

RESOLUTION NO. 21-02-17

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING AN AGREEMENT WITH ATTENTION MEDIA, LLC, TO PROVIDE A SOCIAL MEDIA OUTREACH PROGRAM; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE ANY AGREEMENTS; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, at its regular meeting on February 4, 2021, the Village Council of Islamorada, Village of Islands (the "Village Council") discussed engaging a consultant to provide a social media outreach program for the Village; and

WHEREAS, the Village Council discussed the services offered by Attention Media, LLC, and gave direction to Village staff to further discuss and prepare an agreement with Attention Media, LLC for consideration by the Village Council; and

WHEREAS, Attention Media, LLC, is willing to provide services to the Village for not-to-exceed amount of Twenty-four Thousand and no/100 Dollars (\$24,000.00) paid in equal monthly installments for a four (4)-month period; and

WHEREAS, the Village Council finds that the engagement of Attention Media, LLC, to provide a social media outreach pilot program is in the best interests of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Approval of Purchase. The Village Council hereby approves the engagement of Attention Media, LLC, to provide a social media outreach pilot program at a

cost not to exceed Twenty-four Thousand and no/100 Dollars (\$24,000.00) as set forth in the Agreement attached as Exhibit "A."

Section 3. Authorization of Fund Expenditure. The Village Manager is hereby authorized to expend budgeted funds for the purchase.

Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.

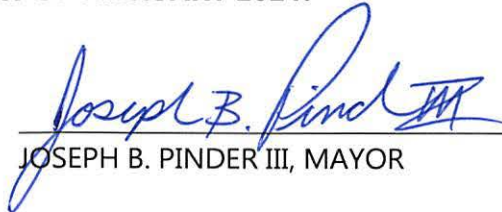
Motion to adopt by Councilman Mark Gregg, second by Vice Mayor Pete Bacheler.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Joseph B. Pinder III	YES
Vice Mayor Pete Bacheler	YES
Councilman Mark Gregg	YES
Councilman Henry Rosenthal	YES
Councilman David Webb	YES

PASSED AND ADOPTED ON THIS 25th DAY OF FEBRUARY 2021.



JOSEPH B. PINDER III, MAYOR

ATTEST:



KELLY TOTH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY



ROGET V. BRYAN, VILLAGE ATTORNEY

AGREEMENT

THIS IS AN AGREEMENT, dated the 1st day of March, 2021, between:

ISLAMORADA, VILLAGE OF ISLANDS
a Florida municipal corporation, hereinafter "VILLAGE,"

and

ATTENTION MEDIA LLC
a Florida limited liability company, authorized to do business in the
State of Florida, hereinafter "CONTRACTOR."

WITNESSETH:

In consideration of the mutual terms and condition, promises, covenants, and payments hereinafter set forth, VILLAGE and CONTRACTOR agree as follows:

ARTICLE 1 PREAMBLE

In order to establish the background, context, and form of reference for this Agreement and to generally express the objectives, and intentions, of the respective parties herein, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

1.1 The VILLAGE desires the services of an independent contractor to develop and implement a social media outreach program and other related services for the Village (the "Services").

1.2 On February 04, 2021, the VILLAGE received a proposal from CONTRACTOR to develop and implement a social media outreach program and other related services for the Village (the "Services").

1.3 On February 25, 2021, the Village Council approved Resolution No. 21-02-17, thereby authorizing the Village Manager to execute an agreement with CONTRACTOR for services related to the scope of work set forth in the scope of services attached hereto as Exhibit "A" and as more particularly described herein.

ARTICLE 2 SCOPE OF WORK

2.1 The CONTRACTOR shall furnish all the materials, tools, supplies, and labor necessary to perform all of the work described in the Scope of Services, a copy of which is attached hereto and specifically made a part of this Agreement as Exhibit "A".

2.2 CONTRACTOR hereby represents to VILLAGE, with full knowledge that VILLAGE is relying upon these representations when entering into this Agreement with CONTRACTOR, that CONTRACTOR has the professional expertise, experience, and manpower to perform the services to be provided by CONTRACTOR pursuant to the terms of this Agreement.

