

Contract No. \_\_\_\_\_

AGREEMENT  
TO PROVIDE SERVICES/SUPPLIES PURSUANT TO A  
COOPERATIVE PURCHASING CONTRACT

This Agreement hereinafter ("Contract") is made and entered into on this 3<sup>rd</sup> day of August, 2016 ("Effective Date"), by and between the Town of Paradise Valley, Arizona, a municipal corporation, hereinafter designated as the "**Town**" and EPS Group, Inc. Engineers, Planners & Surveyors, an Arizona corporation hereinafter designated as the "**Contractor**."

Recitals:

A. Contractor has contracted with the City of Litchfield Park to provide contract city engineering services, materials and/or equipment pursuant to the cooperative purchasing terms in the Agreement for Engineering Services (City Engineer), see attached **Exhibit A**, hereinafter the "Cooperative Purchasing Contract;" and

B. Pursuant to A.R.S. § 41-2631 et seq. and Town of Paradise Valley Resolution No. 1205, the Town has authority to utilize cooperative purchasing contracts of State of Arizona public agencies and public procurement units, including Mohave Educational Services Cooperative, Inc., and engage contractors under the terms thereof.

CONTRACTOR AND THE TOWN, FOR THE CONSIDERATION  
HEREINAFTER SET FORTH, PROMISE, COVENANT AND AGREE AS FOLLOWS:

1. Scope of Work.

1.1 Contractor shall provide the following services, materials and/or equipment: Contractor will serve as an interim contract Town Engineer, providing professional engineering services on an as-needed basis, as described in the Cooperative Purchasing Contract for the specific products and services contained in the EPS proposal made by letter dated July 15, 2016 attached hereto as **Exhibit B**, and incorporated herein by this reference ("Scope of Work"). As used in this Contract, all references to the City of Litchfield Park shall mean the Town of Paradise Valley, Arizona.

1.2 Contractor shall comply with all specific requirements and/or options of the Town, as specified in **Exhibit C** attached hereto and incorporated herein by reference.

2. Completion of Work. The Contractor shall complete all work in a timely matter as directed by the Town Manager or designee.

3. Payment. The Contract Fee is not to exceed \$25,000. Payment to the Contractor for the services, materials and/or equipment provided, shall be made in accordance with the price list and terms set forth in the Cooperative Purchasing Contract.

4. Terms of Cooperative Purchasing Contract Apply. All provisions of the Cooperative Purchasing Contract documents are incorporated in and shall apply to this Contract as though fully set forth herein, except as otherwise provided for in this Contract. Notwithstanding incorporation of the Exhibits to this Contract, should any conflict arise between the provisions, the following is the order of priority and shall govern the conduct of the Town and Contractor:

- Agreement to Provide Services/Supplies Pursuant to a Cooperative Purchasing Contract
- Cooperative Purchasing Contract (Exhibit A)
- Town Options (Exhibit C)
- Contractor Proposal dated July 15, 2016 (Exhibit B)

5. Contract Term and Renewal. The term of this Contract shall commence upon the Effective Date and continue until the Town fills its Town Engineer position or the Town provides notice that the Scope of Work is complete, whichever earlier occurs. The term of this Contract, including any renewal periods, is limited to the end date of the Cooperative Purchasing Contract and the total length of the contract shall not exceed sixty (60) months.

6. Certificates of Insurance. All insurance provisions of the Cooperative Purchasing Contract shall apply, including without limitation, the requirement to name the Town and its agents, representatives, officers, directors, officials, employees and volunteers as additional insureds. Prior to commencing work under this Contract, Contractor shall furnish the Town with Certificates of Insurance, or formal endorsements as required by the Contract, issued by the Contractor's insurer(s) as evidence that policies providing the required coverages, conditions and limits required by this Contract are in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names this 3 day of August, 2016.

TOWN OF PARADISE VALLEY:

By: Kevin Burke  
Kevin Burke  
Town Manager

EPS GROUP, INC. ENGINEERS,  
PLANNERS & SURVEYORS:

By: Woodrow C. Scoutten  
Name: WOODROW C. SCOUTTEN  
Its: DEPT. MANAGER

ATTEST:

Armean Y. Miller  
Town Clerk

APPROVED AS TO FORM

Andrew Miller  
Andrew Miller  
Town Attorney

**EXHIBIT A**  
**COOPERATIVE PURCHASING CONTRACT**

See attached, AGREEMENT FOR ENGINEERING SERVICES (CITY ENGINEER)

## ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("**Assignment**") is made effective October 1, 2014 ("**Effective Date**"), by and between W.C. Scoutten, Inc. ("**Assignor**") and EPS Group, Inc. ("**Assignee**").

