VILLAGE OF BRADLEY

RESOLUTION NO. **R-5-20-4**

A RESOLUTION AUTHORIZING AN INDEPENDENT CONTRACTOR AGREEMENT BETWEEN THE VILLAGE OF BRADLEY AND PAMELA HIRTH-MANKE

ADOPTED BY THE
BOARD OF TRUSTEES OF THE
VILLAGE OF BRADLEY

THIS 26th DAY OF May, 2020

Published in pamphlet form by the authority of the Board of Trustees of the Village of Bradley, Kankakee County, Illinois this 26th day of May, 2020

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A RESOLUTION AUTHORIZING AN INDEPENDENT CONTRACTOR AGREEMENT BETWEEN THE VILLAGE OF BRADLEY AND PAMELA HIRTH-MANKE

WHEREAS, the Corporate Authorities of the Village of Bradley, Kankakee County, Illinois, have the authority to adopt resolutions and to promulgate rules and regulations that pertain to its government and affairs and protect the public health, safety, and welfare of its citizens; and

WHEREAS, pursuant to Section 2-3-8 of the Illinois Municipal Code (65 ILCS 5/2-3-8) the Corporate Authorities of the Village are authorized to enter into contracts on behalf of the Village that serve the Village's legitimate corporate purposes; and

WHEREAS, the Corporate Authorities of the Village desire to engage Pamela Hirth-Manke ("Hirth") as an independent contractor to provide the Village with community development services (the "Services"); and

WHEREAS, the Village has negotiated an Independent Contractor Agreement (the "Agreement") with Hirth, on terms that are reasonable and acceptable to the Village, whereby Hirth shall provide the Village with the Services (a copy of the proposed Agreement is attached hereto as Exhibit A and fully incorporated herein); and

WHEREAS, Hirth has expressed a desire to enter into the Agreement, as well as a willingness to be bound to perform thereunder; and

WHEREAS, the Corporate Authorities of the Village have determined that the execution of the Agreement is necessary and expedient for the Village's corporate purposes and in the best interests of the Village and its citizens.

NOW THEREFORE, BE IT RESOLVED BY THE CORPORATE AUTHORITIES OF THE VILLAGE OF BRADLEY, KANKAKEE COUNTY, ILLINOIS, PURSUANT TO ITS STATUTORY AUTHORITY, AS FOLLOWS:

SECTION 1. The Corporate Authorities hereby find that all of the recitals contained in the preamble to this Resolution are true, correct, and complete and are hereby incorporated by reference hereto and made a part hereof.

SECTION 2. The Corporate Authorities of the Village have reviewed the proposed Independent Contractor Agreement (the "Agreement") between the Village and Hirth, attached hereto as Exhibit A and fully incorporated herein, and have determined that the terms and provisions of said agreement are reasonable and acceptable to the Village. As such, the Corporate Authorities of the Village hereby approve the Agreement in form and substance and further authorize and direct the Village President to execute said Agreement on behalf of the Village. The Corporate Authorities hereby further authorize and direct the Village President to take any and all actions, including but not limited to the execution of any and all documents, that are, in his opinion, necessary to enter into the Agreement with Hirth.

SECTION 3. In the event that any provision or provisions, portion or portions, or clause or clauses of this Resolution shall be declared to be invalid or unenforceable by a Court of competent jurisdiction, such adjudication shall in no way affect or impair the validity or enforceability of any of the remaining provisions, portions, or clauses of this Resolution that may be given effect without such invalid or unenforceable provision or provisions, portion or portions, or clause or clauses.

SECTION 4. All ordinances, resolutions, motions, or parts thereof, conflicting with any of the provisions of this Resolution, are hereby repealed to the extent of the conflict.

SECTION 5. The Village Clerk is hereby directed to publish this Resolution in pamphlet form.

SECTION 6. This Resolution shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

PASSED by the Board of Trustees on a roll call vote on the 26th day of May, 2020.

TRUSTEES:

ROBERT REDMOND	Aye – X	Nay – ____	Absent – ____
MICHAEL WATSON	Aye – X	Nay – ____	Absent – ____
RYAN LEBRAN	Aye – ____	Nay – ____	Absent – X
BRIAN BILLINGSLEY	Aye – X	Nay – ____	Absent – ____
DARREN WESTPHAL	Aye – X	Nay – ____	Absent – ____
BRIAN TIERI	Aye – X	Nay – ____	Absent – ____

ACTING VILLAGE PRESIDENT:

MICHAEL WATSON	Non-Voting – X		
TOTALS:	Aye – 5	Nay – Ø	Absent – 1

ATTEST:

Julie Tambling
JULIE TAMBLING, VILLAGE CLERK

APPROVED this 26th day of May, 2020.

