

**FIRST AMENDMENT  
TO  
COOPERATIVE PURCHASING AGREEMENT  
BETWEEN  
THE TOWN OF FOUNTAIN HILLS  
AND  
NESBITT CONTRACTING CO., INC.**

THIS FIRST AMENDMENT TO COOPERATIVE PURCHASING AGREEMENT (this "First Amendment") is entered into as of June 20, 2013, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town") and Nesbitt Contracting Co., Inc., an Arizona corporation (the "Contractor").

RECITALS

A. After a competitive procurement process, the City of Scottsdale entered into Contract No. 12PB018 dated November 22, 2011, as extended, with the Contractor for the Contractor to replace asphalt, correct drainage and perform small repairs on roads in lots "A" and "D" (the "Scottsdale Contract").

B. The Town and the Contractor entered into a Cooperative Purchasing Agreement dated March 7, 2013, based upon the Scottsdale Contract (the "Agreement"), for the Contractor to provide the Town with asphalt replacement and miscellaneous repairs to various roads in the area referred to as Zone 6 (the "Materials and Services").

C. The Town has determined that additional Materials and Services by the Contractor are necessary to carry-out the Town's pavement management program.

D. The Town and the Contractor desire to enter into this First Amendment to (i) provide for the cost of and purchase additional Materials and Services and (ii) extend the term of the Agreement.

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 as follows:

1. Term of the Agreement. The term of the Agreement is hereby extended and shall remain in full force and effect until June 30, 2014, unless terminated as otherwise provided pursuant to the terms and conditions of the Agreement.

2. Compensation. The Town shall increase the compensation to Contractor by \$906,000.00, from \$155,000.00 to an aggregate amount not to exceed \$1,061,000.00, of which \$36,281.95 is an owner's contingency which shall be utilized at the Town's sole discretion, for

the Materials and Services at the rates as set forth in the Scottsdale Contract and the quotation dated May 1, 2013, which is attached hereto as Exhibit A and incorporated herein by reference.

3. 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.

4. Non-Default. By executing this First 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 First 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 First Amendment are forever waived.

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

[SIGNATURES ON FOLLOWING PAGES]

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

Kenneth W. Buchanan  
Kenneth W. Buchanan, Town Manager

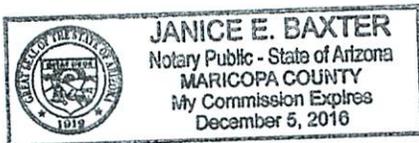
ATTEST:

Bevelyn J. Bender  
Bevelyn J. Bender, Town Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF MARICOPA    )

This instrument was acknowledged before me on June 21, 2013, by Kenneth W. Buchanan, the Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation, on behalf of the Town of Fountain Hills.

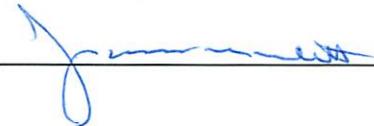


(affix notary seal here)

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

“Contractor”

NESBITT CONTRACTING CO., INC.,  
an Arizona corporation

By: 

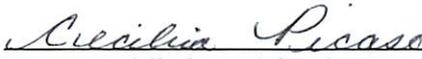
Name: James L. Nesbitt

Title: President

(ACKNOWLEDGMENT)

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF MARICOPA )

This instrument was acknowledged before me on June 4th, 2013, by James L Nesbitt  
   as President of NESBITT CONTRACTING CO., INC.,  
an Arizona corporation on behalf of the corporation.

  
Notary Public in and for the State of Arizona

(affix notary seal here)

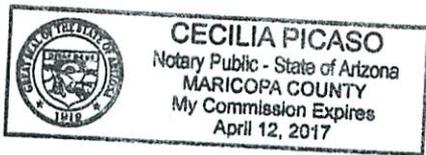


EXHIBIT A  
TO  
FIRST AMENDMENT  
TO  
COOPERATIVE PURCHASING AGREEMENT  
BETWEEN  
THE TOWN OF FOUNTAIN HILLS  
AND  
NESBITT CONTRACTING CO., INC.

[Quotation]

See following page.