In consideration of the mutual covenants contained herein and other good and sufficient consideration, the parties hereto agree as follows:


1. Pursuant to Section 8.1 of the Agreement for Engineering Services dated May 23, 2005, ("**Agreement**"), the Assignor shall not assign or transfer any interest in that Agreement without prior written consent of the City of Litchfield Park.
2. Assignee represents and warrants that it has the necessary licenses, credentials, experience and financial capacity to fully perform the position of City Engineer.
3. Assignor hereby assigns to Assignee and Assignee hereby assumes all of the rights, duties, obligations, liabilities, and responsibilities of Assignor under the Agreement.
4. Assignor shall indemnify, defend and hold harmless the City of Litchfield Park from and against any and all liabilities, obligations, costs, expenses, claims, actions and damages which have arisen under the Agreement prior to the date of this Assignment or may arise under the Agreement subsequent to the date of this Assignment. Such obligations shall extend to the acts and omissions of Assignor known and unknown, for all purposes that arose under the Agreement. Assignor shall provide to the City of Litchfield Park evidence of insurance policies comparable to insurance coverage required under the Agreement for all losses, damages and claims caused by or alleged to have been caused by the acts or omissions of W. C. Scoutten, Inc. or its officers, employees or agents that arose under or is alleged to have arisen under the Agreement. If the insurance policy required under the Agreement was written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option for two (2) years past the date of this Assignment and shall cite applicable coverage is in force and contains the provisions as required by the Agreement for the two (2) year period. Such evidence of insurance shall be provided within ten (10) days of the date of this Assignment.
5. This Assignment shall be construed under the laws of the State of Arizona without regard to conflicts of law provisions.
6. This Assignment may be modified only in writing, signed by Assignor and Assignee, or their respective heirs, successors or assigns and consented to by the City of Litchfield Park.

7. This Assignment shall be binding upon and inure to the benefit of Assignor and Assignee and their respective heirs, successors and assigns.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the date first written above.

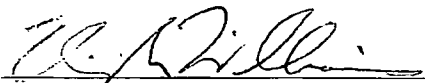
**ASSIGNOR:**

W.C. Scoutten, Inc.

By:   
Name: Woodrow C. Scoutten  
Title: President

**ASSIGNEE:**


EPS Group, Inc.

By:   
Name: Elijah Williams  
Title: President

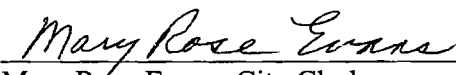
**CONSENT TO ASSIGNMENT**

Pursuant to Section 8.1 of the May 23, 2005 Agreement for Engineering Services, it was the intent of the of the City of Litchfield Park and Assignor that any assignee of the Agreement that any assignee shall have the appropriate licenses, credentials, experience and financial capacity to fully perform the position of City Engineer. The Assignee hereby represents to the City of Litchfield Park that it (through its principals) has appropriate licenses, credentials, experience and financial capacity to fully perform the position of City Engineer. City of Litchfield Park, Arizona, hereby consents to the foregoing Assignment assigning the Agreement for City Engineering Services from W.C. Scoutten, Inc. to EPS Group, Inc. in accordance with the provisions of the Assignment.


**CITY OF LITCHFIELD PARK**

By:   
Name: Thomas L. Schoaf  
Title: Mayor

**ATTEST:**

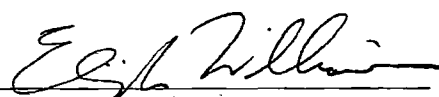
  
Mary Rose Evans, City Clerk

**APPROVED AS TO FORM:**

  
Curtis, Goodwin, Sullivan, Udall & Schwab, PLC  
City Attorney  
By Susan D. Goodwin

**ASSIGNEE:**

EPS Group, Inc.

By:   
Name: Elijah Williams  
Title: President

## AGREEMENT FOR ENGINEERING SERVICES (CITY ENGINEER)

THIS Agreement is entered into as of this 23<sup>RD</sup> day of MAY, 2005, by and between the City of Litchfield Park, Arizona, a municipal corporation, hereinafter referred to as the "City" and W.C. Scoutten, Inc., an Arizona corporation, hereinafter referred to as the "Engineer."

In consideration of the mutual promises contained in this Agreement, the City and Engineer agree as follows:

### 1. SERVICES AND RESPONSIBILITIES

1.1 Retention of the Engineer. City appoints Engineer as its City Engineer and engages the Engineer to render professional engineering services on an "as needed" basis, in accordance with all the terms and conditions contained in this Agreement. Engineer is available to and is qualified to perform the services set forth on Exhibit A (the "Services"); provided, however, that Engineer shall not undertake such Services except in accordance with Paragraphs 1.3 and 1.3.1.

1.2 City Engineer/Project Manager. W. C. Scoutten is appointed Project Manager. Appointment of a different Project Manager shall first be approved by the City.

1.3 Scope of Services. The Engineer shall do, perform and carry out in a satisfactory and proper manner, as determined by the City, the Services as set forth in individual Authorizations for Services. A form of Authorization for Services is attached hereto as Exhibit B. City shall notify Engineer in writing of Services to be performed by execution of an Authorization for Services. Delivery of an Authorization for Services shall constitute Engineer's authorization to proceed with the Services described in such Authorization.

