

AGENDA
Village of Kingsley
Village Council Special Meeting
April 30, 2024
6:00 P.M.

Village Hall, 207 South Brownson Ave, Kingsley, MI 49649- (231) 263-7778

Meeting called to order at ____ p.m. by _____

PLEDGE OF ALLEGIANCE

ROLL CALL:

President Lajko ____, Trustee McPherson ____, President Pro Tem Weger ____, Trustee G. Bogart ____ Trustee Wallace ____ Trustee Bott ____. Trustee Weber ____, Also Attending: Clerk Forro ____, Manager Aldrich ____

Motion by _____, seconded by _____, to accept the agenda as presented.

1. Any person wishing to address the Board shall state his or her name and address.
2. Public comment will only pertain to agenda items listed. Any comments will be taken into consideration by the Board at a later date. No person shall be allowed to speak more than once on the same matter. The Chairperson shall control the amount of time each person shall be allowed to speak, which shall not exceed three (3) minutes. Chairperson may, at his or her discretion, extend the amount of time any person is allowed to speak.

PUBLIC COMMENT:

NEW BUSINESS:

1. **Consideration of authorizing an agreement with Cypher Group Inc for Zoning Administrator and Planning Services as outlined in the attached contract, with funds available in the General Fund.**

PUBLIC COMMENT:

Any person wishing to address the Board shall state his or her name and address. Public input is open to statements or concerns for all matters. Statements and concerns will be taken into consideration by the Board at a later date. No person shall be allowed to speak more than once on the same matter, excluding time needed to answer Commissioners' questions. The Chairperson shall control the amount of time each person shall be allowed to speak, which shall not exceed three (3) minutes. Chairperson may, at his or her discretion, extend the amount of time any person is allowed to speak.

1. Reserved.
2. General.
3. Mayor and Trustees.

ADJOURNMENT

Motion by _____, seconded by _____, to adjourn the meeting at _____ pm.

The Village will provide reasonable auxiliary aid and services for individuals with disabilities. Call 231-263-7778 at least three (3) days prior to a meeting.

VILLAGE OF KINGSLEY AGREEMENT FOR ZONING ADMINISTRATION SERVICES

This Agreement is entered into on May 1, 2024, by the Village of Kingsley ("Village") and Cypher Group Inc. ("Contractor"), who wishes to provide the zoning administration and planning services, pursuant to all the terms and conditions contained herein.

WHEREAS, Village of Kingsley has an ongoing need for zoning administration and planning services ("Services"); and

WHEREAS, the Village and Contractor (the "parties") agree to enter into an Agreement for the furnishing of such Services by Contractor to the Village;

NOW THEREFORE, in consideration of the mutual promises and terms contained herein, the parties agree as follows:

1. SERVICES

The Contractor shall perform the zoning administration and planning services described and referred to in Exhibit A, attached hereto, and all the terms therein shall be incorporated herein. The description of the services in Exhibit A shall be deemed to be a limitation of the services to be provided by Contractor. The Contractor, in providing such services, agrees to comply with all Village policies and procedures, including any and all ethics policies, and agrees to comply with all State of Michigan laws and regulations. Contractor is required to assure that all its employees comply with all Village policies and procedures and all Michigan laws and regulations. Contractor agrees to provide the Services to the Village with the highest level of professional skill and care and in good faith. Contractor agrees it shall protect the good name of the Village and shall not perform any act that may bring the Village into disrepute. During the term of this Agreement and for a period of one year after termination of this contract, Contractor shall not provide any zoning consulting services on Village of Kingsley zoning ordinances to anyone or to individuals owning property in Village of Kingsley, and Contractor also agrees not to appear before the Village of Kingsley Planning Commission and the Zoning Board of Appeals for a one year period after termination of this Agreement.

