CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

4(h)

ITEM: Motion to Approve Contract with BasicLeigh Communications LLC

DATE: December 11, 2017

FINANCIAL IMPACT:

Final cost will be determined based on the project manager's hours devoted to the project – which is somewhat unknown and is dependent on the scope of the project and the complexities of the system ultimately purchased. It is estimated that the project manager could spend up to 20-30 hours per week during peak times of the 12-18 month implementation. The preferred project manager has proposed a rate of $90/hour which compares favorably to project managers of similar skill and experience.

Staff's best estimate at overall hours and cost are 800 hours and $75,000 cost. The budget for the overall software conversion project includes $175,000 allocated in the approved FY 17-18 budget, which was estimated to represent roughly half of the project. Remaining funds needed to complete the project will be included in staff's recommended FY 18-19 budget.

BACKGROUND:

Council may recall that ClientFirst Consulting Group was selected to assist the City in the selection of a new HRIS (Human Resources Information System). At this time we are evaluating three vendor in order to make our final selection – which will take place sometime in the next few months. Due to the complexity of the system, the training needed and the number of employees and departments involved it will be more advantageous to have a local project manager overseeing the project and working with the new vendor.

The Deputy City Manager, Finance Director and Human Resources Director interviewed two potential managers. BasicLeigh Communications was the most experienced and skilled in project management. In fact, this vendor was approved by Council in May 2015 to offer project management in the implementation of our current financial software (New World).

OUTSTANDING ISSUES (if any):

RECOMMENDATION:

Approve the proposed agreement with BasicLeigh Communications LLC for project management consulting services and authorize the Human Resources Director to execute the document on behalf of the City.

Lead Staff Member: Jane Pauba Dodge, Human Resources Director

STAFF REVIEWS

Department Director	Jané Pauba Dodge	Jane Pauba Dodge
Appropriations/Finance		
Legal		
Agenda Acceptance		

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee			
Date Reviewed			
Recommendation	Yes	No	Split

BasicLeigh
COMMUNICATIONS

Writing, Marketing & Public Relations Counsel
basicleighcommunications@mchsi.com
cell: 515.360.5349

November 28, 2017

Proposal and Work Agreement for Contracted Project Management and Communication Services for the City of West Des Moines

THIS PROJECT MANAGEMENT and COMMUNICATION SERVICES PROPOSAL AND WORK AGREEMENT (hereinafter "Agreement") is made and entered into on this ___ day of _____, 20___, by and between the City of West Des Moines, an Iowa municipality (hereinafter "Client"), and BasicLeigh Communications, LLC, organized under the laws of the state of Iowa (hereinafter "Consultant").

Description and Scope of Work

The Consultant shall perform the following services for the Client:

To act and function in the capacity as the City of West Des Moines' Project Manager on the People Management System Implementation Project Management Services (hereinafter "Project"), which is comprised of tasks related to the purchase and installation of human resources software. With guidance from the Client, the Consultant shall supervise and manage all aspects of the Project and shall regularly communicate and coordinate Project activities with the Client and the Client's other chosen vendors, contractors and professionals on the Project, including members of the Client's internal stakeholder teams and assignees. Project management services also shall include the following work and tasks pertaining to the Project:

A. With the Client, monitor the Project budget and oversee payments and financial record keeping and reporting; and

B. Attend and participate in Project team and review meetings, including the Client Steering Committee and/or other committee meetings, as necessary or as directed by the Client Project Executive Sponsor(s) and make recommendations as appropriate; and

C. Ensure all internal and external team members, including, but not limited to other vendors, contractors and professionals on the Project, are on task, meeting required deadlines and timetables, timely and fully performing and complying with their contractual obligations and duties, and staying within the Client's approved budget parameters; and

D. In collaboration with the **Client's other vendors, contractors and professionals,** prepare and implement all project management plans, policies, procedures, and protocols required by the applicable terms and provisions of any local, state or federal laws, regulations, and/or grants; and

E. Manage and administer all phases of the Project, and be physically present at the **Client's offices** for reasonable periods of time to adequately perform the duties of the Project Manager as outlined herein; and