1.3.1 Services not anticipated to exceed six (6) hours of Engineer's time may be performed without a written Authorization for Services so long as the City Manager or City Liaison has given verbal directions to proceed. Any request anticipated to take more than six (6) hours of the Engineer's billable time, shall be accompanied by a signed Authorization for Services. If the billable hours for a project cannot be determined prior to its commencement, a signed Authorization for Services must be submitted to the City as soon as six (6) hours of the Engineer's time is logged. Services shall not proceed in excess of six (6) hours on such project until City has executed the Authorization for Services.

1.3.2 The City Manager may appoint one member of the Public Works Department to serve as a liaison with the Engineer concerning final inspections of public works projects. This individual will be supervised by the Director of Public Works. If an Authorization for Services is executed between the parties, the Engineer will train this City employee on matters related to project specifications review and, ultimately, field inspection in accordance with Paragraph 3 of this Agreement. It is the intent to have this employee serve as field inspector for the City and the Engineer.

1.4 Responsibility of the Engineer.

1.4.1 Engineer hereby agrees that any Contract Documents, specifications or other documents prepared by Engineer pursuant to this Agreement and any Authorizations for Services, will fulfill the purposes of the Services authorized and shall meet all applicable legal requirements. In addition, and not as a limitation on the foregoing, such Contract Documents, specifications or other contract documents prepared by Engineer shall be prepared in accordance with professional engineering standards. Any review or approval of such Contract Documents, specifications or other document given by City shall not diminish these requirements.

1.4.2 Engineer shall obtain consent for City for any subcontractor it may retain to perform Engineering services under this Agreement

1.4.3 Engineer shall obtain its own legal, insurance and financial advice regarding Engineer's legal, insurance and financial obligations under this Agreement.

1.5 Responsibility of the City. The City shall cooperate with the Engineer by placing at his disposal all available information concerning any Authorization for Services, including all assistance in obtaining necessary access to public and private lands. City agrees to obtain its own legal, insurance and financial advice City may require for the Services.

1.6 Time of Performance. Time of performance shall be set forth in each Authorization for Services.

1.7 Safety Warranty. Engineer warrants that it is aware of and understands the hazards which are presented to persons, property and the environment relating to, and arising out of the Services. In the event Engineer or Engineer's subcontractor is working or operating in an unsafe matter, Engineer will immediately take full and appropriate steps to assure the safety of those providing services on behalf of Engineer.

1.9 Insurance.

1.9.1 Engineer agrees to comply with all City ordinances and state and federal laws and regulations in effect at the time the Services are rendered. Without limiting any obligations or liabilities of Engineer, Engineer shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona (admitted insurer) with an AM Best, Inc. rating of A-7 or above or an equivalent qualified unlicensed insurer by the State of Arizona (non-admitted insurer) with policies and forms satisfactory to the City. Failure to maintain insurance as specified may result in termination of this Agreement at City's option.

1.9.2 By requiring insurance herein, City does not represent that coverage and limits will be adequate to protect Engineer. 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 Engineer 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.

1.9.3 All insurance coverage and self-insured retention or deductible portions, except Workers Compensation insurance and Professional Liability insurance, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, City, its agents, representative, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

1.9.4 All insurance required herein shall be maintained in full force and effect until all Services required to be performed under the terms of this Agreement is satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

1.9.5 Engineer's insurance, except Workers' Compensation and Professional Liability, shall be primary insurance. All insurance, except Workers' Compensation and Professional Liability, shall provide protection of the City as an Additional Insured.

1.9.6 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 (3) years past completion and acceptance of the Services 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.

1.9.7 All policies, except Workers' Compensation Insurance and Professional Liability insurance, shall contain a waiver of rights of recovery (subrogation) against City, its agents, representative, officials, directors, officers, and employees for any claims arising out of the Services of Engineer. Engineer shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

1.9.8 The policies set forth in these requirements may provide coverage, which contain deductibles or self insured retention amounts. Such deductibles or self insured retention shall not be applicable with respect to the policy limits provided to City. Engineer shall be solely responsible for any such deductible or self insured retention amount. City, at its option, may require Engineer to secure payment of such deductible or self insured retention by a surety bond or irrevocable and unconditional Letter of Credit.

1.9.9 If any Services under this Agreement are subcontracted in any way, Engineer shall execute written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements set forth herein protecting City and Engineer. Engineer shall be responsible for executing the agreement with Subcontractor and obtaining Certificates of Insurance verifying the insurance requirements.

1.9.10 Prior to commencing any Services under this Agreement, Engineer shall furnish City with Certificate(s) of Insurance, or formal endorsements as required by this Agreement, issued by Engineer's Insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverage's, conditions, and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Acceptance of and reliance by the City on a Certificate of Insurance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. Such Certificate(s) shall identify the Agreement and be sent to the City Risk Manager. If any of the above cited policies expire during the life of this Agreement, it shall be Engineer's responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates shall specifically cite the following provisions:

City, its agents, representatives, officers, directors, officials and employees is an Additional Insured as follows:

- a. Commercial General Liability-Under ISO Form CG 20 10 11 85 or equivalent.
- b. Auto Liability-Under ISO Form CA 20 48 or equivalent.
- c. Excess Liability-Follow Form to underlying insurance.

