

**CLIENT: City of Prairie Village, KS
Community Engagement and Communications On-Call Services
CONSULTANT SERVICES AGREEMENT**

THIS AGREEMENT is made on June 5, 2023 by and between City of Prairie Village, KS [hereinafter "Client"], and Shockey Consulting Services, LLC, [hereinafter "Consultant"]. Client intends to contract with consultant to Community Engagement and Communications On-Call Services [hereinafter "Project"].

Client hereby contracts with consultant for the furnishing of professional services in connection with said Project, for the furnishing of such consulting services more particularly described herein in consideration of these premises and of the mutual covenants herein set forth. By executing this Agreement, Consultant represents to Client that Consultant is professionally qualified to do this Project.

SECTION I - DEFINITIONS

As used in this Agreement, the following terms shall have the meanings ascribed herein unless otherwise stated or reasonably required by this Agreement, and other forms of any defined words shall have a meaning parallel thereto.

"Client" means City of Prairie Village, KS

"Consultant" means Shockey Consulting Services, LLC.

"Consulting Documents" means all documents required or reasonably implied by the nature of the Project, including, but not limited to, plans, presentation materials, written materials.

"Consulting Services" means the professional services, labor, materials, supplies, and other acts or duties required of Consultant under this Agreement together with such other services as Client may require pursuant to the terms of this Agreement.

"Project" is as above described.

"Project Representative" means the person designated to represent Client in coordinating this Project with Consultant with authority to transmit instructions and define policies and decisions of Client.

SECTION II - PAYMENT

A. COMPENSATION.

1 On Call with No Maximum: Client agrees to pay Consultant a fee based on the actual hours expended on the project at the rates indicated in the attached Fee Schedule, Exhibit "A".

2. Reimbursable Expenses: Reimbursable **expenses are billed to Client as part of invoicing**. The Client agrees to pay reimbursable expenses including expense of transportation in connection with the Project; expenses in connection with authorized travel; long-distance communications; expenses of printing and reproductions, postage; expenses of maps, renderings and models requested by Client and other costs as authorized by Client. Reimbursable expenses do not include overhead costs or additional insurance premiums. Expenses will be billed at cost and not marked up.
3. Billing: Consultant shall bill Client monthly for all services and reimbursable expenses. The bill submitted by the consultant shall itemize the services and reimbursable expenses for which payment is requested. Client agrees to pay Consultant within thirty (30) days of approval. Consultant agrees to submit herewith such financial information as shall be required by Client.
4. Client's Right to Withhold Payment: In the event Client becomes credibly informed that any representations of consultant provided in its monthly billing, are wholly or partially inaccurate, Client may withhold payment of sums then or in the future otherwise due to consultant until the inaccuracy and the cause thereof, is corrected to Client's reasonable satisfaction. In the event Client questions some element of an invoice, that fact shall be made known to the Consultant immediately. Consultant will help effect resolution and transmit a revised invoice if necessary. Amounts not questioned by Client shall be paid to consultant in accordance with the contract payment procedures. Failure of Client to make non-disputed payments to consultant in accordance with this Agreement shall be considered substantial nonperformance and cause for termination.
5. Time is of the Essence: Consultant will perform the services in a timely manner; however, if during their performance, for reasons beyond the control of Consultant, protracted delays occur, the parties agree that they will renegotiate the schedule.
6. Change in Scope: For substantial modifications in authorized project scope, and/or substantial modifications of drawings and/or specifications previously accepted by Client, when requested by Client and through no fault of Consultant, Consultant shall be compensated for time and expense required to incorporate such modifications at Consultant's standard hourly rates per Exhibit "A". Provided, however, that any increase in Contract Price or Contract Time must be approved through a written Change Order. Consultant shall correct or revise any errors or deficiencies in the Project without additional compensation when due to Consultant's negligence.
7. Additional Services: Consultant shall provide Client's concurrence services in addition to those listed in Section III when such services are requested or authorized in writing by Client. Prior to entering into any additional services, the Consultant must submit a proposal outlining the additional services to be provided, an estimation of total hours, and a maximum fee based upon the hourly fee schedule attached hereto as Exhibit "A." Reimbursable expenses incurred in conjunction with additional services shall be paid separately, and those reimbursable expenses shall be paid at

actual cost. Records of reimbursable expenses and expenses pertaining to additional services and services performed on an hourly basis shall be made available to the Client if so, requested in writing. Production of these records shall be made at the Consultant's office during normal business hours within a reasonable time on a date and time mutually convenient to both parties.

