

CONSULTING AGREEMENT

This Consulting Agreement ("Agreement") is made this _____ day of _____, 20____, by and between William McCluskey, individually, d/b/a William McCluskey ("McCluskey") and the City of Crest Hill, an Illinois Municipal Corporation ("City").

WHEREAS, City is desirous of obtaining technical advice, counseling and services concerning cable television and YouTube broadcasting of its City Council meetings; and

WHEREAS, McCluskey has the skill, capabilities and staff with the requisite skill and training to provide Audio/Visual services to the City regarding the cable television and YouTube broadcasting of its City Council Meetings (the "Services") to City.

In consideration of good and valuable consideration the receipt and sufficing of which are hereby acknowledged, City and McCluskey agree as follows:

1. **Relationship of the Parties.** McCluskey enters into this Agreement as, and shall continue to be, an independent Contractor. The Services shall be performed only by McCluskey and McCluskey's employees, interns, and or volunteers. Under no circumstances shall McCluskey, or any of McCluskey's employees or interns look to City as his/her employer, or as a partner, agent or principal. Neither McCluskey, nor any of McCluskey's employees/volunteers, shall be entitled to any benefits accorded to City's employees, including without limitation worker's compensation, disability insurance, vacation, sick pay, holiday pay, leave of type, or paid time off. McCluskey shall be responsible for providing, at McCluskey's sole expense, and in McCluskey's name, unemployment disability, worker's compensation and other insurance as required by law, as well as licenses and permits usual or necessary for the provision of the Services. McCluskey shall be solely responsible for all personnel decisions necessary to carry out the terms of this Agreement and the provision of the Services. At no time shall City have any authority to hire, terminate, discipline, or direct the work of McCluskey or any of McCluskey's employees. Interns or volunteers.
2. **Services and Fees.** McCluskey shall provide to City the following audio/visual consulting and cable television and YouTube broadcasting services at the rates described herein.
 - a. *Live Broadcast of Regularly Scheduled City Council Meetings:* (two (2) per month) at one hundred and fifty dollars (\$150.00) per meeting. Includes one (1) hour of time prior to the meeting for the following:
 - o Update/maintain cable scroll
 - o Uploading videos submitted by other groups permitted by City policy
 - o Program videos as necessary to air meeting
 - o Any and all scheduled maintenance
 - o Upload of Meetings to YouTube channel
 - b. *Plan Commission Meetings:* (one (1) per month as necessary) at one hundred dollars (\$100.00) per meeting. Includes all taping and programming necessary to air meeting.

- c. *Special Events*: One hundred and fifty dollars (\$150.00) per event. Includes a second tech and use of City's portable video cameras and related production gear. Includes Memorial Day, Lidice Ceremony, school graduations, etc. as directed by the City Administrator or Mayor.
 - d. *Unscheduled Maintenance, Emergency Call-Outs, or Scheduled Hardware/Software Installations/Maintenance*: (Monday-Friday, 5 p.m. – 8 p.m.) at one hundred and fifty dollars (\$150.00) for the first three (3) hours. Starting at hour four (4), the rate will be fifty dollars (\$50.00) per hour.
3. **Personnel.** McCluskey represents and warrants to City that his employees, interns, or volunteers performing Services hereunder will have sufficient expertise, training, and experience to accomplish the Services. McCluskey agrees that all its personnel shall be compensated, taxes withheld, and other benefits made available as required by applicable law and regulations.
4. **Equipment and Maintenance.**
- a. *Ownership*: City shall provide all cable television, audiovisual and technology equipment necessary to carry out the Service at City's sole expense. All equipment shall remain at all times sole property of the City. At no time shall any of the equipment be used by McCluskey or his employees, interns, or volunteers for any purpose not covered by Section 2 of this Agreement.
 - b. *Maintenance*: The City shall be solely responsible for the maintenance, repair, and replacement of all such equipment, including any costs associated with such maintenance, repair, and replacement. This includes, but is not limited to, any warranties or service contracts the City may have in place for such equipment.
 - c. *Use*: The Consultant shall be granted non-exclusive use of the City's equipment solely for the purpose of performing the services outlined in this Agreement. The Consultant shall use the equipment in a professional and responsible manner and in accordance with any manufacturer's instructions or guidelines. The Consultant shall notify the City immediately of any damage to the equipment or any malfunction that occurs during the course of its use.
 - d. *Liability*: The Consultant shall not be liable for any damages to the City's equipment arising from normal wear and tear during the course of its use for the purposes of this Agreement.
 - e. *Return of Access*: Upon completion or termination of this Agreement, the Consultant shall no longer require access to the City's equipment used in connection with the services provided under this Agreement. The Consultant shall cooperate with the City to ensure a smooth handover of any access procedures or protocols related to the equipment's operation.
5. **Term.** This Agreement shall be effective upon the date of the last party's signature, but only upon the approval of the City Council and shall remain in effect until May 31, 2025, unless earlier terminated pursuant to this Section 5. The Agreement shall be considered extended for up to five (5) additional one-year extension periods if neither party provides written notice of their intent to terminate within thirty (30) days of May 31, 2025, or within thirty (30) days of May 31 of any extension year, or terminated early pursuant to this Section 5. Either party may

terminate this Agreement for any reason or no reason at all by providing thirty (30) days' written notice to the other party.