2.3 CONTRACTOR assumes professional and technical responsibility for performance of its services to be provided hereunder in accordance with applicable recognized professional standards.

2.4 None of the work or services under this contract shall be subcontracted beyond that shown on List of Major Sub-contractors submitted to the VILLAGE by CONTRACTOR, unless CONTRACTOR obtains prior written consent from the VILLAGE. Approved subcontractors shall be subject to each provision of this contract and CONTRACTOR shall be responsible and indemnify the VILLAGE for all subcontractors' acts, errors, or omissions.

ARTICLE 3 TIME FOR COMPLETION

3.1 The CONTRACTOR shall commence work as directed by VILLAGE and in accordance with a project implementation timeline to be provided to CONTRACTOR by the VILLAGE. CONTRACTOR shall complete all work in a timely manner in accordance with the project timeline and as stated in Exhibit "A" to this Agreement.

3.2 This Agreement shall commence on the date this Agreement is fully executed by all parties.

3.3 Anything to the contrary notwithstanding, minor adjustment to the timetable for completion approved by VILLAGE in advance, in writing, will not constitute a delay by CONTRACTOR. Furthermore, a delay due to an Act of God, fire, lockout, strike or labor dispute, riot or civil commotion, act of public enemy or other cause beyond the control of CONTRACTOR shall extend this Agreement for a period equal to such delay and during this period such delay shall not constitute a delay by CONTRACTOR for which liquidated damages are due.

ARTICLE 4 CONTRACT SUM

4.1 The VILLAGE hereby agrees to pay CONTRACTOR for the faithful performance of this Agreement, for work completed in accordance with the Proposal attached hereto as Exhibit "A", and as directed by VILLAGE. Prices for work completed by the CONTRACTOR shall be as reflected in CONTRACTOR's Scope of Services attached hereto and made a part hereof as Exhibit "A". A total contract price hereto is referred to as Contract Sum and shall not exceed **Twenty-Four Thousand Dollars (\$24,000.00)**.

4.2 The VILLAGE will make payments to CONTRACTOR for completed and proper work and in the amounts stated in Exhibit "A".

4.3 The making and acceptance of the final payment shall constitute a waiver of all claims by the CONTRACTOR other than those arising from requirements of the specifications.

4.5 CONTRACTOR is prohibited from placing a lien on the Village's property. This prohibition applies to; *inter alia*, all sub-CONTRACTORS and subcontractors, suppliers, and labors.

ARTICLE 5
CONTRACTOR'S LIABILITY INSURANCE

5.1 The CONTRACTOR shall not commence work under this contract until he has obtained all insurance required under this paragraph and such insurance has been approved by the VILLAGE nor shall the CONTRACTOR allow any Subcontractor to commence work on his sub-contract until all similar such insurance required of the subcontractor has been obtained and approved.

5.2 Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the Village prior to the commencement of the work. These Certificates shall contain a provision that coverage afforded under these policies will not be canceled until at least thirty (30) days prior written notice has been given to the VILLAGE. Policies shall be issued by companies authorized to do business under the laws of the State of Florida.

5.3 Financial Ratings must be no less than "A" in the latest edition of "Bests Key Rating Guide", published by A.M. Best Guide.

5.4 Insurance shall be in force until all work required to be performed under the terms of the Contract is satisfactorily completed as evidenced by the formal acceptance by the VILLAGE. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this contract, then in that event, the CONTRACTOR shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the contract and extension thereunder is in effect. The CONTRACTOR shall not continue to work pursuant to this contract unless all required insurance remains in full force and effect.

5.5 Comprehensive General Liability insurance to cover liability bodily injury and property damage. Exposures to be covered are premises, operations, products/completed operations, and certain contracts. Coverage must be written on an occurrence basis, with the following limits of liability:

- a) Workers' Compensation Insurance - as required by law;
- b) Comprehensive General Liability Insurance - \$1,000,000 per occurrence;
- c) Automobile Liability Insurance - \$1,000,000 per occurrence, \$1,000,000 per Accident for bodily injury and \$1,000,000 per accident for property damage.

5.6 The CONTRACTOR shall hold the VILLAGE, its agents, and employees, harmless on account of claims for damages to persons, property or premises arising out of CONTRACTOR's negligent operations in completing this Agreement and name the VILLAGE as an additional insured under their policy.

