

CONTRACT NAME:
Missoula County Website Redesign

This is a Contract for Services between:

Missoula County, MT (the “County”):
200 W. Broadway
Missoula, MT 59802

Primary Contact: Jason M. Emery, Chief Information Officer
Telephone Number: 406.258.4400
E-mail address: jemery@missoulacounty.us

and

OrgCentral Labs, Inc. dba JesseJames Creative (the “Contractor” or “JJC”):
131 West 24th Street
New York, NY 10011

Primary Contact: James Tormey, VP
Telephone Number: 212.675.7424
E-mail address: jtormey@jjcreative.com

The County and the Contractor agree as follows:

1. CONTRACTOR’S SERVICES

The Contractor shall design a new website for The County based on the requirements outlined in Contractor’s revised Statement of Work approved by The County in “Attachment A”.

2. PAYMENTS

- A. Compensation. For the Contractor’s services set forth in Paragraph 1 and all goods and materials reasonably supplied in performance of this Contract, The County shall pay the Contractor a maximum of \$XXX.
- B. Invoices/Payment. Invoices for Contractor’s Services shall be presented to The County on a periodic basis and in accordance with the Fee Schedule below.

Kickoff and in-progress invoices will be paid by The County on receipt with a thirty (30) day grace period unless otherwise noted.

All invoices will be paid electronically by ACH.

FEE Schedule

Fees for the project are payable as follows:

- 40% at project kickoff
 - 20% at presentation of functional specifications/wireframes.
 - 10% at presentation of initial home page design concepts.
 - 5% at presentation of key interior page designs.
 - 5% at presentation of sample coded HTML pages for the website.
 - 10% at presentation of the alpha site.
 - Balance net 30 after handoff of final assets from agency to The County.
- (a) At its discretion, and without penalty, the Contractor retains the right to stop work and/or suspend access to any production or development servers, assets or project management tools in the event of Non-Payment by the County. Contractor agrees to provide 7 days' notice of any such suspension.
- (b) Contractor shall in no way be responsible for delays caused by the County on things such as availability for discovery interviews or training sessions, content generation, CMS integration, etc. Said delays will impact the overall schedule accordingly. Delays on the County's part, however, will not impact the payment schedule so long as the Contractor has fulfilled its obligations for any project phase.
- (c) Additionally, and with prior approval from the County, the Contractor will be eligible to receive reimbursement payments for incidental expenses such as travel, lodging, per diem payments and/or outside contractor services such as artwork licensing or photography. Claims for reimbursement must be accompanied by receipts and documents verifying expenditures as may be required by The County. Satisfactory documentation shall include, but is not limited to, signed copies of payment vouchers, invoices, or credit card receipts.

3. REPRESENTATIONS And PERFORMANCE OF Work

The Contractor represents that it is qualified and willing to perform the Contractor's Services set forth in Paragraph 1 as an independent contractor to the satisfaction of The County.

4. Ownership

Ownership and Access To data

We impose no limits whatsoever on access to the categories of content on the new site nor to the site's underlying data and other content assets including basic images, layered image templates and pdf files.

Regarding any Intellectual Property (IP) referenced or related to OrgCentral (including underlying code, user interface, workflows, inventions, etc.), since this platform is offered as SaaS solution, said Intellectual Property remains the sole property of the Contractor ("JesseJames Creative/OrgCentral IP"). The County will NOT have the right to resell, donate or repurpose said OrgCentral IP (in whole or in part) for any other entity besides The County of Missoula without the express written permission of JesseJames Creative.

5. CONTENT Conditions

- (a) Contractor shall not be responsible for content delays by The County once the site design is approved.
- (b) Contractor shall in no way be held responsible for content of any type including, but not limited to, text, external links, attachments, photos or video published by the County, its staff, agents,

volunteers, council members, or the community via the CMS or any publicly accessible publishing method including, but not limited to commenting engines, discussion boards and social media feeds.

6. LIABILITY/Insurance

The Contractor, at its own cost and expense, shall carry appropriate workers' compensation insurance, disability insurance, and liability insurance coverage written on an occurrence basis during the term of this Contract satisfactory to The County with limits of liability no less than:

- General Liability insurance with limits of liability no less than:
- Bodily Injury: \$1,000,000 per occurrence/\$2,000,000 aggregate
- Errors and Omissions/Professional Liability Insurance: \$500,000 per occurrence / \$500,000 aggregate

7. TAXES

The Contractor agrees to be responsible for all filing and payment of taxes and for compliance with any and all provisions and requirements arising under any applicable tax laws. No federal, state, local income tax, or payroll tax of any kind shall be withheld or paid by The County on behalf of the Contractor. The County will provide contractor with written proof of its tax-exempt status for sales tax purposes.

8. Choice OF LAW/Forum

This Contract shall be interpreted, construed, and governed by the laws of the State of Montana and such laws of the United States as may be applicable. In the event of any litigation over the interpretation or application of any of the terms or provisions of this Contract, The County and the Contractor agree that litigation shall be conducted in the Fourth Judicial District Court in Missoula, Montana.

