

October 8, 2012
**GENERAL SERVICES COMMITTEE
MINUTES**

COMMITTEE MEMBERS PRESENT

Mike Kennedy, Chairperson
Ron Edinger
Steve Adams

CITIZENS PRESENT

Tom Hasslinger, CDA Press

STAFF PRESENT

Michael Kempton, Parks
Wendy Gabriel, City Administrator
Mike Gridley, City Attorney
Jon Ingalls, Deputy City Administrator
Susan Weathers, City Clerk
Renata McLeod, City Clerk Apprentice
Juanita Knight, Senior Legal Assistant

Item 1. (Accepting) Quit Claim Deed / Access to Fernan Lake Natural Area.

On behalf of Doug Eastwood, Mike Kempton explained that staff is requesting Council accept a Quitclaim Deed from Idaho Transportation Department allowing public access across state owned land. The staff report noted that the City has been accessing the land for several years and has a previous quitclaim deed dated January 31, 2008. A sub-division was also proposed to cross this same portion of land. This quitclaim clears up the language and use for the purpose of the city crossing state land for public access to a trail head into the Fernan Lake Natural Area.

Councilman Kennedy asked about the clause reverting the property back to the state should the property no longer be for public use.

Mike Gridley by qc it to us they can keep a reversionary requirement. The city has it in some other if not use for park purposes, then it will revert back to the federal government. It's not unusual to have this this kind of clause in a recreational use situation.

Councilman Adams shared an email the he and Councilman Kennedy received over the weekend from the Armstrong Park HOA. The HOA shared concerns with the City accepting the quitclaim deed.

Councilman Edinger motioned to table this item to the October 22nd General Services meeting to allow staff time to address the concerns of the Armstrong Park HOA.

THIS ITEMS WAS TABLED UNTIL THE OCTOBER 22, 2012 GENERAL SERVICE COMMITTEE MEETING.

**Item 2. Professional Services Contract / Information – Communications Professional.
(Resolution No. 12-041)**

Wendy Gabriel is requesting Council authorize an Independent Contractor Agreement for a Communications Professional. The position was approved during the budget process. Mrs. Gabriel said that administration had two project coordinator positions that were recently eliminated. With the savings from those positions, a portion is proposed for the Communications Professional position. She also noted that one of the eliminated positions handled all of the press releases, radio notes, and matters such as that. She now needs someone to take those duties over. This position will consult with the City on other important matters and how we can better share info and communicate with the public. One priority will be to get the City connected on Facebook and Twitter.

Councilman Adams asked about the IRS disclaimer in the contract and asked if the City had any experience with independent contractors and the IRS. Ms. Gabriel said not to her knowledge. The language is standard independent contractor language. The contract language was taken from LCDC when they hired their information consultant.

Councilman Edinger asked who would be responsible for giving the contractor the services to be performed as well as extended, modified or curtailed as stated in the agreement. Mrs. Gabriel said the contractor will work directly with her and she will manage the responsibilities. Mrs. Gabriel said she will not work in a vacuum, she'll work with the department heads and whatever focus area is needed at the time. As far as the contractor's hours are concerned, she is limited to the budget she has. However, if she proposes the contractor work more hours, she would bring that to City Council for approval.

MOTION: by Councilman Kennedy that Council approve the Independent Contractor Agreement for an Information / Communication Professional. With lack of a second the item will be forwarded to the full City Council without recommendation of the General Services Committee.

The meeting adjourned at 12:20 p.m.

Respectfully submitted,

Juanita Knight
Recording Secretary

RESOLUTION NO. 12-041

A RESOLUTION OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO AUTHORIZING AN INDEPENDENT CONTRACTOR AGREEMENT FOR A COMMUNICATIONS COORDINATOR CONSULTANT WITH KRISTINA LYMAN.

WHEREAS, the City Administrator has recommended that the City of Coeur d'Alene enter into an Independent Contractor Agreement with Kristina Lyman for Communication Coordinator Consultant responsibilities pursuant to terms and conditions set forth in an agreement, a copy of which is attached hereto as Exhibit "1" and by reference made a part hereof; and

WHEREAS, it is deemed to be in the best interests of the City of Coeur d'Alene and the citizens thereof to enter into such agreement; NOW, THEREFORE,

BE IT RESOLVED, by the Mayor and City Council of the City of Coeur d'Alene that the City enter into an Agreement for a Communications Coordinator Consultant, in substantially the form attached hereto as Exhibit "1" and incorporated herein by reference with the provision that the Mayor, City Administrator, and City Attorney are hereby authorized to modify said agreement to the extent the substantive provisions of the agreement remain intact.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk be and they are hereby authorized to execute such agreement on behalf of the City.

DATED this 16th day of October, 2012.