Michael Watson
MICHAEL WATSON, ACTING VILLAGE PRESIDENT

ATTEST:

Julie Tambling

JULIE TAMBLING, VILLAGE CLERK

STATE OF ILLINOIS)
) §§
COUNTY OF KANKAKEE)

I, Julie Tambling, Village Clerk of the Village of Bradley, County of Kankakee and State of Illinois, DO HEREBY CERTIFY that the attached is a true, perfect, and complete copy of Resolution number R-5-20-4, "A RESOLUTION AUTHORIZING AN INDEPENDENT CONTRACTOR AGREEMENT BETWEEN THE VILLAGE OF BRADLEY AND PAMELA HIRTH-MANKE," which was adopted by the Village Corporate Authorities at a meeting held on the 26th day of May, 2020.

IN WITNESS WHEREOF, I have hereunto set my hand in the Village of Bradley, County of Kankakee and State of Illinois, on this 26th day of May, 2020.

Julie Tambling
JULIE TAMBLING, VILLAGE CLERK

(SEAL)

EXHIBIT A

INDEPENDENT CONTRACTOR AGREEMENT FOR COMMUNITY DEVELOPMENT SERVICES

This **INDEPENDENT CONTRACTOR AGREEMENT** ("Agreement") is made by and between the **Village of Bradley** ("Village") and **Pam Hirth** ("Hirth"), an Independent Contractor, sometimes collectively referred to as the ("Parties"). Village and Hirth agree as follows:

ARTICLE 1: GENERAL PROVISIONS.

1.1: General Definitions. Unless the context clearly indicates otherwise, the capitalized words, terms, and phrases defined from time to time herein shall have the same meanings for all purposes of this Agreement. In addition, in all cases the singular shall include the plural, the plural shall include the singular, and a reference to any gender includes both genders and the neuter, as the case may be.

1.2: Headings. The headings in this Agreement are for convenience of reference only and shall not in any way or to any extent be interpreted to define, limit, or otherwise affect the provisions hereof.

ARTICLE 2: SCOPE OF AGREEMENT

2.1: Scope of Services. Hirth will provide consulting services during the term of this Agreement to the Village including but not limited to: areas of community development, planning and zoning, and other related services (hereinafter the "Services"). Services will be performed by Hirth at the request and direction of the Mayor, Village Administrator, and/or Director of Community Development. Hirth agrees to comply with applicable professional standards and codes of ethics and with all policies and procedures of the Village at all times that this Agreement is in effect.

2.2: Effective Date. The "Effective Date" of this agreement is and shall be the date upon which both Parties have signed and fully executed this Agreement.

2.3: Start Date. Hirth shall begin providing the Services to the Village on the later occurring of the Effective Date or May 27, 2020.

2.4: Work Schedule. Hirth shall maintain a work schedule of three (3) days per week, typically Monday, Tuesday, and Thursday, unless otherwise agreed to.

2.5: Termination Date. This Agreement shall terminate at 11:59 p.m. on April 30, 2021, unless otherwise agreed to in writing signed by both Parties.

ARTICLE 3: INDEPENDENT CONTRACTOR

3.1: Independent Contractor. Hirth is an independent contractor and is not an employee, partner, or co-venturer of, or in any other service relationship with the Village. The manner and way in which Hirth shall render the Services is and shall be within Hirth's sole control and discretion. Hirth is not authorized to speak for, represent, or obligate the Village in any manner without the prior express written authorization of the Mayor and/or Village Administrator.

3.2: Taxes. Hirth is and shall be responsible for all taxes arising from any compensation or other amounts paid to her by the Village under this Agreement, including but not limited to any and all payroll and fringe benefit taxes. Neither federal, nor state, nor local income taxes, nor payroll taxes of any kind, shall be withheld or paid by the Village on behalf of Hirth. Hirth understands and agrees that she is responsible to pay, under applicable law, any and all of Hirth's taxes and Hirth shall, when requested by the Village, provide the Village with appropriate documentation establishing that any and all federal, state, and/or local taxes have been duly paid.

