

**RESOLUTION AUTHORIZING EXECUTION OF CONTRACT FOR SERVICES
RELATED TO COMMUNICATIONS, SOCIAL MEDIA AND PUBLIC AFFAIRS**

WHEREAS, the Rensselaer County Industrial Development Agency (the Agency), is desirous of creating and maintaining excellent communications with potential developers and employers, with the financial community and with the general public, to include an active social media strategy and a high profile presence at economic development conferences and trade shows, and

WHEREAS, the firm of MOWER is well recognized in the region as a leading provider of the services necessary for the Agency to meet its goal of improved communications with parties essential to the success of the agency in fulfilling its mission to increase employment opportunities in the County, and

WHEREAS, the desired services are in the nature of professional services requiring special creative and technical skill, training and expertise, and

WHEREAS, MOWER is known to be accountable, reliable, responsible, possessed of the requisite skill, free of conflicts of interest, possessed of a good reputation, good judgment and integrity, good education and training, and creativity, now therefore be it

RESOLVED, that the Executive Director of the Agency is hereby authorized to enter into an agreement with MOWER for the provision of the desired services, substantially in the form of the attached proposed agreement, said agreement being subject to approval as to form by Agency Counsel.

Resolution ADOPTED by the following vote:

Ayes: 6

Nays: 0

Abstain: 0

July 11, 2019

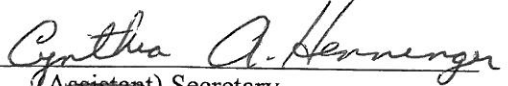
STATE OF NEW YORK)
) SS.:
COUNTY OF RENSSELAER)

I, the undersigned (Assistant) Secretary of Rensselaer County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on July 11, 2019 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 11th day of July, 2019.



(Assistant) Secretary

(SEAL)



June 10, 2019

Robert Pasinella, Executive Director Rensselaer County IDA
1600 Seventh Ave.
Troy, NY 12180
Via email: RPasinella@renesco.com

Dear Bob:

This letter describes terms of an updated agreement between the Rensselaer County Industrial Development Agency (hereinafter "Client") and Mower (hereinafter "Mower") (collectively "Client" and "Mower" may be referred to as "Parties" and individually as a "Party").

I. Scope of Work:

- a. Mower is retained by Client to provide public relations services and public affairs services for the Client which services will include but are not limited to: influencer relations, media strategy and publicity outreach; development of press releases, pitches, customer case studies; conference and trade show support; and social media strategy and consultation.
- b. Services that would be estimated and billed separately include such items as: brand development; production and development of any marketing materials such as brochures and direct mail pieces; website development; email marketing; public opinion research (polling, focus groups); crisis communications; development and placement of paid advertising.

II. Service Fee Agreement:

- a. This agreement will be in force from June 1, 2019 through December 31, 2019, or until the remaining fund balance is utilized, whichever is first.
- b. Client will have available at its disposal unused funds from the previous year's contract in the sum of \$18,399.99. Once these funds are expended the Client and Mower will need to engage in a new contract before more work can be completed. After December 31, 2019, Mower will keep any unspent funds.



- c. Time against the monthly fee will be tracked monthly at the following hourly rates:
 - \$225 Andrew Rush, and other directors, vice presidents and higher
 - \$200 Brendan Kennedy, other senior counselors
 - \$150 Brittany Gould
 - \$95 Associate Services
- d. Mower will not exceed the remaining fund balance without entering into a new agreement with the Client.
- e. At all times, all reasonable out-of-pocket costs (including travel, postage, photocopying, deliveries, phone charges, faxes, etc.) incurred by Mower shall be charged to the client at zero mark-up and in addition to other fees. Travel time for Mower travel will be tracked at \$100 per hour.
- f. Creative, advertising and production services (including direct mail and interactive services) will be estimated separately and apart from the rates stated above. For the protection of both Client and Mower, such services shall not be provided without express written approval of the estimate. Paid media and production services are commissionable at the industry standard rate of 15% gross of costs {17.65% of the net). If Mower's time for production or media services exceeds the amount compensated by the respective commission, Mower will bill production or media services by the hour for the excess time.
- g. All invoices are due within thirty [30] days. Interest will be charged on all past due invoices over 30 days at the rate of 1.0% per month. Should your invoice(s) remain unpaid more than 30 (thirty) days from invoice date, Mower reserves the right to suspend further activities until the account is paid in full.
- h. In certain circumstances, Mower and its vendors may require advanced payment for a part or all portions of an assignment. In those cases, an invoice will be issued by Mower for immediate processing and work will begin only when the invoice is paid.
- i. Overtime costs incurred by non-exempt staff of Mower resulting directly from Client delays or the need to have work completed in an overtime timeframe, because of deadlines or other obligations imposed by Client will be passed onto Client at cost, including any related out-of-pocket costs.
- j. Client or Mower may, with or without cause, terminate this agreement at any time upon ninety (90) days written notice. If Mower terminates the agreement, Mower shall be



paid all reasonable costs incurred (including media/production commissions), and fees earned to the date of termination and through demobilization and neither party shall be entitled to any other compensation or damages from the other. If Client terminates the agreement, Mower will be due all media and production commissions, hourly charges as stipulated and the full-service fee for the 90-day termination period regardless of the amount of Mower services required during the termination period.