5.7 The VILLAGE reserves the right to require any other insurance coverage it deems necessary depending upon the exposures.

ARTICLE 6
PROTECTION OF PROPERTY

6.1 At all times during the performance of this Contract, the CONTRACTOR shall protect the VILLAGE's property and properties utilized by CONTRACTOR from all damage whatsoever on account of the work being carried on pursuant to this Agreement.

ARTICLE 7
CONTRACTOR'S INDEMNIFICATION

7.1 The CONTRACTOR agrees to release the VILLAGE from and against all liability and responsibility in connection with the above-mentioned matters. The CONTRACTOR further agrees not to sue or seek any money or damages from VILLAGE in connection with the above-mentioned matters, except if the VILLAGE fails to pay to CONTRACTOR the fees and costs as provided for in Article 4 herein.

7.2 The CONTRACTOR agrees to indemnify and hold harmless the VILLAGE, its trustees, elected and appointed officers, agents, servants and employees, from and against any and all claims, demands, or causes of action of whatsoever kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees, sustained by the VILLAGE or any third party arising out of, or by reason of, or resulting from the CONTRACTOR's negligent acts, errors, or omissions.

7.3 If a court of competent jurisdiction holds the Village liable for certain tortuous acts of its agents, officers, or employees, such liability shall be limited to the extent and limit provided in 768.28, Florida Statutes. This provision shall not be construed as a waiver of any right or defense that the Village may possess. The Village specifically reserves all rights as against any and all claims that may be brought.

ARTICLE 8
INDEPENDENT CONTRACTOR

8.1 This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that the CONTRACTOR is an independent contractor under this Agreement and not the VILLAGE's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State unemployment insurance law. The CONTRACTOR shall retain sole and absolute discretion in the judgment of the manner and means of carrying out the CONTRACTOR's activities and responsibilities hereunder provided. This Agreement shall not be construed as creating any joint employment relationship between the CONTRACTOR and the VILLAGE and the VILLAGE will not be liable for any obligation incurred by CONTRACTOR, including but not limited to unpaid minimum wages and/or overtime.

ARTICLE 9
PERFORMANCE BOND

9.1 No performance bond shall be required under this Agreement.

ARTICLE 10
CHANGES TO SCOPE OF WORK AND ADDITIONAL WORK

10.1 The VILLAGE or CONTRACTOR may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement as described in Article 2 of this Agreement. Such changes or additional services must be in accordance with the provisions of the Village Code of Ordinances and must be contained in a written amendment, executed by the parties hereto, with the same formality and with equality and dignity prior to any deviation from the terms of this Agreement, including the initiation of any additional or extra work. Each amendment shall at a minimum include the following information on each project:

PROJECT NAME
PROJECT DESCRIPTION
ESTIMATED PROJECT COST
ESTIMATED COST FOR ADDITION OR CHANGE TO PROJECT CONTRACT
ESTIMATED PROJECT COMPLETION DATE

10.2 In no event will the CONTRACTOR be compensated for any work which has not been described in a separate written agreement executed by the parties hereto.

ARTICLE 11
TERM AND TERMINATION

11.1 This Agreement may be terminated by either party for cause, or the VILLAGE for convenience, upon ten (10) days written notice by the VILLAGE to CONTRACTOR in which event the CONTRACTOR shall be paid its compensation for services performed to termination date. In the event that the CONTRACTOR abandons this Agreement or causes it to be terminated, he shall indemnify the VILLAGE against any loss pertaining to this termination up to a maximum of the full contracted fee amount. All finished or unfinished documents, data, studies, plans, surveys, and reports prepared by CONTRACTOR shall become the property of VILLAGE and shall be delivered by CONTRACTOR to VILLAGE.

11.2 This Agreement shall take effect as of the date of execution as shown herein below and continue for a period of four (4) months from the date of the execution. This Agreement may be otherwise renewed or extended such time as is contemplated by the VILLAGE and agreed to by CONTRACTOR, subject to a written amendment or renewal executed by parties.

