Tommie C. Martin, District I
610 E. Hwy. 260, Payson, AZ. 85547
(928) 474-2029

Michael A. Pastor, District II
1400 E. Ash St. Globe, AZ. 85501
(928) 425-3231 Ext. 8753

John A. Marcanti, District III
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GILA COUNTY

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Don E. McDaniel, Jr., County Manager
Phone (928) 425-3231 Ext.8761

Jeff Hessenius
Finance Director
Phone (928) 402-8743

FAX (928) 425-0319
TTY: 7-1-1

PROFESSIONAL SERVICES CONTRACT NO. 103114

RETAINER FOR FEDERAL RELATIONS SERVICES

THIS AGREEMENT, made and entered into this 18th day of November, 2014, by and between the Gila County Board of Supervisors, a political subdivision of the State of Arizona, hereinafter designated the **COUNTY,** and Bose Public Affairs Group, a Limited Liability Corporation offering lobbying services, of the City of Indianapolis, State of Indiana, hereinafter designated **BPAG**.

WITNESSETH: That **BPAG**, for and in consideration of the sum to be paid by the **County**, in the **manner and at the time hereinafter provided, and of the other covenants and agreements herein contained,** hereby agrees, for all, his heirs, administrators, successors, and assigns as follows:

ARTICLE I – SCOPE OF SERVICES AND REPORTING REQUIREMENTS:

SERVICES:

The County hereby retains BPAG to perform certain services on an issue by issue basis intended to strengthen Gila County's relationship with members of the U.S. House and Senate, and with various Federal Agencies, including but not limited to: U.S. Forest Service, Environmental Protection Agency, U.S. Fish and Wildlife, Federal Emergency Management Agency, Department of Agriculture and Bureau of Land Management.

BPAG will work with the Board of Supervisors, and staff, to develop the County's Federal Relations Program to meet the needs of the Citizens of the County. As the County sees the need for consulting/lobbying services at the federal government level the County, through the County Manager, will contact BPAG by telephone or email to request an estimate of cost for specific consulting/lobbying services projects. If the County through the County Manager agrees with the BPAG cost estimate for services projects, the County Manager will provide written confirmation to proceed to BPAG that the County will retain BPAG to provide those specific services. BPAG will not exceed the estimated cost for any specific consulting/lobbying services project without first receiving written authorization from the County Manager.

REPORTING REQUIREMENTS:

With each monthly invoice, BPAG shall prepare and submit to the County, a written report of BPAG's activities on behalf of County for the performance of the specifically requested consulting/lobbying services projects.

1. **Independent Contractor:** BPAG shall, at all times, be an independent contractor under this agreement. BPAG shall exercise independent judgment as to the services which are necessary in order to fulfill its obligations under this contract and shall exercise its independent judgment as to how said services should be performed in order to meet the objectives which are mutually agreed upon with the County.

2. **No Lawyer-Client Relationship; Confidentiality; Conflict of Interest:** The services to be provided under this Agreement are not legal services, but are law-related services, as defined in *Rule 5.7 of the Indiana Rules of Professional Conduct*. Thus, the protections of the lawyer-client relationship, including but not limited to the protection of client confidences, prohibitions against representation of persons with conflicting interests, and maintenance of professional independence, do not as such apply to such services. Notwithstanding the foregoing, BPAG contractually agrees to the following in connection with the services to be provided under this Agreement:

   a. BPAG acknowledges that in the course of performing the services, duties, and obligations described in this Agreement, it may acquire confidential and proprietary information relating to the County. BPAG agrees that, except with the consent of the County or as incidental to the performance of services under this Agreement, it will not disclose any such confidential or proprietary information of the County to any person or entity except as required by law, or unless and until such confidential and proprietary information is publicly available; and

   b. Without the consent of the County, BPAG will not represent another client if the representation of that client would be directly adverse to the County with respect to the services to be provided under this Agreement, or if BPAG's representation of the County would be materially limited by BPAG's responsibilities to such other client or to any other person or entity, or by BPAG's own interest.

