

CITY OF PROSSER, WASHINGTON
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made by and between The City of Prosser, a Municipal Corporation, hereinafter referred to as "City" and Prosser Record Bulletin, hereinafter referred to as "Contractor".

RECITALS

WHEREAS, City desires to secure the professional services of Contractor; and

WHEREAS, Contractor represents and warrants that he/she is duly qualified and trained, to provide professional services; and

WHEREAS, City and Contractor wish to memorialize their Agreement in writing;

NOW THEREFORE, in consideration of the mutual covenants, conditions and promises contained herein, the parties enter into the following:

AGREEMENT

1.00 ENGAGEMENT. City hereby engages Contractor to provide professional services as the City's official newspaper for 2013.

2.00 DURATION OF AGREEMENT. This Agreement shall commence on **January 15, 2014**.

3.00 SERVICES. Contractor shall provide professional services as indicated in the newspaper bid documents dated December 18, 2013 from Victoria Walker, Editor, and other necessary services pursuant to the terms and conditions hereinafter described.

4.00 COMPLIANCE WITH LAWS, RULES AND REGULATIONS. Contractor shall comply fully with all applicable laws, rules and regulations promulgated by the Federal Government and its agencies, the State of Washington and its agencies, and the Ordinances and policies of City. Contractor specifically agrees to obtain a City of Prosser business license prior to beginning work on the contract.

5.00 RENEGOTIATION. In the event federal, state or local government, or agencies thereof, promulgate laws or rules and regulations which affect the terms and conditions contained herein, this Agreement shall be immediately subject to renegotiation upon the initiative of either party.

6.00 ADMINISTRATION The Mayor shall administer this Agreement on behalf of the City.

7.00 RELATIONSHIP OF PARTIES. The parties intend that an independent contractor relationship will be created by this Agreement. The City is interested primarily in the results to be achieved; subject to paragraphs herein, the implementation of services will lie solely with the

discretion of the Contractor. No agent, employee, servant or representative of the Contractor shall be deemed to be an employee, servant or representative of the City for any purpose, and the employees of the Contractor are not entitled to any of the benefits the City provides for its employees except as otherwise expressly provided herein. Contractor shall be solely responsible for paying all employment taxes, including income tax, Social Security, Employment Security and Labor and Industries and any other such employment taxes that may arise to Contractor by way of services. Contractor shall defend and hold City harmless from any and all of the above stated taxes or employment assessments. Contractor will be solely and entirely responsible for its act and for the acts of any agents, employees, servants, subcontractors or representatives during the performance of this Agreement. In the performance of the services herein contemplated the Contractor is an independent contractor with the authority to control and direct the performance of the details of the work, however, the result of the work contemplated herein must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory completion thereof.

8.00 CONSIDERATION. Subject to paragraph 11.00, below, and such other provisions as may be contained elsewhere herein, City agrees to pay Contractor in accordance with the bid documents submitted on January 3, 2013 for the above work. If during the course of the Contract, the work rendered does not meet the requirements set forth in the Contract, the Contractor shall correct or modify the required work to comply with the requirements of the Contract. The City shall have the right to withhold payment for such work until it meets the requirements of the Contract. No payment shall be made for any work performed by the Contractor except for the work identified and set forth in this Contract.

9.00 BILLING. Contractor shall submit an invoice which describes all services provided and provides the amount due to City on a monthly basis on or before the 15th of each month for the prior month.

10.00 DISPUTE RESOLUTION

10.01 Any dispute arising from the interpretation or administration of the Agreement shall first be resolved by a meeting between Contractor and supervisor listed in 6.00. If closure is not reached at such meeting, the dispute shall be referred to the Mayor of the City of Prosser. Upon hearing testimony from both the Contractor and supervisor, within seven (7) days of such hearing, the Mayor shall render a written report which shall be final and binding upon Contractor.

11.00 TERMINATION/TERM OF THE AGREEMENT

11.01 The term of this agreement shall be for the 2014 calendar year commencing on **January 15, 2014** through **December 31, 2014**.

11.02 Either party may terminate this Agreement without cause by delivering to the other thirty (30) days written notice of such termination.

11.03 City may terminate this Agreement immediately and without prior notice provided such termination is for cause. "Cause" shall be defined as: (1) any material breach of

an express provision contained in this Agreement, (2) failure of Contractor to perform or provide services as agreed upon herein or (3) death or disability of Contractor. In the event of termination for cause, Contractor or his/her heirs shall be entitled to any sums for which services has been provided prior to such termination.