10. Binding EFFECT/Amendments

This Contract shall become binding when signed by the parties. This Contract supersedes all prior or contemporaneous communications and negotiations, both oral and written and constitutes the entire Contract between the parties relating to the service set out above. No amendment shall be effective except in writing signed by both parties.

11. COMPLIANCE With STATE And LOCAL Regulations

A. The Contractor represents, warrants, and agrees that, in connection with the transactions contemplated by this Contract:

- (a) the Contractor is lawfully permitted to work in the United States and The State of Montana.
- (b) the Contractor shall obtain, at its own expense any permits or licenses required for the Contractor's services under this Contract; and
- (c) the Contractor shall comply with all statutes, laws, rules, regulations and other applicable governmental requirements of the United States, the State of Montana, including but not limited to any applicable antibribery statutes, which are applicable to the service to be done by the Contractor under this Contract (in each case, an "Applicable Law"). The Contractor shall not take any actions that might cause The County to be in violation of any of such Applicable Laws.

12. NOTICES

Wherever it is provided in this Contract that notice shall be given, or other communications sent to The County or the Contractor, such notices or communications shall be delivered or sent by standard USPS mail or FedEx and also emailed to the addresses on page 1 of the Contract.

13. TERM OF CONTRACT

This Contract shall begin on XXX ("Commencement Date") and shall be in effect until the mutually agreed to completion and implementation of the design with provision for renewal at the end of that period.

Additional Clauses

The parties to the attached contract, license, lease, grant, amendment, or other agreement of any kind (hereinafter "Contract") agree to be bound by the following clauses which are hereby made a part of the agreement.

1. Postponement, Suspension, Abandonment or Termination by The County

(a) This Contract may be terminated by the County unilaterally by giving notice of termination in writing at least 15 days prior to the date of intended completion. In the event of any postponement, suspension, abandonment, or termination, by The County, the Contractor shall immediately stop all work, take steps to incur no additional obligations, and limit further expenditures. Within 15 days of receipt of notice, the Contractor shall deliver to The County all confidential materials. In any of these events, The County shall make financial settlement with the Contractor for all work completed or underway to date upon an equitable basis as determined by both parties which shall fix the value of the work which was performed by the Contractor prior to the postponement, suspension, or termination, of this contract.

2. Force Majeure

The term Force Majeure shall include acts of God, work stoppages due to labor disputes or strikes, fires, explosions, epidemics, riots, war rebellion, sabotage, or the like. If a failure of or delay in performance by either party results from the occurrence of a Force Majeure event, the delay shall be excused and the time for performance extended by a period equivalent to -s fault or negligence; and

- (a) The delay or failure was not extended because of the affected party's failure to use all reasonable diligence to overcome the obstacle or to resume performance immediately after such obstacle was overcome; and
- (b) The affected party provides notice within five (5) days of the onset of the event, that it is invoking the protection of this provision.

3. Conflict of Interest

Organizational Conflict of Interest. To the best of the Contractor's knowledge and belief, the Contractor warrants that there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as herein defined, or that the Contractor has disclosed all such relevant information to The County.

- (a) An organizational conflict of interest exists when the nature of the work to be performed under this Contract may, without some restriction on future activities, impair or appear to impair the Contractor's objectivity in performing the work for The County.
- (b) Personal Conflict of Interest. The following provisions with regard to management or professional level employee personnel performing under this Contract shall apply until the earlier of the termination date of the affected employee(s) or the Expiration Date of the contract.

(1) A personal conflict of interest is defined as a relationship of an employee, subcontractor employee, or consultant with an entity that may impair or appear to impair the objectivity of the employee, subcontractor employee, or consultant in performing the Contract work. The Contractor agrees to notify The County immediately of any actual or potential personal conflict of interest regarding any such person working on or having access to information regarding this contract, as soon as Contractor becomes aware of such conflict. The County will notify the Contractor of the appropriate action to be taken.

4. Independent Contractor

The Contractor shall have the status of an independent contractor. Accordingly, the Contractor agrees that it will conduct itself in a manner consistent with such status and that it will neither hold itself out as, nor claim to be, an agent, officer, or employee of The County by reason of this contract. The Contractor further agrees that it will not make any claim, demand, or application to The County for any right or privilege applicable to an officer, employee, or volunteer of The County, including but not limited to liability coverage, worker's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

5. Tax Exemption

The County is a public authority, a Montana State governmental entity, and is exempt from sales and use taxes. A copy of a letter from the State Department of Taxation and Finance certifying said tax status will be provided to The Contractor prior to the commencement of work.

6. Use of County/Contractor Name

Neither party shall make use of this Contract or use the name and/or logo of the other party, or that of any member of the other's staff, in any public, advertising, or news release without the prior written approval of the other party. This prohibition shall not apply to publicly available documents that identify the existence of this Contract or the publication of information about awards and procurement.