Sandi Bloem, Mayor

ATTEST:

Susan K. Weathers, City Clerk

Motion by _____, Seconded by _____, to adopt the foregoing resolution.

ROLL CALL:

COUNCIL MEMBER GOODLANDER Voted _____

COUNCIL MEMBER MCEVERS Voted _____

COUNCIL MEMBER GOOKIN Voted _____

COUNCIL MEMBER KENNEDY Voted _____

COUNCIL MEMBER ADAMS Voted _____

COUNCIL MEMBER EDINGER Voted _____

_____ was absent. Motion _____.

INDEPENDENT CONTRACTOR AGREEMENT

THIS INDEPENDENT CONTRACTOR AGREEMENT ("**Agreement**") is made and entered into as of October __, 2012 ("**Effective Date**") by and between City of Coeur d'Alene ("**City**"), and Kristina Lyman, an individual ("**Contractor**"). The City and Contractor agree as follows:

SERVICES, DUTIES AND RESPONSIBILITIES

On behalf of the City, Contractor shall provide the services, duties and responsibilities of the communications coordinator consultant as are outlined in the Description of Services attached as Exhibit 1 and incorporated herein by reference (the "**Services**"). The Services to be performed by Contractor may be extended, modified or curtailed, from time to time, at the discretion of the City, in consultation with Contractor. The Contractor shall devote, during the Term of this Agreement, such time, energy, and skill as is necessary in the performance of the Services. The manner in which the Services are to be performed, the specific hours to be worked by the Contractor and the Contractor's schedule shall be determined by the Contractor in consultation with the City. However, Contractor agrees to work as many hours as may be reasonably necessary to fulfill the Services, which the Contractor estimates will take 15 hours per week. The Contractor covenants to perform such Services in accordance with industry standards and in accordance with generally accepted practices and principles of the communications trade.

COMPENSATION

Compensation. Contractor shall be paid \$65.00 per hour for Services rendered pursuant to this Agreement. Contractor shall track billable time in .5 hour increments and include a detailed description of Services performed. Contractor shall submit to City a monthly invoice for Services performed no later than the 5th day of each calendar month, and City shall pay Contractor monthly in arrears, or at such more frequent intervals as determined by mutual agreement of the parties. The City may withhold a portion of payment from the Contractor's invoice for non-conforming or substandard Services, or for any billing discrepancies that City determines in its sole and absolute discretion.

INDEPENDENT CONTRACTOR RELATIONSHIP

Independent Contractor. It is understood and agreed that in the performance of the Services under this Agreement, Contractor shall at all times act as an independent contractor with respect to the City, whereby Contractor shall not be an employee of the City for any purpose. Accordingly, except as otherwise provided herein, the City shall not have or exercise any specific control over the particular method or methods by which Contractor performs the Services required by this Agreement.

Benefits. The City shall not be responsible for providing worker's compensation coverage for Contractor nor shall Contractor be entitled to any benefits which the City provides for its employees, including but not limited to vacation pay, sick leave, retirement benefits, health and disability and unemployment insurance benefits.

Responsibility for Taxes. Contractor shall not be treated as a City employee for tax purposes. The City will not withhold from any payment under this Agreement any sums for federal or state income tax, unemployment insurance, social security or any other withholding pursuant to any law or requirement of any governmental body. All such tax payments and withholdings, if any, with respect to Services rendered under this Agreement are the sole responsibility of Contractor, which responsibility Contractor agrees to carry out as required by applicable law. Contractor shall indemnify and hold the City harmless from any and all loss or liability arising from Contractor's failure to make any appropriate income tax payments, self-employment tax payments or other payments required on behalf of Contractor.

Internal Revenue Service. In the event the Internal Revenue Service or any other governmental agency should question or challenge the independent contractor status of Contractor, the parties agree that each party shall have the right to participate in any discussion or negotiation occurring with such agency or agencies regardless of by whom such discussions or negotiations are initiated.

TERMINATION

Termination. Either party may terminate this Agreement at any time. Upon the termination of this Agreement, the City shall have no further obligation to Contractor. Within fourteen (14) days after termination of this Agreement, the Contractor shall return all copies of City's confidential or Proprietary Information (defined below). Upon the termination of this Agreement as provided herein, the City shall pay the Contractor for work performed due for the month in which the termination occurs based on the date of the termination. Otherwise, the City shall have no further obligation to the Contractor. Furthermore, upon termination of this Agreement, the City shall have no obligation to employ the Contractor or enter into any other independent contractor agreement with the Contractor.

FAIR COMPETITION COVENANTS

Nondisparagement Covenant. Except as otherwise required by law, Contractor will not directly or indirectly, during the term of this Agreement and following the termination of this Agreement, for any reason, intentionally make statements materially injurious to the business reputation or good will of the City or any of its directors, its officers or employees. Nothing in this provision shall prevent Contractor from giving truthful information to the extent required by subpoena or other legal process.