F. Prepare and provide to the Client written status reports on a monthly basis or on a more or less frequent basis as directed by the Client Project Executive Sponsor(s), which reports shall include Project status information, default/deviation information, and any other information requested by the Client Project Executive Sponsor(s). In collaboration with the **Client's other vendors, contractors and professionals,** prepare and submit a Project final-completion report to the Client and the Steering Committee; and

G. Unless otherwise directed, ensure the Client Project Executive Sponsor(s) is/are copied on all written correspondence sent by the Consultant to any person or party relating to the Project, including governmental agencies, third parties, consultants/vendors, internal team members; and

H. In collaboration with the **Client's other vendors, contractors and professionals,** develop and implement communication protocols for the Project. Throughout the phases of the Project, create and disseminate appropriate communications to and for internal stakeholders regarding the Project after seeking and obtaining approval from the Client Project Executive Sponsor(s); and

I. In collaboration with the **Client's other vendors, contractors and professionals,** develop and implement a comprehensive records management policy for the Project. Keep and maintain accurate records and files pertaining to the Project; and

J. Promptly respond to requests for information or guidance made by the Client Project Executive Sponsor(s) or her/his designee, as well as vendors, contractors and professionals on the Project, and provide summary progress updates at regularly scheduled meetings as requested by the Client Project Executive Sponsor(s) or her/his designee; and

K. Make recommendations to the Client Project Executive Sponsor(s) and/or her/his designee or Project assignees, as directed, regarding Project management

issues, including, but not limited to, budget, contract compliance, and hardware/software issues; and

L. After obtaining the approval of the Client Project Executive Sponsor(s), utilize subcontractors to perform any required Project management tasks or activities beyond the scope of the Consultant's expertise; and

M. Allow the Client representatives and representatives of city, state and federal agencies, to inspect, copy and audit the Consultant's records pertaining to the Project; and

N. As deemed necessary and reasonable by both the Client and the Consultant, perform other tasks and duties related to the management of the Project, as directed by the Client Project Executive Sponsor(s).

Milestones

In collaboration with the Client Project Executive Sponsor(s) and the Client's other vendors, contractors and professionals, the Consultant shall develop milestones based on the Statement of Work prepared for the Client by its chosen software vendor. The milestones shall be communicated in writing by the Consultant to the Client, as well as any modifications made to the milestones.

Assuming a Project start date of _____, 20___, it is understood the desired Project duration established by the Client Project Executive Sponsor(s) shall be approximately ___ months. Assuming full and timely cooperation and collaboration by all parties, and barring any other unavoidable or unforeseen events stipulated in other sections of this Agreement, the Consultant shall make every effort to perform all duties, tasks and responsibilities detailed in this Agreement within ___ months of the Project's official start date.

To achieve Project completion within the desired ___-month time period, it is expected the Consultant shall work an average of 15-30 hours per week, as deemed appropriate and necessary by the Consultant. It is understood more or fewer hours may be worked at the discretion of the Consultant. When more than 30 hours per week are necessary, the Consultant shall work those hours upon notification to and approval from the Client Project Executive Sponsor(s).

Project Blackout Dates[1]
March 12-16, 2018
July 3-6, 2018
July 30-August 15, 2018

[1] *Other dates as deemed necessary and mutually agreed upon by the Client and the Consultant.*

August 31-September 5, 2018
November 20-23, 2018
December 23, 2017, through January 1, 2018
March 11-15, 2019

Fees, Invoices and Compensation

The Client shall pay the Consultant compensation for services rendered under this Agreement at the rate of $90 per hour and the agreed upon costs described herein below.

PAYMENT FOR COSTS. The Client shall reimburse the Consultant for any approved subcontractors' fees and costs incurred by the Consultant, with no mark-up or add-on compensation due to the Consultant. The Client shall have no obligation to reimburse the Consultant for any costs or expenses whatsoever incurred by the Consultant in connection with the performance of her contractual duties hereunder unless said costs or expenses are preapproved orally or in writing by the Client Project Executive Sponsor(s). The Client shall reimburse the Consultant for all out-of-pocket expenses incurred by the Consultant in performing services under this Agreement. Such expenses include, but are not limited to, (a) software or hardware additions required for the Consultant to adequately interface with the Client's and others' computer systems, including software agreed to upon in writing by both parties that will enhance the Client's achievement of its goals; (b) travel expenses at the rate of $45 per hour; (c) and other expenses resulting from the work performed under this Agreement. The Consultant shall submit an itemized statement of these expenses with the corresponding monthly invoice, as provided in the Invoices section herein. The Client shall pay the Consultant within 30 days from the date of each statement.