ARTICLE II – TERM: This Contract shall be effective the date it is signed and approved by the Gila County Board of Supervisors and shall continue in full force and effect for one year, with the option for two (2) one year extensions, if agreed by both parties.

ARTICLE III – EXPENSES: BPAG shall be reimbursed for reasonable expenses that are incurred on behalf of the County in the course of BPAG's representation of the County, such as, but not limited to, shipping charges, mileage charges, airline travel, and hotel expenses. Any expenditure beyond this description will only be incurred with prior written approval from the County.

This Contract constitutes the entire Contract between the parties and no other promises or representations have been made. Any modifications to this Contract shall be made in writing.

ARTICLE IV – INDEMNIFICATION CLAUSE: BPAG shall indemnify, defend, save and hold harmless the County of Gila and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of BPAG or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such BPA Group to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by BPAG from and against any and all claims. It is agreed that BPAG will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, BPAG agrees to waive all rights of subrogation against the County, its officers, officials, agents and employees for losses arising from the work performed by BPAG for the County.

ARTICLE V – LAWS AND ORDINANCES: This agreement shall be enforced under the laws of the State of Arizona. Any action to enforce the provisions of this Agreement shall be brought in the Superior Court of the State of Arizona with venue in Gila County. BPAG shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the BPAG. BPAG shall comply with the applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the Act.

ARTICLE VI – LEGAL ARIZONA WORKERS ACT COMPLIANCE: BPAG hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to BPAG's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). BPAG shall further ensure that each subcontractor who performs any work for BPAG under this contract likewise complies with the State and Federal Immigration Laws.

County shall have the right at any time to inspect the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of BPAG's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting BPAG to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Contractor shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor as soon as possible so as not to delay project completion.

BPAG shall advise each subcontractor of County's rights, and the subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form: "Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of BPAG.

ARTICLE VII – CANCELLATION: This agreement is subject to cancellation pursuant to **A.R.S. § 38-511.** If the Agreement is terminated, the county shall be liable only for payment for services rendered and accepted material received by the County before the effective date of termination. BPAG shall be considered in default of this contract and such default will be considered as cause to terminate the contract for any of the following reasons if BPAG:

a. Fails to perform the work under the contract in a reasonable and timely manner; or
b. Fails to perform the work or fails to provide sufficient workers, equipment or data to assure completion of work in accordance with the terms of the contract; or
c. Performs the work unsuitably or neglects or refuses to follow the Scope of Work; or
d. Discontinues the prosecution of the work; or
e. Fails to resume work which as been discontinued within a reasonable time after notice to do so; or
f. Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency; or
g. Makes assignment for the benefit or creditors.
h. If it is found that gratuities were offered or given by any agent or representative of BPAG, to any officer or employee of the County.

ARTICLE VIII – PAYMENT: The Services and Reporting Requirement Services, as outlined in ARTICLE I of this agreement, will be performed on a project by project basis not to exceed, without prior written authorization, the amount specified in the cost estimate for each project. The total payment to BPAG including all applicable taxes during the term of the contract for one year from the date of Board approval will not exceed $50,000.00 without the prior written approval of the County Board of Supervisors. Payment will be made within thirty days (30) of receipt of the written report and invoice. Each invoice and accompanying written report must show a signature by the County representative, confirming services rendered and authorizing payment.

IN WITNESS WHEREOF, three (3) identical counterparts of this contract, each which shall include original signatures and for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on the date and year first above written.

In return for the performance of the Contract by **BPAG**, the **County** agrees to pay not more than **$ 50,000.00** including all applicable taxes, during the term of the contract.

PROFESSIONAL SERVICES CONTRACT NO. 103114

FEDERAL RELATION SERVICES

GILA COUNTY:
GILA COUNTY BOARD OF SUPERVISORS

Michael A. Pastor, Chairman, Board of Supervisors

BOSE PUBLIC AFFAIRS GROUP:

Signature

Patricia A. Power

Print Name

ATTEST:

Marian Sheppard, Clerk of the Board of Supervisors

APPROVED AS TO FORM:

Bryan B. Chambers, Deputy County Attorney/Civil Bureau Chief
for **Bradley D. Beauchamp, County Attorney**