6. **Intellectual Property.** All meetings and events recorded pursuant to this Agreement is and shall remain the sole and exclusive property of the City. At no time shall McCluskey, his employees, interns, or volunteers be permitted to rebroadcast, distribute, or otherwise use any recordings created for the City under the terms of this Agreement without the written approval of the City Council.
7. **Attorney's Fees.** Should either party hereto or any heir, personal representative, successor or assign of either party hereto resort to legal proceedings in connection with this Agreement or McCluskey's relationship with the City, the prevailing party in such legal proceedings shall be entitled to recover from the non-prevailing party, in addition to such other compensatory damages or relief as may be granted, reasonable attorney's fees and costs.
8. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without regard to conflict of law principles.
9. **Entire Agreement; Amendment.** This Agreement contains the entire agreement and understanding between the parties hereto and supersedes any prior or contemporaneous written or oral agreements, representations and warranties between them respecting the subject matter hereof. This Agreement may be amended only by a writing signed by McCluskey and by a duly authorized representative of the City.
10. **Severability.** If any term, provision, covenant or condition of this Agreement, or the application thereof to any person, place or circumstance, shall be held to be invalid, unenforceable, or void, the remainder of this Agreement and such term, provision, covenant or condition as applied to other persons, places and circumstances shall remain in full force and effect.
11. **Construction.** The headings and captions of this Agreement are provided for effect, convenience only and are intended to have no effect in construing or interpreting this Agreement. The language in all parts of this Agreement shall be in all cases construed according to its fair meaning and not strictly for or against either party. It is agreed that, in the construction and interpretation of the terms of this Agreement, the rule of construction that a document is to be construed most strictly against the party who prepared the same will not be applied, it being agreed that both parties hereto have participated in the preparation of the final form of this Agreement.
12. **Non-waiver.** No failure or neglect of either party hereto to any instance to exercise any right, power or privilege hereunder or under law shall constitute a waiver of any other right, power or privilege or of the same right, power or privilege in any other instance. All waivers by either party hereto must be contained in a written instrument signed by the party to be charged and, in the case of the City, by the Mayor or other person duly authorized by the City Council.

13. **Notices.** All notices, requests, and other communications under this Agreement shall be in writing and shall be personally delivered or sent by certified mail, postage prepaid, return receipt requested, by facsimile, or by licensed overnight courier to the appropriate party at their address on the signature page of this Agreement. Notice shall be deemed given at the time delivered, if personally delivered, at the time indicated on the duly completed postal service return receipt, if delivered by certified mail, at the time the facsimile is transmitted, if delivered by facsimile, or on the next business day after such notice is sent, if delivered by overnight courier. Any notice shall be deemed duly given if deposited in the mail, postage prepaid and sent by certified mail, addressed to the party at the address included herein or at such other address as such party shall have specified by notice given in the same manner.
14. **Non-Assignability.** This Agreement is personal as to McCluskey and may not be assigned or transferred by him in any manner whatsoever.
15. **Disputes.** Any controversy, claim or dispute arising out of or relating to this Agreement or the relationship, either during the existence of the relationship or afterwards, between the parties hereto, their assignees, their affiliates, their attorneys, or agents, shall be litigated solely in the Circuit Court for the Twelfth Judicial Circuit, Will County, Illinois. Each party (1) submits to the jurisdiction of such court, (2) waives the defense of an inconvenient forum, (3) agrees that valid consent to service may be made by mailing or delivery of such service to the Illinois Secretary of State (the "Agent") or to the party at the party's last known address, if personal service delivery cannot be easily effected, and (4) authorizes and directs the Agent to accept such service in the event that personal service delivery cannot easily be effected.
16. **Defense, Indemnity and Hold Harmless.** McCluskey agrees to defend, indemnify and hold harmless City of and from any loss, attorneys' fees, expenses or claims arising out of any such damage or injury to person or property and acknowledges and agrees that his indemnity obligations hereunder cover and relate to, without limitation, any negligent action and/or omission (whether joint, comparative or concurrent) of City's elected officials, servants and employees, and in no way shall limit or waive any other legal defenses to such claims under the Illinois Governmental and Governmental Employees' Tort Immunity Act.

{Signature Page to Follow}

William Weber McCluskey

By: _____ Date _____

CITY OF CREST HILL

By: _____ Date _____
Raymond R. Soliman
Mayor

ATTEST:

By: _____ Date _____
Christine Vershay-Hall
City Clerk

DRAFT