8. Change Orders: This Agreement may be amended to provide for additions, deletions, and revisions in the work or to modify the terms and conditions thereof by either written amendment or by change order. The Contract Price and Contract Time may only be changed by a written change order approved by Client unless it is the result of an emergency in which case the Project Representative may give written approval to be followed by a written and approved change order. If notice of any change affecting the general scope of the work or provisions of this Agreement, including but not limited to, Contract Price or Contract Time, is a requirement of any insurance policy held by consultant as a requirement of this Agreement, the giving of such notice shall be Consultant's responsibility.

SECTION III - RESPONSIBILITIES OF CONSULTANT

Consultant shall furnish and perform the various professional duties and services in all phases of the Project to which this Agreement applies as herein provided and which are required for the completion of the Project which services shall include:

A. SERVICES

The types of potential services to be provided are set out in Exhibit "B" attached hereto and incorporated by reference.

B. GENERAL DUTIES AND RESPONSIBILITIES

1. Personnel: Consultant shall assign only qualified personnel to perform any service concerning the Project. At the time of execution of the Agreement, the parties anticipate that the Sheila Shockey will perform as the principal on this project. As principal on this project, this person shall have authority to bind Consultant. The project manager for the project is: "**SHOCKEY PROJECT MANAGER**". They will have primary communication with client project representative. All billing and contracting issues should be discussed with the consultant principal.

2. Independent Contractor: Consultant is an independent contractor and as such is not an agent or employee of Client.

3. Special Services: Consultant may be called on to serve as a consultant or witness in any litigation, arbitration, legal or administrative proceeding arising out of this Project. Consultant shall not be paid extra by Client if its appearance is to defend its professional services. If Consultant is requested in writing by Client to appear as a general witness, it will be paid its hourly fee as reflected on the hourly rate schedule attached hereto as Exhibit "A".

4. Subcontracting of Service: Consultant shall not subcontract or assign any of the consulting services to be performed under this Agreement without first obtaining the written approval of Client regarding the work to be subcontracted or assigned and the consulting firm or person proposed to accomplish the subcontracted/assigned portion of the project. Such approval shall not unreasonably be withheld by Client. Neither Client nor Consultant shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. For this project, some of the communications tasks will be subcontracted to Mays Communications.

5. Professional Responsibility: Consultant will exercise reasonable skill, care and diligence in the performance of its services as is ordinarily possessed and exercised by a professional consultant in the same community under similar circumstances. If Consultant fails to meet the foregoing standard, Consultant will perform at its own cost, and without reimbursement from Client the professional services necessary to correct errors and omissions which are caused by Consultant's failure to comply with the above standard.

SECTION IV. CLIENT RESPONSIBILITIES

A. GENERAL DUTIES AND RESPONSIBILITIES

1. Communication: Client shall provide to consultant information and criteria regarding Client's requirements for the project; examine and timely respond to questions and submissions; and give written notice to consultant if the Client observes or otherwise becomes aware of any defect in the work.

2. Program and Budget: Client shall provide full information, including a program which shall set forth Client's objectives, schedule, constraints, budget with reasonable contingencies, and other necessary information.

3. Access: If necessary, Client will provide access for consultant to enter public and private property provided adequate notice of such need is provided to Client.

4. Duties: Client shall furnish and perform the various duties and services in all phases of the Project which are outlined and designated in Exhibit "B" as Client's responsibility.

5. Project Representative: Client shall designate Sheila Shockey as the project representative to represent Client in coordinating this project with consultant, with authority to transmit instructions and define policies and decisions of Client. Written consent shall be required to approve any increase in Project cost.

