

COUNTY OF BARNSTABLE

PURCHASING

DEPARTMENT OF FINANCE

SUPERIOR COURT HOUSE

P.O. BOX 427

BARNSTABLE, MASSACHUSETTS 02630

Phone: (508) 375-6637

Fax: (508) 362-4136

Email:

edavis@barnstablecounty.org

Elaine Davis
Chief Procurement Officer

November 8, 2016

MEMORANDUM

TO: County Commissioners
FROM: Elaine Davis, Chief Procurement Officer
RE: Contract Renewal

Barnstable County issued a Request for Proposals from qualified contractors to provide Marketing Services for Children's Cove last year. The bid was awarded to Grouper Design as the responsive, responsible bidder offering the lowest prices. The term of the contract was for one year from the date of execution of the contract with two one year options to renew.

Please vote to exercise the option to renew the contract for one additional year. The term of the renewal will be from December 2, 2016 through December 1, 2017.

Thank you.

County Commissioners:

Sheila Lyons

Mary Pat Flynn

Leo Cakounes

Date

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Elaine Davis
Chief Procurement Officer

Phone: (508) 375-6637
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edavis@barnstablecounty.org

November 12, 2015

MEMORANDUM

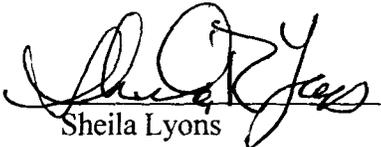
TO: County Commissioners
FROM: Elaine Davis, Chief Procurement Officer
RE: Bid Award

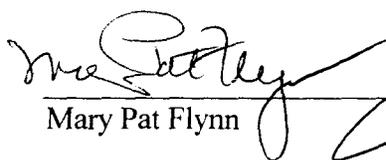
A Request for Proposals for Marketing Services for Children's Cove was issued on October 10, 2015. Only one bid was submitted from Grouper Design. The proposals were reviewed by Stacy Gallagher, Holly Brockman-Johnson and Nancy Raymond and were found to be Highly Advantageous.

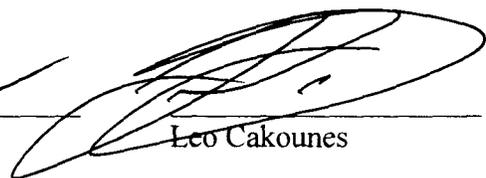
Please award the contract to Grouper Design as the responsive, responsible bidder evaluated as highly advantageous. See the attached cost proposal. The term of the contract is for one year from date of execution, with the option to renew for two additional one year terms.

Thank you.

County Commissioners:


Sheila Lyons


Mary Pat Flynn


Leo Cakounes

11/18/15
Date

AGREEMENT BETWEEN

Barnstable County
3225 Main Street
Barnstable, MA 02630

and

Grouper Design
939 Main St., Suite F2
Yarmouthport, MA 02675

THIS AGREEMENT is made this 2nd day of ~~December~~ 2015 by and between Grouper Design (hereinafter referred to as Contractor), and Mary Pat Flynn, Sheila Lyons and Leo Cakounes as they are the Commissioners of Barnstable County, but without any personal liability.

WITNESSETH, that the Contractor and County for the consideration hereinafter named agree as follows:

WHEREAS: The County Commissioners issued a Request for Proposals for Marketing Services for Children's Cove.

WHEREAS: The bids were bid in compliance with MA General Law Chapter 30B.

WHEREAS: The contractor is the responsive, responsible bidder offering the most advantageous proposal

NOW THEREFORE, the County and the Contractor do mutually agree as follows:

1. Employment of Contractor. The Vendor hereby agrees to perform the services hereinafter set forth in the Scope of Services. Contractor hereby agrees to hold the County harmless from any claims regarding worker's compensation benefits, unemployment compensation benefits, retirement benefits, or any other benefit normally attributable to the status of "employee" and Contractor specifically agrees to pay for all damages incurred by the County or Town, including costs, benefits, and reasonable attorney fees in the event the Contractor files such claim.
2. Scope of Services. The Vendor shall provide the services provided in the Scope of Services hereby attached as Attachment A.
3. Time of Performance. One year from the Execution of the contract, with two one year options to renew.
4. Payment. As submitted in the attached price proposal
5. Termination or Suspension of Contract for Cause. If through any sufficient cause, the Customer or the Town shall fail to fulfill or perform its duties and obligations under this Contract, or if either party shall violate or breach any of the provisions of this Contract, either party shall thereupon have the right to terminate or suspend this Contract, by giving written notice to the other party of such termination or suspension and specifying the effective date thereof. Such notice shall be given at least fifteen (15) calendar days before such effective date.
6. Termination for Convenience of County. The County or Towns shall have the right to discontinue the work of the Contractor and cancel this contract by written notice to the Contractor of such termination and specifying the effective date of such termination. In the event of such termination or suspension of this Contract, the Contractor shall be entitled to just and equitable compensation for satisfactory work completed, for services performed and for reimbursable expenses necessarily incurred in the performance of this Contract up to and including the date of termination or suspension.
7. Changes. The Towns may, from time to time, require changes in the Scope of Services to be performed hereunder. Such changes, including any increase or decrease in the amount of the

Customer costs, which are mutually agreed upon by the Town and the Customer, shall be incorporated in written amendments to this Contract.

