide the Materials and Services. The final terms and conditions of the proposed Agreement will be negotiated by the City with the successful offerors.

D. Form of Agreement. The selected Vendor will be required to execute the City's standard Professional Services Agreement in a form acceptable to the City Attorney. A sample of the standard agreement is included with this RFP. If the City is unsuccessful in

SECTION A

negotiating an Agreement with the highest-scoring Vendor, the City may then negotiate with the second, then third, highest-scoring Vendor until an Agreement is executed. City Council approval may be required. The City reserves the right to terminate the selection process at any time.

E. Waiver; Rejection; Reissuance. Notwithstanding any other provision of this RFP, the City expressly reserves the right to: (1) waive any immaterial defect or informality, (2) reject any or all Proposals or portions thereof and (3) cancel or reissue an RFP.

F. Protests. Any Vendor may protest this RFP, the proposed award of an Agreement, or the actual award of an Agreement. All protests will be considered in accordance with the City Procurement Code.

1.13 Offer. A Proposal is an offer to contract with the City based upon the terms, conditions and specifications contained in this RFP and the Vendor's responsive Proposal, unless any of the terms, conditions, or specifications are modified by a written addendum or agreement amendment. Provided, however, that no contractual relationship shall be established until the Vendor has signed, and the City has approved, a Professional Services Agreement between the City and the Vendor in the form acceptable to the City Attorney. A sample Professional Services Agreement is included herein.

PART II. PROPOSAL FORMAT; SCORING

2.1 Evaluation Process. Each submittal will be reviewed for compliance with the Proposal requirements by the Selection Committee. If necessary, the Selection Committee may conduct oral interviews with up to three of the highest ranked Vendors based upon the Proposal submittal scoring.

2.2 Proposal Format and Scoring. Proposals shall be organized and submitted in the format as outlined below. Failure to conform to the designated format, standards and minimum requirements shall result in a determination that the Proposal is non-responsive. Additionally, the Selection Committee will evaluate and award points to each Proposal based upon the evaluation criteria as outlined in this document. Points listed below are the maximum number of points possible for each criteria; there is no minimum number that the Selection Committee must award.

A. General Information - 20 pts.

(1) One page cover letter as described in Part I, Subsection 1.2(C) (Required Submittal).

(2) Provide Vendor identification information. Explain the Vendor's legal organization including the legal name, address, identification number and legal form of the Vendor (e.g., partnership, corporation, joint venture, limited liability company, sole proprietorship). If a joint venture, identify the members of the joint

SECTION A

venture and provide all of the information required under this section for each member. If a limited liability company, provide the name of the member or members authorized to act on the company's behalf. If the Vendor is a wholly owned subsidiary of another company, identify the parent company. If the corporation is a nonprofit corporation, provide nonprofit documentation. Provide the name, address and telephone number of the person to contact concerning the Proposal.

(3) Identify the location of the Vendor's principal office and the local work office, if different. Include any documentation that supports the Vendor's authority to provide materials and services in Arizona.

(4) Provide a general description of the Vendor's organization, including years in business.

(5) Identify any contract or subcontract held by the Vendor or officers of the Vendor that have been terminated within the last five years. Briefly describe the circumstances and the outcome.

(6) Identify any claims arising from a contract which resulted in litigation or arbitration within the last five years. Briefly describe the circumstances and the outcome.

(7) Vendor Information Form (may be attached as separate appendix).

B. Experience and Qualifications of the Vendor - 20 pts.

(1) Provide a detailed description of the Vendor's experience in providing similar materials and services to municipalities or other entities of a similar size to the City, specifically relating experience with respect to providing fireworks displays and pyro technicians at special events.

(2) Vendor must demonstrate successful completion of at least three similar projects within the past 60 months. For the purpose of this Solicitation, "successful completion" means completion of a project within the established schedule and budget and "similar projects" resemble this project in size, nature and scope. Provide a list of at least three organizations for which you successfully completed a similar project. This list shall include, at a minimum, the following information:

- (a) Name of company or organization.
- (b) Contact name.
- (c) Contact address, telephone number and e-mail address.
- (d) Type of materials and services provided.
- (e) Dates of contract initiation and expiration.