All policies, except Workers' Compensation and Professional Liability, waive rights of recovery (subrogation) against City, its agents, representatives, officers, directors, officials and employees for any claims arising out of Services performed by Engineer under this Agreement.

Certificate shall cite a thirty (30) day advance notice cancellation provision. If ACORD Certificate of Insurance form 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.

1.9.11 Required Coverage:

Commercial General Liability: Engineer shall maintain "occurrence" form Commercial 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 Insurance Services Office, Inc. policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, City, its agents, representative, officers, directors, officials and employees shall be cited as an Additional Insured Endorsement form CG 20 10 11 85 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 paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

Professional Liability: Engineer shall maintain Professional Liability insurance covering errors and admissions arising out of the Services performed by Engineer, or anyone employed by Engineer, or anyone for whose acts, mistakes, errors and omissions Engineer is legally liable, with an unimpaired liability insurance limit of \$1,000,000 each claims and \$2,000,000 all claims. Professional Liability coverage specifically for Architects, Engineers and Surveyors shall contain contractual liability insurance covering the contractual obligations of this Agreement. In the event the Professional Liability insurance policy is written on a "claims made" basis, coverage shall extend for three (3) years past completion and acceptance of the Services, and Engineer shall be required to submit Certificates of Insurance evidencing proper coverage is in effect as required above.

Vehicle Liability: Engineer shall maintain Business Automobile Liability Insurance with a limit of \$1,000,000 each occurrence on Engineer's owned, hired, and non-owned vehicles assigned to or used in the performance of the Engineer's Services under this Agreement. Coverage will be at least as broad as Insurance Services Office, Inc. 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 performance of this Agreement, the City, its agents, representative, officers, directors, officials and employees shall be cited as an Additional Insured under the Insurance Service Offices, Inc. Business Auto Policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

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

## 2. INDEMNIFICATION

2.1 To the fullest extent permitted by law, the Engineer, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless the City, its agents, officers, officials and employees from and against all demands, claims, proceedings, suits, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), and all claim adjustment and handling expenses, relating to, arising out of, or alleged to have resulted from acts, errors, mistakes, omissions, Services caused in whole or in part by the Engineer, its agents, employees or any tier of Engineer's subcontractors related to the Services in the performance of this Agreement. Engineer's duty to defend, hold harmless and

indemnify the City, its agents, 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 of resulting there from, caused in whole or in part by Engineer's acts, errors, mistakes, omissions, Services in the performance of this Agreement including any employee of the Engineer, any tier of Engineer's subcontractor or any other person for whose acts, errors, mistakes, omissions, Services the Engineer may be legally liable including the City. Such indemnity does not extend to the City's negligence.

2.2 Insurance provisions set forth in this Agreement are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this paragraph shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

### 3. COMPENSATION

3.1 Compensation. Engineer shall be compensated for Services in accordance with the compensation schedule set forth in the attached Exhibit C, unless otherwise set forth in an Authorization for Services for a specific Project.

3.2 Method of Payment. Engineer shall be compensated on a monthly basis for Services in progress or satisfactorily completed during the prior month upon presentation of an invoice.

### 4. CHANGES TO THE SCOPE OF SERVICES

4.1 Change Orders. The City may, at any time, by written change order, make changes in the Scope of Work. A form of change order is attached hereto as Exhibit D. If Engineer believes a change in the Scope of Work has been ordered, Engineer shall submit a request for a change order in writing within ten (10) days from the date of receipt by Engineer of notice of the change. It is distinctly understood and agreed by the parties that no claim for extra services provided or materials furnished by Engineer will be allowed by City except as provided herein nor shall Engineer provide any services or furnish any materials not covered by this Agreement unless City first approves in writing

### 5. TERMINATION OF THIS AGREEMENT

5.1 Termination. The City may, by written notice to the Engineer, terminate this Agreement in whole or in part with seven (7) days notice, either for the City's convenience or because of the failure of the Engineer to fulfill his contract obligations. Upon receipt of such notice, the Engineer shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the City copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated or obtained by the Engineer in performing this Agreement, whether completed or in process. Engineer may, by

written notice to the City, terminate this Agreement in whole or in part with thirty (30) days notice, either for Engineer's convenience or because of the failure of the City to fulfill its contract obligations.

5.2 Payment to Engineer Upon Termination. If the Agreement is terminated, the City shall pay the Engineer for the services rendered prior thereto in accordance with percent completion at the time Services are suspended minus previous payments.

