

**TENTH AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
FOUNTAIN HILLS THEATER, INC.**

THIS TENTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (this "Tenth Amendment") is entered into as of July 1, 2018, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town"), and FOUNTAIN HILLS THEATER, INC., an Arizona corporation, f/k/a Fountain Hills Community Theater, Inc. (the "Contractor").

RECITALS

A. The Town and the Contractor entered into a Professional Services Agreement, dated May 17, 2017 (the "Original Agreement"), as amended by that First Amendment, dated October 4, 2007 (the "First Amendment"), by that Second Amendment, dated June 21, 2010 (the "Second Amendment"), by that Third Amendment, dated October 6, 2011 (the "Third Amendment"), by that Fourth Amendment, dated June 21, 2012 (the "Fourth Amendment"), by that Fifth Amendment, dated June 20, 2013 (the "Fifth Amendment"), by that Sixth Amendment, dated June 19, 2014 (the "Sixth Amendment"), by that Seventh Amendment, dated August 3, 2015 (the "Seventh Amendment"), by that Eight Amendment, dated July 1, 2016 (the "Eighth Amendment"), and by that Ninth Amendment, dated May 24, 2017 (the "Ninth Amendment"), for the Contractor to provide the Town with youth arts and education services (the "Services"). The Original Agreement, First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth Amendment, Sixth Amendment, Seventh Amendment, Eighth Amendment, and Ninth Amendment are collectively referred to herein as the "Agreement."

B. All capitalized terms not otherwise defined in this Tenth Amendment have the same meanings as contained in the Agreement.

C. The Town has determined that additional Services from the Contractor are necessary (the "Additional Services").

D. The Town and the Contractor desire to enter into this Tenth Amendment to (i) extend the term of the Agreement, (ii) modify the Scope of Work, (iii) modify the payment provision and (iv) provide for compensation to the Contractor for the Services.

AGREEMENT

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

1. Term of the Agreement. Notwithstanding any provision to the contrary, the term of the Agreement is hereby extended until June 30, 2019, unless terminated as otherwise provided pursuant to the terms and conditions of the Agreement.

2. Scope of Work. The Contractor shall provide the Additional Services as set forth in the Scope of Work attached hereto as Exhibit 1 and incorporated herein by reference.

3. Compensation. The Town shall pay Contractor an annual amount not to exceed \$30,722.76 for the Additional Services as set forth in the Scope of Work.

4. Payment. The Town shall pay the Contractor a lump sum of \$30,722.76 within 30 days after execution of this Tenth Amendment.

5. Effect of Amendment. In all other respects, the Agreement is affirmed and ratified and, except as expressly modified herein, all terms and conditions of the Agreement shall remain in full force and effect.

6. Non-Default. By executing this Tenth Amendment, the Contractor affirmatively asserts that (i) the Town is not currently in default, nor has been in default at any time prior to this Tenth Amendment, under any of the terms or conditions of the Agreement and (ii) any and all claims, known and unknown, relating to the Agreement and existing on or before the date of this Tenth Amendment are forever waived.

7. Israel. Contractor certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

8. Conflict of Interest. This Tenth Amendment and the Agreement may be canceled by the Town pursuant to ARIZ. REV. STAT. § 38-511.

9. Notices and Requests. Communications directed to the Town pursuant to Section 14.13 of the Agreement shall be sent to the Town at the addresses listed below.

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

With copy to: Town of Fountain Hills

16705 East Avenue of the Fountains
Fountain Hills, Arizona 85268
Attn: Town Attorney

10. Public Records. Consultant acknowledges that the Town is a public entity, subject to Arizona's public records law (A.R.S. § 39-121 et seq.) and that any documents related to this Agreement may be subject to disclosure pursuant to state law in response to a public records request, subpoena, or other judicial process.

10.01 Trade Secrets Statement. If Consultant believes documents related to its work pursuant to the Agreement contain trade secrets or other proprietary data, Consultant must provide notice to the Town at the time the documents are provided to the Town, and include with the notification a statement that explains and supports Consultant's claim. Consultant also must specifically identify the trade secrets or other proprietary data that Contractor believes should remain confidential.

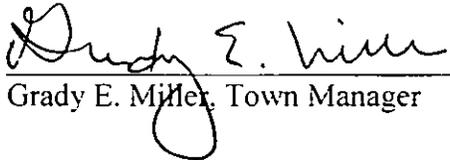
10.02 Notice of Records Request. In the event the Town determines it is legally required to disclose any documents subject to a Trade Secrets Statement as defined in section 10.01, the Town, to the extent possible in its sole and absolute discretion, will provide Consultant with prompt written notice by fax, email, or certified mail so that Consultant may seek a protective order from a court having jurisdiction over the matter or obtain other appropriate remedies. The written notice will include a time period for Consultant to seek court ordered protection or other legal remedies. If Consultant does not obtain such court ordered protection by the expiration of the time period, the Town may release the documents subject to the Trade Secrets Statement without further notice to Consultant.

[SIGNATURES ON FOLLOWING PAGES]

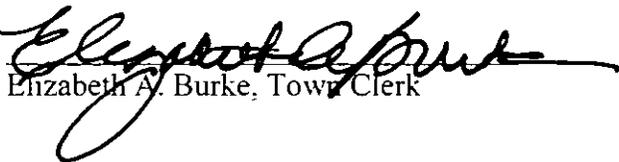
IN WITNESS WHEREOF, the parties hereto have executed and caused to be signed by their duly authorized representatives, this instrument on the date first written above.

“Town”

TOWN OF FOUNTAIN HILLS,
an Arizona Municipal Corporation


Grady E. Miller, Town Manager

ATTEST:


Elizabeth A. Burke, Town Clerk

(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On August 21, 2018, before me personally appeared Grady E. Miller, the Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the Town of Fountain Hills.




Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

“Contractor”

FOUNTAIN HILLS THEATER, INC.
an Arizona corporation

By: 

Name: Walter S. Morlock

Its: Executive Director

(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On 6th August, 2018, before me personally appeared Walter Morlock, the Executive Director of Fountain Hills Theater, Inc., an Arizona 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 Fountain Hills Theater, Inc.

(Affix notary seal here)


Notary Public

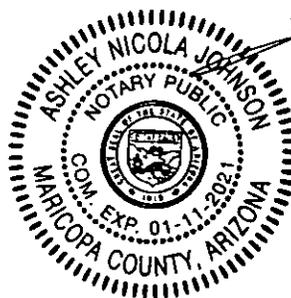


EXHIBIT 1
TO
TENTH AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
FOUNTAIN HILLS THEATER, INC.

[Scope of Work]

See following page.

**SCOPE OF WORK FOR FISCAL YEAR 2018-2019
PROGRAM: YOUTH ARTS
CONTRACTOR: FOUNTAIN HILLS THEATER, INC.**

PROPOSED FUNDING: \$30,722.76

Scope of Work:

General production and workshop/camp support.

The Town name and logo will be prominently displayed and acknowledged on all advertising and promotional material as either a partial or full sponsor of each production.

Reporting:

An annual report, containing the number of performances, number of attendees and per ticket price, is due by March 30.