SECTION A

These references will be checked, and it is Vendor's responsibility to ensure that all information is accurate and current. Vendor authorizes the City's representative to verify all information from these references and releases all those concerned from any liability in connection with the information they provide. Inability of the City to verify references shall result in the Proposal being considered non-responsive.

(3) The City's representative may conduct any investigation deemed necessary to determine the Vendor's ability to perform the project. Vendors may be requested to submit additional documentation within 72 hours (or as specified) to assist the City in its evaluation.

C. Key Positions - 20 pts.

(1) Identify each key personnel member that will render materials and services to the City including title and relevant experience required, including the proposed project manager and project staff.

(2) Indicate the roles and responsibilities of each key position. Include senior members of the Vendor only from the perspective of what their role will be in providing materials and services to the City.

(3) If a subcontractor will be used for all work of a certain type, include information on this subcontractor. A detailed plan for providing supervision must be included.

(4) Attach a résumé and evidence of certification, if any, for each key personnel member and/or subcontractor to be involved in this project. Résumés should be attached together as a single appendix at the end of the Proposal and will not count toward the Proposal page limit. However, each resume shall not exceed two pages in length.

D. Project Approach - 20 pts.

(1) Describe the Vendor's approach to performing the required Materials and Services in the Scope of Work described in the Professional Services Agreement in Exhibit B, and its approach to contract management, including its perspective and experience on partnering, customer service, quality control, scheduling and staff.

(2) Describe any alternate approaches if it is believed that such an approach would best suit the needs of the City. Include rationale for alternate approaches, and indicate how the Vendor will ensure that all efforts are coordinated with the City's Representatives.

E. Pricing - 20 pts.

SECTION A

Vendor shall submit the same number of copies of the Fee Proposal as described in Part I, Subsection 1.2(F) (Pricing) in a separate, sealed envelope enclosed with the Vendor's Proposal with the signature of the representative of the Vendor who is authorized to make such an offer. The Fee Proposal must be provided in the format attached as Exhibit C of the Professional Services Agreement. The Fee Proposal shall list the individual cost for each City special event. Identify all other costs to be billed for the event, including equipment expenses (no mark-up on expenses will be allowed) and subcontractor fees, if any.

Total Possible Points for Proposal: 100

PART III. ORAL INTERVIEWS; SCORING

In the event that a Vendor cannot be selected based solely on the Proposals submitted, up to three Vendors may be selected for oral interviews. The selected Vendors will be invited to participate in discussions with the Selection Committee on the date indicated on the cover page of this RFP and awarded points based upon the criteria as outlined below. Vendors may be given additional information for these oral interviews. These discussions will relate less to the past experience and qualifications already detailed in the Proposals and relate more to identification of the Vendor's project approach and to an appraisal of the people who would be directly involved in providing the Materials and Services for this RFP.

Oral Interview

20	Experience and Qualifications of the Vendor
40	Key Positions
<u>40</u>	Project Approach
100	Total Possible Points for Oral Interview

Total Points Possible for this RFP: 200

SECTION A

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.

VENDOR SUBMITTING PROPOSAL

FEDERAL TAX ID NUMBER

PRINTED NAME AND TITLE

AUTHORIZED SIGNATURE

ADDRESS

TELEPHONE

FAX #

CITY STATE ZIP

DATE

WEB SITE: _____

E-MAIL ADDRESS: _____

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.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF TOLLESON
AND**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of _____, 2015, between the City of Tolleson, an Arizona municipal corporation (the "City") and _____, a(n) _____ (the "Contractor").