INVOICES. The Consultant shall submit electronic (via email) monthly payment and reimbursement invoices to the Client for work performed certified as being proper bills for work performed under this Agreement within five (5) days of the end of each monthly period beginning _____, 20___. Properly submitted invoices will be paid within 30 days of submission. If the Client objects to all or any portion of an invoice, the Client shall notify the Consultant and the parties shall immediately make every effort to settle the disputed portion. The Client agrees to pay the Consultant all portions of the invoice not in dispute within the prescribed time frames, and upon resolution, the agreed-upon amounts for any previously disputed portions of said invoice.

Invoices shall be prepared and sent via email by the Consultant to the Client Project Executive Sponsor(s) or her/his designee.

LATE FEES. Late payments by the Client will be subject to late penalty fees of 5 percent per month from the due date until the amount is paid.

Assumptions

- The Client shall provide access to all relevant organizational background information, files and personnel necessary to complete and manage this Project.
- Any out-of-pocket expenses for travel or production shall be discussed and approved orally or in writing by the Client, and invoiced as they occur within the agreed-upon monthly invoice schedule.
- Where possible, the Consultant shall use collateral materials already developed by the Client, however, when necessary, the Consultant shall advise and suggest additional materials to be created and produced by the Consultant, internal sources or other vendors, as deemed appropriate by the Client.
- Where possible, the Consultant will work with existing vendor partners and contractors, however, when necessary, the Consultant shall advise and suggest additional consultants or vendors be used to achieve Project success.

Contract Terms and Additional Services

Approval of these Agreement terms between the Consultant and the Client constitutes a binding contractual Work Agreement based upon this proposal, including any amendments to this proposal subsequently negotiated and agreed upon between the Consultant and the Client.

The Consultant and the Client agree that the Consultant shall provide additional services as the parties may mutually agree by executing an Addendum to the original Proposal and Work Agreement a subsequent Agreement and/or an additional, separate Proposal and Work Agreement.

In the event the Consultant and the Client agree that the Consultant shall provide additional services not included in this Proposal and Work Agreement, the parties shall mutually agree upon the fees to be paid by the Client for such additional services. The Consultant shall invoice the Client for such additional services in accordance with the agreement of the parties. Payment of invoices for additional services shall be governed by the terms of this Agreement.

INDEPENDENT CONTRACTOR. The parties intend that an independent contractor-Client relationship will be created by this Agreement. No employee, agent; representative or subcontractor of the Consultant shall be or shall be deemed to be the employee, agent representative or subcontractor of the Client. None of the benefits provided by the Client to its employees, including, but not limited to,

compensation, health or life insurance, and unemployment insurance are available from the Client to the Consultant.

AGREEMENT DURATION. The term of this Agreement shall commence on _____, 20___, and shall terminate upon final Project close-out, unless this Agreement is terminated sooner pursuant to any other sections of this Agreement. The parties understand and agree that final Project close-out shall occur after all close-out activities on the Project have been fully completed.

TERMINATION. Either party may terminate this Agreement, with or without cause, upon providing the other party thirty (30) days' written notice at its address set forth on the signature block of this Agreement. After termination, the Client may take possession of all records and data within the Consultant's possession pertaining to this Project, which may be used by the Client without restriction. If the Client's use of the Consultant's records or data is not related to this Project, it shall be without liability or legal exposure to the Consultant. Upon the termination of this Agreement, the Consultant shall be entitled to receive compensation for all services rendered up to the date of termination and reimbursement for all costs and fees of approved subcontractors incurred by the Consultant up to the date of termination. The final payment shall be processed and paid like other monthly payments as provided in the Fees, Invoices and Compensation section herein. The Consultant shall not be entitled to receive compensation or reimbursement for any services furnished by the Consultant or her subcontractors after the date of termination.

DISCRIMINATON. In the hiring of persons for the performance of work under this Agreement or any subcontract, the Consultant, its subcontractors, or any person acting on behalf of the Consultant or subcontractor shall not, by reason of race, religion, color, sex, age, sexual orientation, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

INDEMNIFICATION. The Client shall defend, indemnify and hold the Consultant, its employees, agents, representatives or subcontractors harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorney fees, arising out of or in connection with the Consultant's performance of this Agreement, except for that portion of the injuries and damages caused by the Consultant's negligence.

