

**FIRST AMENDMENT  
TO  
CONTRACT NO. C2014-143  
BETWEEN  
THE TOWN OF FOUNTAIN HILLS  
AND  
LOW MOUNTAIN CONSTRUCTION, INC.**

THIS FIRST AMENDMENT TO CONTRACT NO. C2014-143 (this "First Amendment") is entered into as of June 16, 2014, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town"), and Low Mountain Construction, Inc., an Arizona corporation (the "Contractor").

**RECITALS**

A. The Town issued Invitation for Bids DS2014-106 (the "IFB") seeking bids from contractors to perform median improvements on Avenue of the Fountains (the "Services"). The Contractor responded to the IFB, and the Town and Contractor entered into Contract No. C2014-143 dated April 3, 2014, for the provision of the Services (the "Contract"), a true and correct copy of which is on file in the Town Clerk's Office. All of the capitalized terms not otherwise defined in this First Amendment have the same respective meanings as contained in the Contract.

B. The Town has determined that additional Services by the Contractor are necessary due to SRP's redesign of the power source (the "Additional Services").

C. The Town and the Contractor desire to enter into this First Amendment to provide for an increase in the Contract amount to compensate 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 as follows:

1. **Scope of Work.** Contractor shall provide the Additional Services as set forth in the Fee Proposal, attached hereto as **Exhibit 1** and incorporated herein by reference.

2. **Compensation.** The Town shall increase the compensation to Contractor by \$62,977.00 for the Additional Services at the rates set forth in the Fee Proposal, attached hereto as **Exhibit 1**, resulting in an increase of the total compensation, from \$1,468,334.45 to an aggregate amount not to exceed \$1,531,311.45.

3. **Effect of Amendment.** In all other respects, the Contract is affirmed and ratified and, except as expressly modified herein, all terms and conditions of the Contract 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 Contract and (ii) any and all claims, known and unknown, relating to the Contract and existing on or before the date of this First Amendment are forever waived.

5. Conflict of Interest. This First Amendment and the Contract may be canceled 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

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    )

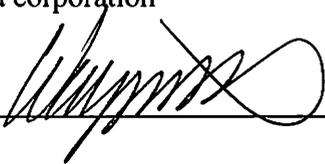
On June 23, 2014, before me personally appeared Kenneth W. Buchanan, the Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the Town of Fountain Hills.

Janice E. Baxter  
Notary Public



“Contractor”

LOW MOUNTAIN CONSTRUCTION, INC.,  
an Arizona corporation

By: 

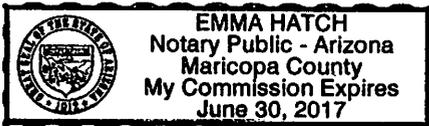
Name: Wayne Hatch

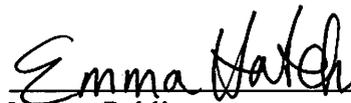
Title: Vice President

(ACKNOWLEDGMENT)

STATE OF ARIZONA     )  
  ) ss.  
COUNTY OF MARICOPA )

On JUNE 17, 2014, before me personally appeared WAYNE HATCH, the VICE PRESIDENT of LOW MOUNTAIN CONSTRUCTION, INC., an Arizona corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the corporation.



  
Notary Public

(Affix notary seal here)

**EXHIBIT 1  
TO  
FIRST AMENDMENT  
TO  
CONTRACT NO. C2014-143  
BETWEEN  
THE TOWN OF FOUNTAIN HILLS  
AND  
LOW MOUNTAIN CONSTRUCTION, INC.**

**[Fee Proposal]**

**See following pages.**



June 13, 2014

Mr. Wade Felkins  
LANDMARK DESIGN  
2318 South McClintock Drive  
Suite 3  
Tempe, Arizona 85282

RE: Avenue Of The Fountains Project  
Fountain Hills, Arizona

Dear Wade,

Please accept the following price proposal for the work entailed on the SRP Drawings dated May 29, 2014. Our pricing is as follows:

Continental Lighting (electrical)	\$ 44,005.00
Pro-Low JV (haul off & paving)	13,698.00
Insurance & Bond (3%)	1,731.00
Fee (10%)	5,943.00
Tax (5.785%)	3,782.00
	-----
Subtotal	\$ 69,159.00
Included In Bid (line item #4)	< 6,182.00 >
Total Change Order Amount	\$ 62,977.00

*Note:*

*We have planned for a hard dig in our numbers and priced out a Backhoe with a hammer on it. If we run into hard dig that it takes a bigger piece of equipment we will have to negotiate a different price for that work.*

Please review this price proposal and let us know how you would like us to proceed. Please contact me if you have any questions or concerns.

