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CITY CLERK'S OFFICE MEMO

cityclerk@hiawatha-iowa.com

319-393-1515 ext.526

To: Mayor and City Council

From: City Clerk and City Administrator

Date: March 14, 2019

RE: Newsletter Preparation Agreement

For the past couple of months, Kim and I have been discussing the time it takes to prepare and process the newsletter. In our discussions we determined it takes a total of eight (8) hours to take the articles give by department heads and arranging them in a newsletter format, proof and reset. Kim and I also discussed the task that are waiting my attention while I am formatting the newsletter together. We determined the task could be better served by contract versus in-house. We then met with Cynthia Petersen in regards to her preparing the Hiawatha Monthly Newsletter the "Hiawatha Insights". Ms. Petersen is very capable in her ability to format and process our city newsletter in the same amount of time that we can but at a much lower rate.

Ms. Petersen would collect information for articles, events and other content provided by the City Administrator and Department Heads and include the writing, editing, layout/formatting necessary to provide a finished electronic document in PDF format ready for the City's use in publication and distribution.

The variable scope and cost portion of this service will include the cost of time at $20 per hour for materials for curation, editing, layout/formatting of content not provided by the City. To summarize, monthly newsletter formatting and production contractor cost at $160 versus $368 in-house (projected cost based on combined hourly rate and benefits).

The clerk's office will continue to oversee the production of the newsletter with any variation to the scope of work to be reviewed/approved by the City Clerk's office prior to performance, detailed by receipt and billed separately from the fixed scope costs.

The City shall retain all rights and responsibilities associated with content and publication of the "Hiawatha Insights."

It is at this time that Kim and I would ask for council to approve a contract with Hiawatha News – Cynthia Petersen allowing us to save time and money. Thank you for your consideration of this item. As always, please let us know if you have any additional questions.

Kari

EXHIBIT A: DESCRIPTION OF SERVICES

GENERAL CONTRACT FOR SERVICES – PREPARING THE CITY OF HIAWATHA'S MONTHLY NEWSLETTER THE "HIAWATHA INSIGHTS"

This General Contract for Services (the "Agreement") is made effective as of _____, 2019, by and between the City of Hiawatha of 101 Emmons Street, Hiawatha, Iowa 52233 (the "City"), and Hiawatha News of 885 30th Street, Marion, Iowa 52302 (the "Provider"). The City and the Provider may hereinafter be referred to collectively as the "Parties".

1. DESCRIPTION OF SERVICES. Beginning on _____, 2019, the Provider will provide to City the following services (collectively, the "Services"):

Summary: Prepare the City of Hiawatha's monthly newsletter known as the "Hiawatha Insights".

The fixed scope and cost portion of this service will include the collection of information from the City Administrator and Department Heads on articles, events, and other content they provide. It will include the writing, editing, layout/formatting necessary to provide a finished electronic document in PDF format ready for the City's use in publication and distribution.

The variable scope and cost portion of this service will include the cost of time ($20/hr) and materials for curation, editing, layout/formatting of content not provided by the City, (e.g. interviews, articles, event coverage, photography, etc.) and any costs associated with additional hard copy or electronic distribution or promotion requested by the City. Any variable scope will be reviewed/approved by the City prior to performance, detailed by receipt and billed separately from the fixed scope costs described within Paragraph 2 below.

The City shall retain all rights and responsibilities associated with content and publication of the "Hiawatha Insights." This Agreement does not entitle Hiawatha News any copy rights to the information provided by the City. Public information contained within the published "Hiawatha Insights" may be used by Hiawatha News with permission and proper accreditation to the "Hiawatha Insights" publication.

2. PAYMENT. Payment shall be made to Provider in regular payments of $160.00 per month until termination of this Agreement pursuant to Paragraph 3 below. Payment for any variable scope of work will be due within thirty 30 days of delivery of the finished Hiawatha Insights in PDF format.

If City of Hiawatha fails to pay for the Services when due, Hiawatha News has the option to treat such failure to pay as a material breach of this Agreement, and may cancel this Agreement and/or seek legal remedies.

Payment for any variable scope of work will be due within thirty (30) days of delivery of the billing receipt.

3. TERM. This Agreement may be terminated by either party upon thirty (30) days' prior written notice to the other party.

4. WORK PRODUCT OWNERSHIP. Any copyrightable works, ideas, discoveries, inventions, patents, products, or other information (collectively the "Work Product") developed in whole or in part by Provider in connection with the Services will be the exclusive property of the City. Upon request, Provider will execute, within a reasonable period of time, all documents necessary to confirm or perfect the exclusive ownership of the City to the Work Product.