ARTICLE 12
CONTRACT DOCUMENTS

12.1 CONTRACTOR and VILLAGE hereby agree that the following Specification and Contract Documents, which are attached hereto and made a part thereof, are fully incorporated herein and

made a part of this Agreement, as if written herein word for word: this Agreement; CONTRACTOR's proposal to develop and implement a social media outreach program and other related services for the Village as set forth in and made a part of this Agreement in Exhibit "A"; and all other exhibits thereto.

ARTICLE 13 MISCELLANEOUS

13.1 Legal Representation. It is acknowledged that each party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement and, accordingly, the rule that a contract shall be interpreted strictly against the party preparing same shall not apply due to the joint contribution of both parties.

13.2 Assignments. This Agreement, or any interest herein, shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by CONTRACTOR without the prior written consent of VILLAGE. For purposes of this Agreement, any change of ownership of CONTRACTOR shall constitute an assignment which requires VILLAGE approval. However, this Agreement shall run to the VILLAGE and its successors and assigns.

13.3 Records. CONTRACTOR shall keep books and records and require all subcontractors to keep books and records as may be necessary to record complete and correct entries as to personnel hours charged to this engagement, and any expenses for which CONTRACTOR expects to be reimbursed, if applicable. Such books and records will be available at all reasonable times for examination and audit by VILLAGE and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by VILLAGE of any fees or expenses based upon such entries.

VILLAGE is a public agency subject to Chapter 119, Florida Statutes. To the extent that CONTRACTOR is acting on behalf of VILLAGE pursuant to Section 119.0701, Florida Statutes, CONTRACTOR shall:

- a. Keep and maintain public records that ordinarily and necessarily would be required to be kept and maintained by VILLAGE were VILLAGE performing the services under this agreement;
- b. Provide the public with access to such public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- c. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and
- d. Meet all requirements for retaining public records and transfer to VILLAGE, at no cost, all public records in possession of the CONTRACTOR upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the VILLAGE.

13.4 Ownership of Documents. Reports, surveys, plans, studies, and other data provided in connection with this Agreement are and shall remain the property of Village.

13.5 No Contingent Fees. CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONTRACTOR, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the VILLAGE shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

13.6 Notice. Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, the CONTRACTOR and the VILLAGE designate the following as the respective places for giving of notice:

VILLAGE: Maria T. Bassett, Acting Village Manager
Village Administration Center
Islamorada, Village of Islands
86800 Overseas Highway
Islamorada, Florida 33036

Copy To: Roget V. Bryan, Village Attorney
Islamorada, Village of Islands
86800 Overseas Highway
Islamorada, Florida 33036

CONTRACTOR: Attn: Carlos E. Garcia
Attention Media LLC
216 Coral Road
Islamorada, Florida 33036

13.7 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

13.8 Exhibits. Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.

13.9 Headings. Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.

13.10 Severability. If any provision of this Agreement or application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

13.11 Governing Law. This Agreement shall be governed by the laws of the State of Florida with venue lying in Monroe County, Florida.

13.12 Disputes. Any claim, objection, or dispute arising out of the terms of this Agreement shall be litigated in the Sixteenth Judicial Circuit Court in and for Monroe County.

13.13 Attorney's Fees. To the extent authorized by law, if either party sues for enforcement of this Agreement, the prevailing party shall be entitled to attorney's fees and court costs in addition to any other remedy afforded by law.

13.14 Extent of Agreement. This Agreement together with Contract Documents, attached as an Exhibit hereto, as amended herein above represents the entire and integrated agreement between the VILLAGE and the CONTRACTOR and supersedes all prior negotiations, representations, or agreements, either written or oral.

13.15 Waiver. Failure of the VILLAGE to insist upon strict performance of any provision or condition of this Agreement, or to execute any right therein contained, shall not be construed as a waiver or relinquishment for the future of any such provision, condition, or right, but the same shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties have executed this Agreement on the respective dates under each signature: The VILLAGE, signing by and through its Village Manager, attested to by its Village Clerk, duly authorized to execute same, and by CONTRACTOR, by and through its _____, duly authorized officer to execute same.

