SERVICE AGREEMENT
ANNUAL EXTENSION – YEAR 3 OF 5
(RFP No. 13-14-365)

Pursuant to Section 7, EXTENSION, CHANGES AND AMENDMENTS of the Legal Services Service Agreement (Agreement) dated February 18, 2014 between the City of Las Cruces (City) and Keleher & McLeod, P.A. (Contractor), the City and Contractor agree to renew the Agreement for a period of one (1) year, to begin February 18, 2016 and terminate February 17, 2017.

All other terms of the Service Agreement remain the same.

AGREED:

KELEHER & MCLEOD, P.A.

12/2/15

Signature — Date

Kurt Wihl / President

Printed Name/Title

CITY OF LAS CRUCES

Deb Smith — 12/2/15

Deb Smith — Date

Purchasing Manager

SERVICE AGREEMENT
ANNUAL EXTENSION – YEAR 2 OF A POSSIBLE 5
(RFP No. 13-14-365)

Pursuant to Section 7, EXTENSION, CHANGES AND AMENDMENTS of the Legal Services Service Agreement (Agreement) dated 2/18/2014 between the City of Las Cruces (City) and Keleher & McLeod, P.A. (Contractor), the City and Contractor agree to renew the Agreement for a period of one (1) year, to begin February 18, 2015 and terminate February 17, 2016.
All other terms of the Service Agreement remain the same.

AGREED:

KELEHER & MCLEOD, P.A.

Signature 2/19/2015 Date

Kurt Wihl / President
Printed Name/Title

CITY OF LAS CRUCES

Deb Smith for 2/19/15
Date

Purchasing Manager

City of Las Cruces
PEOPLE HELPING PEOPLE

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into as of the 18th day of February 2014 by and between the City of Las Cruces, a New Mexico municipal corporation, ("City") and Keleher & McLeod, PA ("Contractor").

The parties agree as follows:

1. PROJECT DESCRIPTION

Legal matters requiring outside counsel are assigned as needed by the City to law firms who have contracted with the City.

2. SCOPE OF SERVICES

The Contractor shall provide legal representation to the City and its public employees as set forth in its response to the City's RFP No. 13-14-365 submitted to the City on January 9, 2014. The City has the right to designate which attorney shall principally handle any specific matter. The Proposal is hereby incorporated in this Agreement to the extent its provisions are consistent with the Agreement.

The Contractor shall not undertake any representation of the City to perform any legal services for the City at the request of any City official or employee without first obtaining specific written authorization to do so from the City Attorney. Contractor shall not file any action or enter any litigation on behalf of the City without first obtaining permission to do so from the City Attorney. Before releasing any written legal opinion addressed to or affecting the City or any of its officers or employees, Contractor shall obtain the City Attorney's concurrence.

3. CASE ASSIGNMENTS

This Agreement does not constitute a grant to the Contractor of any right to handle any specific case or any specific number of cases. The City may, in its sole discretion, assign or reassign cases as it deems expedient including designation of a lead attorney on any given case.

4. STAFFING

Only one legal professional shall attend meetings, depositions and arguments unless the attendance of more is required to accomplish the purpose of the meeting and such attendance is discussed with and approved by the City Attorney in each instance where multiple attendance is requested.

Prior approval shall be obtained by the Contractor if the City is to be billed for more than ten (10) hours of a legal professional's time in any one (1) day (except during days

requiring court appearances). Prior approval shall be obtained from the City Attorney by Contractor for any research project that will take in excess of ten (10) hours. Intra office conferences are to be billed by only one (1) of the participants.

Contractor shall investigate whether it would be more cost effective for City personnel (employees, temporary employees or contractors) to perform certain tasks such as collecting and reviewing information in files, interviewing witnesses, managing documents, preparing summaries, etc. Contractor shall give consideration to whether some of the work can be performed efficiently by lawyers, clerks, paralegals or legal assistants employed by the City and whether there are other ways in which the time required of Contractor can be minimized without compromising the quality of representation.

5. COMPENSATION AND EXPENDITURES

In consideration for the services provided pursuant to Paragraph 2, "Scope of Services," the Contractor shall charge on a monthly billing basis and the City shall pay only the following charges.

a. Attorney's services shall be billed according to the hourly rates set forth in the Proposal which shall remain unchanged and shall not increase during the term of this Agreement. Attorney time must be shown in increments of six minutes (0.1 hour). Travel time is to be at no greater than one-half of the attorney's hourly rate. The Contractor affirms that rates are equivalent to the lowest rates given most favored regular clients.

b. For all other fees, costs and expenses, the rates as specified in the Proposal. If the Proposal failed to specify the rate at which any cost or expense shall be charged, actual cost shall be charged and paid.

c. The applicable New Mexico gross receipts tax rate on amounts for which such tax has been or will be paid.

d. No charges shall be billed to the City for any of the following services or items unless authorized by the City Attorney.

(1) Secretarial, word processing, proofreading, filing, office machine attendants, file organization or other clerical services.

(2) Photocopy expenses at more than $.20 a page.

(3) Local telephone expenses.

(4) Charges related to computer usage, online or internet related investigation or research, including legal research through subscription services such as Lexis-Nexis and Westlaw.

(5) Local faxes, incoming or outgoing.

(6) Audit letters, incoming or outgoing.

(7) Any other expense properly chargeable to overhead or as a capital expense.

6. TOTAL AMOUNTS PAYABLE

The total of all amounts payable under this Agreement shall not exceed the amount appropriated by City Council. The total amounts payable under this Agreement are a device to allow the City to monitor its costs. It is not intended that the Contractor continue to provide legal services without compensation after the limits are reached. Upon notification by the Contractor that the limits are being approached, the parties shall either amend this Agreement in writing, or the City shall employ substitute counsel to provide legal representation for any or all matters that had been referred to the Contractor for further responsibility. The City shall remain obligated to pay the Contractor pursuant to Paragraph 5, "Compensation and Expenditures" until such time as this paragraph has been amended in writing or the City has retained substitute counsel and relieved the Contractor of further responsibility.

