

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

THIS SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (this "Second Amendment") is made as of June 21, 2010, between the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation (the "Town") and FOUNTAIN HILLS COMMUNITY THEATER, INC., an Arizona corporation (the "Contractor").

RECITALS

A. The Town and the Contractor entered into a Professional Services Agreement dated May 17, 2007, for the Contractor to provide youth arts services (the "Initial Agreement").

B. The Initial Agreement was amended once on October 4, 2007 (the "First Amendment"), to revise and clarify Section 4, Payments. The Initial Agreement and the First Amendment are collectively referred to herein as the "Agreement."

C. The Town and the Contractor have determined that it is necessary to further amend the Agreement to (i) include additional services to the Scope of Work of the Agreement for further youth arts services (the "Additional Services"), (ii) extend the term of the Agreement and (iii) increase the compensation of the Contractor for the Additional 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 Town and the Contractor hereby agree to amend the Agreement as follows:

1. **Term.** The term of the Agreement is hereby extended until June 30, 2011.
2. **Scope of Work.** The Contractor shall provide the Additional Services as set forth in Exhibit 1, attached hereto and incorporated herein by reference.
3. **Compensation.** The Town shall pay Contractor an amount not to exceed \$90,300.00 for the Additional Services.
4. **Notices.** Section 14.13, Notices, of the Agreement is hereby deleted in its entirety and replaced with the following:

14.13 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, (c) given to a recognized and reputable overnight delivery service, to the address set forth below or (d) delivered by facsimile transmission to the number set forth below:

If to the Town: Town of Fountain Hills
16705 East Avenue of the Fountains
Fountain Hills, Arizona 85268
Facsimile: 480-837-3145
Attn: Richard L. Davis, Town Manager

With copy to: GUST ROSENFELD, P.L.C.
One East Washington, Suite 1600
Phoenix, Arizona 85004-2553
Facsimile: 602-340-1538
Attn: Andrew J. McGuire, Esq.

If to Contractor: Fountain Hills Community Theater
P.O. Box 18312
Fountain Hills, Arizona 85269
Facsimile: _____
Attn: _____, Executive Director

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 Section. 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, (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, or (d) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above 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.

5. Miscellaneous. The following provisions required by State Law are hereby added to Section 14 of the Agreement:

14.16 Records and Audit Rights. 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 to ensure that the Contractor and its subcontractors are complying with the warranty under subsection 14.17 below (all 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 Town, 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 14.17 below. To the extent necessary for the Town 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 Town 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 Town to Contractor pursuant to this Agreement. Contractor and its subcontractors shall provide the Town with adequate and appropriate workspace so that the Town can conduct audits in compliance with the provisions of this subsection. The Town 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.

14.17 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 compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Contractor's or its subcontractor's 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 Town.

14.18 Scrutinized Business Operations. Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, the Contractor certifies that it does not have scrutinized business operations in Sudan or Iran. For the purpose of this subsection the term "scrutinized business operations" shall have the meanings set forth in ARIZ. REV. STAT. § 35-391 or 35-393, as applicable. If the Town determines that the Contractor submitted a false certification, the Town may impose remedies as provided by law including terminating this Agreement pursuant to subsection 13.2 above.

6. 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.

7. Non-Default. By executing this Second Amendment, the Contractor affirmatively asserts that the Town is not currently in default, nor has been in default at any time prior to this Second Amendment, under any of the terms or conditions of the Agreement.

8. Conflict of Interest. This Second Amendment may be cancelled pursuant to ARIZ. REV. STAT. § 38-511.

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

"Town"

TOWN OF FOUNTAIN HILLS, an Arizona
municipal corporation

Richard L. Davis
Richard L. Davis, Town Manager

ATTEST:

Bevelyn J. Bender
Bevelyn J. Bender, Town Clerk

"Contractor"

FOUNTAIN HILLS COMMUNITY
THEATER, INC., an Arizona corporation

By: Val Stasik

Name: VAL STASIK

Its: Exec. Director

(ACKNOWLEDGEMENTS)

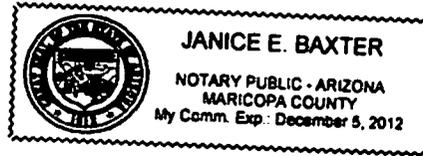
STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on July 29, 2010,
by Richard L. Davis, the Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona
municipal corporation, on behalf of the Town of Fountain Hills.

Janice E. Baxter
Notary Public in and for the State of Arizona

My Commission Expires:

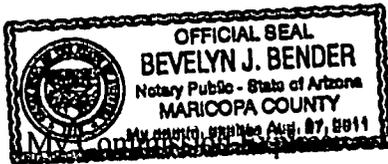
12/05/12



STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on July 27, 2010,
by Val Stasik as Exec. Director of FOUNTAIN HILLS
COMMUNITY THEATER, INC., an Arizona corporation, on behalf of the corporation.

Bevelyn J. Bender
Notary Public in and for the State of Arizona



August 27, 2011



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

[Additional Services]

See following page.

SCOPE OF WORK

Contractor shall provide youth arts services for the Town of Fountain Hills effective July 1, 2010 for a period of one (1) year. Responsibilities shall include, but not be limited to, the following:

1. See Town Funding Proposal dated February 7, 2007 (included in Exhibit B, Proposal of the Initial Agreement).

2. Produce one special performance for the Town in 2010/2011 (at the Town's discretion from the already planned play list) for our employee appreciation night.