8. Non-Discrimination in Employment and Affirmative Action. The Customer shall take affirmative action to ensure that qualified applicants and employees are treated without regard to age, race, color, religion, sex, marital status, sexual orientation, national origin, disability, or Vietnam Era Veteran status. The Customer agrees to comply with all applicable Federal and State statutes, rules and regulations prohibiting discrimination in employment including but not limited to: Title VII of the Civil Rights Act of 1964, as amended; Massachusetts General Laws Chapter 1518§(1); the Americans with Disabilities Act of 1990; and all relevant administrative orders and executive orders including Executive Order 246.

9. Subcontracting. None of the services to be provided to the Towns pursuant to this Contract shall be subcontracted or delegated in whole or in part to any other organization, association, individual, corporation, partnership or other such entity without the prior written approval of the Towns. No subcontract or delegation shall relieve or discharge the Customer from any obligation or liability under this Contract except as specifically set forth in the instrument of approval. If this Contract is funded in whole or in part with federal funds, Contractor further agrees to comply with the provisions of the Office of Management and Budget Circular A-110, as amended, with respect to taking affirmative steps to utilize the services of small and minority firms, women's business enterprises and labor surplus area firms. All subcontracts shall be in writing and shall contain provisions which are functionally identical to, and consistent with, the provisions of this Contract. The County shall have the right to obtain a copy of the subcontract upon request.

10. Interest of Members of Towns and Others. No officer, member or employee of the County, and no member of its governing body of the locality or localities in which the Project is situated or being carried out who exercises any functions or responsibility in the review or approval of the undertaking or carrying out of the Project, shall participate in any decision relating to this Contract which affects his personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly financially interested or has any personal or pecuniary interest, direct or indirect, in this Contract or the proceeds thereof.

11. Interest of Contractor. The Contractor covenants that it presently has no interest and shall not acquire any interest directly or indirectly which would conflict in any manner or degree with the performance of its services hereunder.

12. Assignability. The Contractor shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the Towns or County thereto; provided, however that claims for money due or to become due the Contractor from the Towns under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the County.

13. Recordkeeping, Audit, and Inspection of Records. The Contractor shall maintain books, records, and other compilations of data pertaining to the requirements of the Contract to the extent and in such detail as shall properly substantiate claims for payment under the Contract. All such records shall be kept for a period of seven (7) years or for such longer period as is specified herein. All retention periods start on the first day after final payment under this Contract. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of the action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later. If this contract is funded in whole or in part with state or federal funds, the state or federal grantor agency, the County or any of its duly authorized representatives or designees, shall have the right at reasonable times and upon reasonable notice, to examine and copy, at reasonable expense, the books, records and other compilations of data of the Contractor which pertain to the provisions and requirements of this Contract. Such access shall include on-site audits, review and copying of records.

14. Findings Confidential. Any reports, information, data, etc., given to or prepared or assembled by the Contractor under this Contract which the Towns requests to be kept as confidential shall not be made available to any individual or organization by the Contractor without the prior

written approval of the County or Towns.

15. **Publication, Reproduction and Use of Material.** No material produced in whole or in part under this Contract shall be subject to copyright in the United States or in any other country. The County and Towns shall have the unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data or other materials prepared under this Contract.

16. **Political Activity Prohibited.** None of the services to be provided by the Contractor shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

17. **Anti-Boycott Warranty.** During the term of this Contract, neither the Contractor nor any "affiliated company" as hereafter defined, shall participate in or cooperate with an international boycott, as defined in Section 999 (b) (3) and (4) of the Internal Revenue Code of 1954, as amended by the Tax Reform Act of 1986, or engage in conduct declared to be unlawful by Sections 2 and 3 of Chapter 151E, Massachusetts General Laws. As used herein, an "affiliated company" shall be any business entity of which at least 51% of the ownership interested is directly or indirectly owned by the Contractor or by a person or persons or business entity or entities which directly or indirectly own at least 51% of the ownership interests of the Contractor.

18. **Choice of Law.** This Contract shall be construed under and governed by the laws of the Commonwealth of Massachusetts. The Contractor and the agents thereof, agree to bring any federal or state legal proceedings arising under this Contract, in which the County or Towns are a party, in a court of competent jurisdiction within the Commonwealth of Massachusetts. This paragraph shall not be construed to limit any rights a party may have to intervene in any action, wherever pending, in which the other is a party. All parties to this contract and covenant agree that any disputes be litigated in the District or Superior courts in Barnstable County.