Confidentiality Covenant. Contractor shall not, without the City's prior consent, disclose to any person, firm or corporation, any financial information, marketing strategies, business plans, or Proprietary Information of the City or its affiliates, which Contractor may have acquired in the course of performance of the Services. The term "**Proprietary Information**" shall mean all confidential, proprietary, or other knowledge, data or information of the City or its affiliates. Proprietary Information includes, but is not limited to, (i) confidential information of or about the City or its affiliates that is commercially valuable, and (ii) information that is not a public record pursuant to Idaho State Statutes. This Agreement does not cover, and the term Proprietary Information does not include, Contractor's exercise and use of Contractor's own skill, knowledge, know-how, and experience to whatever extent and in whichever way Contractor may wish. Proprietary Information does not include information that Contractor

establishes is generally known in the trade or industry and which is not gained because of a breach of this Agreement.

Breach of Covenants. By execution of this Agreement, Contractor agrees that the remedy at law for any breach of the foregoing covenants would not be adequate for the protection of the City, and that upon any breach thereof by Contractor, the City will be entitled to seek injunctive relief to prevent or curtail such a breach without necessity of a bond. Such injunctive relief shall be in addition to and not in place of any other remedies available at law or equity. Contractor acknowledges that the provisions of this Article 5 and the covenants contained in this Agreement (i) are the result of specific negotiations between the City and Contractor, (ii) are reasonable, and (iii) permit Contractor to obtain gainful employment without breaching such covenants. However, if at the time of enforcement of this Article 5, a court shall hold that any restriction stated in this Agreement is unreasonable under circumstances then existing, the parties agree that the restriction shall be amended as necessary to comply with applicable law. Moreover, such a determination shall not affect the binding effect of the other provisions of this Article 5 or of any of the other provisions of this Agreement.

PROPRIETARY INFORMATION

Proprietary Information. Except as herein provided, nothing in this Agreement shall be construed as granting the Contractor expressly, by implication, estoppel or otherwise, any right, title, or interest in any (i) Proprietary Information or (ii) any patent, trademark, or copyright now or hereafter owned or controlled by the City. Contractor acknowledges and agrees that Contractor holds no title or ownership rights in the Proprietary Information or other intellectual property of the City, and that the City retains all rights, title and interest, including, but not limited to, all copyrights and trademarks, in and to the Proprietary Information and other intellectual property. If, at any time, Contractor creates an unlicensed or unauthorized work that is derivative of or based upon any Proprietary Information, Contractor hereby assigns and agrees to assign to Contractor all rights, title and interest in and to any such works.

Work Product. All work relating to the Services or the business of the City, which is fixed in any tangible medium of expression (including without limitation drawing, sketches, websites, reports, memoranda, letters, lists, analyses, charts, spreadsheets, models, devices, and materials), and which is or has been created or supplied, directly or indirectly, by Contractor on behalf of the City in connection with Contractor's provision of the Services pursuant to this Agreement ("**Work Product**"), shall constitute a work made for hire, and all rights under the copyright laws to such Work Product shall belong exclusively to the City or its designee. To the extent that any Work Product may be found not to be a work made for hire, Contractor unconditionally assigns and agrees to hereby assign to the City all copyright rights in and to the Work Product. In addition, any other proprietary information, knowledge, or skill created in connection with Contractor's provision of the Services shall belong exclusively to the City, and Contractor shall execute any additional documents reasonably requested by the City to apply for trademarks or copyrights or otherwise perfect, register, or assign such ownership rights.

Reasonableness; Proper Relief. The parties agree and acknowledge that the provisions in this Article 6 are reasonable and necessary to protect the legitimate interests of the parties and that any breach thereof will cause substantial and irreparable harm that would not be quantifiable and for which no adequate remedy would exist at law. The parties may seek appropriate relief to specifically enforce the provisions in this Article 6.

INDEMNIFICATION.

Contractor shall indemnify and hold harmless the City and its officers, employees, agents, representatives and affiliates from and against any and all losses, costs, expenses, claims, damages and liabilities to which the City may become subject under any applicable law or claim made by any third party, to the extent any such liabilities relate to or arise out of the Services performed by Contractor.

DISPUTE RESOLUTIONS.

Dispute Resolution Procedure. Except as otherwise provided in Article 5, if a dispute arises, under this Agreement, the parties will first attempt direct discussions. If the discussions are unsuccessful, the parties shall mediate pursuant to the Commercial Mediation Rules administered by the American Arbitration Association (“AAA”). If the dispute continues, the parties shall arbitrate pursuant to the Commercial Arbitration Rules administered by the AAA, with a judgment to be entered upon the arbitration award.