VILLAGE

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

By: Maria T. Bassett
Maria T. Bassett, Acting Village Manager

AUTHENTICATION:

Kelly S. Toth
Kelly Toth, Village Clerk

(SEAL)

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, ONLY

Roget V. Bryan
Roget V. Bryan, Village Attorney

CONTRACTOR

WITNESSES:

Bobbie Fisher
Bobbie Fisher

By: [Signature]
Carlos E. Garcia, behalf of
Attention Media LLC.

ATTEST:

SECRETARY

STATE OF FLORIDA)
COUNTY OF Monroe)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared Carlos Garcia as President, of Attention Media, a Florida corporation, and acknowledged executed the foregoing Agreement as the proper official of _____, for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 1 day of March, 2021.

Kelly S. Toth
NOTARY PUBLIC

My Commission Expires:

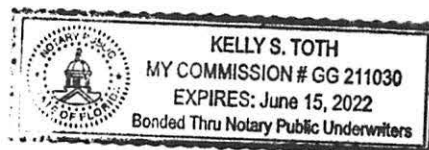


Exhibit "A"
SCOPE OF SERVICES

1. Attention Media LLC ("CONTRACTOR" or "AML") will develop and implement a social media focused community outreach content pilot project (the "Project") for the VILLAGE which focuses on improving transparency and expanding the online communication efforts from the Village Council and Village staff to the community.
2. The scope of services also includes the creation of a social media handbook / "best practices manual" ("Manual") for the VILLAGE, to be utilized as the official social media communication guidelines for the Village Council and/or Village staff. The Manual shall be developed in coordination with Village staff, specifically the Village Public Information Officer (PIO) to ensure compliance with applicable laws, policy, and procedures. The creation of the manual shall also take into account recommendations obtained from research and interactions with social media managers from other municipalities.
3. The content produced for the Project may be available for viewing in an entirely different official website (the "Platform") or in the Village's website and/or on social media accounts or via text messages. If possible, the content produced for the Project may also be broadcast on the Village's Xfinity cable channel.
4. The content for the Project will be in the format of pictures, videos and sound materials that will be curated and produced by AML with direct input from members of the Village Council and assistance from Village staff.
5. The content creation process consists of AML working closely with each council member and includes attending events and/or meeting council members in different locations, to determine, and capture the necessary information required to produce said content.
6. Any content produced for the Project involving any Council members shall not be related to any topic that is reasonably anticipated to be coming up for voting or discussion by the Village Council during a public meeting, unless the purpose is to simply notify the community of what items will be discussed on an upcoming meeting agenda.
7. Any content produced for the Project shall not involve two or more council members directly discussing any specific topics outside of a publicly noticed meeting. However, content may involve a picture or video or sound material of one or more council members attending a group activity, a tour of a local facility, a business roundtable, business inauguration or other such public activities.
8. Any content produced for the Project shall not involve a council member commenting on another council member, or utilize pictures, videos, or sound material on any topics directed to opinions, statements, or activities of another council member.

9. All content produced for the Project will be archived daily utilizing appropriate archiving solutions applicable to local governments and public records compliance.
10. All content produced for the Project will adhere to applicable Sunshine and Public Records Disclosure laws. AML will work with Village Staff prior to release of any content.
11. All video content produced for the Project will have closed captioning that is available on all platforms utilized for accessing such content.
12. Reporting. CONTRACTOR shall provide the Village Council with a report on the development and activities undertaken under the Pilot Program. Such report will be provided to Village Council no later than 15 days before the expiration of this Agreement, so that Village Council can determine the viability for continuation and / or expansion of the pilot program.
13. Payment. Payment for the services rendered hereunder shall be paid monthly in the amount of Six Thousand Dollars (\$6,000.00) not to exceed 4 monthly payments or Twenty-Four Thousand Dollars (\$24,000.00) in total compensation during the Term. The first monthly payment will be payable upon execution of this Agreement and then every thirty (30) days thereafter for 3 monthly payment periods.
14. Non-Compete. The non-compete clause contained herein serves to protect the best interest of the of the parties and avoid any potential conflict of interest related to the performance of the Services hereunder.
 - a. AML shall not provide social media or marketing services to individuals or organizations that are engaging in hostile activities towards the Village or its Council members.
 - b. AML shall not provide social media or marketing services to political candidates that are running for Village Council or any other position within the Village.