2. TERM OF AGREEMENT

The term of this Agreement shall be for four (4) year(s) and commences on March 10, 2024. At the end of each year, the Village may review the performance of the Contractor in the previous year and provide a written report on same to Contractor within 30 days of the end of each year. At the option of Village of Kingsley, on sixty (60) days written notice and with the written consent of Contractor, this Agreement may be extended for a period of two (2) years. Either party may terminate this Agreement for a material breach of the Agreement by the other party after giving written notice and explanation of breach and allowing the other party thirty (30) days to correct the breach either party may terminate this Agreement without giving the other party notice. This agreement may also be terminated without cause upon ninety (90) days written notice.

3. ASSIGNMENTS AND SUBCONTRACTS

The Contractor may not assign this Agreement or subcontract any of the Services without the prior written consent of the Village, which consent will not be unreasonably withheld. The Contractor shall notify the Village of any substantial change in ownership. Should the Contractor be sold to another entity, or the control of the Contractor change, the Contractor shall notify the Village in writing upon closing of the sale and the Village shall have the right to terminate this Agreement by giving thirty (30)

days written notice within sixty (60) days of the receipt of said notification. Notwithstanding anything to the contrary contained herein, any transfer of ownership or change of control to an existing officer or shareholder of the Contractor shall not be subject to the above notification requirement, nor shall the Village have the right to terminate this Agreement for that reason.

4. COMPENSATION

Contractor shall be paid \$2,875.00 per month, unless otherwise agreed, in writing, and signed by the parties who are signatories to this agreement. Contractor shall submit, seven days after the end of every month, an invoice for the agreed to monthly fee for calendar month just completed during the term of this Agreement. Each invoice shall also provide an itemization of actual agreed expenses incurred by Contractor during the billing period. Such expenses shall include out of pocket expenses and \$75 per hour for any other duties assigned beyond the scope of this contract agreed to in advance and \$ 50 per hour if the additional duties exceed 5 hours. Such invoices shall be paid by the Village within 30 days of receipt. Items included in the compensation package include, all zoning matters, Special Use Permit approvals, Planning Commission meetings, and Land Divisions. Mileage is paid monthly at the published IRS rate for that calendar year. All taxes of every nature without limitation shall be the responsibility of Contractor, and the Village shall have no responsibility to the Contractor therefor.

5. INDEPENDENT CONTRACTOR STATUS

The Contractor shall at all times be deemed to be performing as an independent contractor and not as an employee of the Village. The Contractor shall train and hire its employees, make all decisions as working hours, decide where work will be done, pay and supervise its employees, obtain all necessary licenses, not accept employment benefits, and may continue to make work with other clients provided all Village ethics policies are upheld as well as the Standards of Conduct for Public Officers. See MCL 15.341, et. seq. The acts and omissions of each parties' respective employees, agents and contractors shall be deemed to be those of such party only and not the other party. Each party shall be solely responsible for the payment of compensation to its own employees, agents and contractors performing in connection with this Agreement. Neither party shall be responsible for the payment of worker's compensation, disability benefits, unemployment insurance or any other employee benefit. If, contrary to the intent of the parties, it is determined that an employment relationship exists between the Village and the Contractor, including its employees, agents and contractors, the Contractor, for itself and on behalf of any and all individuals under the control of the Contractor, hereby irrevocably waives the right to participate in or become entitled to any and all employee benefits of the Village.

6. INDEMNITY AND LIABILITY

To the extent permitted by law, and up to the limits of the Village's insurance coverage, the Village shall indemnify and hold harmless the Contractor against any and all costs (including attorney's fees), expenses, liability and damages incurred by Contractor in any claim or proceeding resulting from actions or decisions by Contractor made consistent with its obligations to the Village and in pursuit of its responsibilities under this Agreement. Such requirement of the Village to indemnify and hold harmless the Contractor shall not apply if Contractor: (a) takes actions or makes decisions that are clearly outside of the scope of its responsibility under this Agreement, (b) violates Village policies and procedures, (c) engages intentional and tortious conduct, (d) is negligent in the use of its vehicle(s), (e) is found to be grossly negligent, (f) engages in any criminal activity, or (g) violates state or federal laws. In any of these instances Contractor shall be solely responsible for its costs (including attorney's fees), expenses, liability and damages, and Contractor shall indemnify and hold harmless the Village against all costs (including attorney's fees), expenses, liability and damages in any such claim or proceeding.