- k. Any uncancellable or untransferable contracts made on the authorization of Client, which shall exist on the termination date, shall be carried to completion by Mower and paid for by Client.
- l. All materials produced for Client become the property of Client at the time of full payment of all monies owed. At all times prior to payment in full ownership of the materials shall remain with Mower. Any licensed materials are subject to the terms of the third party and/or Mower licensing agreement(s).
- m. Each Party shall not, without the express written permission of the other, reveal or otherwise make available to any other Party, any confidential information or trade secrets regarding each other's products, services, business, customers or methods of operation which were derived directly from either Party in contemplation of a potential business relationship.
- n. Client is responsible for all sales and use tax due on services or products provided under this Agreement. Mower shall collect such sales and use taxes and remit directly to the appropriate state agency. If, for any reason, Mower does not collect sales and use tax from a client and Mower is subsequently obligated to remit sales and use tax, Mower will be entitled to reimbursement and indemnification from the client for the amount of sales and use tax remitted, plus any and all penalties and interest.

III. Legal:

- a. Mower will indemnify, defend, and hold Client harmless from and against all losses, claims, liability, costs, damages, fines and expenses (including all legal fees and costs) incurred or suffered by Client arising directly or indirectly from any claim that the provision of the Services or the proper use of any deliverable infringes the copyright, trademark, trade secret, or contractual confidentiality rights of any third party. The Parties expressly acknowledge that Mower may, at the direction and for the benefit of Client, create, develop, and/or incorporate software (including without limitation free-standing programs, web applications, mobile applications, and other programming



code) that contains or performs functions that may be subject to third-party patent claims, and such claims are expressly excluded from Mower's duties of indemnity and defense hereunder. Mower will also indemnify Client for any loss or damage arising directly or indirectly out of Mower's negligent acts, misrepresentations, lack of performance or omissions.

- b. Client will indemnify, defend, and hold Mower harmless from and against all losses, claims, liability, costs, damages, fines and expenses (including all legal fees and costs) incurred or suffered by Mower arising directly or indirectly from any claim that (a) the improper use of any deliverable, (b) the unauthorized combination of any deliverable with any other software, services, or materials, or (c) any material provided by Client to Mower infringes the patent, copyright, trademark, trade secret, or contractual confidentiality rights of any third party. Client will also indemnify Mower for any loss or damages arising directly or indirectly out of the Client's negligent acts, misrepresentations, lack of performance or omissions.
- c. Mower is authorized to enter into media contracts for time or space on behalf of Client with prior approval from Client.
- d. Client agrees not to retain the services, directly as an employee or indirectly in another capacity, of Mower staff assigned to clients' business during the term of this agreement and for a period of one year after termination of this agreement. If Client does hire an employee assigned to its business, Client agrees to pay to Mower, as a finder's fee, 50% of the employee's annual salary being paid by Client at the time the employee terminates his/her relationship with Mower.
- e. At such time that work that Mower has performed for the Client becomes public, Client agrees to allow Mower to publicize the work/client name/logo for Mower's benefit unless the work is of a confidential nature or would not project a positive image of the Client. Mower agrees that such publicity shall not divulge or compromise any trade secrets or confidential information of the client.
- f. Client agrees to reimburse Mower for all expenses, including but not limited to, attorneys' fees and court costs, incurred by Mower with respect to the enforcement of any provision contained herein.
- g. Any legal action arising under or relating to this Agreement shall take place exclusively in either New York State Supreme Court in Onondaga County, New York or in the United States District Court for the Northern District of New York, at the election of



Agency. Client hereby consents to personal jurisdiction in those forums and waives defenses of improper venue and inconvenient forum. This Agreement shall be interpreted and governed by the laws of the State of New York without regard to conflict of law principles.

- h. Neither Party shall be deemed in default of this Agreement to the extent that performance of its obligations (other than Client's payment obligations) or attempts to cure any breach are delayed or prevented by reason of any act of God, fire, natural disaster, accident, riots, acts of government, acts of war or terrorism, shortage of materials or supplies, or any other cause beyond the reasonable control of such Party.

IV. Sequential Liability:

- a. Client will be solely liable for payment of vendor invoices until Client has paid Mower for such invoices. Following such payment by Client to Mower, Mower shall be solely liable for payment to vendors. This transfer of liability with payment is called sequential liability and is endorsed by the American Association of Advertising Agencies.

If the above terms and conditions are satisfactory to you, kindly indicate your acceptance in the space provided on the next page and return one copy to us at your earliest convenience.

MOWER

Andrew Rush
Director, Public Affairs

The terms and conditions are hereby accepted this 6th day of June 2019.

Rensselaer County Industrial Development Agency

Robert Pasinella, Executive Director