RECITALS

A. The City issued a Request for Proposals, PR-FW-2016, "Fireworks for Special Events" (the "RFP"), a copy of which is on file in the City's Finance Office and incorporated herein by reference, seeking proposals from vendors to provide fireworks displays and pyro technician services City sponsored special events.

B. The Contractor responded to the RFP by submitting a proposal (the "Proposal"), attached hereto as Exhibit A and incorporated herein by reference, and the City desires to enter into an Agreement with the Contractor for fireworks displays and pyro technician services at City sponsored special events (the "Materials and Services").

AGREEMENT

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

1. Term of Agreement. This term of this Agreement shall be from January 1, 2016 to December 31, 2016 (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 to three successive one-year terms (each, a "Renewal Term") if (i) it is deemed in the best interests of the City, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of this Agreement, the Contractor requests, in writing, to extend this Agreement for an additional one-year term and (iii) the City approves the additional one-year term in writing (including any price adjustments approved as part of this Agreement), as evidenced by the City Manager's signature thereon, which approval may be withheld by the City for any reason. The Contractor'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 City may, at its discretion and with the agreement of the Contractor, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

SECTION B

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

3. Compensation. The City shall pay Contractor an aggregate amount not to exceed \$_____.00 for the Materials and Services at the rates set forth in the Fee Proposal, attached hereto as Exhibit C and incorporated herein by reference.

4. Payments. The City shall pay the Contractor 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.

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

6. Contractor Personnel. Contractor shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Contractor agrees to assign specific individuals to key positions. If deemed qualified, the Contractor is encouraged to hire City residents to fill vacant positions at all levels. Contractor 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 City. 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, Contractor shall immediately notify the City of same and shall, subject to the concurrence of the City, 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 City at reasonable times during Contractor's performance. The Contractor shall provide and maintain a self-inspection system that is acceptable to the City.

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

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

10. Indemnification To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the City and each council member, officer, employee or agent thereof (the City and any such person being herein called an "Indemnified Party"), for,

SECTION B

from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the use of the materials or the work or services of the Contractor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement.

11. Insurance.

11.1 General.

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

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

C. Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the City, 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 City, unless specified otherwise in this Agreement.

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

SECTION B

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 City, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of Contractor. Contractor 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 City. Contractor 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, Contractor shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the City and Contractor. Contractor 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 or providing any materials under this Agreement, Contractor will provide the City 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 Contractor’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 City 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 Contractor’s responsibility to forward renewal certificates and declaration page(s) to the City 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

SECTION B

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 City, 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) Contractor’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 City, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by Contractor 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. Contractor shall maintain “occurrence” form Commercial General Liability insurance with an unimpaired limit of not less than \$10,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate and a \$10,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured’s clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents,

SECTION B

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. Contractor shall maintain Business Automobile Liability insurance with a limit of \$10,000,000 each occurrence on Contractor’s owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor’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 City, 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 Contractor engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor 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. Contractor shall maintain Workers’ Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor’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 City.

12. Termination; Cancellation.

12.1 For City’s Convenience. This Agreement is for the convenience of the City and, as such, may be terminated in whole or in part without cause after receipt by

SECTION B

Contractor of written notice by the City. Upon termination for convenience, Contractor shall be paid for all undisputed services performed or materials provided 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 City to the Contractor 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 City upon 30 days' written notice to Contractor 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 City to the Contractor 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 City may cancel this Agreement without penalty or further obligations by the City 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 City 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 contractor to any other party of this Agreement with respect to the subject matter of this Agreement.

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

12.6 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall

SECTION B

be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Consultant informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Consultant hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

13. Miscellaneous.

13.1 Independent Contractor. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Contractor acknowledges and agrees that the Materials and Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Contractor, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Contractor meets the requirements of its agreed Scope of Work as set forth in Section 2 above and Exhibit B. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Contractor 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. Contractor 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 Contractor is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Materials and Services, including, but not limited to, the following: (A) existing and future City 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 City and the Contractor.

