

**CITY OF KENYON
KENYON, MINNESOTA**

NOTICE OF SPECIAL CITY COUNCIL MEETING

**Thursday, April 25, 2024
5:30 p.m.**

NOTICE IS HEREBY GIVEN that the City Council will hold a Special Meeting pursuant to Minnesota Statutes, Section 13D.04, subdivision 2 on Thursday, April 25, 2024, commencing at 5:30 p.m. at City Hall, 709 2nd Street, Kenyon, Minnesota for the following purposes:

1. General Discussion of Interim City Administrator
2. Approval of Interim City Administrator Contract
3. Other

/s/ Doug Henke

Doug Henke

Mayor

DATED: April 22, 2024.

Member _____ introduced the following resolution and moved its adoption:

RESOLUTION NO. 2024-__
CITY OF KENYON
COUNTY OF GOODHUE
STATE OF MINNESOTA

**RESOLUTION TO APPROVE INTERIM CITY ADMINISTRATOR HIRING FOR
THE CITY OF KENYON, MINNESOTA**

WHEREAS, the City of Kenyon (the “City”) presently has a vacancy for City Administrator that needs to be filled by a qualified candidate; and

WHEREAS, the City Council desires to fill the vacancy for the City Administrator on an interim basis pursuant to an offer of employment to Frank Boyles to fill the City Administrator position consistent with the Independent Contractor Agreement for Interim City Administrator attached hereto and incorporated herein as Exhibit A.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Kenyon, Minnesota as follows:

1. The Recitals set forth above in this Resolution and the Exhibit attached to this Resolution are incorporated into and made part of this Resolution as if fully set forth herein.
2. The Independent Contractor Agreement for Interim City Administrator with Frank Boyles is approved with the employment of Mr. Boyles as Interim City Administrator commencing as of April 29, 2024.
3. The City Council, staff and consultants are authorized to take all necessary further action to implement this Resolution.

Adopted by the City Council of the City of Kenyon on this 25th day of April, 2024.

Doug Henke, Mayor

ATTEST:

Holli Gudknecht, Deputy City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member _____, and upon vote being taken thereon, the following voted in favor thereof:

The following voted against the same:

Whereupon said resolution was declared duly passed and adopted.

EXHIBIT A

INDEPENDENT CONTRACTOR AGREEMENT FOR INTERIM CITY ADMINISTRATOR

THIS INDEPENDENT CONTRACTOR AGREEMENT FOR INTERIM CITY ADMINISTRATOR is made effective as of the 29th day of April, 2024 ("Effective Date") by and between the City of Kenyon, a Minnesota municipal corporation (the "City"), and Francis Frederick Boyles III, an individual (hereinafter "Contractor").

RECITALS

WHEREAS, the City desires to retain the services of Contractor for an interim period of time for purposes of performing duties generally performed by the city administrator along with the additional responsibility of assisting the City Council with the recruitment, screening and employment of a full time city administrator or city clerk-treasurer for the City; and

WHEREAS, Contractor has the necessary specialized skill, experience, education and training to provide professional services to the City in capacity of Interim City Administrator, and Contractor can and desires to provide such services to the City, and

WHEREAS, City desires to procure from Contractor professional services as Interim City Administrator.

NOW, THEREFORE for good and valuable consideration, including the mutual promises and agreements contained in this Agreement, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Term and Renewal.

This Agreement shall commence on the Effective Date as written above and shall continue in full force and effect until it is terminated by either party giving to the other party thirty (30) days' written notice of intent to terminate, with or without cause. Notwithstanding the foregoing, this Agreement shall automatically terminate six months from the Effective Date unless terminated by either party earlier (in accordance with the previous sentence) or unless the parties hereto mutually agree to a written extension.

0. Representations; Independent Contractor Status.

Contractor agrees that all work performed by him under this Agreement shall be performed in a professional matter, using Contractor's best efforts, in a manner consistent with the level of care and skill ordinarily exercised by professional consultants currently providing similar services.

Contractor also understands and acknowledges that he is an independent contractor and not an employee of the City, and that he will be responsible for paying for all necessary and appropriate taxes, unemployment premiums, and the like, which will be

owed as a result of sums paid by the City to Contractor under this Agreement. Contractor further understands and warrants that he will not be entitled to receive benefits provided by the City to its employees, including, but not limited to, health, life, or disability insurance, PERA, paid time off, paid holidays, ESST, or other benefits. Contractor waives the right to sue the City for any worker's compensation benefits. For the avoidance of doubt, all services performed by the Contractor pursuant to this Agreement shall be provided as an independent contractor and not as an employee of the City for any purpose, including but not limited to: income tax withholding, workers' compensation, retirement opportunities, unemployment compensation, FICA taxes, liability for torts and eligibility for employee benefits.