SECTION V - GENERAL PROVISIONS

A. TERMINATION

1. Notice: Client reserves the right to terminate this Agreement for either cause or for its convenience and without cause or default on the part of consultant, by providing

ten (10) days written notice of such termination to consultant. Upon receipt of such notice from Client, Consultant shall, at Client's option as contained in the notice: (1) immediately cease all work; or (2) meet with Client and, subject to Client's approval, determine what work shall be required of consultant to bring the Project to a reasonable termination in accordance with the request of Client. Consultant shall also provide to Client copies of all documents completed or partially completed at the date of termination.

If Client defaults on its obligation under this Agreement, Consultant is entitled to terminate this contract by providing ten (10) days written notice.

2. Compensation for Convenience Termination: If Client shall terminate for its convenience as herein provided, Client shall compensate Consultant for all work completed to date of its receipt of the termination notice. Compensation shall not include anticipatory profit or consequential damages, neither of which will be allowed.

3. Compensation for Default Termination: If Client shall terminate for cause or default on the part of Consultant, Client shall compensate Consultant for the reasonable cost of work completed to date of its receipt of the termination notice. Compensation shall not include anticipatory profit or consequential damages, neither of which will be allowed. The client also retains all its rights and remedies against consultant including but not limited to its rights to sue for damages, interest and attorney fees.

4. Incomplete Documents: Neither the Consultant nor its subcontractors shall be responsible for errors or omissions in documents which are incomplete because of an early termination under this Section, Consultant having been deprived of the opportunity to complete such documents and certify them.

B. DISPUTE RESOLUTION

Client and Consultant agree that from time to time, there may be conflicts, disputes and/or disagreements between them, arising out of or relating to the services of Consultant, the Project or this Agreement (hereinafter collectively referred to as "Disputes"). Therefore, Client and Consultant agree that all Disputes arising out of this Agreement or related to the services provided under this Agreement shall be resolved by mediation.

1. Any mediation shall take place in Johnson County, Kansas.
2. The prevailing party in any mediation relating to any Dispute shall be entitled to recover from the other party those reasonable attorney fees, costs and expenses incurred by the prevailing party in connection with the Dispute.

C. OWNERSHIP OF DOCUMENTS

All documents prepared in connection with this Project shall be the property of consultant, whether the project for which they are made is executed or not, however,

Consultant will provide Client a copy of all final documents, including but not limited to prints and reproductions. Reports, plans, written materials, and related documents are Consultant's instruments. Provided that the Consultant is paid in full for its services, then Client may subsequently reuse these final documents without any additional compensation or agreement of consultant. The consultant may use the materials delivered for the purpose of marketing their services to other clients.

D. INSURANCE

The CONSULTANT shall maintain the following minimum insurance at CONSULTANTS sole cost to protect against claims arising out of the services performed under this AGREEMENT.

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation Employers' Liability	Statutory \$1,000,000 per Accident
Commercial General Liability Bodily Injury (including death) and Property Damage	\$2,000,000 Combined Single Limit \$4,000,000 annual aggregate

This policy shall be endorsed to include contractual liability coverage.

Commercial Automobile Liability Bodily Injury (including death) and Property Damage	\$1,000,000 Combined Single Limit
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This policy shall include all vehicles used in connection with the AGREEMENT whether owned, unowned, or hired.

Professional Liability	\$1,000,000 per claim and annual aggregate
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This insurance shall be maintained for a period of five (5) years after completion of all services by CONSULTANT.

Policies providing the insurance specified under subsection D shall be endorsed to include CLIENT as additional insured, and all policies shall include a provision restricting the right of the insurer to cancel or change such coverage except upon thirty (30) days' written notice to CLIENT. Certificates evidencing the coverage above shall be delivered to the CLIENT prior to performing any services under this AGREEMENT and CLIENT's receipt of proper certificates of insurance shall be a condition precedent to CONSULTANT'S right to receive payment hereunder.