SECTION B

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 Contractor without prior, written permission of the City, signed by the City Manager. Any attempted assignment or delegation by Contractor in violation of this provision shall be a breach of this Agreement by Contractor.

13.9 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior written approval of the City. The Contractor 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 Contractor.

13.10 Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the City 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 City 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 City's acceptance of and payment for materials and services, shall not release the Contractor from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the City 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

SECTION B

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 and services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.

13.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to the Contractor any amounts Contractor owes to the City 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 City may offset from any money due to the Contractor any amounts Contractor owes to the City 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 City: City of Tolleson
 9555 West Van Buren Street
 Tolleson, Arizona 85353
 Attn: Reyes Medrano, Jr., City Manager

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

If to Contractor: _____

 Attn: _____

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

SECTION B

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 Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City 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 Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Agreement.

13.16 Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under subsection 13.17 below, Contractor'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 Contractor 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 City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Contractor'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 Contractor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 13.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Contractor 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 City 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 City to Contractor pursuant to this Agreement. Contractor and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Contractor or its subcontractors reasonable advance notice of intended audits. Contractor 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 Contractor 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). Contractor'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 City.

SECTION B

13.18 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the Scope of Work, any City-approved Purchase Order, the Fee Proposal, the RFP and the Contractor's Proposal, the documents shall govern in the order listed herein.

13.19 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like materials and services from another source when necessary. In the event of multiple awards, the Contractor may receive work orders for none to all of the events.

13.20 Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions ("Eligible Procurement Unit(s)") are permitted to utilize procurement agreements developed by the City, at their discretion and with the agreement of the awarded Contractor. Contractor may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and Services at the prices and under the terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Contractor. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The City assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The City shall not be responsible for any disputes arising out of transactions made by others.

[SIGNATURES ON FOLLOWING PAGES]

SECTION B

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

“City”

CITY OF TOLLESON,
an Arizona municipal corporation

Adolfo F. Gamez, Mayor

ATTEST:

APPROVED AS TO FORM:

Crystal Zamora, City Clerk

Scott W. Ruby, City Attorney

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2015, before me personally appeared Adolfo F. Gamez, the Mayor of the CITY OF TOLLESON, 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 City of Tolleson.

Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF TOLLESON
AND

[Contractor's Proposal]

See following pages.

EXHIBIT B
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF TOLLESON
AND

[Scope of Work]

See following page(s).

**SCOPE OF WORK
PR-FW-2016 –FIRE WORKS FOR SPECIAL EVENTS**

1. Introduction. Contractor shall provide fireworks and pyro technicians and produce a twenty-five (25) minute fireworks display for the City's annual 4th of July celebration and possibly other special events. Such services shall include fireworks and necessary ancillary equipment and services to produce the display, as well as providing the necessary personnel for the set-up, maintenance, safety measures, production, clean up of debris (other than confetti) or unused materials, and tear down of ancillary equipment used in connection with the display . The scheduled events are as follows:

4th of July Celebration – July 4, 2016

At the City's discretion, other events and/or locations may be added on an as-needed basis and Contractor shall provide the equipment and related services to the City at the pricing in the Fee Proposal, attached hereto as Exhibit C.

2. Personnel. Contractor shall provide the necessary personnel necessary personnel for the set-up, maintenance, safety measures, production, clean up of debris (other than confetti) or unused materials, and tear down of ancillary equipment used in connection with the display.

3. Fireworks Display. The display will be fired from the designated area as determined by the City and shall be fired either electronically or manually as long as both processes meet all regulatory requirements. In addition, the City may, in its discretion, allow the inclusion of laser technology in the display program. The display shall include both a distinct opening and a distinct closing portion. Shells used in the display shall be approved as to size by the Tolleson Fire Department. Shells do not need to be preloaded. Contractor may propose fireworks that vary from the size specified. However, it is the sole responsibility of the Contractor to propose a display that is site appropriate and is in compliance with all regulatory requirements. The display shall be conducted in accordance with the latest edition of the National Fire Protection Association (NFPA) Standard 1123, Code for Fireworks Display and related requirements for firing a display. All unfired fireworks shall be covered or protected during firing. Any shell not properly fired shall be disposed of by The Contractor in accordance with applicable regulations. If music is part of the display, the City will provide the music.

