

**THIRD AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
EXTENDED HANDS FOOD BANK, INC.**

THIS THIRD AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (this "Third Amendment") is made as of October 6, 2011, between the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation (the "Town") and EXTENDED HANDS FOOD BANK, INC., an Arizona corporation (the "Contractor").

RECITALS

A. The Town and the Contractor entered into a Professional Services Agreement dated May 17, 2007 (the "Original Agreement"), as amended by the certain First Amendment dated October 4, 2007 (the "First Amendment") and as amended by that certain Second Amendment, dated June 21, 2010 (the "Second Amendment") for the Contractor to provide certain local food bank services (the "Services"). The Original Agreement, First Amendment and Second Amendment are collectively referred to herein as the "Agreement."

B. The Town has determined that it is necessary to extend the Agreement with the Contractor for the Services.

C. The Town and the Contractor desire to enter into this Third Amendment to (i) extend the term of the Agreement, (ii) change the payment provision, (iii) modify the scope of work of the Agreement, (iv) provide compensation to the Contractor for the Services and (v) include additional provisions.

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, 2012.
2. Scope of Work. The Contractor shall provide the Services as set forth in Scope of Work attached hereto as Exhibit A and incorporated herein by reference. Services performed in accordance with the Scope of Work shall not include Services provided at or for the benefit of (i) Warehouse Ministries, Salvation Army, other religious affiliations or purposes or (ii) Jim Bob's Fish Fry Restaurant (the "Prohibited Uses").

3. **Compensation.** The Town shall pay Contractor an annual aggregate amount not to exceed \$30,250.00 for the Services as set forth in the Scope of Work attached hereto as **Exhibit A.** By entering into the Agreement, Contractor expressly agrees and understands that the compensation shall not be used to fund any portion of the Prohibited Uses.

4. **Payments.** Section 4, Payments, of the Agreement is hereby deleted in its entirety and replaced with the following:

4. **Payments.** The Town shall pay the Contractor for the Services on a quarterly basis following the submittal of Contractor monthly reports, as set forth in the Scope of Work attached hereto as **Exhibit A.** Monthly reports shall be due no later than the 10th of the month following the Services. Quarterly payments shall be paid on July 1st, October 1st, January 1st and April 1st of each Agreement year. The July 1st and October 1st quarterly payments shall be paid on November 1st.

5. **Miscellaneous.** The following provision is hereby added to Section 14 of the Agreement:

14.19 **Liquidated Damages.** Contractor shall refund to the Town all compensation paid to the Contractor for the Services in the event the Contractor uses compensation appropriated for the Services to fund any portion of the Prohibited Uses.

6. **Agreement Subject to Appropriation.** This Third Amendment and the Agreement are subject to the provisions of ARIZ. CONST. ART. IX, § 5 and ARIZ. REV. STAT. § 42-17106. The provisions of this Third Amendment and the Agreement for payment of funds by the Town shall be effective when funds are appropriated for purposes of this Third Amendment and the Agreement and are actually available for payment. The Town shall be the sole judge and authority in determining the availability of funds under this Third Amendment and the Agreement and the Town shall keep the Contractor fully informed as to the availability of funds for this Third Amendment and the Agreement. The obligation of the Town to make any payment pursuant to this Third Amendment and the Agreement is a current expense of the Town, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the Town. If the Town Council fails to appropriate money sufficient to pay the amounts as set forth in this Third Amendment and the Agreement during any immediately succeeding fiscal year, this Third Amendment and the Agreement shall terminate at the end of then-current fiscal year and the Town and the Contractor shall be relieved of any subsequent obligation under this Third Agreement and the Agreement.

7. **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.

8. **Non-Default.** By executing this Third 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 Third Amendment, under any of the terms or conditions of the Agreement and (ii) any and

all claims, known or unknown relating to the Agreement and existing on or before the date of this Third Amendment are forever waived.

9. Conflict of Interest. This Third Amendment and the Agreement may be cancelled by the Town 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

J. G. Ghetti
Julie Ghetti, Interim Town Manager

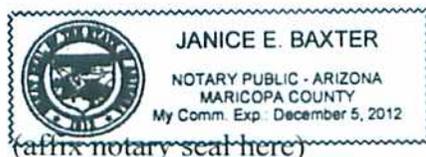
ATTEST:

Bevelyn J. Bender
Bevelyn J. Bender, Town Clerk

(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on October 10, 2011, by Julie Ghetti, the Interim 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

[SIGNATURES CONTINUE ON NEXT PAGE]

"Contractor"

EXTENDED HANDS FOOD BANK, INC.,
an Arizona corporation

By: Extended Hands Food Bank / David Iversen

Name: David W. Iversen

Its: President

(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on 10th Sep October 3rd, 2011,
by David W. Iversen as President of EXTENDED HANDS
FOOD BANK, INC., an Arizona corporation, on behalf of the corporation.

[Signature]
Notary Public in and for the State of Arizona

(affix notary seal here)

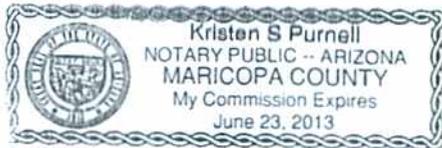


EXHIBIT A
TO
THIRD AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
EXTENDED HANDS FOOD BANK, INC.

[Scope of Work]

See following page.

SCOPE OF WORK – COMMUNITY CONTRACTS

EXTENDED HANDS FOOD BANK

Provide the following for Fountain Hills residents:

- 1) Requests and food to low income applicants using the State of Arizona guidelines for qualifying
- 2) Outlet for community service hours for Fountain Hills residents
- 3) Provide on a quarterly basis a financial report that shows a breakdown of expenditures made with Town funds.

Reporting:

Provide monthly reports that include the following:

- 1) Total # of food boxes
- 2) Total # of food boxes to Fountain Hills families
- 3) Total # of individuals served broken down by age groups (20-30,30-40,40-50,60+)
- 4) # of referrals to Fountain Hills residents
- 5) # of court ordered volunteers broken down by age groups
- 6) Total hours of volunteer hours monthly broken down by age groups
- 7) # of volunteers monthly