7. INSURANCE

Each party shall purchase and maintain at its sole expense comprehensive general liability insurance to cover this indemnity in an amount of not less than \$1 million dollars (\$1,000,000) for each claim. Each policy holder shall name the other as an additional insured under its policy. Each policy holder shall provide to the other a certificate of insurance evidencing that such insurance is in full force and effect as of the effective date of this Agreement and thereafter annually. The certificate of insurance shall contain an obligation of the insurer to provide written notice of any cancellation or non-renewal of the insurance at least 30 days in advance of such cancellation or non-renewal. Contractor shall purchase and maintain statutory workers compensation insurance coverage as required under the laws of the State of Michigan. Such insurance shall be maintained throughout the term of this Agreement. Contractor shall provide the Village with a certificate of insurance evidencing that such insurance is valid and in full force and effect as of the effective date of this Agreement and thereafter annually. The certificate of insurance shall contain an obligation of the insurer to provide written notice of any cancellation or non-renewal of the insurance at least 30 days in advance of such cancellation or non-renewal.

8. DISPUTE RESOLUTION

If either party has a dispute with the other party regarding the meaning, operation or enforcement of any provision of this Agreement, that party shall provide written notice of the dispute to the party with whom there is a dispute. The disputing parties shall meet and confer to negotiate a resolution of the dispute pursuant to the terms of the Agreement. They further agree as follows: (i) If they are unable to resolve the dispute amongst themselves and before formally instituting any other dispute mechanism, they shall utilize the services of a mutually acceptable neutral mediator, who meets the qualifications of MCR 2.411 or the then applicable Michigan Court Rule, to bring them together in at least one mediation session. (ii) If the parties are unable to resolve the dispute through mediation, it shall be decided by final and binding arbitration according to the rules and procedures of Arbitration Services of Northern Michigan, or such other rules and procedures for arbitration as agreed to by the parties. Judgement upon the award rendered by the arbitrator may be entered in Circuit Court for Leelanau County. In the case where either party seeks termination of this Agreement, arbitration shall be held no later than 120 days after the cure period has expired without cure.

9. FORCE MAJEURE

Whenever during the term of this Agreement it becomes impossible for either party to perform the obligations on either party's part as a result of war, riots, labor disputes or strikes (other than those involving Contractor's employees or subcontractors) or acts of God or the elements, then Village and Contractor shall be excused from the performance without penalty or other liability of a breach of or a default under this Agreement to the other party for a period of time in which the event or events giving rise to the impossibility of performance shall exist. The party invoking this Force Majeure clause shall notify the other party immediately by verbal communication and in writing by certified mail of the nature and extent of the contingency within ten (10) working days after its occurrence. Both parties indicate their approval of this Agreement by their signatures below.

10. NON-DISCRIMINATION

The Contractor agrees to fully comply with local, state, and federal law regarding nondiscrimination. The Contractor agrees that it will not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, sexual orientation, gender identity or marital status. Breach of this covenant may be regarded as a material breach of this Agreement.

11. GENERAL PROVISIONS

(a) This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the State of Michigan, both as to interpretation and performance, excluding its conflicts of law principles, statutes and laws. Any and all suits for any and every breach of this Agreement shall be instituted and maintained in any court of competent jurisdiction in the County of Leelanau, State of Michigan.

(b) This Agreement constitutes the entire understanding between the parties hereto with respect to the subject matter hereof and shall supersede all previous negotiations, commitments, understandings and agreements.

(c) No modifications to this Agreement shall be valid unless made in writing and signed by a duly authorized representative of the Village and by the Contractor, and neither the acquiescence in any performance at variance to the provisions of this Agreement nor the failure to exercise any right or enforce any obligation hereunder shall be deemed a modification of this Agreement.

(d) The Contractor acknowledges that the Village may be required by law from time to time to release records in its possession. The Contractor hereby gives permission to the Village to release any records or materials received by the Village as it may be requested to do so as permitted by the Freedom of Information Act, MCL, 15.231, et seq. Provided, however, that the Contractor shall not be held liable for any reuse of the documents prepared by Contractor under this Agreement for purposes other than anticipated herein.