4. Materials. All firework material shall be clearly marked, indicating the type of shell and shall be delivered to the site on the day of firing. A City representative shall conduct inspection and inventory of the fireworks shells at least six (6) hours prior to a display being readied for firing. Contractor may not substitute shells for the shells listed in the Proposal without prior written approval of the City. The firing time for a display shall be as designated by the City. Arrangements will be made for access to the firing site prior to July 4th or the date of any other special event, at the Contractor's request.

5. Equipment. Contractor shall provide necessary safety equipment, and all tools and materials, including, but not limited to, mortar racks, lumber and stakes, etc., which may be required for the firing of the display. In addition, the City will close down the designated area for the event. Fire extinguishers of appropriate classification and approved as operational shall

SECTION B

be accessible and in plain view from the time the fireworks arrive on site until all fireworks are completely removed from the site.

4. Location/Weather. The events will be held at Veterans Park or on Van Buren Street in an outdoor atmosphere. The decision to cancel, reschedule, or postpone a fireworks display due to inclement weather shall be made by the City in its sole discretion.

5. Condition of Site: The Contractor shall be responsible for removing all firing materials, large debris, packing materials, etc., and for filling all holes utilized for firing of the displays. All holes left unattended as a result of postponement of the display shall be marked with safety ribbon or cones. The City will be responsible for picking up small debris (e.g. confetti). Removal of all materials shall be completed within three hours after the firing of the display. Contractor shall walk the fallout zone of the fireworks site the following morning beginning at 6:00 A.M. and shall be responsible for the removal of any unexploded shells and the cleanup of debris.

6. Ground Protection: Contractor shall provide protection to minimize damage to the area caused by the firing of shells.

7. Storage: Contractor shall assume all responsibility and liability in connection with the storage of fireworks and/or firing materials.

8. Permits and Licensing: Contractor shall obtain all required permits and licenses from the City necessary to conduct a fireworks display in the City. Contractor shall be responsible for any associated fees.

9. Crowd Control: The City shall provide personnel at the fireworks site for crowd control and site security.

10. Contractor Responsibility: Contractor is the primary contractor (“Prime Contractor”) for purposes of this Agreement and shall be responsible for completely supervising and directing the setup and discharge of the fireworks displays. Subcontractors who perform work under this Agreement shall be responsible to the Prime Contractor. The Prime Contractor agrees that it is as fully responsible for the acts and omissions of its subcontractor and of persons employed by subcontractor as it is for the acts and omissions of its own employees.

11. Taxes: Contractor shall pay all sales, consumer, use and other similar taxes required by the laws of the place where fireworks displays are performed. Taxes to be paid by the Contractor shall include, but shall not be limited to, the City Business and Occupational License Tax, if applicable.

12. Compliance with City Code: Contractor shall comply with all applicable provisions of the Tolleson City Code.

13. Cost. The cost of the materials to be supplied shall be set forth in the Fee Proposal, attached to this Agreement as Exhibit C.

SECTION B

EXHIBIT C
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF TOLLESON
AND

[Fee Proposal]

See following page(s).

SECTION B

**FEE PROPOSAL
PR-FW-2016 FIREWORKS FOR SPECIAL EVENTS**

Please list the materials and services to be provided for the dollar amounts listed below. Empty or unfilled spaces in the Fee Proposal may result in a determination that a RFP is non-responsive. You may submit your Fee Proposal on additional separate sheets of paper.

Item	Description	Unit Price	Notes
1.		\$2,000.00	
2.		\$5,000.00	
3.		\$16,000.00	
4.	Misc. charges – please list		

Authorized Signature: _____

Date: _____

Title: _____