19. **Force Majeure.** Neither party shall be liable to the other nor be deemed to be in breach of this Contract for failure or delay in rendering performance arising out of causes factually beyond its control and without its fault or negligence. Such causes may include, but are not limited to: acts of God or the public enemy, wars, fires, floods, epidemics, strikes, or unusually severe weather. Dates or times of performance shall be extended to the extent of delays excused by this section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

20. **Compliance with Laws.** The Contractor shall promptly comply with all applicable laws, rules, regulations, ordinances, orders and requirements of the Commonwealth and any state or federal governmental authority relating to the delivery of the services described in this Contract subject to section 18 above. Unless otherwise provided by law, the Contractor shall promptly pay all fines, penalties and damages that may arise out of or are imposed because of the Contractor's failure to comply with the provisions of this section and, shall indemnify the County or Towns against any liability incurred as a result of a violation of this section. If the Contractor receives federal funds pursuant to this Contract, Contractor understands and agrees to comply with all federal requirements including but not limited to audit requirements. Not-for-Profit entities that receive federal funds from the County or Towns must comply with the audit requirements outlined in the Office of Management and Budget OMB Circular A-133.

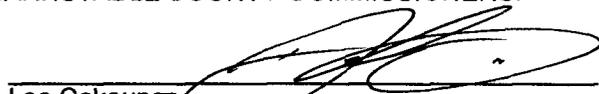
21. **Headings, Interpretation and Severability.** The headings used herein are for reference and convenience only and shall not be a factor in the interpretation of the Contract. If any provision of this Contract is declared or found to be illegal, unenforceable, or void, then both parties shall be relieved of all obligations under that provision. The remainder of the Contract shall be enforced to the fullest extent permitted by law.

22. **Waiver of Liability.** The Contractor and the County hereby covenant and agree to waive any and all claims against Barnstable County and release Barnstable County from any liability arising out of the Scope of Services described in the attached "Exhibit A".

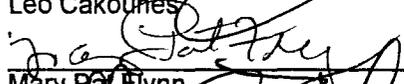
IN WITNESS WHEREOF, the County and Contractor have executed this Agreement this 2nd
day of ~~December~~ in the year two thousand and fifteen.

FOR THE COUNTY:

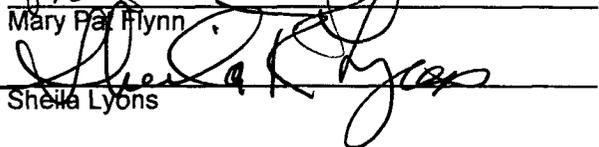
BARNSTABLE COUNTY COMMISSIONERS:



Leo Cakounes



Mary Pat Flynn

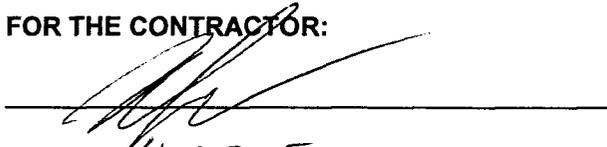


Sheila Lyons

12/2/15

Date

FOR THE CONTRACTOR:



11-25-15

Date



CHILDREN'S COVE
MARKETING SERVICES PROPOSAL
PRICE PROPOSAL - GROUPER DESIGN

CONTRACT TERM

This proposal is considered valid through the life of the contract signing through June 30, 2016 and for up to two additional one-year renewal periods. The work billed under this contract will be billed on a per-project basis at Grouper Design's hourly rates at the time work on the individual project commences.

DONATION OF SERVICES

Grouper Design proposes a pro-bono donation of 5 executive hours per month, a yearly value of \$5,280. This time will be tracked and noted on invoices. Additional time may be donated at the discretion of Grouper Design or negotiated between Grouper Design and Children's Cove. This time may be used to consult on projects, arrange meetings with donors, aid with event setup and tear down and other items as needed and agreed upon. On some projects, Grouper Design may agree to waive hourly time associated with executives so long as Children's Cove agrees to pay design, layout and production costs.

FISCAL IMPACT MODELING

Grouper Design utilizes a detailed time and cost tracking system within the framework of "Teamwork", a cloud-based project management application. Grouper Design tracks all time associated with a project - billable or non-billable - and utilizes a detailed internal coding structure to ensure that projects stay on budget and on time. Tasks performed within an overall project are assigned a code (CW for copywriting, LA for layout, etc) and time is coded and tracked. Time and cost can at any point be quickly checked against the initial project estimate and/or quote, which Grouper Design provides as a default unless otherwise desired by the client.