(e) The Contractor specifically represents and warrants that its officers and employees have and shall possess the experience, knowledge and competence necessary to qualify them individually for the particular duties they perform hereunder.

(f) No waiver by either party of any default by the other party in the performance of any portion of this Agreement shall operate or be construed as a waiver of any future default, whether like or different in character.

(g) This Agreement together with all items incorporated herein by reference, constitutes the entire agreement of the parties, and there are no valid promises, conditions or understandings that are not contained herein. It is understood that should Contractor recommend further work concerning any aspect of this engagement, the Village is under no obligation to engage the Contractor of such work.

(h) Upon the termination of services under this Agreement, Contractor shall turn over promptly (within 30 days) to Village all records, correspondence and other written documentation which Contractor has in its possession and which has been generated during the term of this Agreement.

(h) If any provisions of this Agreement shall be held, or deemed to be, or shall, in fact, be inoperative or unenforceable as applied in any particular situation, such circumstances shall not have the effect of rendering any other provisions herein contained invalid, inoperative or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses or paragraphs herein contained shall not affect the remaining portions of this Agreement or any part hereof.

(i) By signing this agreement, Contractor certifies that it is not an Iran-linked business. MCL 129.311, et. seq.

_____ Date: _____

Kaitlyn M. Aldrich; For the Village, Its: Manager

_____ Date: _____

Timothy A. Cypher; For the Contractor, Cypher Group Inc., Its: President

Exhibit A

Title: **ZONING ADMINISTRATOR / PLANNER**

I. BROAD STATEMENT OF RESPONSIBILITIES:

The Zoning Administrator / Planner is responsible for administering and interpreting the Village of KINGSLEY Zoning Ordinance. The Zoning Administrator / Planner provides counsel to the Planning Commission, Zoning Board of Appeals and the Village Council on various zoning matters. As requested, from time to time, also responsible for working with Planning Commission, other government agencies and village departments in the implementation and revision of the Master Plan. (Any assigned Planning duties will be considered billable at \$75 per hour for first 5 hours and \$50 per hour for time exceeding 5 hrs. for the life of the project). Additionally, the Zoning Administrator/Planner is responsible for the administration and enforcement of applicable existing zoning ordinances including State Laws.

II. SPECIFIC DUTIES AND RESPONSIBILITIES:

1. Directs or participates in zoning studies as requested from time to time, regarding development in the Village; prepares reports and makes recommendations to the Planning Commission, ZBA and through the President to the Village. If mutually agreed upon project it will be billed at the hourly rate of \$75 for additional duties. If special project exceeds 5 hours, additional hours billed at \$50 per hour.
2. Reviews site plans and consults with developers and appropriate reviewing agencies to ensure quality and compliance with policies, regulations, ordinances and modern planning standards.
3. Receives and processes zoning application variance requests and development plans; prepares case files, works with Clerk, if needed on publication notices to property owners as necessary, makes recommendations to Planning Commission, ZBA and Village on professional planning principles and the comments of the other reviewing agencies.
4. Provides input on the department's annual budget and provides monthly reports to the Planning Commission and Village Council on zoning activities.
5. Recommends and works with other professional staff, if any, to prepare requested or needed resolutions for amending ordinances as may be deemed necessary.
6. Counsels and advises Planning Commission, ZBA, Village Council, developers, property owners, realtors, and others in various planning and zoning matters; If required to appear in court, billed at \$75 per hour up to 5 hours, \$50 Per hour thereafter.