## 6. ASSURANCES

6.1 Solicitations for Subcontractors, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the Engineer for Services to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of the Engineer's obligations under this Agreement and any Regulations relative to nondiscrimination on the grounds of race, color or national origin.

6.2 Examination of Records. The Engineer agrees that duly authorized representatives of the City shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Engineer involving transactions related to this Agreement.

6.3 Ownership of Documents and Other Data. Original documents, such as tracings, plans, specifications, maps, basic survey notices and sketches, charts, computations, and other data prepared or obtained under the terms of this Agreement or any change order are and will remain the property of the City after payment in full unless otherwise agreed to by both parties. City may use such documents for other purposes without further compensation to the Engineer; however, any reuse without written verification or adaptation by Engineer for the specific purpose intended will be at City's sole risk and without liability or legal exposure to Engineer. Any verification or adaptation of the documents by Engineer for other purposes than contemplated herein will entitle Engineer to further compensation as agreed upon between the parties.

6.4 Litigation. Should litigation be necessary to enforce any term or provision of this Agreement, or to collect any damages claimed or portion of the amount payable under this Agreement, then all litigation and collection expenses, witness fees, court costs, and reasonable attorneys' fees incurred shall be paid to the prevailing party.

6.5 Independent Contractor. Engineer shall be an independent contractor and not an agent of the City and shall direct and supervise services performed by Engineers and subcontractors under this Agreement and shall be responsible for all means, methods, techniques, sequences and proceedings associated with the Services and shall be responsible for the acts and omissions of its employees, agents, subcontractors, and other persons performing any of the Services under an Agreement with the Engineer.

6.6 Exclusive Use of Services - Confidentiality. The services agreed to be provided by Engineer within this Agreement are for the exclusive use of the City and Engineer shall not engage in conflict of interest nor appropriate City work product or information for the benefit of any third parties without City consent.

6.7 Sole Agreement. There are no understandings or agreements except as herein expressly stated.

6.8 Caption. Paragraph captions are for convenience only and are not to be construed as a part of this Agreement; and in no way do they define or limit the Agreement.

6.9 Time is of the Essence. The timely completion of the Project is of critical importance to the economic circumstances of the City.

6.10 Notices. Any notice to be given under this Agreement shall be in writing, shall be deemed to have been given when personally served or when mailed by certified or registered mail, addressed as follows:

CITY:

ENGINEER:

City Manager  
City of Litchfield Park  
214 West Wigwam Boulevard  
Litchfield Park, Arizona 85340

The address may be changed from time to time by either party by serving notices as provided above.

6.11 Controlling Law. This Agreement is to be governed by the laws of the State of Arizona.

## 7. INTERESTS AND BENEFITS

7.1 Conflict of Interest of Engineer. The Engineer covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The Engineer further covenants that in the performance of this Agreement, no person having any such interest shall be employed.

7.2 Interest of City Members and Others. No officer, member or employee of the City and no member of its governing body, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the services to be performed under this Agreement, shall participate in any decision relating to this Agreement which affects his personal interest or

have any personal or pecuniary interest, direct or indirect, in this Agreement or the process thereof.

7.3 Non-Solicitation. Engineer agrees that it has not employed or retained any company or person, other than a bona fide employee working for Engineer, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this clause, the Town may terminate this Agreement without liability, or, in its discretion, deduct from the Contract Sum, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingency fee.

7.4 Notice Regarding A.R.S. § 38-511. Under Section 38-511, Arizona Revised Statutes, as amended, the City may cancel any Agreement it is a party to within three (3) years after its execution and without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the City is, at any time while the Agreement or any extension thereof is in effect, an employee or agent of any other party to the Agreement in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement. In the event the City elects to exercise its rights under Section 38-511, Arizona Revised Statutes, as amended, the City agrees to immediately give notice thereof to the Engineer.

## 8. ASSIGNABILITY

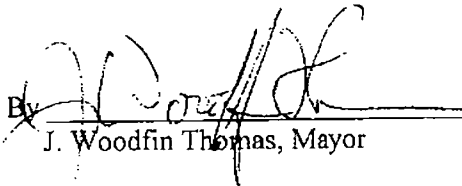
8.1 Assignment or Transfer of Interest. The Engineer shall not assign any interest in this Agreement, and shall not transfer any interest in the same without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Engineer from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

## 9. Cooperative Purchasing

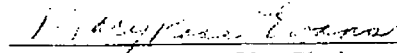
This Agreement may be extended for use by other municipalities, government agencies and governing bodies, including the Arizona Board of Regents and political subdivisions of the State. Any such usage by other entities must be in accord with the ordinances, charter, and/or rules and regulations of the respective entity and the approval of the Contractor.

IN WITNESS WHEREOF, the City and the Engineer have executed this Agreement as of the date first written.