3. Fees/Hours of Work.

City agrees to pay Contractor at a rate of \$100.00 per hour for all professional services performed under this Agreement, paid every month following receipt of proper invoices, plus mileage from his residence to Kenyon and return trip at the current IRS rate of 67 cents per mile. Except for mileage, travel to and from work will not be counted as time worked; however, travel within Kenyon, in connection with job duties, shall be billed as time worked.

Also, the City and Contractor anticipate that Contractor will not exceed 40 hours of service to the City per week, and will consist of between 16 and 32 hours per week during normal office hours of the City together with attendance at evening City Council and Planning Commission meetings as required.

Except for attending mandatory meetings described herein or for emergency situations, Contractor will be available to work Monday through Friday between 9 or 10 o'clock a.m. until 4:30 p.m. on each workday. Contractor may work remotely when appropriate and such hours will be identified as such when invoiced to the City.

0. Tax Payments.

Contractor acknowledges and agrees to be fully and completely responsible for all appropriate self-employment tax payments as required by law, as well as Social Security and all other required tax payments. The City shall provide Contractor with tax forms, showing all payments made by the City to Contractor.

0. Services.

Contractor shall act as the Interim City Administrator during the term of this Agreement and during that time shall be responsible to the City Council as set forth in City Code, the City Administrator job description, and this Agreement, along with other duties as assigned by the City Council. The City Council may identify certain priorities for Contractor consistent with the interim, temporary nature of the position.

The parties agree that Contractor, while acting as the Interim City Administrator shall be deemed to be the officer of the City, as set forth in Minnesota Statutes, Chapter 466, and shall be entitled to the immunities and protections available to officers in Chapter 466.

Services provided to the City under this Agreement shall be performed exclusively by Contractor. This Agreement, being intended to secure the personal services of Contractor, shall not be assigned, sublet or transferred without the written consent of the City.

0. Office and Equipment.

The City will provide to Contractor a furnished office located at Kenyon City Hall, together with phone and internet service and the assistance of existing staff. The City will provide or help facilitate Contractor's ability to work remotely from his residence.

0. Indemnification.

The City shall defend and indemnify Contractor from claims brought against him arising from actions by Contractor within the course and scope of the services described herein, to the extent that insurance coverage is available and provided for any claim insured through the City's current insurance with the League of Minnesota Insurance Trust. It is the parties' intent that claims against Contractor shall be governed by Minnesota Tort Claims Act, Minnesota Statutes Chapter 466. Nothing herein shall be construed to provide insurance coverage or indemnification for claims caused by Contractor's malfeasance in office, willful neglect of duty, or bad faith. This Agreement does not constitute a waiver on the limitation of liability set forth in Minnesota Statutes, Section 466.04.

0. Governing Law/Jurisdiction

This Agreement is made and entered into in the State of Minnesota and shall be governed and construed in accordance with the laws of Minnesota, without regard to its conflict of laws and principles. The parties also agree that any dispute between the parties shall be resolved in the courts of Minnesota, and each party consents to the exercise of personal jurisdiction by the courts of Minnesota.

0. Non-Waiver

The waiver by a party of a breach of any provision of this Agreement shall not operate to waive any subsequent breach or as a waiver of any other provision of this Agreement.

0. Complete Agreement: Modification

This Agreement represents the entire agreement of the parties, and no representations have been made or relied upon except as set forth herein. Any modification of this Agreement shall be ineffective and unenforceable unless it is in writing and signed by both parties.

0. Conflict of Interest.

Contractor covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of his services pursuant to this Agreement.

12. Data Practices; Audit.

Data provided, produced or obtained under this Agreement, shall be administered in accordance with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13. Contractor will immediately report to the City any requests from third parties for information relating to this Agreement. Contractor agrees to promptly respond to inquiries from the City concerning data requests.

Pursuant to Minnesota Statutes, Section 16C.05, Subd. 5, Contractor must allow the City, or its duly authorized agents, and the state auditor or legislative auditor reasonable access to any books, records, documents, and accounting procedures and practices that are pertinent to all services provided under this Agreement for a minimum of six years from the termination of this Agreement.

[signature page to follow]

Both parties are in agreement of the above contract and have caused it to take effect by their signatures below.

CITY OF KENYON, MN

By: _____
Mayor

BY: _____
Deputy Clerk

FRANCIS FREDERICK BOYLES III

By: _____
Francis Frederick Boyles III

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Mayor

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Deputy Clerk

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