7. Reviews applications for and may issue permits for events, if related to specific land use, within the village according to the provisions of applicable ordinances and established procedures.
8. May assist Planning Commission and ZBA Chairperson in preparing all meeting packets and attends all Planning Commission and ZBA meetings if possible. Also attends monthly and annual Village Council meetings if requested in advance. Additionally, in the event that there is a scheduling conflict, the Zoning Administrator may phone into the meeting or send staff to make sure his duties are covered.
9. Responds to potential zoning violations in a professional manner if a formal complaint is received.
10. In cases where there may be a potential conflict of interest, the Zoning Administrator will identify what it may be and seek a ruling, by a vote of the Village Council to be recused.
11. During the term of this Agreement and for a period of 12 months after termination of this contract, Contractor shall not provide any zoning consulting services on Village of KINGSLEY zoning ordinances to anyone or to individuals owning property in Village of KINGSLEY .
12. The zoning map shall be maintained by the Zoning Administrator and kept by the Village Clerk after a resolution is approved by the Village Council to reflect any approved changes.
13. The Zoning Administrator will submit a detailed monthly summary of permits issues and a detailed monthly report of activities consisting of the number of Land Use permits issued in all categories, Z.B.A. proceedings, Special Land Use permits, Land Divisions, Property Line Adjustments, Private Roads/Driveways, Zoning/Amendments, Construction Inspections, and Violations/Investigations. In addition, the Zoning Administrator will submit an annual report at the end of each fiscal year.

III. KNOWLEDGE, SKILLS AND ABILITIES:

1. Verbal communication skills to deal effectively with developers, Engineers, Attorneys, Realtors, various department heads, other staff at all levels and residents and/or developers who occasionally may be upset, frustrated and/or lacking knowledge of planning process; writing skills to prepare ordinance interpretations and resolutions, rezoning recommendations, site plan reviews and other reports and memorandum.
2. Ability to plan, organize, schedule, supervise and complete work assignments on a timely basis in an environment where interruptions may occur; requires high level of analytical skill as well as ability to comprehend, interpret, and process detail information and data.

3. Valid driver's license to meet travel requirements; ability to organize, plan and schedule work to achieve department goals; requires sitting and operating a computer for extended periods of time.
4. If it is or it becomes a requirement for State of Michigan licensing, the Zoning Administrator will meet all licensing requirements at his/her own expense.

The above is intended to describe the general content of and requirements for the performance of the position. It is not to be construed as an exhaustive statement of duties, responsibilities or requirements for the position.

IV. NON-DISCRIMINATION

The Zoning Administrator agrees to fully comply with local, state, and federal law regarding nondiscrimination. The Zoning Administrator agrees that it will not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, sexual orientation, gender identity or marital status. Breach of this covenant may be regarded as a material breach of this Agreement.

5. How will Village residents provide you with application materials if they do not have access to technology? Drop copies off at the Village Office and if possible Village Staff could scan and email to me. Also use US Postal Service to my PO Box.
6. Do you coordinate with the County Building Codes on finals for building permits? The company completes 3 to 4 site visits on each project throughout cycle. Normally, I give them a heads up if things aren't as they should be.....
7. Will the Village receive copies of permits issued for our record? Absolutely. With all the supporting documents as well. The clerk is the keeper of the files.....
8. If there is a serious zoning complaint, what is your teams expected response time to come take a look? Could be same day IF not tied up with other commitments..... Staff included..... There is still a process to follow per the zoning ordinance. If spills, or Public and Health issues occur, getting Fire Dept. and local and state officials involved can expedite results.

Finally, if you have expectations beyond what I have listed above, then maybe you need full time staff and pay a rate more appropriate for a full time, in office position.

Just wanting to be extremely candid.....

Respectfully,

Tim

Thank you! I'm just trying to get a better idea of what the working relationship will look like.

Kaitlyn M. Aldrich, Village Manager

Village of Kingsley

kvmanager@villageofkingsley.com

231-263-7778

From: tim@allpermits.com <tim@allpermits.com>

Sent: Wednesday, April 17, 2024 11:36 AM

To: Kaitlyn Aldrich <kvmanager@villageofkingsley.com>

Cc: Mary Lajko <lajkom46@gmail.com>

Subject: Re: RRC Information

Kaitlyn & Mary,

It would be my honor to contract thru Cypher Group Inc. with the Village of Kingsley for zoning & planning services.

Back in February, I provided a draft contract for you to review however, I didn't find that I had sent you Exhibit A of the contract For your convenience today, the draft contract and Exhibit A are attached.

If you have any questions, please let me know regarding possible next steps moving forward. Thanks in advance,