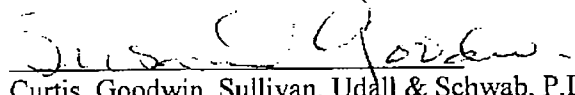
CITY OF LITCHFIELD PARK

By   
J. Woodfin Thomas, Mayor

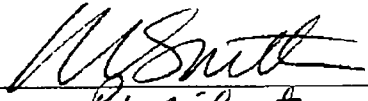
ATTEST:

  
Mary Rose Evans, City Clerk

APPROVED AS TO FORM:

  
Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.  
City Attorneys  
By \_\_\_\_\_

ENGINEER

By   
Its President



## EXHIBIT A

### AVAILABLE SERVICES

Engineer shall provide the following services when requested in accordance with Paragraph 1.3 or 1.3.1 of the Agreement for Engineering Services (City Engineer)

#### I. CITY ENGINEERING AND PLANNING SERVICES

##### A. Administrative Duties

1. Analyze the City's needs and prepare and administer long and short range programs consistent with the economic capabilities of the City.
2. Attend staff level meetings with the City staff, public officials, community leaders, developers, contractors and the general public.
3. Attend City Council, Planning Commission, Committee and other meetings as required and as authorized.
4. Review and comment on planning programs and land development controls.
5. Recommend regulations and guidelines pertaining to engineering and planning matters.
6. Provide technical assistance for City personnel assigned to public works, planning and zoning, and building safety activities.
7. Advise the CITY as to engineering, planning and construction financing available from other governmental agencies and when so directed, prepare and initiate application for such funding.
8. Establish working relationships and coordination with all other public agencies, Federal, State, and County Departments, and private utilities involving engineering and planning matters affecting the CITY.

##### B. Development Review

1. Review plats and other submittals for land divisions for proposed developments and make recommendations as to engineering, planning and zoning matters.
2. Perform the statutory functions of City Engineer pertaining to the review and checking of land development activities.

3. Check improvement plans for facilities under the jurisdiction of the CITY.
4. Establish performance and labor and material bond amounts when required and require the posting of such securities and other development fees within the proper time sequence of such development review.
5. Provide field inspection during the construction of such improvements by private developers and, at the proper time, recommend notices of completion and acceptance of the work.
6. Provide such necessary and related functions as are the normal practice of the CITY in the City Engineering and Planning review of private developments.

C. Public Works Permits and Inspection

1. Provide construction observation of permit work within City streets, easements and rights-of-way.
2. Check plans and specifications and provide construction administration and observation for City projects designed by others.

D. Capital Projects

1. When so authorized, prepare plans and specifications for City projects.
2. Provide design survey, construction survey, construction administration and observation for City projects.
3. Provide special engineering reports regarding various matters of a technical nature that may from time to time come before the City.

II. BUILDING SAFETY SERVICES

A. General

1. ENGINEER shall provide plan checking services as authorized by the Building Official for commercial, industrial and residential projects. ENGINEER shall also provide building inspection services for commercial, industrial and residential projects as directed by the Building Official on a case-by-case basis.
2. ENGINEER shall, when authorized by the Building Official, perform such additional Building Safety Services as requested.

B. Plan Checking

ENGINEER shall review plans prepared by or on behalf of the applicant for compliance with the ordinances of CITY. ENGINEER will review for completeness and correctness building design as defined by drawings, specification, design calculations and reports and furnish written comment letters of all corrections required. ENGINEER will perform recheck of the corrected plans and documents as indicated by the correction letter. ENGINEER shall maintain close liaison with other City departments in order that the requirements of those departments are incorporated within such building plans. ENGINEER shall arrange reviews by other appropriate agencies having jurisdiction in such matters relative to the enforcement of the Fire Codes, Sanitation Codes and Health Codes.

C. Building Inspection

ENGINEER shall provide building inspection services as requested by the Building Official during the course of construction to enforce compliance with the conditions of approval, provisions of the City's ordinances and the Code requirements set forth on the plans for which the permit was issued.

**EXHIBIT B**

**AUTHORIZATION FOR SERVICES NO. \_\_\_\_\_**

RE: Master Agreement for Engineering Services between the City of Litchfield Park,  
Arizona and \_\_\_\_\_.

DATE: \_\_\_\_\_

SCOPE OF WORK:

PROJECT MANAGER:

START DATE:

COMPLETION DATE:

ESTIMATED FEE:

METHOD OF PAYMENT:

The provisions of the Master Agreement for Engineering Services are hereby  
incorporated into and made a part of this Authorization for Services.

\_\_\_\_\_  
ENGINEER

\_\_\_\_\_  
TOWN

**EXHIBIT C**

**COMPENSATION SCHEDULE FOR SERVICES**

**FEE SCHEDULE**

**(Effective through June 30, 2014)**

ENGINEER shall invoice the CITY on a monthly basis for the actual hours spent by ENGINEER and/o his employees on various assignments as directed by the CITY. The hourly rates thus charged will be in accordance with the following schedule to include ENGINEER'S overhead, payroll costs, fringe benefits, profit and ordinary expenses such as copying, telephone, drafting materials, and other routine costs. Sub-consultant hourly rates may vary from those listed below and will be reviewed with the CITY Manager prior to engagement when possible. ENGINEER will invoice separately to CITY with prior authorization such extraordinary expenses as large printing costs, aerial photography, soils investigations, or other special consultant services required to complete the work. The invoices shall adequately describe the work accomplished and the costs of each item of work. The schedule of hourly rates shall be updated, if necessary, on an annual basis at the beginning of each fiscal year.

