

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

THIS FIFTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (this "Fifth Amendment") is made as of June 20, 2013, 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 (the "Original Agreement"), as amended by that certain First Amendment dated October 4, 2007 (the "First Amendment"), as amended by that certain Second Amendment, dated June 21, 2010 (the "Second Amendment"), as amended by that certain Third Amendment, dated October 6, 2011 (the "Third Amendment") and as amended by that certain Fourth Amendment, dated June 21, 2012 for the Contractor to provide youth arts services (the "Services"). The Original Agreement, First Amendment, Second Amendment, Third Amendment and Fourth 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 Fifth Amendment to (i) extend the term of the Agreement, (ii) modify the Scope of Work of the Agreement, (iii) revise the payment provision and (iv) provide for compensation to the Contractor for the 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, 2014.
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.
3. Compensation. The Town shall pay Contractor an annual aggregate amount not to exceed \$70,240.00 for the Services as set forth in the Scope of Work attached hereto as Exhibit A.

4. Payments. The Town shall pay the Contractor for the Services on a quarterly basis in conjunction with the submittal by Contractor of quarterly reports, as set forth in the Scope of Work attached hereto as Exhibit A. Quarterly reports shall be due no later than the 10th of the month following the end of each quarter. Quarterly payments of \$17,560.00 shall be paid on July 1, 2013, October 1, 2013, January 1, 2014 and April 1, 2014; provided, however, that the Town shall have the right, based upon the information provided in the quarterly reports, to reduce the April 1, 2014 payment as necessary if costs to the Contractor for providing the Services during the term of this Fifth Amendment are estimated to be less than \$70,240.00.

The Town shall pay the Contractor for the Services on a quarterly basis following the submittal of Contractor reports, as set forth in the Scope of Work attached hereto as Exhibit A. Reports shall be due no later than the 10th of the month following the completion of the Services. Quarterly payments shall be paid on July 1, 2013, October 1, 2013, January 1, 2014 and April 1, 2014.

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 Fifth 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 Fifth 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 Fifth Amendment are forever waived.

7. Conflict of Interest. This Fifth Amendment may be cancelled 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:

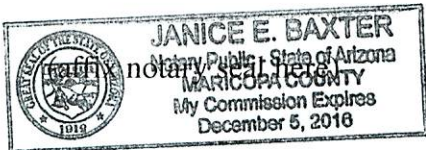
Bevelyn J. Bender
Bevelyn J. Bender, Town Clerk

(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on June 21, 2013, by Kenneth W. Buchanan, 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 FOLLOWING PAGE]

“Contractor”

FOUNTAIN HILLS COMMUNITY THEATER, INC.,
an Arizona corporation

By: VAL STASIK

Name: Val Stasik

Its: Executive Director

(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on June 11, 2013,
by VAL STASIK as Executive Director of FOUNTAIN HILLS
COMMUNITY THEATER, INC., an Arizona corporation, on behalf of the corporation.



Catherine E. Whynot
Notary Public in and for the State of Arizona

(affix notary seal here)

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

[Scope of Work]

See following page.

**TOWN OF FOUNTAIN HILLS FY13-14 CONTRACT SCOPE OF WORK
PROGRAM: YOUTH ARTS
CONTRACTOR: FOUNTAIN HILLS COMMUNITY THEATER**

PROPOSED FUNDING:

\$70,240

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.

Payment Terms:

Funding will be provided in four equal installments – July 1, 2013, October 1, 2013, January 1, 2014, April 1, 2014.

Reporting:

A report after each production will be provided to the Town that includes number of attendees, per ticket price and number of performances.