7. TERM OF AGREEMENT

This Agreement covers services rendered between February 18, 2014 and February 17, 2015. This Agreement terminates the last moment of February 17, 2015 unless sooner terminated pursuant to Paragraph 12, "Termination," or Paragraph 15, "Appropriations," or unless renewed pursuant to Paragraph 13, "Renewal."

8. COPIES OF PLEADINGS AND DOCUMENTS

The Contractor shall provide the City with a copy of all pleadings, briefs and other documents filed by the Contractor in any matter handled pursuant to this Agreement.

9. STATUS REPORTS

The Contractor shall provide the City with quarterly status reports for each active case. The status reports shall contain a narrative description of the status of the case and the procedures used or proposed to resolve the litigation on a cost effective basis.

10. PROCEDURES

The Contractor shall follow any procedures which may from time to time be established by the City for the efficient and cost effective processing of cases.

11. MEDIA RELATIONS

Contractor is not authorized to comment publicly on City matters. All media inquiries should be directed to the City Attorney.

12. TERMINATION

This Agreement may be terminated by either party upon written notice delivered to the other party at least ninety (90) days prior to the intended date of termination. By such

termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

13. RENEWAL

This Agreement may be renewed for four (4) additional one-year periods at the sole option and discretion of the City. Any renewal of this Agreement shall be in writing and shall be the subject of further negotiations between the parties. If this Agreement is not renewed or is terminated, the City may require the Contractor to continue to handle to completion any and all matters referred during the Agreement period at the rates set forth in Paragraph 5, "Compensation and Expenditures." Alternatively, the City may require the Contractor to return files, including but not limited to the Contractor's work product, to the City.

14. INDEPENDENT CONTRACTOR

The Contractor, and its agents and employees, are independent contractors performing services for the City and are not employees of the City. The Contractor, and its agents and employees, shall not as a result of this Contract accrue any leave, retirement, insurance, bonding, use of City vehicles or any other benefit afforded to employees of the City.

15. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City Council, this Agreement shall terminate upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations and authorization exist shall be accepted by the Contractor and shall be final.

16. ASSIGNMENT

The Contractor shall perform all services under this Agreement and shall not assign or transfer any interest in the Agreement or assign any claims for money due or to become due under this Agreement without the City's prior written approval.

17. SUBCONTRACTING

The Contractor shall not subcontract any portion of the service to be performed under this Contract without the City's prior written approval.

18. INSURANCE

At the time of the execution of the Agreement, the Contractor shall provide certificates of insurance or copies of insurance policies evidencing coverage for all professional liability of the Contractor and its personnel which may arise out of services provided under this

Agreement. Such coverage shall be in an amount not less than $1,000,000.00 per occurrence with no greater than a $5,000.00 deductible. The amount of any deductible shall be stated. Such insurance shall remain in full force and effect during the term of this Agreement. The Contractor shall notify the City within ten (10) days of any change or cancellation of such insurance.

19. RECORDS AND AUDIT

The Contractor shall maintain detailed time records which set forth each service rendered in each matter, the person rendering such service, the hourly rate, the time expended in rendering such service and the date such service was rendered. The Contractor shall submit these records monthly along with its billings to the City. The records shall be subject to inspection by the City. The City has the right to audit billings both before and after payment, and to contest any billing or portion thereof. Payment under this Agreement does not foreclose the City's right to recover excessive or illegal payments.

20. BILLING CYCLE

The City's fiscal year begins July 1 and ends June 30 of each calendar year. The City may only make payment for services rendered or costs encumbered during a fiscal year and for a period of sixty (60) days following the close of the fiscal year. Billings for services performed or costs incurred prior to the close of a fiscal year must be submitted within ample time to allow for payment within this sixty (60) day period.

21. RELEASE

The Contractor, upon final payment of all amounts due under this Contract, releases the City and its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

22. INDEMNITY AND LIMITATION

Contractor shall indemnify, defend, and hold harmless the City from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of Contractor, its officers, employees, agents, or representatives in the performance of services under this Agreement.

23. CONFLICT OF INTEREST

The Contractor warrants that it 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 under this Contract. The Contractor shall not, during the term of this Contract, represent any claimant or plaintiff making a claim against the City or any of its employees acting within the scope of their duties without the express written consent of the City Manager or his designee.

24. AMENDMENT

This Agreement shall not be altered, changed or amended except by written instrument executed by the parties.

25. SCOPE OF AGREEMENT

This Agreement incorporates all the contracts, covenants and understandings between the parties concerning the subject matter hereof, and all such covenants, contracts and understandings have been merged into this written Agreement. No prior contract or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this written Agreement.

26. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Certified Mail through the United States Postal Service addressed as follows:

To City:	City of Las Cruces Attention: City Manager P.O. Box 20000 Las Cruces, NM 88004
With copies to:	City Attorney Purchasing Manager

27. RECORDS RETENTION/RETURN

Upon completion of the specific matter for which services were being provided, Contractor will deliver to the City the complete file and all corresponding records, including books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics. Should Contractor wish to retain copies of this material for Contractor's own use, the Contractor shall bear the cost of their reproduction.

28. APPLICABLE LAW

This Agreement shall be governed by the laws of the State of New Mexico.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

CITY OF LAS CRUCES

Karen Medina

Purchasing Manager

Approved as to form:

Harry S. (Pete) Connelly
City Attorney

KELEHER & McLEOD, PA

BY: _____
Kurt Wihl
President, Director and Shareholder