Should a court of competent jurisdiction determine this Agreement is subject to any governing or applicable Iowa municipal, city, county or state laws, then, in the event of liability for damages arising out of bodily injury to persons or damages to property

caused by or resulting from the concurrent negligence of the Consultant and the Client, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence. The provisions of this section shall survive the expiration or termination of this Agreement.

NONDISCLOSURE AND NONSOLICITATION. The Consultant shall not directly or indirectly disclose to any person other than a representative of the Client at any time either during the term of this Agreement or following the termination or expiration thereof, any confidential or proprietary information pertaining to the Client, including but not limited to financial data, business plans, and software/hardware configurations or networks.

WORK PRODUCT OWNERSHIP. Any works copyrighted, ideas, discoveries, inventions, patents, products, or other information (collectively, the "work product") developed in whole or in part by the Consultant in connection with the services shall be the exclusive property of the Client. Upon request, the Consultant shall sign all documents necessary to confirm or perfect the Client's exclusive ownership to the work product.

INSURANCE. If directed and required by the Client, the Consultant shall procure and maintain for the duration of the Agreement, Professional Liability (Errors and Omissions) Insurance on an occurrence or per claims made basis against any claims that may arise from or in connection with the performance of the work hereunder by the Consultant, its employees, agents or subcontractors. The cost of such insurance shall be borne by the Client. The Consultant shall maintain limits on such insurance in the amount of $1 million per claim or occurrence with an aggregate of $1 million. The coverage shall contain no special limitations on the scope of protection afforded to the Client, its officers, officials, employees, agents, representatives or volunteers. The Consultant's insurance coverage shall be primary as respects the Client, its officers, officials, employees, agents, representatives or volunteers. Any deductibles or self-insured retentions must be declared to and approved by the Client. At the option of the Client, the insurer shall reduce or eliminate such deductibles and/or self-insured retentions shall not apply to the Consultant's liability to the Client and shall be the sole responsibility of the Consultant. Any insurance maintained by the the Client shall be in excess of the Consultant's insurance and shall not contribute with it. The Consultant agrees to provide the Client with certificates of insurance evidencing the required coverage before execution of this Agreement. Each insurance policy required by this clause shall be written on a "per claim form" for professional liability insurance and endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after sixty (60) days

prior written notice by certified mail, return receipt requested, has been given to the Client. The Client reserves the right to require complete, certified copies of all required insurance policies, at any time.

EXCHANGE OF INFORMATION. The Client shall perform its best efforts to provide reasonable accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. Each party agrees to promptly respond to written requests for information or guidance made by the other party and mutually cooperate with the other party in performing his or its duties or obligations under this Agreement.

OWNERSHIP AND USE OF RECORDS AND DOCUMENTS. Original documents, drawings, designs, reports, or any other records developed or created under this Agreement shall belong to and become the property of the Client. All records submitted by the Client to the Consultant shall be safeguarded by the Consultant. The Consultant shall make such data, documents, and files available to the Client upon the Client's request. The Client's use or reuse of any of the documents, data and files created by the Consultant for this Project by anyone other than the Consultant on any other project shall be without liability or legal exposure to the Consultant.

CLIENT'S RIGHT OF INSPECTION. Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the Client and shall be subject to the Client's general right of inspection and supervision to secure satisfactory completion.

MISCELLANEOUS PROVISIONS.

Resolution of Disputes and Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the state of Iowa. If the parties are unable to settle any dispute, difference or claim arising from the parties' performance of this Agreement, the exclusive means of resolving that dispute, difference or claim, shall only be by filing suit exclusively under the venue, rules and jurisdiction of the Polk County District Court, Des Moines, Iowa, unless the parties agree in writing to an alternative dispute resolution process. The Consultant and the Client hereby submits to the jurisdiction of the Polk County District Court for all purposes. In any claim or lawsuit, except for any costs and attorney's fees incurred by the Consultant regarding the Client's non-payment of the Consultant's fees and costs as provided in the Fees, Invoices, and Compensation section herein. The Client agrees to reimburse the Consultant's costs and reasonable attorney's fees incurred in enforcing the Agreement for any non-payment.