3.3: Benefits. Hirth understands and agrees that, except as explicitly set forth in Article 4 of this Agreement, *infra*, the Village will not provide her or her dependents with any benefits of any kind. In particular, Hirth understands and agrees that she is not eligible for, that the Village shall not provide her with, and that she will not participate in any employee pension (including but not limited to IMRF), health, welfare, or other fringe benefit plan of the Village. To the extent and in the event that a court of competent jurisdiction may later find that Hirth is eligible or entitled to participate in any plan described above, Hirth hereby knowingly and voluntarily waives her ability to so participate.

3.4: Insurance. Hirth understands and agrees that the Village shall not provide her with any insurance coverage or similar benefit of any kind for any reason or at any time during the term of this Agreement.

3.5: Workers' Compensation. Hirth hereby knowingly and voluntarily waives any and all claims against the Village for worker's compensation benefits. To the extent the Village shall be deemed liable for any such taxes, benefits, or other expenses, Hirth shall reimburse the costs thereof to the Village and shall, and hereby does, indemnify and hold the Village harmless therefrom.

ARTICLE 4: COMPENSATION

4.1: Payment of Wages. The Village shall pay Hirth an amount equal to forty-eight dollars and thirteen cents per hour ($48.13/hr) for hours actually worked. The Village shall, at appropriate times, issue Hirth an IRS Form 1099 in connection with her provision of the Services pursuant to this Agreement. Hirth agrees and affirms that she alone is responsible for the payment of any and all taxes arising from the payments contemplated herein, in accordance with all applicable federal, state, and local laws.

4.2: Compensation not Wages. The payments set forth in Section 4.1, *supra*, are payments of independent contractor fees and not wages or salaries. Hirth acknowledges that she is an independent contractor as set forth in Article 3, *supra*, and that she is solely responsible and liable for all taxes associated therewith.

4.3: Paid Time Off. Hirth understands and agrees that the Village shall not provide any paid sick time off, paid vacation time off, and paid holiday time off during the term of this Agreement. Hirth can elect to be unpaid or adjust her weekly work schedule to accommodate any sick time or vacation time taken. Hirth shall seek the approval of the Mayor, Village Administrator, and/or Director of Community Development, before taking vacation time and/or adjusting her schedule pursuant to this Section, which approval shall not be unreasonably withheld.

ARTICLE 5: TERMINATION

5.1: Termination Without Cause by Written Notice. Either party may terminate this Agreement upon fifteen (15) days written notice.

5.2: Termination of Agreement for Material Breach. If either Party materially breaches this Agreement, the non-breaching Party must give the breaching Party written notice of its intent to terminate this Agreement for such breach. If the breach is remedied within fifteen (15) days, the notice will be of no further effect. If the breach is not remedied within the fifteen (15) day period, the non-breaching Party has the right to immediately terminate the Agreement upon expiration of such remedy period.

5.3: Termination of Agreement for Failure to Pay Fees. If the Village fails to pay the fees required under this Agreement, Hirth may give the Village notice of her intent to terminate this Agreement for such failure. If full payment of all unpaid amounts is tendered within fifteen (15) days, the notice will be of no further effect. If full payment of all unpaid amounts is not tendered within the fifteen (15) day period, Hirth has the right to terminate the Agreement upon expiration of such remedy period.

ARTICLE 6: INDEMNIFICATION PROVISIONS

6.1: Indemnification by Hirth. To the extent permitted by law, Hirth agrees to indemnify, defend, and hold the Village and its related entities or their agents, representatives, or employees harmless from and against all claims, liabilities, damages, attorney's fees, costs, and expenses arising out of her actions or conduct.

6.2: Indemnification by Village. To the extent permitted by law, the Village agrees to indemnify, defend, and hold Hirth harmless from and against all claims, liabilities, damages, attorney's fees, costs, and expenses arising out of any and all actions or conduct by persons other than Hirth that are directly attributable to the Village.

ARTICLE 7: CONFIDENTIALITY

7.1: Confidentiality and Non-Disclosure.

(a) Hirth warrants that she understands that during the term of this Agreement she may become privy to sensitive documents, information, materials, and/or records that are proprietary to the Village (collectively "Confidential Information"). Hirth understands and agrees that she may not disclose and/or disseminate any Confidential Information of the Village to any third party, except as required by law or as authorized by the Village.