Sincerely,  
LOW MOUNTAIN CONSTRUCTION, INC.

A handwritten signature in black ink, appearing to read "Wayne Hatch".

Wayne Hatch  
Vice President



**CHANGE ORDER #01**

**SUBMITTED TO:** Low Mountain Construction, Inc.

**ADDRESS:** 4105 N. 20<sup>th</sup> Street, Ste. 205

**CITY:** Phoenix

**STATE:** AZ

**ZIP CODE:** 85016

**PROJECT NAME:** Avenue of the Fountains Median Improvements

**JOB NO.:**

**DATE:** June 6, 2014

<u>Description</u>	<u>Qty./Hrs.</u>	<u>Unit Price</u>	<u>Total</u>
<b>Complete installation of SRP, as per Work Order #T2012218, Sheets 1 through 4, dated May 29, 2014.</b>			
<b><u>Materials:</u></b>			
Conduit (Misc.)	1 L.S.	\$ 2,005.00	\$ 2,005.00
Concrete, Slurry Pad, etc.	270 Yds.	\$ 65.00	\$17,550.00
Sawcutting	1 L.S.	\$ 675.00	\$ 675.00
Misc., Muletape, etc.	1 L.S.	\$ 1,580.00	\$ 1,580.00
		\$ 1,115.00	\$ 1,115.00
<b>Subtotal -</b>			<b>\$22,925.00</b>
<b>Add Overhead / Margin ( 15%) -</b>			<b>\$ 3,438.75</b>
<b>Total for Materials -</b>			<b>\$26,363.75</b>
<b><u>Labor:</u></b>			
Foreman	36 Hrs.	\$ 55.96	\$ 2,014.56
Operator	36 Hrs.	\$ 52.52	\$ 1,890.72
Laborers	72 Hrs.	\$ 38.14	\$ 2,746.08
<b>Subtotal -</b>			<b>\$ 6,651.36</b>
<b>Labor Burden (50%) -</b>			<b>\$ 3,325.68</b>
<b>Total for Labor -</b>			<b>\$ 9,977.04</b>
<b><u>Equipment:</u></b>			
Service Truck	72 Hrs.	\$ 25.77	\$ 1,855.44
Dump Truck	36 Hrs.	\$ 40.19	\$ 1,446.84
Backhoe w/Hammer	36 Hrs.	\$ 79.50	\$ 2,862.00



Barricading	1 L.S.	\$ 1,500.00	<u>\$ 1,500.00</u>
<b>Total for Equipment -</b>			<u><b>\$ 7,664.28</b></u>

**SUBTOTAL -** **\$44,005.07**

Approved By: \_\_\_\_\_

Date: \_\_\_\_\_

# PRO+LOW

J O I N T V E N T U R E

PRO ENTERPRISES SRPMIC, LLC  
LOW MOUNTAIN CONSTRUCTION, INC.

## CHANGE ORDER REQUEST

PROJECT: Ave of the Fountains	
Low Mountain Construction 4105 N 20th Street Suite 205 Phoenix, AZ 85016	CHANGE ORDER NO: One (1)
	DATE: June 13, 2014
	PRO-LOW JOB NO: 14090
	PRO-LOW CONTRACT NO:

Area: SRP Trench on Verde River Drive

Description: Patch Back 328 SY of Trench & Haul Off Asphalt ( Excludes Removal Of Asphalt & Milling of Asphalt )

ITEM	DESCRIPTION	COST
1	16 Hours Skiploader & Operator @ \$65.00 Per Hour	\$ 1,040.00
2	Mobilization of Skiploader	\$ 200.00
3	16 Hours Laborer @ \$18.00 Per Hour	\$ 288.00
4	5 Hours Trucking @ \$85.00 Per Hour	\$ 425.00
5	Asphalt Dump Fees 4 Loads @ 80.00 Per Load	\$ 320.00
6	10 Hours Patch Crew @ \$550.00 Per Hour	\$ 5,500.00
7	60 Tons of Asphalt @ \$70.00 Tons Per Hour	\$ 4,200.00
8	8 Hours Supervision @ \$60.00 Per Hour	\$ 480.00
	10% O & P	\$ 1,245.30

**Please Sign And Return One Copy To PRO-LOW Office**

Original Contract Amount:	
Net of Previous Changes:	
Previous Contract Amount:	\$ -
Net Changes by this C.O.:	\$ 13,698.30
Adjusted Contract Amount:	\$ 13,698.30

Low Mountain Construction

PRO-LOW JOINT VENTURE

Accepted \_\_\_\_\_ 20\_\_

By \_\_\_\_\_

By \_\_\_\_\_