**SCHEDULE OF COMPENSATION**

**General CITY Engineering, Planning and Development Coordination Services:**

Principal Engineer.....	\$125.00
Project Engineer.....	\$115.00
Project Planner.....	\$110.00
Plan Reviewer.....	\$100.00
Associate Engineer.....	\$100.00
Senior Planner.....	\$100.00
Special Districts Manager.....	\$100.00
Construction Manager.....	\$100.00
Construction Inspector.....	\$95.00
Planner.....	\$95.00
CAD Drafter.....	\$90.00
Drafter.....	\$85.00
Technician.....	\$80.00
Clerical.....	\$65.00

**Engineering Plan Review:**

Plan Review (including pre- and final plats and improvement plans)	
For first review (per sheet).....	\$275.00
For second review.....	(included in fee for first review)
Subsequent reviews.....	Hourly
Report Review (Drainage, Water, Sewer, Traffic)	
For first review.....	\$900.00
For second review.....	(included in fee for first review)
Subsequent reviews.....	Hourly
Expedited Review	
For ten business day turnaround.....	2 times above rates

**Building Safety Plan Review:**

Plan Review	
For first review (per sheet).....	75% of plan check fee
For second review.....	(included in fee for first review)
Subsequent reviews.....	Hourly
Expedited Review	
For ten business day turnaround.....	2 times above rates

**EXHIBIT C**

**COMPENSATION SCHEDULE FOR SERVICES**

**FEE SCHEDULE**

**(Effective through June 30, 2006)**

ENGINEER shall invoice the CITY on a monthly basis for the actual hours spent by ENGINEER and/or his employees on various assignments as directed by the CITY. The hourly rates thus charged will be in accordance with the following schedule to include ENGINEER'S overhead, payroll costs, fringe benefits, profit and ordinary expenses such as copying, telephone, drafting materials, and other routine costs. Sub-consultant hourly rates may vary from those listed below and will be reviewed with the CITY Manager prior to engagement when possible. ENGINEER will invoice separately to CITY with prior authorization such extraordinary expenses as large printing costs, aerial photography, soils investigations, or other special consultant services required to complete the work. The invoices shall adequately describe the work accomplished and the cost of each item of work. The schedule of hourly rates shall be updated, if necessary, on an annual basis at the beginning of each fiscal year.

**SCHEDULE OF COMPENSATION**

**General CITY Engineering, Planning and Development Coordination Services:**

Principal Engineer.....	\$100.00
Project Engineer.....	\$95.00
Project Planner.....	\$95.00
Plan Reviewer.....	\$90.00
Associate Engineer.....	\$90.00
Senior Planner.....	\$85.00
Senior Designer.....	\$85.00
Construction Inspector.....	\$85.00
Planner.....	\$80.00
CAD Drafter.....	\$75.00
Drafter.....	\$70.00
Technician.....	\$60.00
Clerical.....	\$50.00

**Engineering Plan Review:**

Plan Review (including pre- and final plats and improvement plans)	
For first review (per sheet).....	\$200.00
For second review..... (included in fee for 1 <sup>st</sup> review)	
Subsequent reviews.....	Hourly
Report Review (Drainage, Water, Sewer, Traffic)	

For first review.....\$600.00  
For second review.....(included in fee for 1<sup>st</sup> review)  
Subsequent reviews..... Hourly  
Expedited Review  
For ten business day turnaround .....2 times above rates

Building Safety Plan Review:

Plan Review  
For first review.....75% of plan check fee per UBC  
For second review.....(included in fee for 1<sup>st</sup> review)  
Subsequent reviews..... Hourly  
Expedited Review  
For five business day turnaround .....2 times above rates

**EXHIBIT D  
CHANGE ORDER**

CHANGE ORDER NO. \_\_\_\_\_  
AGREEMENT FOR ENGINEERING SERVICES

Distribution: City                    [ ]  
                  Engineer                [ ]

CHANGES IN SCOPE:

CHANGES IN COMPENSATION:

CHANGES IN TIME:

Not valid until signed by both City and Engineer.  
Signature of Engineer indicates acceptance.

ACCEPTANCE STATUS:

\_\_\_\_\_  
Engineer  
By \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
City of Litchfield Park  
By \_\_\_\_\_

Date \_\_\_\_\_



**EXHIBIT B**  
**EPS GROUP, INC. ENGINEERS, PLANNERS & SURVEYORS**  
**PROJECT PROPOSAL**

Attached: Letter dated July 15, 2016



July 15, 2016

Mr. Kevin Burke, Town Manager  
Town of Paradise Valley  
6401 E. Lincoln Drive  
Paradise Valley, Arizona 85253

Re: Town Engineering Services

Dear Mr. Burke,

EPS Group is pleased to present the following proposal to provide interim Town Engineering Services for the Town of Paradise Valley. As we recently discussed, EPS is uniquely qualified to provide Town Engineering services during the period that you are searching for a new Town Engineer, and is available to assist the Town during and after the transition period.