Consultant shall purchase and maintain in a company or companies authorized to do business in the State of Kansas such insurance as described in the agreement. Consultant agrees to maintain policies of insurance as required herein for as long as this Agreement is in force and effect, and as to the professional liability policy, if any, for a period of five (5) year(s) following the Date of Substantial Completion of the Project. Consultant's obligation to maintain the professional liability policy for five (5) years following the Date of Substantial Completion is subject to the general availability of such professional liability insurance policy in the marketplace, with no commercially unreasonable increase in premium, therefore. With respect to all of the insurance required by this Agreement, Consultant shall deliver to Client certificates of insurance, in a form and substance reasonably acceptable to Client within ten (10) days after execution of this Agreement.

With respect to the insurance coverages which are required to remain in force after the Date of Substantial Completion, a certificate of insurance evidencing continuation of such coverage shall be submitted along with the Consultant's invoice for its last payment under the terms of this Agreement, and at least annually thereafter where applicable. The certificates of insurance, as well as insurance policies required by this Agreement, shall contain a provision that coverage will not be materially changed, materially altered, cancelled, or allowed to expire until at least 30 days' prior written notice has been given to Client.

E. INDEMNIFICATION

For purposes of this Agreement, Consultant hereby agrees to indemnify and hold harmless Client, its employees, and agents from any and all loss where loss is caused or incurred in whole or in part as a result of the negligence or other actionable fault of consultant, its affiliates, subsidiaries, employees, agents and subcontractors/assignees and their respective servants, agents and employees. Consultant's obligation hereunder shall not include amounts attributable to the fault or negligence of Client or any third party for whom Consultant is not responsible.

F. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by both parties to this Agreement.

G. NO THIRD-PARTY BENEFICIARIES

Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.

H. COMPLIANCE WITH LAWS

Consultant shall abide by all applicable federal, state, and local laws, ordinances and regulations applicable to the work. Consultant shall secure all occupational and professional licenses, permits, etc., from public and private sources necessary for the fulfillment of his obligations under this Agreement.

I. TITLES, SUBHEADS AND CAPITALIZATION

Title and subheadings as used herein are provided only as a matter of convenience and shall have no legal bearing on the interpretation of any provision of the Agreement. Some terms are capitalized throughout the Contract but the use of or failure to use capitals shall have no legal bearing on the interpretation of such terms.

J. SEVERABILITY CLAUSE

Should any provision of this Contract be determined to be void, invalid, unenforceable, or illegal for whatever reason, such provision(s) shall be null and void; provided, however, that the remaining provisions of this Contract shall be unaffected thereby and shall continue to be valid and enforceable.

K. EXECUTION OF CONTRACT

The parties hereto have caused the Agreement to be executed this 5 day of June, 2023

CLIENT NAME

By: 

APPROVED AS TO FORM

By: 

CONSULTANT

Shockey Consulting Services, LLC

By: Sheila Shockey
Sheila Shockey, President

**EXHIBIT A
FEES FOR SERVICE**

Shockey Consulting Services, LLC. Fees will be billed on an hourly basis by consultant classification as follows:

Hourly Rate Schedule

Consultant V	\$200/hour
Consultant IV	\$175/hour
Consultant III	\$150/hour
Consultant II	\$125/hour
Consultant I	\$90/hour
Administrative	\$75/hour

REIMBURSABLE EXPENSES

Reimbursable expenses will be reimbursed per Section II, Sub-section A, Part 3 of this agreement.

EXHIBIT B TYPES OF SERVICES TO PROVIDE DESCRIPTION

Shockey Consulting Services can provide the following types of services as part of this on-call agreement. These are subject to change as negotiated between client and consultant.

- Facilitate a workshop with Council, Mayor + Key Staff on Media, Communications & Engagement Strategies
- Develop key messages for important community issues and Prairie Village story.
- Meet with staff to audit existing communication and engagement methods, messages, and plan.
- Prepare a recruitment plan to get people to the housing forums and other community engagement forums coming up in 2023.
- Enhance existing communications tools and update messaging around housing, form of government, community center and other major projects and policy decisions.