Fountain Hills AC Repairs  
5/1/2013

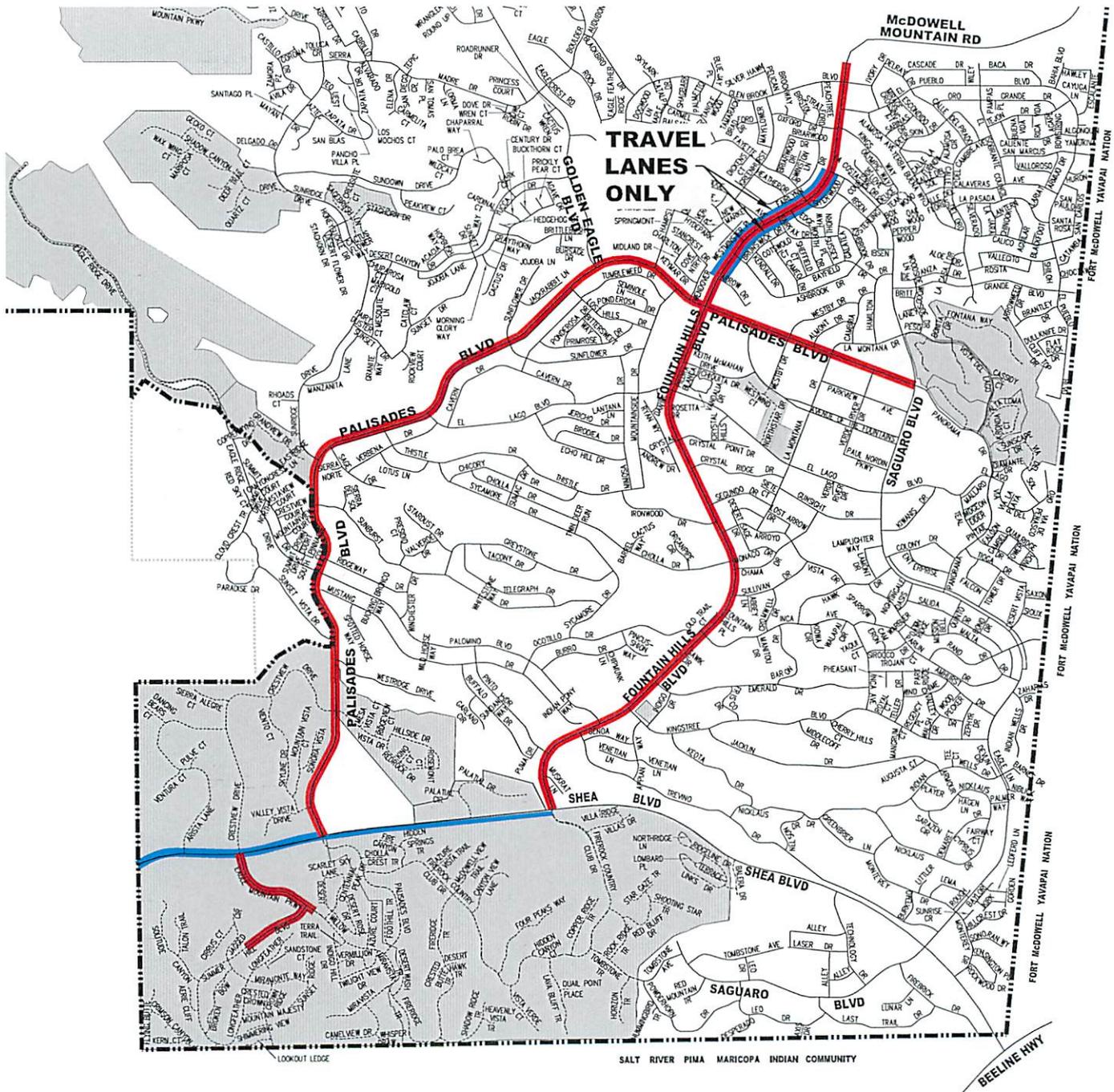
Location	Length	Width	Total SF	Total SY	Asphalt (tn)	Milling 2"			Paving 2"		TOTAL COST
						Price per SF	Price per SY	Cost	Price per TN	Cost	
1" Crack Repairs - Palisades	10000	1	10000	1111.1	122.2	\$2.50		\$25,000.00	\$85.00	\$10,388.89	\$35,388.89
Fountain Hills Blvd - Ashbrook to Saguaro				15000.0	1650.0	-	\$1.55	\$23,250.00	\$77.00	\$127,050.00	\$150,300.00
Shea Blvd - Palisades to Scottsdale Border				44228.0	4865.1	-	\$1.55	\$68,553.40	\$77.00	\$374,611.16	\$443,164.56
Shea Blvd - Palisades to F.H. Blvd EB only				19480.0	2142.8	-	\$1.55	\$30,194.00	\$77.00	\$164,995.60	\$195,189.60
Item	Unit	Quantity	Price Per	Total							
Manhole Final Adjustment	EA	30	\$ 365.00	\$ 10,950.00							\$10,950.00
Valve Final Adjustment	EA	30	\$ 325.00	\$ 9,750.00							\$9,750.00
Loops	EA	15	\$ 1,665.00	\$ 24,975.00							\$24,975.00
Grand Total:											\$869,718.05

This does not include crack seal, paint/thermo, subgrade work in case of breakthrough.  
This does include millings haul off, traffic control, dust control, sales tax.  
The quantity for the 1" crack repair is a preliminary estimate, the actual quantity will need to be determined more closely with field personnel.  
The process for 1" crack repairs will be to use a 12" trimmer to a depth of 2", then pave back 2" of conventional AC.  
All paving is to be conventional asphalt (no rubberized asphalt included in this proposal).  
Final adjustment quantities are estimates only and will need to be field verified.



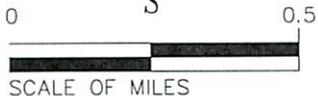
# Town of Fountain Hills

## ZONE 7 PAVEMENT MANAGEMENT 2013



### LEGEND

- MICRO SURFACE
- MILL & OVERLAY
- PRIVATE ROAD
- GATED-PRIVATE



MAP DATE: 5-6-13