Written Notice
All communications regarding this Agreement shall be sent by registered U.S. mail to the parties at the addresses listed on the signature page of the Agreement, unless notified to the contrary. Any written notice hereunder shall become effective three (3) business days after the date of mailing by registered mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing.

Assignment
Any assignment of this Agreement by either party without the written consent of the non-assigning party shall be void. If the non-assigning party gives its consent to any assignment, the terms of this Agreement shall continue in full force and effect and no further assignment shall be made without additional written consent.

Modification
No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the Client and the Consultant.

Entire Agreement
The written provisions and terms of this Agreement, together with any Exhibit attached hereto, shall supersede all prior verbal statements of any officer or other representative of the Client, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Agreement. All of the above documents are hereby made a part of this Agreement. However, should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, the Consultant agrees that terms of the attached Exhibit shall prevail.

Construction of Agreement
In the event of a dispute between the parties as to the meaning of terms, phrases or specific provisions of this Agreement, the authorship of this Agreement shall not be cause for this Agreement to be construed against any party nor in favor of any party.

LIABILITY. The Consultant shall not be liable for loss, damage or delay of the Client's project due to circumstances beyond the Consultant's control. Such circumstances may include (but are not limited to) acts of God, public unrest, power outages, delay caused by third parties, and inability to contact the Client or the Client's contracted vendors or employees within what shall be considered reasonable time frames. In the event of such loss, damage or delay, the Consultant will make every effort to notify the Client immediately.

CONFIDENTIALITY. The Consultant shall not at any time or in any manner, either directly or indirectly, use for the personal benefit of the Consultant, or divulge, disclose or communicate in any manner any information that is proprietary to the Client. The Consultant shall protect such information and treat it as strictly confidential. This provision shall continue to be effective after the termination of this Agreement. Upon termination of this Agreement and a written request by the Client, the Consultant shall return to the Client any specified records, notes, documentation and other items that were used, created, or controlled by the Consultant during the term of this Agreement with the exception of items purchased by the Consultant and not reimbursed by the Client.

Notwithstanding any other provision in this Agreement, a party that receives confidential information (Receiving Party) will not be held criminally or civilly liable under any federal or state trade secret law for any disclosure of a trade secret that is made in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney and solely for the purpose of reporting or investigating a suspected violation of law. The Receiving Party also will not be held criminally or civilly liable under any federal or state trade secret law for any disclosure of a trade secret that is made in a complaint or other document that is filed in a lawsuit or other proceeding, provided such filing is made under seal. If the Receiving Party files a lawsuit for retaliation by the party that disclosed the confidential information (Disclosing Party) for reporting a suspected violation of law, the Receiving Party may disclose the Disclosing Party's trade secrets to the Receiving Party's attorney and use the trade secret information in the court proceeding if the Receiving Party files any document containing the trade secret under seal and does not disclose the trade secret, expect pursuant to court order.

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

Approvals and Signatures

If appropriate, the Consultant may choose to promote or exhibit completed work (developed as a result of the Consultant's performance of services) in a case study format for other or potential clients of the Consultant on any of the Consultant's interactive, online or collateral materials. Under such circumstances, the Client grants to the Consultant the limited right to access and exhibit the completed work to other or potential clients of the Consultant for illustrative purposes only.

A signature on this document constitutes the Client's approval of the fees and services as outlined above and authorization for the Consultant to commence fulfilling the contractual obligations. No services shall be performed without the Client's signature on this document.

This proposal is valid for 30 days from the date reflected on the first page of this document.

Client: City of West Des Moines

By:

Jane Pauba Dodge Date

NOTICES TO BE SENT TO:

Jane Pauba Dodge
Human Resources Director/
Project Executive Sponsor
City of West Des Moines
P. O. Box 65320
West Des Moines, IA 50265
Phone: 515.222.3602
Email: Jane.Dodge@wdm.iowa.gov

Consultant: BasicLeigh Communications, LLC

By:

Leigh R. McGivern Date

NOTICES TO BE SENT TO:

Leigh McGivern
President/Owner
BasicLeigh Communications, LLC
3725 SW 33rd Street
Des Moines, IA 50321-1928
Phone: 515.360.5349
Email: basicleighcommunications@mchsi.com