12.00 GENERAL PROVISIONS

12.01 WAIVER. Failure by either party at any time to require performance by the other of any of the provisions hereof shall in no way affect the party's rights hereunder to enforce the same, nor shall waiver by him of any breach hereof be held to be a waiver of any succeeding breach, nor a waiver of this non-waiver clause.

12.02 BINDING EFFECT. The covenants, terms and conditions of this Agreement shall extend to, be binding upon and inure to the benefit of Contractor and City and to City's successors and assigns.

12.03 ASSIGNMENT. Nothing contained in this Agreement shall be construed to permit the assignment by Contractor of any right or obligations hereunder, and such assignment is expressly prohibited without the prior written approval of City.

12.04 INTERPRETATION. This Agreement shall be interpreted according to, and enforced under, the Laws of the State of Washington. Venue for any legal action under this Agreement shall be in Benton County, State of Washington.

12.05 SEVERABILITY. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such circumstances shall not affect any other provision(s) hereof, and this Agreement shall be construed as if such provisions had never been contained herein.

12.06 AMENDMENTS. This Agreement may be amended only by an instrument reduced to writing and signed by the parties hereto.

12.07 HOLD HARMLESS AND INDEMNIFICATION. The Contractor shall indemnify and hold the City and its agents, employees, and/or officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, loss, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, or in connection with, or incident to, the execution of this Agreement and/or the Contractor's performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers, this indemnity provisions shall be valid and enforceable only to the extent of the negligence of the Contractor; and provided further, that nothing herein shall require the Contractor to hold harmless or defend the City, its agents, employees, and/or officers for damages or loss caused by the City's sole negligence. The Contractor expressly agrees that the indemnification provided herein constitutes the contractor's waiver of immunity under Title 51 R.C.W., for the purposes of this Agreement. The parties have mutually negotiated this waiver. The provisions of this section shall survive the expiration or termination of this Agreement.

12.08 NOTICE. All notices, requests, demands and other communications required by or permitted under this Agreement shall be reduced to writing and deemed to have been duly given when received by the party to whom directed: Provided however, that notice shall be deemed conclusively given at the time of its deposit when sent by Certified or Registered mail, Return Receipt Requested, at the address as set forth below, or such other address as is hereafter designated by either party by written notice thereof to the other party.

CITY: City of Prosser
Attn: Rachel Shaw, City Clerk
601 7th Street
Prosser, Washington 99350
(509) 786-2332

CONTRACTOR: Prosser Record Bulletin
Attn: Victoria Walker, Editor
613 7th Street
PO Box 750
Prosser, Washington 99350
(509) 786-1711

13.09 NUMBER, GENDER AND CAPTION. In construing this Agreement, it is understood that if the context so requires, the singular shall include the plural and the plural the singular. The masculine and neuter shall include the masculine, feminine and neuter as the context requires. All captions used herein are intended solely for convenience for reference, shall in no way limit any provision(s) of this Agreement and are not to be considered in the interpretation of its terms.

13.10 CONFLICT OF PROVISIONS. In case of conflict, the more specific provision of this Agreement shall control.

13.11 TIME. Time is of the essence of this Agreement.

13.12 ENTIRE AGREEMENT. This document is the entire, final and complete Agreement of the parties pertaining to the engagement of Contractor for professional services and supercedes and replaces all written and oral agreements heretofore made or existing by and between the parties insofar as the engagement hereinabove described is concerned.

13.13 DUPLICATE ORIGINALS. At the time of signing this Agreement, the parties acknowledged that two (2) copies were signed and each shall be treated as a duplicate original.

14.00 NON-DISCRIMINATION. Each party agrees that it shall not discriminate against any person on the grounds of race, creed, color, religion, national origin, sex, age, marital status, political affiliation or belief, sexual orientation as defined in RCW 49.60.040, or the presence of any sensory, mental or physical handicap in violation of any applicable federal or state law or regulation and each party agrees to be an Equal Opportunity Employer.

Signed and dated by the parties as hereinafter described:

CITY: By Paul Warden 1-17-2014
MAYOR PAUL WARDEN DATE

ATTEST:

Rachel Shaw
CITY CLERK RACHEL SHAW

APPROVED AS TO FORM:

[Signature]

CITY ATTORNEY HOWARD SAXTON

CONTRACTOR: [Signature] 1-29-14
DATE

Danielle Fournier
PRINTED NAME

Publisher
TITLE

Form W-9 Completed and Attached: Yes _____ No _____