5. CONFIDENTIALITY. Provider, its employees, agents, or representatives will not at any time or in any manner, either directly or indirectly, use for the personal benefit of Provider, or divulge, disclose, or communicate in any manner, any information that is proprietary to the City. Provider, its employees, agents, and representatives will protect such information and treat it as strictly confidential. This provision will continue to be effective after the termination of this Agreement. Any written waiver by the City of these confidentiality obligations which allows Provider to disclose the City's confidential information to a third party will be limited to a single occurrence tied to the specific information disclosed to the specific third party, and the confidentiality clause will continue to be in effect for all other occurrences.

6. DEFAULT. The occurrence of any of the following shall constitute a material default under this Agreement:

a. The failure to make a required payment when due.

b. The insolvency or bankruptcy of either party.

c. The subjection of any of either party's property to any levy, seizure, general assignment for the benefit of creditors, application or sale for or by any creditor or government agency.

d. The failure to make available or deliver the Services in the time and manner provided for in this Agreement.

7. REMEDIES. In addition to any and all other rights a party may have available according to law, if a party defaults by failing to substantially perform any provision, term or condition of this Agreement (including, without limitation, the failure to make a monetary payment when due), the other party may terminate the Agreement by providing written notice to the defaulting party. This notice shall describe with sufficient detail the nature of the default. The party receiving such notice shall have ten (10) days from the effective date of such notice to cure the default(s). Unless waived in writing by a party providing notice, the failure to cure the default(s) within such time period shall result in the automatic termination of this Agreement.

8. FORCE MAJEURE. If performance of this Agreement or any obligation under this Agreement is prevented, restricted, or interfered with by causes beyond either party's reasonable control ("Force Majeure"), and if the party unable to carry out its obligations gives the other party prompt written notice of such event, then the obligations of the party invoking this provision shall be suspended to the extent necessary by such event. The term Force Majeure shall include, without limitation, acts of God, fire, explosion, vandalism, storm or other similar occurrence, orders or acts

of military or civil authority, or by national emergencies, insurrections, riots, or wars, or strikes, lock-outs, work stoppages or other labor disputes, or supplier failures. The excused party shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. An act or omission shall be deemed within the reasonable control of a party if committed, omitted, or caused by such party, or its employees, officers, agents, or affiliates.

9. ENTIRE AGREEMENT. This Agreement contains the entire agreement and understandings of the Parties, and there are no other promises or conditions in any other agreement whether oral or written concerning the subject matter of this Agreement. This Agreement supersedes any prior written or oral agreements between the Parties.

10. SEVERABILITY. If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Agreement invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

11. AMENDMENT. This Agreement may be modified or amended in writing by mutual agreement between the Parties, if the writing is signed by the party obligated under the amendment.

12. GOVERNING LAW; VENUE. This Agreement shall be construed in accordance with the substantive and procedural laws of the State of Iowa. The Parties further consent to venue and jurisdiction of any federal of state court located in Linn County, Iowa.

13. NOTICE. Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing.

14. WAIVER OR CONTRACTUAL RIGHT. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

15. ATTORNEY'S FEES TO PREVAILING PARTY. In any action arising hereunder or any separate action pertaining to the validity of this Agreement, the prevailing party shall be awarded reasonable attorney's fees and costs, both in the trial court and on appeal.

16. CONSTRUCTION AND INTERPRETATION. The rule requiring construction or interpretation against the drafter is waived. The document shall be deemed as if it were drafted by both Parties in a mutual effort.

17. ASSIGNMENT. Neither party may assign or transfer this Agreement without the prior written consent of the non-assigning party, which approval shall not be unreasonably withheld.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representative as of the date first above written.

Service Recipient:
City of Hiawatha

By: _____
Kim Downs, City Administrator

Service Provider:
Hiawatha News

By: _____
Cynthia Petersen

DRAFT

RESOLUTION NO. 19-
City Council

RESOLUTION APPROVING A CONTRACT AGREEMENT BETWEEN THE CITY OF HIAWATHA AND HIAWATHA NEWS TO PREPARE THE CITY OF HIAWATHA'S MONTHLY NEWSLETTER THE "HIAWATHA INSIGHTS"

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HIAWATHA, IOWA, that the City Administrator is hereby authorized to sign a General Contract for Services Agreement with Hiawatha News, for the following purpose:

to prepare the City of Hiawatha's monthly newsletter known as the "Hiawatha Insights", as shown in the attached Exhibit 'A'.

AYES:
NAYS:
ABSENT:

PASSED AND APPROVED this 20th day of March, 2019.

_____
Bill Bennett, Mayor

ATTEST:

_____
Kari Graber, City Clerk