(b) For the purposes of this Agreement, "Confidential Information" includes, but is not limited to, Village employee personnel information, account information, financial reports, and billing system information, as well as any other information or documentation that is explicitly made known to Hirth as being confidential.

7.2: Removal of Confidential Information. Hirth understands and agrees that she shall not remove any Confidential Information from the Village's various facilities, except as necessary for the adequate completion of the Services or else as authorized by the Village.

7.3: Return of Confidential Information. At whatever point that this Agreement is terminated, regardless of the reason or timing, Hirth understands and agrees that she must return any and all Confidential Information of the Village in her possession to a duly-authorized representative of the Village as soon as practicable.

7.4: FOIA. Each Party hereby agree to reasonably cooperate with the other Party regarding any Freedom of Information Act ("FOIA") request calling for production of documents related to this Agreement and/or any Confidential Information of the Village.

7.5: Obligations to Survive Termination Date. The Parties understand and agree that all of the obligations imposed by this Article 7 of this Agreement, including but not limited to the obligation of confidentiality, shall survive the termination of this Agreement and continue thereafter in perpetuity.

7.6: Consideration Sufficient. Hirth warrants and acknowledges that the promises made and obligations incurred by her in accordance with the provisions of this Article 7 are in consideration of good and valuable consideration from the Village, the receipt and sufficiency of which are hereby acknowledged.

ARTICLE 8: MISCELLANEOUS PROVISIONS

8.1: Amendments. This Agreement may be amended at any time and from time to time, but any amendment must be in writing and signed by all the Parties to this Agreement.

8.2: Assignment. Neither Party may assign its rights or delegate its duties under this Agreement without the express written consent of the other Party.

8.3: Counterpart Execution. This Agreement may be executed and delivered in any number of counterparts, each of which will be an original, but all of which together constitute one and the same instrument. This Agreement may be executed and delivered via facsimile or electronic mail.

8.4: Entire Agreement. This Agreement constitutes the entire agreement between the Parties. This Agreement supersedes and takes precedence over all proposals, memorandum agreements, tentative agreements, and oral agreements between the Parties, made prior to and including the Effective Date of this Agreement not specifically identified and incorporated in writing into this Agreement. No agent or representative of either Party has the authority to make, and the Parties will not be bound by or liable for, any statement, representation, promise, or agreement not specifically set forth in this Agreement.

ARTICLE 9: DISPUTE RESOLUTION

9.1 Good Faith Attempt to Settle. The Parties will attempt to settle any dispute arising out of or relating to this Agreement, or the breach thereof, through good faith negotiation between the Parties.

9.2: Governing Law/Jurisdiction. If a dispute cannot be settled through good faith negotiation within thirty (30) days after the initial receipt by the allegedly offending party of written notice of the dispute, then the controversy or claim may be adjudicated by a state court sitting in Kankakee County, Illinois. The Parties agree that venue and jurisdiction for any action under this Agreement are properly vested in the Circuit Court of Kankakee County, Illinois. This Agreement and any amendments hereto will be governed by and construed in accordance with the laws of the State of Illinois.

9.3: Attorneys' Fees. The Parties agree that, in the event of litigation under this Agreement, each Party is liable for only those attorneys' fees and costs incurred by that Party.

ARTICLE 10: NOTICES

10.1: Notices. All Notices given under this Agreement must be written and may be given by personal delivery, first class U.S. Mail, registered or certified mail return receipt requested, overnight delivery service, or electronic mail.

Notices will be deemed received at the earlier of actual receipt or three (3) days from the date of mailing. Notices must be sent to the Parties at their respective addresses shown below. A Party may change its address for notice by giving written notice of such change to the other Party.

If to Hirth: Pamela J. Hirth-Manke
701 Autumn Drive
Bolingbrook, IL 60490
Telephone: (630) 226-1186
Electronic Mail: pamhirth@sbcglobal.net

If to the Village: VILLAGE OF BRADLEY
147 S. Michigan Ave.
Bradley, Illinois 60915
Attention: Catherine Wojnarowski, Village Administrator
Telephone: (815) 932-2125
Electronic Mail: cawojnarowski@bradley.il.org

IN WITNESS WHEREOF, the Parties executed this Agreement on the Effective Date, which is the date this Agreement is signed by both Parties.

PAMELA J. HIRTH

By: _____

Date: 6/2/2020

VILLAGE OF BRADLEY

By: Michael Watson

Name: Michael Watson

Title: Mayor Pro-Tem

Date: 05/26/2020