Understanding and Scope of Services

Under Arizona statutes, the Town of Paradise Valley is required to have a Town Engineer who is responsible for the infrastructure, safety, health and welfare of the Town and its citizens. During this period time while the Town is without an employee qualified to administer those responsibilities, the Town desires to contract with EPS Group to provide interim Town Engineering services, including all applicable statutory responsibilities, until a new Town Engineer is hired. EPS Group has personnel with the requisite training, experience and licenses to provide statutory and other Town Engineering services.

The specific duties outlined in our discussions to be provided by EPS Group under this agreement are outlined below. All work assignments undertaken by EPS personnel shall be specifically approved in advance by the Town Manager.

1. Attend the Development Review Meeting held each Monday morning from 10:00 am to 12:00 noon for the purpose of reviewing current and new land development projects.
2. Attend the Hillside projects review staff meeting held each Tuesday afternoon.
3. If necessary, attend the Hillside Building Committee meetings held monthly.
4. If necessary, attend the Planning Commission meetings held twice per month.
5. If necessary, attend Town Council meetings held twice per month.
6. Assist Town Staff with current or planned Capital Improvement Projects.



7. Perform other duties and provide other services as identified and specifically authorized by the Town Manager.

#### EPS Personnel

Woodrow Scoutten, PE, will serve as the interim contract Town Engineer and will provide the majority of the services, including meeting attendance, as outlined above. Mr. Scoutten will be supported by qualified EPS engineering staff and other staff as needed to complete specific tasks and duties, again as authorized by the Town Manger or his designee. Mr. Scoutten's resume and qualifications have been provided to you previously.

#### Agreement

EPS Group is currently under contact with the City of Litchfield Park to provide Contract City Engineering Services. That contact, which was previously provided to you, includes a detailed description of the services that can be provided by EPS to the Town as the contract Town Engineer. That contract also contains a cooperative purchasing clause, paragraph 9, which may be utilized by the Town of Paradise Valley for these interim Town Engineering Services.

#### Compensation

It is proposed that all services be provided on an hourly basis at the rates shown on the fee schedule attached hereto, except for specific projects with well-defined scopes of work for which a lump sum fee can be determined. It is estimated that the services outlined above will require approximately 12 hours per week of Mr. Scoutten's time.

#### Schedule

EPS and Mr. Scoutten are prepared to begin providing the above-referenced services as soon as a written notice to proceed is received from the Town, and to continue providing these services on an indefinite basis for as long as is needed by the Town.

We appreciate this opportunity to work with you and other Town Staff and Officials in the growth and development of the Town. Should you have any questions, please call me at 623-547-4661 extension 244.

Sincerely,



Woodrow C. Scoutten, PE  
Department Manager



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**EXHIBIT C**  
**SPECIFIC REQUIREMENTS/OPTIONS OF TOWN**

Notices: All notices required under the Contract shall be sent to:

Town Manager  
Town of Paradise Valley  
6401 E. Lincoln Drive  
Paradise Valley, Arizona 85253

With mandatory copy to:

Town Attorney  
Town of Paradise Valley  
6401 E. Lincoln Drive  
Paradise Valley, Arizona 85253

Immigration Law Compliance Warranty: As required by A.R.S. § 41-4401, Contractor hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Contractor further warrants that after hiring an employee, Contractor verifies the employment eligibility of the employee through the E-Verify program. If Contractor uses any subcontractors in performance of the Work, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract. Contractor is subject to a penalty of \$100 per day for the first violation, \$500 per day for the second violation, and \$1,000 per day for the third violation. The Town of Paradise Valley (the "Town") at its option may terminate the Contract after the third violation. Contractor shall not be deemed in material breach of this Contract if the Contractor and/or subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 23-214(A). The Town retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the Contract to ensure that the Contractor or subcontractor is complying with the warranty. Any inspection will be conducted after reasonable notice and at reasonable times. If state law is amended, the parties may modify this paragraph consistent with state law.

Equal Treatment of Workers: Contractor shall keep fully informed of all federal and state laws, county and local ordinances, regulations, codes and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any way affect the conduct of performance under the Contract. Contractor shall at all times observe and comply with all such laws, ordinances, regulations, codes, orders and decrees; this includes, but is not limited to laws and regulations ensuring equal treatment for all employees and against unfair employment practices, including

the Occupational Safety and Health Administration (“OSHA”) and the Fair Labor Standards Act (“FLSA”). Contractor shall protect and indemnify the Town and its representatives against any claim or liability arising from or based on the violation of such, whether by Contractor or its employees.