7. Ownership of documents, Copyrights, etc.

(a)

(b) "All reports, information, data, and other materials prepared by Contractor pursuant to this Agreement are the property of the County, which has the exclusive and unrestricted authority to release, publish, or otherwise use, in whole or in part, information relating thereto. No material produced in whole or in part under this Agreement may be copyrighted or patented in the United States or in any other country without the prior written approval of the County."

(c) Title to, and the right to determine the disposition of any copyrights, or copyrightable material, first produced or created solely by The County in the performance of this work shall remain with the County.

(d) Any invention or discovery made or conceived and reduced to practice in the performance of this Contract solely by Contractor shall remain with the Contractor; provided that the Contractor shall grant to The County a nonexclusive, nontransferable, irrevocable, license to practice or have practiced for on behalf of The County the subject copyright throughout the world, where the Contractor is able to do so.

8. Confidential Information

During the course of the performance of this Contract, the Contractor may be provided access to materials, data, strategies, and other information relating to The County and its programs, or systems, which are intended for internal use only ("County Confidential Information"). County Confidential

Information shall only be provided under this Agreement when necessary and required in the performance of the Project. Any such Confidential Information provided by The County to the Contractor will be originally disclosed in written or other permanent form and marked with clear and conspicuous legend identifying it as County Confidential Information. County Confidential Information shall not be used, published, or divulged by the Contractor to any person, firm, or corporation or in any advertising or promotion regarding the Contractor or the Contractor's services, or in any manner without first having obtained the permission of The County.

Additional Clauses (Continued)

The Contractor may disclose County Confidential Information if required by law, but the Contractor shall make a good faith effort to give The County reasonable notice to allow The County the opportunity to obtain a protective order. The obligation of confidentiality does not apply to information that is: a) already rightfully in the possession of the Contractor without an obligation of confidence.

b) independently acquired by the Contractor.

c) publicly available when received by the Contractor; or

d) disclosed by The County without obligation of confidence. All County Confidential Information shall be returned to The County or destroyed upon request of The County or the Expiration Date of the Contract, whichever comes first. The Contractor shall retain no copies of County Confidential Information in any format.

9. Certification Regarding Material Support and Resources to Terrorists.

(1) The Contractor hereby certifies and represents that:

(a) The Contractor does not and will not commit, attempt to commit, advocate, facilitate, or participate in terrorist acts, nor has it committed, attempted to commit, facilitated, or participated in terrorist acts.

(b) The Contractor will take all reasonable steps to ensure that it does not and will not knowingly or inadvertently provide, material support or resources to any individual or entity that commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated, or participated in terrorist acts.

10. Equal Employment Opportunity (EEO)

(a) The Contractor shall submit an EEO policy statement to The County within 30 days after the date of the notice by County to award the Contract to the Contractor.

(b) The Contractor's EEO policy statement shall include the following language: The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

11. Project Insurance Considerations

The Contractor agrees to procure and maintain at its own expense and without expense to The County during the term of this Contract, insurance of the kinds and amounts applicable to the project work plan, hereinafter provided by insurance companies licensed to do business in the State of New York, covering all operations under this Contract.

12. Amendment/Extensions

The Contract may be amended and/or extended by mutual written consent of all parties. Contract amendments may be conditioned upon funds being re-appropriated and made available.

Use OF SERVICES

The County agrees to use JesseJames Creative's services and deliverables only for lawful and ethical purposes, in compliance with all applicable terms of use and laws.

(a) Acceptable use of Services Related to Content and the Management Thereof

The County (and their internal and external users) are expected to exhibit good netiquette. Adult content is not permitted. Other specific activities that are prohibited include but are not limited to: threatening harm to persons or property or otherwise harassing behavior; fraudulently representing products/services using customers' accounts; facilitating, aiding, or encouraging any of the above activities. In all cases, JesseJames Creative will bear no responsibility for content published by the County or any of its employees or agents via the self-service CMS tools employed for this project.

Mutual Indemnity

Contractor shall defend, indemnify, and hold harmless the County, its employees and agents, from all claims, liabilities, demands, causes of action or judgments, including costs and attorney fees, asserted by or awarded to third parties as a result of any negligent action or omission or willful misconduct of Contractor, its employees or agents.

County shall defend, indemnify and hold harmless Contractor, its employees and agents, from all claims, liabilities, demands, causes of action or judgments, including costs and attorney fees, asserted by or awarded to third parties as a result of any negligent action or omission or willful misconduct of the County, its employees or agents."

IN WITNESS Whereof, the Contractor and The County have duly Executed this Contract.

ORGCENTRAL LABS, INC. d/b/a JESSEJAMES CREATIVE

Authorized Representative

Title

Signature

Date

The County OF Missoula, MT

Authorized Representative

Title

Signature

Date