Attorney’s Fees. The prevailing party shall be entitled to recover from the losing party its attorneys’ fees and costs incurred in any action brought to enforce any right arising out of this Agreement.

INTERPRETATION.

Governing Law, Jurisdiction and Venue. This Agreement shall be interpreted in accordance with and governed by the laws of the State of Idaho. The federal and state courts of Idaho have jurisdiction, and venue or any mediation, arbitration or litigation shall be in Kootenai County, Idaho.

Notices. All notices and other communications (“**Notices**”) shall be in writing and may be delivered (i) in person, with the date of notice being the date of personal delivery, (ii) by United States Mail, postage prepaid for certified or registered mail, return receipt requested, with the date of notice being the date of the postmark on the return receipt, (iii) by fax, with confirmation of the transmittal of the fax and a copy of the fax deposited on the same day in the United States Mail, with the date of notice being the date of the fax, (iv) by e-mail, with confirmation of sending of the e-mail and a copy of the e-mail deposited on the same day in the United States Mail, with the date of notice being the date of the e-mail, (v) by nationally recognized delivery service such as Federal Express, with the date of notice being the date of delivery as shown on the confirmation provided by the delivery service. Notices shall be addressed to the following addresses, or such other address as one party shall provide the other parties:

City: City of Coeur d’Alene
Attn: City Clerk
710 E. Mullan Ave.
Coeur d’Alene, Idaho 83814

Contractor: Kristina Lyman
3136 E. York Ct.
Hayden, Idaho 83835

Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the City and its successors and assigns. In view of the personal nature of the services to be performed under this Agreement by Contractor, Contractor shall not have the right to assign or transfer any of Contractor rights, obligations or benefits under this Agreement, except as otherwise noted in this Agreement.

Waiver. A waiver by the City or Contractor of a breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach by the other party.

Entire Agreement. This Agreement constitutes the entire agreement between Contractor and the City. This Agreement supersedes all prior negotiations, representations or agreements between Contractor and the City, whether written or oral.

Severability. If any one or more of the provisions (or any part thereof) of this Agreement shall be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions (or any part thereof) shall not in any way be affected or impaired thereby.

Amendments. This Agreement may only be modified or amended by a supplemental written agreement signed by Contractor and the City.

City of Coeur d'Alene

Independent Contractor

Sandi Bloem, Mayor

Kristina Lyman

Attest:

Susan K. Weathers, City Clerk

STATE OF IDAHO)
) ss.
County of Kootenai)

On this 16th day of October, 2012, before me, a Notary Public, personally appeared **Sandi Bloem** and **Susan K. Weathers**, known to me to be the Mayor and City Clerk, respectively, of the City of Coeur d'Alene that executed the foregoing instrument and acknowledged to me that said City of Coeur d'Alene executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at _____
My Commission Expires: _____

STATE OF IDAHO)
) ss.
County of Kootenai)

On this _____ day of October, 2012, before me, a Notary Public, personally appeared **Kristina Lyman**, known to me to be the person whose name is subscribed to the within instrument and acknowledged that she voluntarily executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at _____
My Commission Expires: _____

EXHIBIT 1

SERVICES, DUTIES, AND RESPONSIBILITIES

The communications coordinator consultant is responsible for enhancing and expanding the City's vision, mission and priorities through direct verbal and written communications with news media, municipal officials, legislative representatives, and the community in general who inquire about the City's proactive efforts.

The communication coordinator's services, duties and responsibilities include, but are not limited to:

- Create written content in a timely manner to maximize public outreach and involvement about the City's current and future projects and services.
- Attend necessary City meetings and share details with the media.
- Routinely create fresh web and hard copy materials to better inform the public about the City's work.
- Promote a detailed understanding of the City's goals and objectives through online communications and written correspondence.
- Respond and offer timely feedback to public questions/concerns and misrepresentations after consulting with executive director when necessary.
- Gather Information (immersion)
 - Crash course in city departments, meet with key folks
 - Attend committee meetings
 - Attend city council meetings/workshops
 - Review recent minutes to get up to speed
 - Understand how the city currently communicates with its citizens. How is feedback provided? Is this working, can it be improved?
- Build communication tools
 - Set up Facebook and Twitter, populating it, developing a posting plan
 - Review blog, developing posting plan, writing blogs
 - Review website and identify ways to strengthen it as a communication tool
 - Messaging/FAQ
- Develop Stories
 - Identify/write/pitch local/regional stories
 - Cull existing stories and repurpose them
- Develop Plans and strategies
 - Social media
 - Branding
 - Media relations (includes building out contacts, story archiving)
 - Measure effectiveness of communication efforts
 - Develop tracking/reporting mechanisms for web, social media, media efforts.