With Teamwork, Grouper Design can also model estimated work loads for the client by providing a Gantt chart containing any concurrent project work and deadlines. When used in conjunction with project estimates, it provides the client with a detailed estimation of when they can expect to be billed and when completed work is expected to be delivered to the client.

COMPENSATION

The estimated annual budget for Grouper Design services to Children's Cove is \$35,000. The fees charged by Grouper Design under this contract will not exceed \$35,000 per fiscal year.

The work will be billed on a per-project basis at Grouper Design's hourly rates at the time work on the individual project commences. Current pricing for various services is shown below. Outside services, or expenses such as stock photo purchases, will be billed according to standard Grouper Design practices.

Grouper Design's terms for each project are 50% down, due prior to the start of production, and the balance Net 15 upon completion of the job. If project completion becomes overly extended, Grouper Design reserves the right to bill for work-to-date.

COMPENSATION (cont.)

Once the deposit is received and a desired delivery date is established, we will create a production schedule outlining the milestones necessary to complete the project(s) on time. It is our policy that once final payment is received from you for the project, ownership of the files, etc. belongs to you.

Pricing as of July 1, 2015:

Services at \$110/hour

Strategic Market Consulting
Social Media Management
Art Direction
Client Strategic Meeting
Graphic Design
Photo Manipulation
Digital Photography

Services at \$95/hour

Page Layout
File Manipulation
(Edits to existing files)
Project Management
Client Support Services
Logo CD Creation
Final File Preparation/Submitting Files

Services at \$75/hour

Copywriting

Services at \$60/hour

Travel

SUBORDINATION OF MORTGAGE

WHEREAS, John Hamilton & Robin Henkel the owner of certain real estate located at 299 Barlows Landing Road, Pocasset, MA, Barnstable County, Massachusetts and

WHEREAS, Barnstable County is the holder of a mortgage on said premises which mortgage is dated **May 15, 2009** and registered in **Barnstable County Registry of Deeds, Book #23814 Page #202** in the original amount of **\$47,451.33** and

WHEREAS, John Hamilton & Robin Henkel has received commitment for mortgage financing from **JPMorgan Chase Bank, NA** in the amount of **\$114,306.00**

NOW THEREFORE, in consideration of making of said mortgage loan in the amount of **\$114,306.00** and the sum of One (\$1.00) Dollar, the receipt of which is hereby acknowledged, and in order to avoid the inconvenience and expense of releasing and renewing the outstanding mortgage, the undersigned do hereby consent to the execution of the new first mortgage to **JPMorgan Chase Bank, NA** and do hereby, for value received, waive any and all priority of lien or right under or by virtue of the mortgage in **Barnstable County Registry of Deeds, Book #23814 Page #202** and do hereby covenant, agree and declare that said mortgage registered in **Barnstable County Registry of Deeds, Book #23814 Page #202** shall be in all respects subject to and subordinate to the new mortgage for **\$114,306.00** which is registered herewith at the Barnstable County Registry of Deeds.

IN WITNESS WHEREOF, Barnstable County has caused its corporate seal to be hereto affixed and these presents to be signed, acknowledged and delivered in its name and behalf by Mary Pat Flynn, Shelia Lyons, and Leo Cakounes hereto duly authorized, this **16th day of November, 2016**. The execution of these presents by two Commissioners constitutes a quorum of the Barnstable County Commissioners.



TRANSFER REQUEST

Date: 11/3/2016

Dept: Cape Light Comp

Increase

org / obj	<u>0331209-5983</u>	Amount	<u>70,000.00</u>	Completed	<u> </u>
org / obj	<u> </u>	Amount	<u> </u>		
org / obj	<u> </u>	Amount	<u> </u>		
org / obj	<u> </u>	Amount	<u> </u>		
org / obj	<u> </u>	Amount	<u> </u>		
org / obj	<u> </u>	Amount	<u> </u>		
org / obj	<u> </u>	Amount	<u> </u>		

Decrease

org / obj	<u>0331205-5598</u>	Amount	<u>70,000.00</u>
org / obj	<u> </u>	Amount	<u> </u>
org / obj	<u> </u>	Amount	<u> </u>
org / obj	<u> </u>	Amount	<u> </u>
org / obj	<u> </u>	Amount	<u> </u>
org / obj	<u> </u>	Amount	<u> </u>
org / obj	<u> </u>	Amount	<u> </u>

Reason for transfer:

Additional funds needed for group health insurance expenses

Margaret J Dowdy
Department Manager

County Administrator (only for Group to Group transfers under 25,000)
County Commissioners (only for Group to Group transfers over 25,000)

ITS: Barnstable County Commissioners

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss.

November 16, 2016

On this 16th day of November 2016, before me, the undersigned notary public, personally appeared _____

_____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose

Notary Public
My Commission Expires: