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Name	Nick E		Name		Susan J.M. Bauman					
Phone # Email	608-266 bubb.nicholas@co		Phone # Email		608-576-6 sjmbauman@gr					
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# Goldade, Michelle

From: Goldade, Michelle

**Sent:** Friday, December 10, 2021 10:03 AM

To: Hicklin, Charles; Hidalgo, Carmen; Gault, David; Lowndes, Daniel

**Cc:** Stavn, Stephanie; Oby, Joe

**Subject:** Contract #14553 **Attachments:** 14553.pdf

Tracking: Recipient Read Response

 Hicklin, Charles
 Read: 12/10/2021 10:07 AM
 Approve: 12/10/2021 10:07 AM

 Hidalgo, Carmen
 Read: 12/10/2021 10:25 AM
 Approve: 12/10/2021 10:29 AM

 Gault, David
 Read: 12/10/2021 10:06 AM
 Approve: 12/10/2021 10:08 AM

 Lowndes, Daniel
 Approve: 12/10/2021 1:53 PM

Stavn, Stephanie Read: 12/10/2021 2:17 PM

Oby, Joe

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

Contract #14553

Department: Administration

Vendor: Bauman Mediation Arbitration

Contract Description: Provide service as an Impartial Hearing Officer and Independent Consultant (Res 220)

Contract Term: 1/1/22 – 10/31/26 Contract Amount: \$30,000.00

# Michelle Goldade

Administrative Manager
Dane County Department of Administration
Room 425, City-County Building
210 Martin Luther King, Jr. Boulevard
Madison, WI 53703

PH: 608/266-4941 Fax: 608/266-4425 TDD: Call WI Relay 711

Please Note: I currently have a modified work schedule...I am in the office Mondays and Wednesdays and working remotely Tuesdays, Thursdays and Fridays in accordance with COVID 19 response guidelines.

**2021 RES-220** 

# APPROVING EIGHT CONTRACTS TO SERVE AS IMPARTIAL HEARING OFFICERS AND INDEPENDENT CONSULTANTS

 Dane County works with a pool of individuals to serve as Impartial Hearing Officers and/or Independent Consultants. County ordinances requires that a Request for Proposals be issued for service contracts after five years. It has been more than five years since the County began working with the current pool of Impartial Hearing Officers and a new request for proposals was required.

Dane County issued RFP#121073 in 2021 for a pool of candidates to serve as an Impartial Hearing Officer and/or Independent Consultant. The current pool of Impartial Hearing Officers were invited to submit a proposal. There were eight respondents. The Department of Administration has reviewed the qualifications of the respondents and all eight are qualified to serve as Impartial Hearing Officers and/or Independent Consultants. The Department is recommending that the County adopt agreements with all eight respondents.

The eight respondents were: 1) Susan J.M. Bauman, 2) Carne Dispute Resolution (Danielle L. Carne), 3) Raleigh Jones Arbitration, 4) Daniel Nielsen, 5) Herman Torosian Arbitration Services, and 6) Thomas L. Yaeger, 7) Howard Bellman, and 8) Stanley Michelstetter. Each respondent is offered a five-year contract, not to exceed \$30,000.

Selection of Impartial Hearing Officers and/or Independent Consultants, shall be completed in accordance with the procedures established in County Ordinance and the Employee Benefit Handbook.

**NOW, THEREFORE BE IT RESOLVED** that the County Executive and the County Clerk are authorized to execute agreements with Susan J.M. Bauman, Carne Dispute Resolution, Raleigh Jones Arbitration, Daniel Nielsen, Herman Torosian Arbitration Services, Thomas L. Yaeger, Howard Bellman, and Stanley Michelstetter each for \$30,000 and a term of five years.

# DANE COUNTY CONTRACT # 14553

Revised 06/2021



**Department:** Administration

**Provider:** Susan J.M. Bauman

**Expiration Date:** October 31, 2026

Maximum Cost: \$30,000

Registered Agent (if applicable): N/A
Registered Agent Address: N/A

**THIS AGREEMENT**, made and entered into, by and between the County of Dane (hereafter referred to as "COUNTY") and Susan J.M. Bauman (hereafter, "PROVIDER"),

# WITNESSETH:

**WHEREAS** COUNTY, whose address is 210 Martin Luther King Jr. Blvd., Madison, WI 53703, desires to purchase services from PROVIDER for the purpose of providing impartial hearing officer or independent consulting services; and

**WHEREAS** PROVIDER, whose address is 125 N. Hamilton Street Unit 407, Madison, WI 53703, is able and willing to provide such services;

**NOW, THEREFORE,** in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, COUNTY and PROVIDER do agree as follows:

## I. TERM:

The term of this Agreement shall commence as of the date by which all parties have executed this Agreement and shall end as of the EXPIRATION DATE set forth on page 1 hereof, unless sooner agreed to in writing by the parties. PROVIDER shall complete its obligations under this Agreement not later than the EXPIRATION DATE. COUNTY shall not be liable for any services performed by PROVIDER other than during the term of this Agreement. COUNTY shall never pay more than the Maximum Cost as stated above for all services. Upon failure of PROVIDER to complete its obligation set forth herein by the EXPIRATION DATE, COUNTY may invoke the penalties, if any, set forth in this document and its attachments.

#### II. SERVICES:

- A. PROVIDER agrees to provide the services detailed in the bid specifications, if any; the request for proposals (RFP) and PROVIDER's response thereto, if any; and on the attached Schedule A, which is fully incorporated herein by reference. In the event of a conflict between or among the bid specifications, the RFP or responses thereto, or the terms of Schedule A or any of them, it is agreed that the terms of Schedule A, to the extent of any conflict, are controlling.
- B. PROVIDER shall commence, carry on and complete its obligations under this Agreement with all deliberate speed and in a sound, economical and efficient manner, in accordance with this Agreement and all applicable laws. In providing services under this Agreement, PROVIDER agrees to cooperate with the various departments, agencies, employees and officers of COUNTY.
- C. PROVIDER agrees to secure at PROVIDER's own expense all personnel necessary to carry out PROVIDER's obligations under this Agreement. Such personnel shall not be

- deemed to be employees of COUNTY nor shall they or any of them have or be deemed to have any direct contractual relationship with COUNTY.
- D. No portion of funds under this Agreement may be used to support or advance religious activities.
- E. PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin and has met all state and federal service standards, certifications and assurances as expressed by State and Federal statutes, rules, and regulations applicable to the services covered by this Agreement.
- F. PROVIDER will follow applicable public health guidelines to provide safe services and a safe workplace. In addition, by signing this Agreement, PROVIDER acknowledges the contagious nature of COVID-19 and voluntarily assumes the risk that PROVIDER and its staff may be exposed to or infected by COVID-19 by providing services under this Agreement and that such exposure or infection may result in personal injury, illness, permanent disability, and death.

PROVIDER further acknowledges that PROVIDER is assuming all of the foregoing risks and accept sole responsibility for any injury to itself and staff, including, but not limited to, personal injury, disability, death, illness, damage, loss, claim, liability, or expense or any kind, that PROVIDER or its staff may experience or incur in connection with providing services. PROVIDER hereby releases, covenants not to sue, discharges, and holds harmless and indemnifies the COUNTY, its employees, agents, and representatives, of and from any and all claims, including all liabilities, claims, actions, damages, costs or expenses of any kind arising out of or relating thereto. Provider understands and agrees that this release includes any claims based on the actions, omissions, or negligence of COUNTY, its employees, agents and representatives, whether a COVID-19 infection occurs before, during, or after the provision of services under this Agreement.

## III. ASSIGNMENT/TRANSFER:

PROVIDER shall not assign, subcontract or transfer any interest or obligation in this Agreement, without the prior written consent of COUNTY, including the hiring of independent contract service providers unless otherwise provided herein. Claims for money due or to become due PROVIDER from COUNTY under this Agreement may be assigned to a bank, trust company or other financial institution without such approval if and only if the instrument of assignment contains a provision substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to PROVIDER shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Agreement. PROVIDER shall promptly provide notice of any such assignment or transfer to COUNTY.

#### IV. TERMINATION:

- A. Failure of PROVIDER to fulfill any of its obligations under this Agreement in a timely manner, or violation by PROVIDER of any of the covenants or stipulations of this Agreement, shall constitute grounds for COUNTY to terminate this Agreement by giving a thirty (30) day written notice to PROVIDER.
- B. The following shall constitute grounds for immediate termination:
  - 1. violation by PROVIDER of any State, Federal or local law, or failure by PROVIDER to comply with any applicable States and Federal service standards, as expressed by applicable statutes, rules and regulations.
  - failure by PROVIDER to carry applicable licenses or certifications as required by law.
  - 3. failure of PROVIDER to comply with reporting requirements contained herein.
  - 4. inability of PROVIDER to perform the work provided for herein.

- C. Failure of the Dane County Board of Supervisors or the State or Federal Governments to appropriate sufficient funds to carry out COUNTY's obligations hereunder, shall result in automatic termination of this Agreement as of the date funds are no longer available, without notice.
- D. In the event COUNTY terminates this Agreement as provided herein, all finished and unfinished documents, services, papers, data, products, and the like prepared, produced or made by PROVIDER under this Agreement shall at the option of COUNTY become the property of COUNTY, and PROVIDER shall be entitled to receive just and equitable compensation, subject to any penalty, for any satisfactory work completed on such documents, services, papers, data, products or the like. Notwithstanding the above, PROVIDER shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by PROVIDER, and COUNTY may withhold any payments to PROVIDER for the purpose of offset.

# V. PAYMENT:

COUNTY agrees to make such payments for services rendered under this Agreement as and in the manner specified herein and in the attached Schedule B, which is fully incorporated herein by reference. Notwithstanding any language to the contrary in this Agreement or its attachments, COUNTY shall never be required to pay more than the sum set forth on page 1 of this Agreement under the heading MAXIMUM COST, for all services rendered by PROVIDER under this Agreement.

# VI. REPORTS:

PROVIDER agrees to make such reports as are required in the attached schedules, which is fully incorporated herein by reference. With respect to such reports it is expressly understood that time is of the essence and that the failure of PROVIDER to comply with the time limits set forth in said schedules shall result in the penalties set forth herein.

# VII. DELIVERY OF NOTICE:

Notices, bills, invoices and reports required by this Agreement shall be deemed delivered as of the date of postmark if deposited in a United States mailbox, first class postage attached, addressed to a party's address as set forth above. It shall be the duty of a party changing its address to notify the other party in writing within a reasonable time.

# VIII. INSURANCE & INDEMNIFICATION:

A. PROVIDER shall indemnify, hold harmless and defend COUNTY, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which COUNTY, its officers, employees, agencies, boards. commissions and representatives may sustain, incur or be required to pay by reason of PROVIDER's furnishing the services or goods required to be provided under this Agreement, provided, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts or omissions of COUNTY, its agencies, boards, commissions, officers, employees or representatives. Any failure on the part of the PROVIDER to comply with reporting or other provisions of its insurance policies shall not affect this PROVIDER's obligations under this paragraph. COUNTY reserves the right, but not the obligation, to participate in defense without relieving PROVIDER of any obligation under this paragraph. The obligations of PROVIDER under this paragraph shall survive the expiration or termination of this Agreement.

#### IX. NO WAIVER BY PAYMENT OR ACCEPTANCE:

In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be construed as a waiver by COUNTY of any breach of the covenants of this Agreement or a waiver of any default of PROVIDER and the making of any such payment or acceptance of any such service or product by COUNTY while any such default or breach shall exist shall in no way impair or prejudice the right of COUNTY with respect to recovery of damages or other remedy as a result of such breach or default.

#### X. NON-DISCRIMINATION:

During the term of this Agreement, PROVIDER agrees not to discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs against any person, whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s). PROVIDER agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal law.

# XI. CIVIL RIGHTS COMPLIANCE:

- If PROVIDER has 20 or more employees and receives \$20,000 in annual contracts with COUNTY, the PROVIDER shall submit to COUNTY a current Civil Rights Compliance Plan (CRC) for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964. Section 504 of the Rehabilitation Act of 1973. Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and Americans with Disabilities Act (ADA) of 1990. PROVIDER shall also file an Affirmative Action (AA) Plan with COUNTY in accordance with the requirements of chapter 19 of the Dane County Code of Ordinances. PROVIDER shall submit a copy of its discrimination complaint form with its CRC/AA Plan. The CRC/AA Plan must be submitted prior to the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by COUNTY. If an approved plan has been received during the previous CALENDAR year, a plan update is acceptable. The plan may cover a two-year period. Providers who have less than twenty employees, but who receive more than \$20,000 from the COUNTY in annual contracts, may be required to submit a CRC Action Plan to correct any problems discovered as the result of a complaint investigation or other Civil Rights Compliance monitoring efforts set forth herein below. If PROVIDER submits a CRC/AA Plan to a Department of Workforce Development Division or to a Department of Health and Family Services Division that covers the services purchased by COUNTY, a verification of acceptance by the State of PROVIDER's Plan is sufficient.
- B. PROVIDER agrees to comply with the COUNTY's civil rights compliance policies and procedures. PROVIDER agrees to comply with civil rights monitoring reviews performed by the COUNTY, including the examination of records and relevant files maintained by the PROVIDER. PROVIDER agrees to furnish all information and reports required by the COUNTY as they relate to affirmative action and non-discrimination. PROVIDER further agrees to cooperate with COUNTY in developing, implementing, and monitoring corrective action plans that result from any reviews.
- C. PROVIDER shall post the Equal Opportunity Policy, the name of PROVIDER's designated Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, applicants for employment and employees. The complaint process will be according to COUNTY's policies and procedures and made available in languages and formats understandable to applicants, clients and employees. PROVIDER shall supply to COUNTY's Contract Compliance Officer upon request a summary document of all client complaints related to perceived discrimination in service delivery. These documents shall include names of the involved persons, nature of the complaints, and a description of any attempts made to achieve complaint resolution.
- D. PROVIDER shall provide copies of all announcements of new employment opportunities to COUNTY's Contract Compliance Officer when such announcements are issued.

E. If PROVIDER is a government entity having its own compliance plan, PROVIDER'S plan shall govern PROVIDER's activities.

# XII. COMPLIANCE WITH FAIR LABOR STANDARDS:

# A. Reporting of Adverse Findings

During the term of this Agreement, PROVIDER shall report to the County Contract Compliance Officer, within ten (10) days, any allegations to, or findings by the National Labor Relations Board (NLRB) or Wisconsin Employment Relations commission (WERC) that PROVIDER has violated a statute or regulation regarding labor standards or relations,. If an investigation by the Contract Compliance Officer results in a final determination that the matter adversely affects PROVIDER'S responsibilities under this Agreement, and which recommends termination, suspension or cancellation of this agreement, the County may take such action.

# B. Appeal Process

PROVIDER may appeal any adverse finding by the Contract Compliance Officer as set forth in Dane County Ordinances Sec. 25.08(20)(c) through (e).

# C. Notice Requirement

PROVIDER shall post the following statement in a prominent place visible to employees: "As a condition of receiving and maintaining a contract with Dane County, this employer shall comply with federal, state and all other applicable laws prohibiting retaliation for union organizing."

# XIII. CONTROLLING LAW AND VENUE:

It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in the Dane County Circuit Court.

# XIV. FINANCIAL INTEREST PROHIBITED:

Under s. 946.13, Wis. Stats. COUNTY employees and officials are prohibited from holding a private pecuniary interest, direct or indirect, in any public contract. By executing this Agreement, each party represents that it has no knowledge of a COUNTY employee or official involved in the making or performance of the Agreement that has a private pecuniary interest therein. It is expressly understood and agreed that any subsequent finding of a violation of s. 946.13, Wis. Stat. may result in this Agreement being voided at the discretion of the COUNTY.

# XV. LIMITATION OF AGREEMENT:

This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.

# XVI. ENTIRE AGREEMENT:

The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended in any fashion except in writing, executed by both parties.

## XVII. COUNTERPARTS:

The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument.

#### XVIII. CONSTRUCTION:

This Agreement shall not be construed against the drafter.

# XIX. COPIES VALID:

This Agreement, and any amendment or addendum relating to it, may be executed and transmitted to any other party by legible facsimile reproduction or by scanned legible electronic PDF copy, and utilized in all respects as, an original, wet-inked manually executed document. Further, this Agreement and any amendment or addendum thereto, may be stored and

reproduced by each party electronically, photographically, by photocopy or other similar process, and each party may at its option destroy any original document so reproduced. All parties hereto stipulate that any such legible reproduction shall be admissible in evidence as the original itself in any judicial, arbitration or administrative proceeding whether or not the original is in existence and whether or not such reproduction was made by each party in the regular course of business. This term does not apply to the service of notices under this Agreement.

# XX. REGISTERED AGENT:

PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin, that the persons executing this Agreement on its behalf are authorized to do so, and, if a corporation, that the name and address of PROVIDER's registered agent is as set forth opposite the heading REGISTERED AGENT on page 1 of this Agreement. PROVIDER shall notify COUNTY immediately, in writing, of any change in its registered agent, his or her address, and PROVIDER's legal status. For a partnership, the term 'registered agent' shall mean a general partner.

# XXI. DEBARMENT:

By signing this Contract, PROVIDER attests that it is not debarred from participating in federal procurements. COUNTY reserves the right to cancel this Contract if PROVIDER is presently, or is in the future, on the list of parties excluded from federal procurements.

# XXII. EXECUTION:

- A. The parties agree that execution of this document may be made by electronic signatures. The parties may make electronic signatures by typing the name of the authorized signature followed by the words, "electronically signed" or by any other electronic means representing an authorized signature by PROVIDER. PROVIDER shall ensure that only authorized persons may affix electronic signatures to this Agreement and COUNTY may rely that the electronic signature provided by PROVIDER is authentic.
- B. This Agreement has no effect until signed by both parties. The submission of this Agreement to PROVIDER for examination does not constitute an offer. PROVIDER warrants that the persons executing this Agreement on its behalf are authorized to do so.

**IN WITNESS WHEREOF**, COUNTY and PROVIDER, by their respective authorized agents, have caused this Agreement and its Schedules to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

	FOR PROVIDER:	
Susan Imbauran	Xx III III xx	10/20/2021
Susan J.M. Bayuman		Date
	FOR COUNTY:	
		Date
Scott McDonell	= v = =	Date

# SCHEDULE A Scope of Services

#### I. EMPLOYEE BENEFIT HANDBOOK:

PROVIDER agrees that it has received a copy of the Employee Benefit Handbook ("EBH"), and has had an opportunity to review it prior to executing this Agreement. PROVIDER acknowledges that the EBH is subject to annual modifications, and the provisions related to the grievance process, the Impartial Hearing Officer ("IHO") services and the Independent Consultant services are subject to change.

#### II. IMPARTIAL HEARING OFFICER:

PROVIDER shall serve as an Impartial Hearing Officer ("IHO") when selected in accordance with the EBH.

- a. PROVIDER agrees to perform the duties of an IHO, as required under the EBH. PROVIDER shall perform these duties in a professional manner.
- b. PROVIDER further agrees to follow the EBH's provisions related to IHO hearings, including but not limited to those provisions governing the conduct of the hearing, deadlines and the applicable legal standards to follow.

#### III. INDEPENDENT CONSULTANT:

PROVIDER acknowledges that Dane County Ordinance 18.24(4) requires an annual review of the EBH, and that this ordinance outlines a procedure to adopt changes to the EBH, and to settle disputes regarding such changes. PROVIDER agrees to serve as an Independent Consultant when selected to do so in accordance with the EBH.

- a. PROVIDER shall adhere to the standards, procedures and rules regarding how an Independent Consultant is to handle the dispute as set forth in Dane County Ordinances and the EBH.
- b. PROVIDER shall perform the duties of an Independent Consultant in a professional manner.

# SCHEDULE B Pricing Structure and Payment

#### I. COSTS SHARED EQUALLY:

When PROVIDER is selected to serve either as an Impartial Hearing Officer or as an Independent Consultant as described in Schedule A, the cost of those services are to be shared equally between Dane County and the individual, Employee Group, or interested stakeholder raising the Grievance or invoking the independent consultant procedure.

Prior to engaging in any activities under Schedule A, PROVIDER shall disclose their rates and fees and provide an estimate of the amount of time and cost to both parties. Additionally, prior to any hearing required under Schedule A, PROVIDER shall make both parties aware that costs are shared equally.

PROVIDER agrees that COUNTY is only responsible for its share of the cost of services. PROVIDER is responsible for collecting the share of the cost of services from the other party to services provided under schedule A.

#### II. INVOICES/PAYMENT:

PROVIDER shall issue an invoice upon completion of services and/or delivery of such deliverables. Invoices must reference the Dane County purchase order number issued for the services/deliverables described herein. Email delivery of invoices is encouraged and preferred – see the Bill To section of the purchase order. Payment shall be made within 30 days of COUNTY's receipt of accepted invoice unless otherwise noted.

# III. RATES AND FEES:

PROVIDER'S hourly rate for services rendered in Schedule A is \$175 per hour.

# IV. CANCELLATION POLICY/FEE:

Upon execution of this agreement, the following cancellation policy and fee shall be in effect. In the event a scheduled hearing is cancelled within 14 days thereof, the parties shall be charged a fee of \$1400 for each day of hearing that had been scheduled.

Dept./Division	n Administra	Administration			Contract #		14554	
Vendor Name	Thomas L. Y	Thomas L. Yaeger MUNIS # 16436			Type of Contract			
Brief Contrac Title/Description	I Independent (`oncultant			d		ergoverrounty Les	ssee ssor	
Contract Tern	n 1/1/22 - 10/3	1/1/22 - 10/31/26			Purchase of Property Property Sale			
Contract Amount	\$ 30,000.00				Grant Other			
Department Co	Department Contact Information Vendor Contact Information							
Name	Nick E		Name		Thomas L. Yaeger			
Phone # Email	608-266 bubb.nicholas@co		Phone #	ļ .	608-770 tyaegs@gm			
Purchasing Of		tten/Hidalgo	Liliali		tyaegs@gii	Iall.COIII		
T drendsing of	Ta	tteri/i ildaido						
Purchasing Authority  Standard Fig. 11,000 or under - Best Judgment (1 quote required)  ■ Between \$11,000 - \$37,000 (\$0 - \$25,000 Public Works) (3 quotes required)  ■ Over \$37,000 (\$25,000 Public Works) (Formal RFB/RFP required)  ■ Bid Waiver - \$37,000 or under (\$25,000 or under Public Works)  ■ Bid Waiver - Over \$37,000 (N/A to Public Works)							121073	
N/A – Grants, Leases, Intergovernmental, Property Purchase/Sale, Other								
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Rea.	-	Org: Org:	Obj:		Proj:			
Rea.	Req # Year				-			
Req.  Budget Amen	Year dment Amendment has been	Org: Org:	Obj: Obj:		Proj: Proj: Upon addendur		al and	
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# Goldade, Michelle

From: Goldade, Michelle

Sent: Friday, December 10, 2021 10:24 AM

To: Hicklin, Charles; Hidalgo, Carmen; Gault, David; Lowndes, Daniel

**Cc:** Stavn, Stephanie; Oby, Joe

Subject: Contract #14554

**Attachments:** 14554.pdf

Tracking:	Recipient	Read	Response
	Hicklin, Charles	Read: 12/10/2021 10:25 AM	Approve: 12/10/2021 10:25 AM
	Hidalgo, Carmen	Read: 12/10/2021 10:25 AM	Approve: 12/10/2021 10:30 AM
	Gault, David	Read: 12/10/2021 2:15 PM	Approve: 12/10/2021 2:16 PM
	Lowndes, Daniel		Approve: 12/10/2021 1:52 PM
	Stavn, Stephanie	Read: 12/10/2021 2:20 PM	
	Oby, Joe		

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

Contract #14554

Department: Administration Vendor: Thomas L. Yaeger

Contract Description: Provide service as an Impartial Hearing Officer and Independent Consultant (Res 220)

Contract Term: 1/1/22 – 10/31/26 Contract Amount: \$30,000.00

# Michelle Goldade

Administrative Manager
Dane County Department of Administration
Room 425, City-County Building
210 Martin Luther King, Jr. Boulevard
Madison, WI 53703

PH: 608/266-4941 Fax: 608/266-4425 TDD: Call WI Relay 711

Please Note: I currently have a modified work schedule...I am in the office Mondays and Wednesdays and working remotely Tuesdays, Thursdays and Fridays in accordance with COVID 19 response guidelines.

**2021 RES-220** 

# APPROVING EIGHT CONTRACTS TO SERVE AS IMPARTIAL HEARING OFFICERS AND INDEPENDENT CONSULTANTS

 Dane County works with a pool of individuals to serve as Impartial Hearing Officers and/or Independent Consultants. County ordinances requires that a Request for Proposals be issued for service contracts after five years. It has been more than five years since the County began working with the current pool of Impartial Hearing Officers and a new request for proposals was required.

Dane County issued RFP#121073 in 2021 for a pool of candidates to serve as an Impartial Hearing Officer and/or Independent Consultant. The current pool of Impartial Hearing Officers were invited to submit a proposal. There were eight respondents. The Department of Administration has reviewed the qualifications of the respondents and all eight are qualified to serve as Impartial Hearing Officers and/or Independent Consultants. The Department is recommending that the County adopt agreements with all eight respondents.

The eight respondents were: 1) Susan J.M. Bauman, 2) Carne Dispute Resolution (Danielle L. Carne), 3) Raleigh Jones Arbitration, 4) Daniel Nielsen, 5) Herman Torosian Arbitration Services, and 6) Thomas L. Yaeger, 7) Howard Bellman, and 8) Stanley Michelstetter. Each respondent is offered a five-year contract, not to exceed \$30,000.

Selection of Impartial Hearing Officers and/or Independent Consultants, shall be completed in accordance with the procedures established in County Ordinance and the Employee Benefit Handbook.

**NOW, THEREFORE BE IT RESOLVED** that the County Executive and the County Clerk are authorized to execute agreements with Susan J.M. Bauman, Carne Dispute Resolution, Raleigh Jones Arbitration, Daniel Nielsen, Herman Torosian Arbitration Services, Thomas L. Yaeger, Howard Bellman, and Stanley Michelstetter each for \$30,000 and a term of five years.

# **DANE COUNTY CONTRACT #**

Revised 06/2021



**Department:** Administration

**Provider:** Thomas Yaeger

**Expiration Date:** October 31, 2026

Maximum Cost: \$30,000

14554

Registered Agent (if applicable): N/A
Registered Agent Address: N/A

**THIS AGREEMENT**, made and entered into, by and between the County of Dane (hereafter referred to as "COUNTY") and Thomas L. Yaeger (hereafter, "PROVIDER"),

# WITNESSETH:

**WHEREAS** COUNTY, whose address is 210 Martin Luther King Jr. Blvd., Madison, WI 53703, desires to purchase services from PROVIDER for the purpose of providing impartial hearing officer or independent consulting services; and

**WHEREAS** PROVIDER, whose address is N2190 Shamrock Rd, Lodi, WI 53555, is able and willing to provide such services;

**NOW, THEREFORE,** in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, COUNTY and PROVIDER do agree as follows:

## I. TERM:

The term of this Agreement shall commence as of the date by which all parties have executed this Agreement and shall end as of the EXPIRATION DATE set forth on page 1 hereof, unless sooner agreed to in writing by the parties. PROVIDER shall complete its obligations under this Agreement not later than the EXPIRATION DATE. COUNTY shall not be liable for any services performed by PROVIDER other than during the term of this Agreement. COUNTY shall never pay more than the Maximum Cost as stated above for all services. Upon failure of PROVIDER to complete its obligation set forth herein by the EXPIRATION DATE, COUNTY may invoke the penalties, if any, set forth in this document and its attachments.

#### II. SERVICES:

- A. PROVIDER agrees to provide the services detailed in the bid specifications, if any; the request for proposals (RFP) and PROVIDER's response thereto, if any; and on the attached Schedule A, which is fully incorporated herein by reference. In the event of a conflict between or among the bid specifications, the RFP or responses thereto, or the terms of Schedule A or any of them, it is agreed that the terms of Schedule A, to the extent of any conflict, are controlling.
- B. PROVIDER shall commence, carry on and complete its obligations under this Agreement with all deliberate speed and in a sound, economical and efficient manner, in accordance with this Agreement and all applicable laws. In providing services under this Agreement, PROVIDER agrees to cooperate with the various departments, agencies, employees and officers of COUNTY.
- C. PROVIDER agrees to secure at PROVIDER's own expense all personnel necessary to carry out PROVIDER's obligations under this Agreement. Such personnel shall not be

- deemed to be employees of COUNTY nor shall they or any of them have or be deemed to have any direct contractual relationship with COUNTY.
- No portion of funds under this Agreement may be used to support or advance religious activities.
- E. PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin and has met all state and federal service standards, certifications and assurances as expressed by State and Federal statutes, rules, and regulations applicable to the services covered by this Agreement.
- F. PROVIDER will follow applicable public health guidelines to provide safe services and a safe workplace. In addition, by signing this Agreement, PROVIDER acknowledges the contagious nature of COVID-19 and voluntarily assumes the risk that PROVIDER and its staff may be exposed to or infected by COVID-19 by providing services under this Agreement and that such exposure or infection may result in personal injury, illness, permanent disability, and death.

PROVIDER further acknowledges that PROVIDER is assuming all of the foregoing risks and accept sole responsibility for any injury to itself and staff, including, but not limited to, personal injury, disability, death, illness, damage, loss, claim, liability, or expense or any kind, that PROVIDER or its staff may experience or incur in connection with providing services. PROVIDER hereby releases, covenants not to sue, discharges, and holds harmless and indemnifies the COUNTY, its employees, agents, and representatives, of and from any and all claims, including all liabilities, claims, actions, damages, costs or expenses of any kind arising out of or relating thereto. Provider understands and agrees that this release includes any claims based on the actions, omissions, or negligence of COUNTY, its employees, agents and representatives, whether a COVID-19 infection occurs before, during, or after the provision of services under this Agreement.

## III. ASSIGNMENT/TRANSFER:

PROVIDER shall not assign, subcontract or transfer any interest or obligation in this Agreement, without the prior written consent of COUNTY, including the hiring of independent contract service providers unless otherwise provided herein. Claims for money due or to become due PROVIDER from COUNTY under this Agreement may be assigned to a bank, trust company or other financial institution without such approval if and only if the instrument of assignment contains a provision substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to PROVIDER shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Agreement. PROVIDER shall promptly provide notice of any such assignment or transfer to COUNTY.

#### IV. TERMINATION:

- A. Failure of PROVIDER to fulfill any of its obligations under this Agreement in a timely manner, or violation by PROVIDER of any of the covenants or stipulations of this Agreement, shall constitute grounds for COUNTY to terminate this Agreement by giving a thirty (30) day written notice to PROVIDER.
- B. The following shall constitute grounds for immediate termination:
  - 1. violation by PROVIDER of any State, Federal or local law, or failure by PROVIDER to comply with any applicable States and Federal service standards, as expressed by applicable statutes, rules and regulations.
  - failure by PROVIDER to carry applicable licenses or certifications as required by law.
  - 3. failure of PROVIDER to comply with reporting requirements contained herein.
  - 4. inability of PROVIDER to perform the work provided for herein.

- C. Failure of the Dane County Board of Supervisors or the State or Federal Governments to appropriate sufficient funds to carry out COUNTY's obligations hereunder, shall result in automatic termination of this Agreement as of the date funds are no longer available, without notice.
- D. In the event COUNTY terminates this Agreement as provided herein, all finished and unfinished documents, services, papers, data, products, and the like prepared, produced or made by PROVIDER under this Agreement shall at the option of COUNTY become the property of COUNTY, and PROVIDER shall be entitled to receive just and equitable compensation, subject to any penalty, for any satisfactory work completed on such documents, services, papers, data, products or the like. Notwithstanding the above, PROVIDER shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by PROVIDER, and COUNTY may withhold any payments to PROVIDER for the purpose of offset.

## V. PAYMENT:

COUNTY agrees to make such payments for services rendered under this Agreement as and in the manner specified herein and in the attached Schedule B, which is fully incorporated herein by reference. Notwithstanding any language to the contrary in this Agreement or its attachments, COUNTY shall never be required to pay more than the sum set forth on page 1 of this Agreement under the heading MAXIMUM COST, for all services rendered by PROVIDER under this Agreement.

# VI. REPORTS:

PROVIDER agrees to make such reports as are required in the attached schedules, which is fully incorporated herein by reference. With respect to such reports it is expressly understood that time is of the essence and that the failure of PROVIDER to comply with the time limits set forth in said schedules shall result in the penalties set forth herein.

# VII. DELIVERY OF NOTICE:

Notices, bills, invoices and reports required by this Agreement shall be deemed delivered as of the date of postmark if deposited in a United States mailbox, first class postage attached, addressed to a party's address as set forth above. It shall be the duty of a party changing its address to notify the other party in writing within a reasonable time.

# VIII. NO WAIVER BY PAYMENT OR ACCEPTANCE:

In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be construed as a waiver by COUNTY of any breach of the covenants of this Agreement or a waiver of any default of PROVIDER and the making of any such payment or acceptance of any such service or product by COUNTY while any such default or breach shall exist shall in no way impair or prejudice the right of COUNTY with respect to recovery of damages or other remedy as a result of such breach or default.

#### IX. NON-DISCRIMINATION:

During the term of this Agreement, PROVIDER agrees not to discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs against any person, whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s). PROVIDER agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal law.

# X. <u>CIVIL RIGHTS COMPLIANCE:</u>

- If PROVIDER has 20 or more employees and receives \$20,000 in annual contracts with COUNTY, the PROVIDER shall submit to COUNTY a current Civil Rights Compliance Plan (CRC) for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and Americans with Disabilities Act (ADA) of 1990. PROVIDER shall also file an Affirmative Action (AA) Plan with COUNTY in accordance with the requirements of chapter 19 of the Dane County Code of Ordinances. PROVIDER shall submit a copy of its discrimination complaint form with its CRC/AA Plan. The CRC/AA Plan must be submitted prior to the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by COUNTY. If an approved plan has been received during the previous CALENDAR year, a plan update is acceptable. The plan may cover a two-year period. Providers who have less than twenty employees, but who receive more than \$20,000 from the COUNTY in annual contracts, may be required to submit a CRC Action Plan to correct any problems discovered as the result of a complaint investigation or other Civil Rights Compliance monitoring efforts set forth herein below. If PROVIDER submits a CRC/AA Plan to a Department of Workforce Development Division or to a Department of Health and Family Services Division that covers the services purchased by COUNTY, a verification of acceptance by the State of PROVIDER's Plan is sufficient.
- B. PROVIDER agrees to comply with the COUNTY's civil rights compliance policies and procedures. PROVIDER agrees to comply with civil rights monitoring reviews performed by the COUNTY, including the examination of records and relevant files maintained by the PROVIDER. PROVIDER agrees to furnish all information and reports required by the COUNTY as they relate to affirmative action and non-discrimination. PROVIDER further agrees to cooperate with COUNTY in developing, implementing, and monitoring corrective action plans that result from any reviews.
- C. PROVIDER shall post the Equal Opportunity Policy, the name of PROVIDER's designated Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, applicants for employment and employees. The complaint process will be according to COUNTY's policies and procedures and made available in languages and formats understandable to applicants, clients and employees. PROVIDER shall supply to COUNTY's Contract Compliance Officer upon request a summary document of all client complaints related to perceived discrimination in service delivery. These documents shall include names of the involved persons, nature of the complaints, and a description of any attempts made to achieve complaint resolution.
- D. PROVIDER shall provide copies of all announcements of new employment opportunities to COUNTY's Contract Compliance Officer when such announcements are issued.
- E. If PROVIDER is a government entity having its own compliance plan, PROVIDER'S plan shall govern PROVIDER's activities.

#### XI. COMPLIANCE WITH FAIR LABOR STANDARDS:

A. Reporting of Adverse Findings

During the term of this Agreement, PROVIDER shall report to the County Contract Compliance Officer, within ten (10) days, any allegations to, or findings by the National Labor Relations Board (NLRB) or Wisconsin Employment Relations commission (WERC) that PROVIDER has violated a statute or regulation regarding labor standards or relations,. If an investigation by the Contract Compliance Officer results in a final determination that the matter adversely affects PROVIDER'S responsibilities under this Agreement, and which recommends termination, suspension or cancellation of this agreement, the County may take such action.

#### B. Appeal Process

PROVIDER may appeal any adverse finding by the Contract Compliance Officer as set forth in Dane County Ordinances Sec. 25.08(20)(c) through (e).

## C. Notice Requirement

PROVIDER shall post the following statement in a prominent place visible to employees: "As a condition of receiving and maintaining a contract with Dane County, this employer shall comply with federal, state and all other applicable laws prohibiting retaliation for union organizing."

# XII. CONTROLLING LAW AND VENUE:

It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in the Dane County Circuit Court.

# XIII. FINANCIAL INTEREST PROHIBITED:

Under s. 946.13, Wis. Stats. COUNTY employees and officials are prohibited from holding a private pecuniary interest, direct or indirect, in any public contract. By executing this Agreement, each party represents that it has no knowledge of a COUNTY employee or official involved in the making or performance of the Agreement that has a private pecuniary interest therein. It is expressly understood and agreed that any subsequent finding of a violation of s. 946.13, Wis. Stat. may result in this Agreement being voided at the discretion of the COUNTY.

#### XIV. LIMITATION OF AGREEMENT:

This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.

# XV. ENTIRE AGREEMENT:

The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended in any fashion except in writing, executed by both parties.

# XVI. COUNTERPARTS:

The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument.

#### XVII. CONSTRUCTION:

This Agreement shall not be construed against the drafter.

# XVIII. COPIES VALID:

This Agreement, and any amendment or addendum relating to it, may be executed and transmitted to any other party by legible facsimile reproduction or by scanned legible electronic PDF copy, and utilized in all respects as, an original, wet-inked manually executed document. Further, this Agreement and any amendment or addendum thereto, may be stored and reproduced by each party electronically, photographically, by photocopy or other similar process, and each party may at its option destroy any original document so reproduced. All parties hereto stipulate that any such legible reproduction shall be admissible in evidence as the original itself in any judicial, arbitration or administrative proceeding whether or not the original is in existence and whether or not such reproduction was made by each party in the regular course of business. This term does not apply to the service of notices under this Agreement.

# XIX. REGISTERED AGENT:

PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin, that the persons executing this Agreement on its behalf are authorized to do so, and, if a corporation, that the name and address of PROVIDER's registered agent is as set forth opposite the heading REGISTERED AGENT on page 1 of this Agreement. PROVIDER shall notify COUNTY immediately, in writing, of any change in its registered agent, his or her address, and PROVIDER's legal status. For a partnership, the term 'registered agent' shall mean a general partner.

# XX. <u>DEBARMENT:</u>

By signing this Contract, PROVIDER attests that it is not debarred from participating in federal procurements. COUNTY reserves the right to cancel this Contract if PROVIDER is presently, or is in the future, on the list of parties excluded from federal procurements.

# XXI. EXECUTION:

- A. The parties agree that execution of this document may be made by electronic signatures. The parties may make electronic signatures by typing the name of the authorized signature followed by the words, "electronically signed" or by any other electronic means representing an authorized signature by PROVIDER. PROVIDER shall ensure that only authorized persons may affix electronic signatures to this Agreement and COUNTY may rely that the electronic signature provided by PROVIDER is authentic.
- B. This Agreement has no effect until signed by both parties. The submission of this Agreement to PROVIDER for examination does not constitute an offer. PROVIDER warrants that the persons executing this Agreement on its behalf are authorized to do so.

**IN WITNESS WHEREOF,** COUNTY and PROVIDER, by their respective authorized agents, have caused this Agreement and its Schedules to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

	FOR PROVIDER:	
Thomas L. Yaeger	Gen	114/202 Date
	***	
	FOR COUNTY:	
Joseph T. Parisi Dane County Executive		Date
Scott McDonell Dane County Clerk		Date

# SCHEDULE A Scope of Services

#### I. EMPLOYEE BENEFIT HANDBOOK:

PROVIDER agrees that it has received a copy of the Employee Benefit Handbook ("EBH"), and has had an opportunity to review it prior to executing this Agreement. PROVIDER acknowledges that the EBH is subject to annual modifications, and the provisions related to the grievance process, the Impartial Hearing Officer ("IHO") services and the Independent Consultant services are subject to change.

#### II. IMPARTIAL HEARING OFFICER:

PROVIDER shall serve as an Impartial Hearing Officer ("IHO") when selected in accordance with the EBH.

- a. PROVIDER agrees to perform the duties of an IHO, as required under the EBH. PROVIDER shall perform these duties in a professional manner.
- b. PROVIDER further agrees to follow the EBH's provisions related to IHO hearings, including but not limited to those provisions governing the conduct of the hearing, deadlines and the applicable legal standards to follow.

#### III. INDEPENDENT CONSULTANT:

PROVIDER acknowledges that Dane County Ordinance 18.24(4) requires an annual review of the EBH, and that this ordinance outlines a procedure to adopt changes to the EBH, and to settle disputes regarding such changes. PROVIDER agrees to serve as an Independent Consultant when selected to do so in accordance with the EBH.

- a. PROVIDER shall adhere to the standards, procedures and rules regarding how an Independent Consultant is to handle the dispute as set forth in Dane County Ordinances and the EBH.
- b. PROVIDER shall perform the duties of an Independent Consultant in a professional manner.

# SCHEDULE B Pricing Structure and Payment

# I. COSTS SHARED EQUALLY:

When PROVIDER is selected to serve either as an Impartial Hearing Officer or as an Independent Consultant as described in Schedule A, the cost of those services are to be shared equally between Dane County and the individual, Employee Group, or interested stakeholder raising the Grievance or invoking the independent consultant procedure.

Prior to engaging in any activities under Schedule A, PROVIDER shall disclose their rates and fees and provide an estimate of the amount of time and cost to both parties. Additionally, prior to any hearing required under Schedule A, PROVIDER shall make both parties aware that costs are shared equally.

PROVIDER agrees that COUNTY is only responsible for its share of the cost of services. PROVIDER is responsible for collecting the share of the cost of services from the other party to services provided under schedule A.

#### II. INVOICES/PAYMENT:

PROVIDER shall issue an invoice upon completion of services and/or delivery of such deliverables. Invoices must reference the Dane County purchase order number issued for the services/deliverables described herein. Email delivery of invoices is encouraged and preferred – see the Bill To section of the purchase order. Payment shall be made within 30 days of COUNTY's receipt of accepted invoice unless otherwise noted.

#### III. RATES AND FEES:

PROVIDER'S hourly rate for services rendered in Schedule A is \$175 per hour.

#### IV. CANCELLATION POLICY/FEE:

In the event a scheduled hearing is cancelled within 14 days thereof, the parties shall be charged a fee of \$1,400.

Dept./Division	on Administra	Administration				14555		
Vendor Nam	ne Herman Torosia	Herman Torosian Arbitration Services MUNIS # 12858				Type of Contract		
Brief Contra Title/Descript	Independent	Service as an Impartial Hearing Officer a Independent Consultant			Interg Coun	County Contract governmental nty Lessee nty Lessor		
Contract Ter	m 1/1/22 - 10/	1/1/22 - 10/31/26			Purchase of Property Property Sale			
Contract Amount	1 ¢ 30 000 00				Gran Othe	t		
Department (	Contact Information	n	Vendor Contac	t Informa	tion			
Name	Nick E		Name		erman Toro			
Phone # Email	608-266 bubb.nicholas@co		Phone # Email	(	608-345-25 toroh@charter.			
Purchasing (		tten/Hidalgo	Liliali		toron@cnarter.	.1161		
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N/A – Grants, Leases, Intergovernmental, Property Purchase/Sale, Other								
	Reg #	Org:	Obj:	Proj	j:			
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# Goldade, Michelle

From: Goldade, Michelle

**Sent:** Friday, December 10, 2021 10:29 AM

To: Hicklin, Charles; Hidalgo, Carmen; Gault, David; Lowndes, Daniel

**Cc:** Stavn, Stephanie; Oby, Joe

Subject:Contract #14555Attachments:14555.pdf

Tracking: Recipient Read Response

 Hicklin, Charles
 Read: 12/10/2021 10:40 AM
 Approve: 12/10/2021 10:40 AM

 Hidalgo, Carmen
 Read: 12/10/2021 10:30 AM
 Approve: 12/10/2021 10:36 AM

 Gault, David
 Read: 12/10/2021 2:16 PM
 Approve: 12/10/2021 2:17 PM

 Lowndes, Daniel
 Approve: 12/10/2021 1:52 PM

Stavn, Stephanie Read: 12/10/2021 2:20 PM

Oby, Joe

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

Contract #14555

Department: Administration Vendor: Herman Torosian

Contract Description: Provide service as an Impartial Hearing Officer and Independent Consultant (Res 220)

Contract Term: 1/1/22 – 10/31/26 Contract Amount: \$30,000.00

# Michelle Goldade

Administrative Manager
Dane County Department of Administration
Room 425, City-County Building
210 Martin Luther King, Jr. Boulevard
Madison, WI 53703

PH: 608/266-4941 Fax: 608/266-4425 TDD: Call WI Relay 711

Please Note: I currently have a modified work schedule...I am in the office Mondays and Wednesdays and working remotely Tuesdays, Thursdays and Fridays in accordance with COVID 19 response guidelines.

**2021 RES-220** 

# APPROVING EIGHT CONTRACTS TO SERVE AS IMPARTIAL HEARING OFFICERS AND INDEPENDENT CONSULTANTS

 Dane County works with a pool of individuals to serve as Impartial Hearing Officers and/or Independent Consultants. County ordinances requires that a Request for Proposals be issued for service contracts after five years. It has been more than five years since the County began working with the current pool of Impartial Hearing Officers and a new request for proposals was required.

Dane County issued RFP#121073 in 2021 for a pool of candidates to serve as an Impartial Hearing Officer and/or Independent Consultant. The current pool of Impartial Hearing Officers were invited to submit a proposal. There were eight respondents. The Department of Administration has reviewed the qualifications of the respondents and all eight are qualified to serve as Impartial Hearing Officers and/or Independent Consultants. The Department is recommending that the County adopt agreements with all eight respondents.

The eight respondents were: 1) Susan J.M. Bauman, 2) Carne Dispute Resolution (Danielle L. Carne), 3) Raleigh Jones Arbitration, 4) Daniel Nielsen, 5) Herman Torosian Arbitration Services, and 6) Thomas L. Yaeger, 7) Howard Bellman, and 8) Stanley Michelstetter. Each respondent is offered a five-year contract, not to exceed \$30,000.

Selection of Impartial Hearing Officers and/or Independent Consultants, shall be completed in accordance with the procedures established in County Ordinance and the Employee Benefit Handbook.

**NOW, THEREFORE BE IT RESOLVED** that the County Executive and the County Clerk are authorized to execute agreements with Susan J.M. Bauman, Carne Dispute Resolution, Raleigh Jones Arbitration, Daniel Nielsen, Herman Torosian Arbitration Services, Thomas L. Yaeger, Howard Bellman, and Stanley Michelstetter each for \$30,000 and a term of five years.

# DANE COUNTY CONTRACT # 14555

Revised 06/2021



**Department:** Administration

Herman Torosian **Provider:** 

Arbitration Services

**Expiration Date:** October 31, 2026

Maximum Cost: \$30,000

Registered Agent (if applicable): N/A

Registered Agent Address: N/A

**THIS AGREEMENT**, made and entered into, by and between the County of Dane (hereafter referred to as "COUNTY") and Herman Torosian Arbitration Services (hereafter, "PROVIDER"),

#### WITNESSETH:

**WHEREAS** COUNTY, whose address is 210 Martin Luther King Jr. Blvd., Madison, WI 53703, desires to purchase services from PROVIDER for the purpose of providing impartial hearing officer or independent consulting services; and

**WHEREAS** PROVIDER, whose address is 1745 Camelot Drive, Madison, WI 53705, is able and willing to provide such services;

**NOW, THEREFORE,** in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, COUNTY and PROVIDER do agree as follows:

#### I. TERM:

The term of this Agreement shall commence as of the date by which all parties have executed this Agreement and shall end as of the EXPIRATION DATE set forth on page 1 hereof, unless sooner agreed to in writing by the parties. PROVIDER shall complete its obligations under this Agreement not later than the EXPIRATION DATE. COUNTY shall not be liable for any services performed by PROVIDER other than during the term of this Agreement. COUNTY shall never pay more than the Maximum Cost as stated above for all services. Upon failure of PROVIDER to complete its obligation set forth herein by the EXPIRATION DATE, COUNTY may invoke the penalties, if any, set forth in this document and its attachments.

# II. <u>SERVICES:</u>

- A. PROVIDER agrees to provide the services detailed in the bid specifications, if any; the request for proposals (RFP) and PROVIDER's response thereto, if any; and on the attached Schedule A, which is fully incorporated herein by reference. In the event of a conflict between or among the bid specifications, the RFP or responses thereto, or the terms of Schedule A or any of them, it is agreed that the terms of Schedule A, to the extent of any conflict, are controlling.
- B. PROVIDER shall commence, carry on and complete its obligations under this Agreement with all deliberate speed and in a sound, economical and efficient manner, in accordance with this Agreement and all applicable laws. In providing services under this Agreement, PROVIDER agrees to cooperate with the various departments, agencies, employees and officers of COUNTY.

- C. PROVIDER agrees to secure at PROVIDER's own expense all personnel necessary to carry out PROVIDER's obligations under this Agreement. Such personnel shall not be deemed to be employees of COUNTY nor shall they or any of them have or be deemed to have any direct contractual relationship with COUNTY.
- D. No portion of funds under this Agreement may be used to support or advance religious activities.
- E. PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin and has met all state and federal service standards, certifications and assurances as expressed by State and Federal statutes, rules, and regulations applicable to the services covered by this Agreement.
- F. PROVIDER will follow applicable public health guidelines to provide safe services and a safe workplace. In addition, by signing this Agreement, PROVIDER acknowledges the contagious nature of COVID-19 and voluntarily assumes the risk that PROVIDER and its staff may be exposed to or infected by COVID-19 by providing services under this Agreement and that such exposure or infection may result in personal injury, illness, permanent disability, and death.

PROVIDER further acknowledges that PROVIDER is assuming all of the foregoing risks and accept sole responsibility for any injury to itself and staff, including, but not limited to, personal injury, disability, death, illness, damage, loss, claim, liability, or expense or any kind, that PROVIDER or its staff may experience or incur in connection with providing services. PROVIDER hereby releases, covenants not to sue, discharges, and holds harmless and indemnifies the COUNTY, its employees, agents, and representatives, of and from any and all claims, including all liabilities, claims, actions, damages, costs or expenses of any kind arising out of or relating thereto. Provider understands and agrees that this release includes any claims based on the actions, omissions, or negligence of COUNTY, its employees, agents and representatives, whether a COVID-19 infection occurs before, during, or after the provision of services under this Agreement.

#### III. ASSIGNMENT/TRANSFER:

PROVIDER shall not assign, subcontract or transfer any interest or obligation in this Agreement, without the prior written consent of COUNTY, including the hiring of independent contract service providers unless otherwise provided herein. Claims for money due or to become due PROVIDER from COUNTY under this Agreement may be assigned to a bank, trust company or other financial institution without such approval if and only if the instrument of assignment contains a provision substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to PROVIDER shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Agreement. PROVIDER shall promptly provide notice of any such assignment or transfer to COUNTY.

# IV. TERMINATION:

- A. Failure of PROVIDER to fulfill any of its obligations under this Agreement in a timely manner, or violation by PROVIDER of any of the covenants or stipulations of this Agreement, shall constitute grounds for COUNTY to terminate this Agreement by giving a thirty (30) day written notice to PROVIDER.
- B. The following shall constitute grounds for immediate termination:
  - 1. violation by PROVIDER of any State, Federal or local law, or failure by PROVIDER to comply with any applicable States and Federal service standards, as expressed by applicable statutes, rules and regulations.
  - 2. failure by PROVIDER to carry applicable licenses or certifications as required by law.
  - 3. failure of PROVIDER to comply with reporting requirements contained herein.

- 4. inability of PROVIDER to perform the work provided for herein.
- C. Failure of the Dane County Board of Supervisors or the State or Federal Governments to appropriate sufficient funds to carry out COUNTY's obligations hereunder, shall result in automatic termination of this Agreement as of the date funds are no longer available, without notice.
- D. In the event COUNTY terminates this Agreement as provided herein, all finished and unfinished documents, services, papers, data, products, and the like prepared, produced or made by PROVIDER under this Agreement shall at the option of COUNTY become the property of COUNTY, and PROVIDER shall be entitled to receive just and equitable compensation, subject to any penalty, for any satisfactory work completed on such documents, services, papers, data, products or the like. Notwithstanding the above, PROVIDER shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by PROVIDER, and COUNTY may withhold any payments to PROVIDER for the purpose of offset.

# V. PAYMENT:

COUNTY agrees to make such payments for services rendered under this Agreement as and in the manner specified herein and in the attached Schedule B, which is fully incorporated herein by reference. Notwithstanding any language to the contrary in this Agreement or its attachments, COUNTY shall never be required to pay more than the sum set forth on page 1 of this Agreement under the heading MAXIMUM COST, for all services rendered by PROVIDER under this Agreement.

# VI. REPORTS:

PROVIDER agrees to make such reports as are required in the attached schedules, which is fully incorporated herein by reference. With respect to such reports it is expressly understood that time is of the essence and that the failure of PROVIDER to comply with the time limits set forth in said schedules shall result in the penalties set forth herein.

# VII. <u>DELIVERY OF NOTICE:</u>

Notices, bills, invoices and reports required by this Agreement shall be deemed delivered as of the date of postmark if deposited in a United States mailbox, first class postage attached, addressed to a party's address as set forth above. It shall be the duty of a party changing its address to notify the other party in writing within a reasonable time.

# VIII. INSURANCE & INDEMNIFICATION:

- A. PROVIDER shall indemnify, hold harmless and defend COUNTY, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which COUNTY, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of PROVIDER's furnishing the services or goods required to be provided under this Agreement, provided, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts or omissions of COUNTY, its agencies, boards, commissions, officers, employees or representatives. Any failure on the part of the PROVIDER to comply with reporting or other provisions of its insurance policies shall not affect this PROVIDER's obligations under this paragraph. COUNTY reserves the right, but not the obligation, to participate in defense without relieving PROVIDER of any obligation under this paragraph. The obligations of PROVIDER under this paragraph shall survive the expiration or termination of this Agreement.
- B. In order to protect itself and COUNTY, its officers, boards, commissions, agencies, agents, volunteers, employees and representatives under the indemnity provisions of the subparagraph above, PROVIDER shall, at PROVIDER's own expense, obtain and at all times during the term of this Agreement keep in full force and effect the insurance coverages, limits, and endorsements listed below. When obtaining required insurance under this Agreement and otherwise, PROVIDER agrees to preserve COUNTY's

subrogation rights in all such matters that may arise that are covered by PROVIDER's insurance. Neither these requirements nor the COUNTY's review or acceptance of PROVIDER's certificates of insurance is intended to limit or qualify the liabilities or obligations assumed by the PROVIDER under this Agreement. The County expressly reserves the right to require higher or lower insurance limits where County deems necessary.

#### 1. Commercial General Liability.

PROVIDER agrees to maintain Commercial General Liability insurance at a limit of not less than \$1,000,000 per occurrence. Coverage shall include, but not be limited to, Bodily Injury and Property Damage to Third Parties, Contractual Liability, Personal Injury and Advertising Injury Liability, Premises-Operations, Independent PROVIDERs and Subcontractors, and Fire Legal Liability. The policy shall not exclude Explosion, Collapse, and Underground Property Damage Liability Coverage. The policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations.

# 2. Professional Liability Insurance.

If PROVIDER renders professional services (such as medical, architectural or engineering services) under this Agreement, then PROVIDER shall provide and maintain two million dollars (\$2,000,000.00) of professional liability insurance. If such policy is a "claims made" policy, all renewals during the life of the Agreement shall include "prior acts coverage" covering at all times all claims made with respect to PROVIDER's work performed under the Agreement. This Professional Liability coverage must be kept in force for a period of six (6) years after the services have been accepted by COUNTY

# 3. Commercial/Business Automobile Liability Insurance.

If applicable to the services covered by this Agreement, PROVIDER shall provide and maintain commercial general liability and automobile liability insurance at a limit of not less than \$1,000,000 per occurrence. Coverage for commercial general liability and automobile liability insurance shall, at a minimum, be at least as broad as Insurance Services Office ("ISO") Commercial General Liability Coverage (Occurrence Form CG 0001) and ISO Business Auto Coverage (Form CA 0001), covering Symbol 1 (any vehicle).

# 4. Environmental Impairment (Pollution) Liability

If PROVIDER will be transporting waste or will be disposing of waste or products under this Agreement, then PROVIDER agrees to maintain Environmental Impairment (Pollution) Liability insurance at a limit of not less than \$1,000,000 per occurrence for bodily injury, property damage, and environmental cleanup costs caused by pollution conditions, both sudden and non-sudden. This requirement can be satisfied by either a separate environmental liability policy or through a modification to the Commercial General Liability policy. Evidence of either must be provided.

#### 5. Workers' Compensation.

PROVIDER agrees to maintain Workers Compensation insurance at Wisconsin statutory limits.

#### 6. Umbrella or Excess Liability.

PROVIDER may satisfy the minimum liability limits required above for Commercial General Liability and Business Auto Liability under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for the Commercial General Liability and Business Auto Liability. PROVIDER agrees to list DANE COUNTY as an "Additional Insured" on its Umbrella or Excess Liability policy.

# C. Required provisions.

#### 1. Insurer's Requirement

All of the insurance shall be provided on policy forms and through companies satisfactory to COUNTY, and shall have a minimum AM Best's rating of A- VIII

#### 2. Additional Insured.

COUNTY, its elected and appointed officials, officers, employees or authorized representatives or volunteers are to be given additional insured status (via ISO endorsement CG 2010, CG 2033, or insurer's equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of PROVIDER; products and completed operations of PROVIDER; premises occupied or used by PROVIDER; and vehicles owned, leased, hired or borrowed by PROVIDER. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Except for the workers compensation policy, each insurance policy shall contain a waiver of subrogation endorsement in favor of COUNTY.

# 3. Provider's Insurance Shall be Primary

For any claims related to this Agreement, PROVIDER's insurance shall be primary insurance with respect to COUNTY, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Any insurance, self-insurance, or other coverage maintained by COUNTY, its elected and appointed officers, officials, employees or authorized representatives or volunteers shall not contribute to the primary insurance. PROVIDER's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability

#### 4. Cancelation Notice

Each insurance policy required by this Agreement shall state, or be endorsed so as to the state, that coverage shall not be canceled by the insurance carrier or the PROVIDER, except after sixty (60) days (ten (10) days for non-payment of premium) prior written notice by U.S. mail has been given to COUNTY.

#### 5. Evidences of Insurance.

Prior to execution of the Agreement, PROVIDER shall file with COUNTY a certificate of insurance (Accord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative. Such evidence shall also include confirmation that coverage includes or has been modified to include all required provisions as detailed herein.

# 6. Sub-Contractors.

In the event that PROVIDER employs sub-contractors as part of this Agreement, it shall be the PROVIDER's responsibility to require and confirm that each sub-contractor meets the minimum insurance requirements specified above.

D. The parties do hereby expressly agree that COUNTY, acting at its sole option and through its Risk Manager, may waive any and all requirements contained in this Agreement, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by COUNTY's Risk Manager taking into account the nature of the work and other factors relevant to COUNTY's exposure, if any, under this Agreement.

# IX. NO WAIVER BY PAYMENT OR ACCEPTANCE:

In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be construed as a waiver by COUNTY of any breach of the covenants of this Agreement or a waiver of any default of PROVIDER and the making of any such payment or acceptance of any such service or product by COUNTY while any such default or breach shall exist shall in no way impair or prejudice the right of COUNTY with respect to recovery of damages or other remedy as a result of such breach or default.

# X. NON-DISCRIMINATION:

During the term of this Agreement, PROVIDER agrees not to discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin,

cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs against any person, whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s). PROVIDER agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal law.

#### XI. CIVIL RIGHTS COMPLIANCE:

- If PROVIDER has 20 or more employees and receives \$20,000 in annual contracts with COUNTY, the PROVIDER shall submit to COUNTY a current Civil Rights Compliance Plan (CRC) for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and Americans with Disabilities Act (ADA) of 1990. PROVIDER shall also file an Affirmative Action (AA) Plan with COUNTY in accordance with the requirements of chapter 19 of the Dane County Code of Ordinances. PROVIDER shall submit a copy of its discrimination complaint form with its CRC/AA Plan. The CRC/AA Plan must be submitted prior to the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by COUNTY. If an approved plan has been received during the previous CALENDAR year, a plan update is acceptable. The plan may cover a two-year period. Providers who have less than twenty employees, but who receive more than \$20,000 from the COUNTY in annual contracts, may be required to submit a CRC Action Plan to correct any problems discovered as the result of a complaint investigation or other Civil Rights Compliance monitoring efforts set forth herein below. If PROVIDER submits a CRC/AA Plan to a Department of Workforce Development Division or to a Department of Health and Family Services Division that covers the services purchased by COUNTY, a verification of acceptance by the State of PROVIDER's Plan is sufficient.
- B. PROVIDER agrees to comply with the COUNTY's civil rights compliance policies and procedures. PROVIDER agrees to comply with civil rights monitoring reviews performed by the COUNTY, including the examination of records and relevant files maintained by the PROVIDER. PROVIDER agrees to furnish all information and reports required by the COUNTY as they relate to affirmative action and non-discrimination. PROVIDER further agrees to cooperate with COUNTY in developing, implementing, and monitoring corrective action plans that result from any reviews.
- C. PROVIDER shall post the Equal Opportunity Policy, the name of PROVIDER's designated Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, applicants for employment and employees. The complaint process will be according to COUNTY's policies and procedures and made available in languages and formats understandable to applicants, clients and employees. PROVIDER shall supply to COUNTY's Contract Compliance Officer upon request a summary document of all client complaints related to perceived discrimination in service delivery. These documents shall include names of the involved persons, nature of the complaints, and a description of any attempts made to achieve complaint resolution.
- D. PROVIDER shall provide copies of all announcements of new employment opportunities to COUNTY's Contract Compliance Officer when such announcements are issued.
- E. If PROVIDER is a government entity having its own compliance plan, PROVIDER'S plan shall govern PROVIDER's activities.

#### XII. COMPLIANCE WITH FAIR LABOR STANDARDS:

# A. Reporting of Adverse Findings

During the term of this Agreement, PROVIDER shall report to the County Contract Compliance Officer, within ten (10) days, any allegations to, or findings by the National Labor Relations Board (NLRB) or Wisconsin Employment Relations commission (WERC) that PROVIDER has violated a statute or regulation regarding labor standards or relations,. If an investigation by the Contract Compliance Officer results in a final determination that the matter adversely affects PROVIDER'S responsibilities under this Agreement, and which recommends termination, suspension or cancellation of this agreement, the County may take such action.

# B. Appeal Process

PROVIDER may appeal any adverse finding by the Contract Compliance Officer as set forth in Dane County Ordinances Sec. 25.08(20)(c) through (e).

#### C. Notice Requirement

PROVIDER shall post the following statement in a prominent place visible to employees: "As a condition of receiving and maintaining a contract with Dane County, this employer shall comply with federal, state and all other applicable laws prohibiting retaliation for union organizing."

# XIII. CONTROLLING LAW AND VENUE:

It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in the Dane County Circuit Court.

# XIV. FINANCIAL INTEREST PROHIBITED:

Under s. 946.13, Wis. Stats. COUNTY employees and officials are prohibited from holding a private pecuniary interest, direct or indirect, in any public contract. By executing this Agreement, each party represents that it has no knowledge of a COUNTY employee or official involved in the making or performance of the Agreement that has a private pecuniary interest therein. It is expressly understood and agreed that any subsequent finding of a violation of s. 946.13, Wis. Stat. may result in this Agreement being voided at the discretion of the COUNTY.

# XV. LIMITATION OF AGREEMENT:

This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.

#### XVI. ENTIRE AGREEMENT:

The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended in any fashion except in writing, executed by both parties.

# XVII. COUNTERPARTS:

The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument.

# XVIII. CONSTRUCTION:

This Agreement shall not be construed against the drafter.

#### XIX. COPIES VALID:

This Agreement, and any amendment or addendum relating to it, may be executed and transmitted to any other party by legible facsimile reproduction or by scanned legible electronic PDF copy, and utilized in all respects as, an original, wet-inked manually executed document. Further, this Agreement and any amendment or addendum thereto, may be stored and reproduced by each party electronically, photographically, by photocopy or other similar process, and each party may at its option destroy any original document so reproduced. All parties hereto stipulate that any such legible reproduction shall be admissible in evidence as the original itself in

any judicial, arbitration or administrative proceeding whether or not the original is in existence and whether or not such reproduction was made by each party in the regular course of business. This term does not apply to the service of notices under this Agreement.

#### XX. REGISTERED AGENT:

PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin, that the persons executing this Agreement on its behalf are authorized to do so, and, if a corporation, that the name and address of PROVIDER's registered agent is as set forth opposite the heading REGISTERED AGENT on page 1 of this Agreement. PROVIDER shall notify COUNTY immediately, in writing, of any change in its registered agent, his or her address, and PROVIDER's legal status. For a partnership, the term 'registered agent' shall mean a general partner.

# XXI. DEBARMENT:

By signing this Contract, PROVIDER attests that it is not debarred from participating in federal procurements. COUNTY reserves the right to cancel this Contract if PROVIDER is presently, or is in the future, on the list of parties excluded from federal procurements.

# XXII. EXECUTION:

- A. The parties agree that execution of this document may be made by electronic signatures. The parties may make electronic signatures by typing the name of the authorized signature followed by the words, "electronically signed" or by any other electronic means representing an authorized signature by PROVIDER. PROVIDER shall ensure that only authorized persons may affix electronic signatures to this Agreement and COUNTY may rely that the electronic signature provided by PROVIDER is authentic.
- B. This Agreement has no effect until signed by both parties. The submission of this Agreement to PROVIDER for examination does not constitute an offer. PROVIDER warrants that the persons executing this Agreement on its behalf are authorized to do so.

**IN WITNESS WHEREOF**, COUNTY and PROVIDER, by their respective authorized agents, have caused this Agreement and its Schedules to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

Herman Torosian	FOR PROVIDER:	11/5/2021 Date
	***	
	FOR COUNTY:	
Joseph T. Parisi Dane County Executive		Date
Scott McDonell Dane County Clerk		Date

# SCHEDULE A Scope of Services

#### I. EMPLOYEE BENEFIT HANDBOOK:

PROVIDER agrees that it has received a copy of the Employee Benefit Handbook ("EBH"), and has had an opportunity to review it prior to executing this Agreement. PROVIDER acknowledges that the EBH is subject to annual modifications, and the provisions related to the grievance process, the Impartial Hearing Officer ("IHO") services and the Independent Consultant services are subject to change.

#### II. IMPARTIAL HEARING OFFICER:

PROVIDER shall serve as an Impartial Hearing Officer ("IHO") when selected in accordance with the EBH.

- a. PROVIDER agrees to perform the duties of an IHO, as required under the EBH. PROVIDER shall perform these duties in a professional manner.
- b. PROVIDER further agrees to follow the EBH's provisions related to IHO hearings, including but not limited to those provisions governing the conduct of the hearing, deadlines and the applicable legal standards to follow.

#### III. INDEPENDENT CONSULTANT:

PROVIDER acknowledges that Dane County Ordinance 18.24(4) requires an annual review of the EBH, and that this ordinance outlines a procedure to adopt changes to the EBH, and to settle disputes regarding such changes. PROVIDER agrees to serve as an Independent Consultant when selected to do so in accordance with the EBH.

- a. PROVIDER shall adhere to the standards, procedures and rules regarding how an Independent Consultant is to handle the dispute as set forth in Dane County Ordinances and the EBH.
- b. PROVIDER shall perform the duties of an Independent Consultant in a professional manner.

# SCHEDULE B Pricing Structure and Payment

#### I. COSTS SHARED EQUALLY:

When PROVIDER is selected to serve either as an Impartial Hearing Officer or as an Independent Consultant as described in Schedule A, the cost of those services are to be shared equally between Dane County and the individual, Employee Group, or interested stakeholder raising the Grievance or invoking the independent consultant procedure.

Prior to engaging in any activities under Schedule A, PROVIDER shall disclose their rates and fees and provide an estimate of the amount of time and cost to both parties. Additionally, prior to any hearing required under Schedule A, PROVIDER shall make both parties aware that costs are shared equally.

PROVIDER agrees that COUNTY is only responsible for its share of the cost of services. PROVIDER is responsible for collecting the share of the cost of services from the other party to services provided under schedule A.

#### II. INVOICES/PAYMENT:

PROVIDER shall issue an invoice upon completion of services and/or delivery of such deliverables. Invoices must reference the Dane County purchase order number issued for the services/deliverables described herein. Email delivery of invoices is encouraged and preferred – see the Bill To section of the purchase order. Payment shall be made within 30 days of COUNTY's receipt of accepted invoice unless otherwise noted.

#### III. RATES AND FEES:

PROVIDER'S hourly rate for services rendered in Schedule A is \$200 per hour

#### IV. CANCELLATION POLICY/FEE:

In the event a schedule hearing is cancelled within 14 days thereof, the parties shall be charged a fee of \$1,600 plus any hotel/motel reservation cancellation fees and fees charged by airlines for unused airline tickets.

Revised 06/2021

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Dept./Division	Administra	Administration		Contract # Admin will assign	1	4556			
Vendor Nam	ne Daniel Niels	en <b>MUNIS #</b> 32373		32373	Type of Contract				
Brief Contra Title/Descript	Independent	Service as an Impartial Hearing Officer and Independent Consultant			Dane County Cont Intergovernmental County Lessee County Lessor		mental see		
Contract Ter	m 1/1/22 - 10/	1/1/22 - 10/31/26			Purchase of Proper Property Sale				
Contract Amount	\$ 30,000.00	\$ 30,000.00			Grant Other				
Department (	Contact Information	n	Vendor C	ontact Info	ormation				
Name	Nick E		Name		Daniel Nie				
Phone # Email	608-266 bubb.nicholas@co		Phone # Email		847-571-9 Dan.Nielsen.Arb@				
Purchasing 0	_	tten/Hidalgo	Linan		Barri viologii., violo	,9111411.00111			
			quote require	ed)					
	·	<b>\$11,000 or under – Best Judgment</b> (1 quote required) <b>Between \$11,000 - \$37,000 (\$0 - \$25,000 Public Works)</b> (3 quotes required)							
Purchasing	Over \$37,000 (\$2	Over \$37,000 (\$25,000 Public Works)         (Formal RFB/RFP required)         RFB/RFP #         121073							
Authority		Bid Waiver – \$37,000 or under (\$25,000 or under Public Works)							
		Bid Waiver – Over \$37,000 (N/A to Public Works)							
N/A – Grants, Leases, Intergovernmental, Property Purchase/Sale, Other									
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RES 220

## Goldade, Michelle

From: Goldade, Michelle

Sent: Friday, December 10, 2021 1:13 PM

To: Hicklin, Charles; Hidalgo, Carmen; Gault, David; Lowndes, Daniel

**Cc:** Stavn, Stephanie; Oby, Joe

**Subject:** Contract #14556 **Attachments:** 14556.pdf

Tracking: Recipient Read Response

Hicklin, Charles Read: 12/10/2021 1:14 PM Approve: 12/10/2021 1:14 PM Hidalgo, Carmen Read: 12/10/2021 1:32 PM Approve: 12/10/2021 1:32 PM Approve: 12/10/2021 2:15 PM Lowndes, Daniel Read: 12/10/2021 1:44 PM Approve: 12/10/2021 1:44 PM

 Stavn, Stephanie
 Read: 12/10/2021 2:20 PM

 Oby, Joe
 Deleted: 12/13/2021 9:02 AM

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

Contract #14556

Department: Administration Vendor: Daniel Nielsen

Contract Description: Provide service as an Impartial Hearing Officer and Independent Consultant (Res 220)

Contract Term: 1/1/22 – 10/31/26 Contract Amount: \$30000.00

## Michelle Goldade

Administrative Manager
Dane County Department of Administration
Room 425, City-County Building
210 Martin Luther King, Jr. Boulevard
Madison, WI 53703

PH: 608/266-4941 Fax: 608/266-4425 TDD: Call WI Relay 711

Please Note: I currently have a modified work schedule...I am in the office Mondays and Wednesdays and working remotely Tuesdays, Thursdays and Fridays in accordance with COVID 19 response guidelines.

**2021 RES-220** 

## APPROVING EIGHT CONTRACTS TO SERVE AS IMPARTIAL HEARING OFFICERS AND INDEPENDENT CONSULTANTS

 Dane County works with a pool of individuals to serve as Impartial Hearing Officers and/or Independent Consultants. County ordinances requires that a Request for Proposals be issued for service contracts after five years. It has been more than five years since the County began working with the current pool of Impartial Hearing Officers and a new request for proposals was required.

Dane County issued RFP#121073 in 2021 for a pool of candidates to serve as an Impartial Hearing Officer and/or Independent Consultant. The current pool of Impartial Hearing Officers were invited to submit a proposal. There were eight respondents. The Department of Administration has reviewed the qualifications of the respondents and all eight are qualified to serve as Impartial Hearing Officers and/or Independent Consultants. The Department is recommending that the County adopt agreements with all eight respondents.

The eight respondents were: 1) Susan J.M. Bauman, 2) Carne Dispute Resolution (Danielle L. Carne), 3) Raleigh Jones Arbitration, 4) Daniel Nielsen, 5) Herman Torosian Arbitration Services, and 6) Thomas L. Yaeger, 7) Howard Bellman, and 8) Stanley Michelstetter. Each respondent is offered a five-year contract, not to exceed \$30,000.

Selection of Impartial Hearing Officers and/or Independent Consultants, shall be completed in accordance with the procedures established in County Ordinance and the Employee Benefit Handbook.

**NOW, THEREFORE BE IT RESOLVED** that the County Executive and the County Clerk are authorized to execute agreements with Susan J.M. Bauman, Carne Dispute Resolution, Raleigh Jones Arbitration, Daniel Nielsen, Herman Torosian Arbitration Services, Thomas L. Yaeger, Howard Bellman, and Stanley Michelstetter each for \$30,000 and a term of five years.

## DANE COUNTY CONTRACT # \_\_\_\_14556

Revised 06/2021



**Department:** Administration

Provider: Daniel Nielsen

**Expiration Date:** October 31, 2026

Maximum Cost: \$30,0000

Registered Agent (if applicable): Registered Agent Address:

**THIS AGREEMENT**, made and entered into, by and between the County of Dane (hereafter referred to as "COUNTY") and Daniel Nielsen (hereafter, "PROVIDER"),

#### WITNESSETH:

**WHEREAS** COUNTY, whose address is 210 Martin Luther King Jr. Blvd., Madison, WI 53703, desires to purchase services from PROVIDER for the purpose of providing impartial hearing officer or independent consulting services; and

**WHEREAS** PROVIDER, whose address is P.O. Box 549, Lake Bluff, IL 60044-0549, is able and willing to provide such services;

**NOW, THEREFORE,** in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, COUNTY and PROVIDER do agree as follows:

#### I. TERM:

The term of this Agreement shall commence as of the date by which all parties have executed this Agreement and shall end as of the EXPIRATION DATE set forth on page 1 hereof, unless sooner agreed to in writing by the parties. PROVIDER shall complete its obligations under this Agreement not later than the EXPIRATION DATE. COUNTY shall not be liable for any services performed by PROVIDER other than during the term of this Agreement. COUNTY shall never pay more than the Maximum Cost as stated above for all services. Upon failure of PROVIDER to complete its obligation set forth herein by the EXPIRATION DATE, COUNTY may invoke the penalties, if any, set forth in this document and its attachments.

#### II. SERVICES:

- A. PROVIDER agrees to provide the services detailed in the bid specifications, if any; the request for proposals (RFP) and PROVIDER's response thereto, if any; and on the attached Schedule A, which is fully incorporated herein by reference. In the event of a conflict between or among the bid specifications, the RFP or responses thereto, or the terms of Schedule A or any of them, it is agreed that the terms of Schedule A, to the extent of any conflict, are controlling.
- B. PROVIDER shall commence, carry on and complete its obligations under this Agreement with all deliberate speed and in a sound, economical and efficient manner, in accordance with this Agreement and all applicable laws. In providing services under this Agreement, PROVIDER agrees to cooperate with the various departments, agencies, employees and officers of COUNTY.
- C. PROVIDER agrees to secure at PROVIDER's own expense all personnel necessary to carry out PROVIDER's obligations under this Agreement. Such personnel shall not be

deemed to be employees of COUNTY nor shall they or any of them have or be deemed to have any direct contractual relationship with COUNTY.

- No portion of funds under this Agreement may be used to support or advance religious activities.
- E. PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin and has met all state and federal service standards, certifications and assurances as expressed by State and Federal statutes, rules, and regulations applicable to the services covered by this Agreement.
- F. PROVIDER will follow applicable public health guidelines to provide safe services and a safe workplace. In addition, by signing this Agreement, PROVIDER acknowledges the contagious nature of COVID-19 and voluntarily assumes the risk that PROVIDER and its staff may be exposed to or infected by COVID-19 by providing services under this Agreement and that such exposure or infection may result in personal injury, illness, permanent disability, and death.

PROVIDER further acknowledges that PROVIDER is assuming all of the foregoing risks and accept sole responsibility for any injury to itself and staff, including, but not limited to, personal injury, disability, death, illness, damage, loss, claim, liability, or expense or any kind, that PROVIDER or its staff may experience or incur in connection with providing services. PROVIDER hereby releases, covenants not to sue, discharges, and holds harmless and indemnifies the COUNTY, its employees, agents, and representatives, of and from any and all claims, including all liabilities, claims, actions, damages, costs or expenses of any kind arising out of or relating thereto. Provider understands and agrees that this release includes any claims based on the actions, omissions, or negligence of COUNTY, its employees, agents and representatives, whether a COVID-19 infection occurs before, during, or after the provision of services under this Agreement.

## III. ASSIGNMENT/TRANSFER:

PROVIDER shall not assign, subcontract or transfer any interest or obligation in this Agreement, without the prior written consent of COUNTY, including the hiring of independent contract service providers unless otherwise provided herein. Claims for money due or to become due PROVIDER from COUNTY under this Agreement may be assigned to a bank, trust company or other financial institution without such approval if and only if the instrument of assignment contains a provision substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to PROVIDER shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Agreement. PROVIDER shall promptly provide notice of any such assignment or transfer to COUNTY.

#### IV. TERMINATION:

- A. Failure of PROVIDER to fulfill any of its obligations under this Agreement in a timely manner, or violation by PROVIDER of any of the covenants or stipulations of this Agreement, shall constitute grounds for COUNTY to terminate this Agreement by giving a thirty (30) day written notice to PROVIDER.
- B. The following shall constitute grounds for immediate termination:
  - violation by PROVIDER of any State, Federal or local law, or failure by PROVIDER to comply with any applicable States and Federal service standards, as expressed by applicable statutes, rules and regulations.
  - 2. failure by PROVIDER to carry applicable licenses or certifications as required by law.
  - 3. failure of PROVIDER to comply with reporting requirements contained herein.
  - 4. inability of PROVIDER to perform the work provided for herein.

- C. Failure of the Dane County Board of Supervisors or the State or Federal Governments to appropriate sufficient funds to carry out COUNTY's obligations hereunder, shall result in automatic termination of this Agreement as of the date funds are no longer available, without notice.
- D. In the event COUNTY terminates this Agreement as provided herein, all finished and unfinished documents, services, papers, data, products, and the like prepared, produced or made by PROVIDER under this Agreement shall at the option of COUNTY become the property of COUNTY, and PROVIDER shall be entitled to receive just and equitable compensation, subject to any penalty, for any satisfactory work completed on such documents, services, papers, data, products or the like. Notwithstanding the above, PROVIDER shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by PROVIDER, and COUNTY may withhold any payments to PROVIDER for the purpose of offset.

#### V. PAYMENT:

COUNTY agrees to make such payments for services rendered under this Agreement as and in the manner specified herein and in the attached Schedule B, which is fully incorporated herein by reference. Notwithstanding any language to the contrary in this Agreement or its attachments, COUNTY shall never be required to pay more than the sum set forth on page 1 of this Agreement under the heading MAXIMUM COST, for all services rendered by PROVIDER under this Agreement.

#### VI. REPORTS:

PROVIDER agrees to make such reports as are required in the attached schedules, which is fully incorporated herein by reference. With respect to such reports it is expressly understood that time is of the essence and that the failure of PROVIDER to comply with the time limits set forth in said schedules shall result in the penalties set forth herein.

#### VII. DELIVERY OF NOTICE:

Notices, bills, invoices and reports required by this Agreement shall be deemed delivered as of the date of postmark if deposited in a United States mailbox, first class postage attached, addressed to a party's address as set forth above. It shall be the duty of a party changing its address to notify the other party in writing within a reasonable time.

#### VIII. INSURANCE & INDEMNIFICATION:

- A. PROVIDER shall indemnify, hold harmless and defend COUNTY, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which COUNTY, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of PROVIDER's furnishing the services or goods required to be provided under this Agreement, provided, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts or omissions of COUNTY, its agencies, boards, commissions, officers, employees or representatives. Any failure on the part of the PROVIDER to comply with reporting or other provisions of its insurance policies shall not affect this PROVIDER's obligations under this paragraph. COUNTY reserves the right, but not the obligation, to participate in defense without relieving PROVIDER of any obligation under this paragraph. The obligations of PROVIDER under this paragraph shall survive the expiration or termination of this Agreement.
- B. In order to protect itself and COUNTY, its officers, boards, commissions, agencies, agents, volunteers, employees and representatives under the indemnity provisions of the subparagraph above, PROVIDER shall, at PROVIDER's own expense, obtain and at all times during the term of this Agreement keep in full force and effect the insurance coverages, limits, and endorsements listed below. When obtaining required insurance under this Agreement and otherwise, PROVIDER agrees to preserve COUNTY's subrogation rights in all such matters that may arise that are covered by PROVIDER's

insurance. Neither these requirements nor the COUNTY's review or acceptance of PROVIDER's certificates of insurance is intended to limit or qualify the liabilities or obligations assumed by the PROVIDER under this Agreement. The County expressly reserves the right to require higher or lower insurance limits where County deems necessary.

#### 1. Commercial General Liability.

PROVIDER agrees to maintain Commercial General Liability insurance at a limit of not less than \$1,000,000 per occurrence. Coverage shall include, but not be limited to, Bodily Injury and Property Damage to Third Parties, Contractual Liability, Personal Injury and Advertising Injury Liability, Premises-Operations, Independent PROVIDERs and Subcontractors, and Fire Legal Liability. The policy shall not exclude Explosion, Collapse, and Underground Property Damage Liability Coverage. The policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations.

#### 2. Professional Liability Insurance.

If PROVIDER renders professional services (such as medical, architectural or engineering services) under this Agreement, then PROVIDER shall provide and maintain two million dollars (\$2,000,000.00) of professional liability insurance. If such policy is a "claims made" policy, all renewals during the life of the Agreement shall include "prior acts coverage" covering at all times all claims made with respect to PROVIDER's work performed under the Agreement. This Professional Liability coverage must be kept in force for a period of six (6) years after the services have been accepted by COUNTY

3. Commercial/Business Automobile Liability Insurance.

If applicable to the services covered by this Agreement, PROVIDER shall provide and maintain commercial general liability and automobile liability insurance at a limit of not less than \$1,000,000 per occurrence. Coverage for commercial general liability and automobile liability insurance shall, at a minimum, be at least as broad as Insurance Services Office ("ISO") Commercial General Liability Coverage (Occurrence Form CG 0001) and ISO Business Auto Coverage (Form CA 0001), covering Symbol 1 (any vehicle).

#### 4. Environmental Impairment (Pollution) Liability

If PROVIDER will be transporting waste or will be disposing of waste or products under this Agreement, then PROVIDER agrees to maintain Environmental Impairment (Pollution) Liability insurance at a limit of not less than \$1,000,000 per occurrence for bodily injury, property damage, and environmental cleanup costs caused by pollution conditions, both sudden and non-sudden. This requirement can be satisfied by either a separate environmental liability policy or through a modification to the Commercial General Liability policy. Evidence of either must be provided.

#### 5. Workers' Compensation.

PROVIDER agrees to maintain Workers Compensation insurance at Wisconsin statutory limits.

#### 6. Umbrella or Excess Liability.

PROVIDER may satisfy the minimum liability limits required above for Commercial General Liability and Business Auto Liability under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for the Commercial General Liability and Business Auto Liability. PROVIDER agrees to list DANE COUNTY as an "Additional Insured" on its Umbrella or Excess Liability policy.

#### C. Required provisions.

#### 1. Insurer's Requirement

All of the insurance shall be provided on policy forms and through companies satisfactory to COUNTY, and shall have a minimum AM Best's rating of A- VIII

#### 2. Additional Insured.

COUNTY, its elected and appointed officials, officers, employees or authorized representatives or volunteers are to be given additional insured status (via ISO endorsement CG 2010, CG 2033, or insurer's equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of PROVIDER; products and completed operations of PROVIDER; premises occupied or used by PROVIDER; and vehicles owned, leased, hired or borrowed by PROVIDER. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Except for the workers compensation policy, each insurance policy shall contain a waiver of subrogation endorsement in favor of COUNTY.

#### 3. Provider's Insurance Shall be Primary

For any claims related to this Agreement, PROVIDER's insurance shall be primary insurance with respect to COUNTY, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Any insurance, self-insurance, or other coverage maintained by COUNTY, its elected and appointed officers, officials, employees or authorized representatives or volunteers shall not contribute to the primary insurance. PROVIDER's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability

#### 4. Cancelation Notice

Each insurance policy required by this Agreement shall state, or be endorsed so as to the state, that coverage shall not be canceled by the insurance carrier or the PROVIDER, except after sixty (60) days (ten (10) days for non-payment of premium) prior written notice by U.S. mail has been given to COUNTY.

#### 5. Evidences of Insurance.

Prior to execution of the Agreement, PROVIDER shall file with COUNTY a certificate of insurance (Accord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative. Such evidence shall also include confirmation that coverage includes or has been modified to include all required provisions as detailed herein.

#### 6. Sub-Contractors.

In the event that PROVIDER employs sub-contractors as part of this Agreement, it shall be the PROVIDER's responsibility to require and confirm that each sub-contractor meets the minimum insurance requirements specified above.

D. The parties do hereby expressly agree that COUNTY, acting at its sole option and through its Risk Manager, may waive any and all requirements contained in this Agreement, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by COUNTY's Risk Manager taking into account the nature of the work and other factors relevant to COUNTY's exposure, if any, under this Agreement.

## IX. NO WAIVER BY PAYMENT OR ACCEPTANCE:

In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be construed as a waiver by COUNTY of any breach of the covenants of this Agreement or a waiver of any default of PROVIDER and the making of any such payment or acceptance of any such service or product by COUNTY while any such default or breach shall exist shall in no way impair or prejudice the right of COUNTY with respect to recovery of damages or other remedy as a result of such breach or default.

#### X. <u>NON-DISCRIMINATION:</u>

During the term of this Agreement, PROVIDER agrees not to discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve

component of the military forces of the United States, or political beliefs against any person, whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s). PROVIDER agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal law.

#### XI. CIVIL RIGHTS COMPLIANCE:

- If PROVIDER has 20 or more employees and receives \$20,000 in annual contracts with COUNTY, the PROVIDER shall submit to COUNTY a current Civil Rights Compliance Plan (CRC) for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and Americans with Disabilities Act (ADA) of 1990. PROVIDER shall also file an Affirmative Action (AA) Plan with COUNTY in accordance with the requirements of chapter 19 of the Dane County Code of Ordinances. PROVIDER shall submit a copy of its discrimination complaint form with its CRC/AA Plan. The CRC/AA Plan must be submitted prior to the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by COUNTY. If an approved plan has been received during the previous CALENDAR year, a plan update is acceptable. The plan may cover a two-year period. Providers who have less than twenty employees, but who receive more than \$20,000 from the COUNTY in annual contracts, may be required to submit a CRC Action Plan to correct any problems discovered as the result of a complaint investigation or other Civil Rights Compliance monitoring efforts set forth herein below. If PROVIDER submits a CRC/AA Plan to a Department of Workforce Development Division or to a Department of Health and Family Services Division that covers the services purchased by COUNTY, a verification of acceptance by the State of PROVIDER's Plan is sufficient.
- B. PROVIDER agrees to comply with the COUNTY's civil rights compliance policies and procedures. PROVIDER agrees to comply with civil rights monitoring reviews performed by the COUNTY, including the examination of records and relevant files maintained by the PROVIDER. PROVIDER agrees to furnish all information and reports required by the COUNTY as they relate to affirmative action and non-discrimination. PROVIDER further agrees to cooperate with COUNTY in developing, implementing, and monitoring corrective action plans that result from any reviews.
- C. PROVIDER shall post the Equal Opportunity Policy, the name of PROVIDER's designated Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, applicants for employment and employees. The complaint process will be according to COUNTY's policies and procedures and made available in languages and formats understandable to applicants, clients and employees. PROVIDER shall supply to COUNTY's Contract Compliance Officer upon request a summary document of all client complaints related to perceived discrimination in service delivery. These documents shall include names of the involved persons, nature of the complaints, and a description of any attempts made to achieve complaint resolution.
- D. PROVIDER shall provide copies of all announcements of new employment opportunities to COUNTY's Contract Compliance Officer when such announcements are issued.
- E. If PROVIDER is a government entity having its own compliance plan, PROVIDER'S plan shall govern PROVIDER's activities.

#### XII. COMPLIANCE WITH FAIR LABOR STANDARDS:

A. Reporting of Adverse Findings

During the term of this Agreement, PROVIDER shall report to the County Contract Compliance Officer, within ten (10) days, any allegations to, or findings by the National Labor Relations Board (NLRB) or Wisconsin Employment Relations commission (WERC) that PROVIDER has violated a statute or regulation regarding labor standards or relations,. If an investigation by the Contract Compliance Officer results in a final determination that the matter adversely affects PROVIDER'S responsibilities under this Agreement, and which recommends termination, suspension or cancellation of this agreement, the County may take such action.

#### B. Appeal Process

PROVIDER may appeal any adverse finding by the Contract Compliance Officer as set forth in Dane County Ordinances Sec. 25.08(20)(c) through (e).

#### C. Notice Requirement

PROVIDER shall post the following statement in a prominent place visible to employees: "As a condition of receiving and maintaining a contract with Dane County, this employer shall comply with federal, state and all other applicable laws prohibiting retaliation for union organizing."

#### XIII. CONTROLLING LAW AND VENUE:

It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in the Dane County Circuit Court.

#### XIV. FINANCIAL INTEREST PROHIBITED:

Under s. 946.13, Wis. Stats. COUNTY employees and officials are prohibited from holding a private pecuniary interest, direct or indirect, in any public contract. By executing this Agreement, each party represents that it has no knowledge of a COUNTY employee or official involved in the making or performance of the Agreement that has a private pecuniary interest therein. It is expressly understood and agreed that any subsequent finding of a violation of s. 946.13, Wis. Stat. may result in this Agreement being voided at the discretion of the COUNTY.

#### XV. LIMITATION OF AGREEMENT:

This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.

#### XVI. ENTIRE AGREEMENT:

The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended in any fashion except in writing, executed by both parties.

#### XVII. COUNTERPARTS:

The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument.

#### XVIII. CONSTRUCTION:

This Agreement shall not be construed against the drafter.

#### XIX. COPIES VALID:

This Agreement, and any amendment or addendum relating to it, may be executed and transmitted to any other party by legible facsimile reproduction or by scanned legible electronic PDF copy, and utilized in all respects as, an original, wet-inked manually executed document. Further, this Agreement and any amendment or addendum thereto, may be stored and reproduced by each party electronically, photographically, by photocopy or other similar process, and each party may at its option destroy any original document so reproduced. All parties hereto stipulate that any such legible reproduction shall be admissible in evidence as the original itself in any judicial, arbitration or administrative proceeding whether or not the original is in existence and

whether or not such reproduction was made by each party in the regular course of business. This term does not apply to the service of notices under this Agreement.

#### XX. REGISTERED AGENT:

PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin, that the persons executing this Agreement on its behalf are authorized to do so, and, if a corporation, that the name and address of PROVIDER's registered agent is as set forth opposite the heading REGISTERED AGENT on page 1 of this Agreement. PROVIDER shall notify COUNTY immediately, in writing, of any change in its registered agent, his or her address, and PROVIDER's legal status. For a partnership, the term 'registered agent' shall mean a general partner.

#### XXI. DEBARMENT:

By signing this Contract, PROVIDER attests that it is not debarred from participating in federal procurements. COUNTY reserves the right to cancel this Contract if PROVIDER is presently, or is in the future, on the list of parties excluded from federal procurements.

#### XXII. EXECUTION:

- A. The parties agree that execution of this document may be made by electronic signatures. The parties may make electronic signatures by typing the name of the authorized signature followed by the words, "electronically signed" or by any other electronic means representing an authorized signature by PROVIDER. PROVIDER shall ensure that only authorized persons may affix electronic signatures to this Agreement and COUNTY may rely that the electronic signature provided by PROVIDER is authentic.
- B. This Agreement has no effect until signed by both parties. The submission of this Agreement to PROVIDER for examination does not constitute an offer. PROVIDER warrants that the persons executing this Agreement on its behalf are authorized to do so.

**IN WITNESS WHEREOF,** COUNTY and PROVIDER, by their respective authorized agents, have caused this Agreement and its Schedules to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

	FOR PROVIDER:	
/s/ Daniel Nielsen  Daniel Nielsen		October 6, 2021 Date
	***	
	FOR COUNTY:	
Joseph T. Parisi Dane County Executive		Date
Scott McDonell Dane County Clerk		Date

# SCHEDULE A Scope of Services

#### I. EMPLOYEE BENEFIT HANDBOOK:

PROVIDER agrees that it has received a copy of the Employee Benefit Handbook ("EBH"), and has had an opportunity to review it prior to executing this Agreement. PROVIDER acknowledges that the EBH is subject to annual modifications, and the provisions related to the grievance process, the Impartial Hearing Officer ("IHO") services and the Independent Consultant services are subject to change.

#### II. IMPARTIAL HEARING OFFICER:

PROVIDER shall serve as an Impartial Hearing Officer ("IHO") when selected in accordance with the EBH.

- a. PROVIDER agrees to perform the duties of an IHO, as required under the EBH. PROVIDER shall perform these duties in a professional manner.
- b. PROVIDER further agrees to follow the EBH's provisions related to IHO hearings, including but not limited to those provisions governing the conduct of the hearing, deadlines and the applicable legal standards to follow.

#### III. INDEPENDENT CONSULTANT:

PROVIDER acknowledges that Dane County Ordinance 18.24(4) requires an annual review of the EBH, and that this ordinance outlines a procedure to adopt changes to the EBH, and to settle disputes regarding such changes. PROVIDER agrees to serve as an Independent Consultant when selected to do so in accordance with the EBH.

- a. PROVIDER shall adhere to the standards, procedures and rules regarding how an Independent Consultant is to handle the dispute as set forth in Dane County Ordinances and the EBH.
- b. PROVIDER shall perform the duties of an Independent Consultant in a professional manner.

# SCHEDULE B Pricing Structure and Payment

#### I. COSTS SHARED EQUALLY:

When PROVIDER is selected to serve either as an Impartial Hearing Officer or as an Independent Consultant as described in Schedule A, the cost of those services are to be shared equally between Dane County and the individual, Employee Group, or interested stakeholder raising the Grievance or invoking the independent consultant procedure.

Prior to engaging in any activities under Schedule A, PROVIDER shall disclose their rates and fees and provide an estimate of the amount of time and cost to both parties. Additionally, prior to any hearing required under Schedule A, PROVIDER shall make both parties aware that costs are shared equally.

PROVIDER agrees that COUNTY is only responsible for its share of the cost of services. PROVIDER is responsible for collecting the share of the cost of services from the other party to services provided under schedule A.

#### II. INVOICES/PAYMENT:

PROVIDER shall issue an invoice upon completion of services and/or delivery of such deliverables. Invoices must reference the Dane County purchase order number issued for the services/deliverables described herein. Email delivery of invoices is encouraged and preferred – see the Bill To section of the purchase order. Payment shall be made within 30 days of COUNTY's receipt of accepted invoice unless otherwise noted.

#### III. RATES AND FEES:

PROVIDER's per diem rate is \$1600.00 for grievance cases.

Travel time and mileage will be calculated from Kenosha, Wisconsin. Mileage is charged at the IRS rate. Travel time is based on a ten-hour day, so that an hour of travel equals 10% of the daily rate. Travel time on the day of hearing is included in the per diem charge.

#### IV. CANCELLATION POLICY/FEE:

A cancellation fee of one day's per diem will be charged for each day of hearing canceled or postponed within 14 days before the hearing date. By way of illustration, a case scheduled for Friday the 22nd must be cancelled by the end of the business day on Thursday the 7th.

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Vendor Nam	e Stanley Mich	ichelstetter MUNIS # 32178		Type of Contract			
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Contract Ter	m 1/1/22 - 10/3	31/26		Purchase of Property Property Sale			
Contract Amount	\$ 30,000.00	\$ 30,000.00			Grant Other		
•	Contact Information		Vendor Contact Inf				
Name Phone #		Nick Bubb Name 18-266-8477 Phone #		Stanley Michelstetter 608-825-1414			
Email	bubb.nicholas@co		Email	stan@stanm.			
Purchasing C	<b>Officer</b> Par	tten/Hidalgo	·				
Purchasing Authority	☐ Between \$11,000 ☐ Over \$37,000 (\$2 ☐ Bid Waiver – \$37 ☐ Bid Waiver – Over	25,000 Public Works) ( 7,000 or under (\$25,00 er \$37,000 (N/A to Pub	00 Public Works) (3 qu Formal RFB/RFP require 0 or under Public Works	ed) RFB/I	RFP# 121084		
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## Goldade, Michelle

From: Goldade, Michelle

Sent: Friday, December 10, 2021 1:14 PM

To: Hicklin, Charles; Hidalgo, Carmen; Gault, David; Lowndes, Daniel

**Cc:** Stavn, Stephanie; Oby, Joe

**Subject:** Contract #14557 **Attachments:** 14557.pdf

Tracking: Recipient Read Response

 Hicklin, Charles
 Read: 12/10/2021 1:21 PM
 Approve: 12/10/2021 1:21 PM

 Hidalgo, Carmen
 Read: 12/10/2021 1:32 PM
 Approve: 12/13/2021 1:14 PM

 Gault, David
 Read: 12/10/2021 2:20 PM
 Approve: 12/10/2021 2:21 PM

 Lowndes, Daniel
 Read: 12/10/2021 1:44 PM
 Approve: 12/10/2021 1:44 PM

 Stavn, Stephanie
 Read: 12/10/2021 2:20 PM

 Oby, Joe
 Deleted: 12/13/2021 9:02 AM

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

Contract #14557

Department: Administration Vendor: Stanley Michelstetter

Contract Description: Provide service as an Impartial Hearing Officer and Independent Consultant (Res 220)

Contract Term: 1/1/22 – 10/31/26 Contract Amount: \$30,000.00

## Michelle Goldade

Administrative Manager
Dane County Department of Administration
Room 425, City-County Building
210 Martin Luther King, Jr. Boulevard
Madison, WI 53703

PH: 608/266-4941 Fax: 608/266-4425 TDD: Call WI Relay 711

Please Note: I currently have a modified work schedule...I am in the office Mondays and Wednesdays and working remotely Tuesdays, Thursdays and Fridays in accordance with COVID 19 response guidelines.

**2021 RES-220** 

## APPROVING EIGHT CONTRACTS TO SERVE AS IMPARTIAL HEARING OFFICERS AND INDEPENDENT CONSULTANTS

 Dane County works with a pool of individuals to serve as Impartial Hearing Officers and/or Independent Consultants. County ordinances requires that a Request for Proposals be issued for service contracts after five years. It has been more than five years since the County began working with the current pool of Impartial Hearing Officers and a new request for proposals was required.

Dane County issued RFP#121073 in 2021 for a pool of candidates to serve as an Impartial Hearing Officer and/or Independent Consultant. The current pool of Impartial Hearing Officers were invited to submit a proposal. There were eight respondents. The Department of Administration has reviewed the qualifications of the respondents and all eight are qualified to serve as Impartial Hearing Officers and/or Independent Consultants. The Department is recommending that the County adopt agreements with all eight respondents.

The eight respondents were: 1) Susan J.M. Bauman, 2) Carne Dispute Resolution (Danielle L. Carne), 3) Raleigh Jones Arbitration, 4) Daniel Nielsen, 5) Herman Torosian Arbitration Services, and 6) Thomas L. Yaeger, 7) Howard Bellman, and 8) Stanley Michelstetter. Each respondent is offered a five-year contract, not to exceed \$30,000.

Selection of Impartial Hearing Officers and/or Independent Consultants, shall be completed in accordance with the procedures established in County Ordinance and the Employee Benefit Handbook.

**NOW, THEREFORE BE IT RESOLVED** that the County Executive and the County Clerk are authorized to execute agreements with Susan J.M. Bauman, Carne Dispute Resolution, Raleigh Jones Arbitration, Daniel Nielsen, Herman Torosian Arbitration Services, Thomas L. Yaeger, Howard Bellman, and Stanley Michelstetter each for \$30,000 and a term of five years.

## DANE COUNTY CONTRACT # 14557

Revised 06/2021



Department: Administration

Provider: Stanley Michelstetter

Expiration Date: October 31, 2026

Maximum Cost: \$30,000

Registered Agent (if applicable):

N/A

Registered Agent Address:

N/A

**THIS AGREEMENT**, made and entered into, by and between the County of Dane (hereafter referred to as "COUNTY") and Stanley Michelstetter (hereafter, "PROVIDER").

#### WITNESSETH:

WHEREAS COUNTY, whose address is 210 Martin Luther King Jr. Blvd., Madison, WI 53703, desires to purchase services from PROVIDER for the purpose of providing impartial hearing officer or independent consulting services; and

WHEREAS PROVIDER, whose address is 2680 Blue Aster Blvd., Sun Prairie, WI 53590, is able and willing to provide such services;

**NOW, THEREFORE,** in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, COUNTY and PROVIDER do agree as follows:

#### I. TERM:

The term of this Agreement shall commence as of the date by which all parties have executed this Agreement and shall end as of the EXPIRATION DATE set forth on page 1 hereof, unless sooner agreed to in writing by the parties. PROVIDER shall complete its obligations under this Agreement not later than the EXPIRATION DATE. COUNTY shall not be liable for any services performed by PROVIDER other than during the term of this Agreement. COUNTY shall never pay more than the Maximum Cost as stated above for all services. Upon failure of PROVIDER to complete its obligation set forth herein by the EXPIRATION DATE, COUNTY may invoke the penalties, if any, set forth in this document and its attachments.

#### II. SERVICES:

- A. PROVIDER agrees to provide the services detailed in the bid specifications, if any; the request for proposals (RFP) and PROVIDER's response thereto, if any; and on the attached Schedule A, which is fully incorporated herein by reference. In the event of a conflict between or among the bid specifications, the RFP or responses thereto, or the terms of Schedule A or any of them, it is agreed that the terms of Schedule A, to the extent of any conflict, are controlling.
- B. PROVIDER shall commence, carry on and complete its obligations under this Agreement with all deliberate speed and in a sound, economical and efficient manner, in accordance with this Agreement and all applicable laws. In providing services under this Agreement, PROVIDER agrees to cooperate with the various departments, agencies, employees and officers of COUNTY.
- C. PROVIDER agrees to secure at PROVIDER's own expense all personnel necessary to carry out PROVIDER's obligations under this Agreement. Such personnel shall not be

deemed to be employees of COUNTY nor shall they or any of them have or be deemed to have any direct contractual relationship with COUNTY.

- No portion of funds under this Agreement may be used to support or advance religious activities.
- E. PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin and has met all state and federal service standards, certifications and assurances as expressed by State and Federal statutes, rules, and regulations applicable to the services covered by this Agreement.
- F. PROVIDER will follow applicable public health guidelines to provide safe services and a safe workplace. In addition, by signing this Agreement, PROVIDER acknowledges the contagious nature of COVID-19 and voluntarily assumes the risk that PROVIDER and its staff may be exposed to or infected by COVID-19 by providing services under this Agreement and that such exposure or infection may result in personal injury, illness, permanent disability, and death.

PROVIDER further acknowledges that PROVIDER is assuming all of the foregoing risks and accept sole responsibility for any injury to itself and staff, including, but not limited to, personal injury, disability, death, illness, damage, loss, claim, liability, or expense or any kind, that PROVIDER or its staff may experience or incur in connection with providing services. PROVIDER hereby releases, covenants not to sue, discharges, and holds harmless and indemnifies the COUNTY, its employees, agents, and representatives, of and from any and all claims, including all liabilities, claims, actions, damages, costs or expenses of any kind arising out of or relating thereto. Provider understands and agrees that this release includes any claims based on the actions, omissions, or negligence of COUNTY, its employees, agents and representatives, whether a COVID-19 infection occurs before, during, or after the provision of services under this Agreement.

## III. ASSIGNMENT/TRANSFER:

PROVIDER shall not assign, subcontract or transfer any interest or obligation in this Agreement, without the prior written consent of COUNTY, including the hiring of independent contract service providers unless otherwise provided herein. Claims for money due or to become due PROVIDER from COUNTY under this Agreement may be assigned to a bank, trust company or other financial institution without such approval if and only if the instrument of assignment contains a provision substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to PROVIDER shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Agreement. PROVIDER shall promptly provide notice of any such assignment or transfer to COUNTY.

## IV. <u>TERMINATION:</u>

- A. Failure of PROVIDER to fulfill any of its obligations under this Agreement in a timely manner, or violation by PROVIDER of any of the covenants or stipulations of this Agreement, shall constitute grounds for COUNTY to terminate this Agreement by giving a thirty (30) day written notice to PROVIDER.
- B. The following shall constitute grounds for immediate termination:
  - violation by PROVIDER of any State, Federal or local law, or failure by PROVIDER to comply with any applicable States and Federal service standards, as expressed by applicable statutes, rules and regulations.
  - failure by PROVIDER to carry applicable licenses or certifications as required by law.
  - failure of PROVIDER to comply with reporting requirements contained herein.
  - inability of PROVIDER to perform the work provided for herein.

- C. Failure of the Dane County Board of Supervisors or the State or Federal Governments to appropriate sufficient funds to carry out COUNTY's obligations hereunder, shall result in automatic termination of this Agreement as of the date funds are no longer available, without notice.
- D. In the event COUNTY terminates this Agreement as provided herein, all finished and unfinished documents, services, papers, data, products, and the like prepared, produced or made by PROVIDER under this Agreement shall at the option of COUNTY become the property of COUNTY, and PROVIDER shall be entitled to receive just and equitable compensation, subject to any penalty, for any satisfactory work completed on such documents, services, papers, data, products or the like. Notwithstanding the above, PROVIDER shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by PROVIDER, and COUNTY may withhold any payments to PROVIDER for the purpose of offset.

## V. PAYMENT:

COUNTY agrees to make such payments for services rendered under this Agreement as and in the manner specified herein and in the attached Schedule B, which is fully incorporated herein by reference. Notwithstanding any language to the contrary in this Agreement or its attachments, COUNTY shall never be required to pay more than the sum set forth on page 1 of this Agreement under the heading MAXIMUM COST, for all services rendered by PROVIDER under this Agreement.

#### VI. REPORTS:

PROVIDER agrees to make such reports as are required in the attached schedules, which is fully incorporated herein by reference. With respect to such reports it is expressly understood that time is of the essence and that the failure of PROVIDER to comply with the time limits set forth in said schedules shall result in the penalties set forth herein.

#### VII. DELIVERY OF NOTICE:

Notices, bills, invoices and reports required by this Agreement shall be deemed delivered as of the date of postmark if deposited in a United States mailbox, first class postage attached, addressed to a party's address as set forth above. It shall be the duty of a party changing its address to notify the other party in writing within a reasonable time.

## VIII. INSURANCE & INDEMNIFICATION:

- A. PROVIDER shall indemnify, hold harmless and defend COUNTY, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life). damages, costs or expenses which COUNTY, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of PROVIDER's furnishing the services or goods required to be provided under this Agreement, provided, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts or omissions of COUNTY, its agencies, boards, commissions, officers, employees or representatives. Any failure on the part of the PROVIDER to comply with reporting or other provisions of its insurance policies shall not affect this PROVIDER's obligations under this paragraph. COUNTY reserves the right, but not the obligation, to participate in defense without relieving PROVIDER of any obligation under this paragraph. The obligations of PROVIDER under this paragraph shall survive the expiration or termination of this Agreement.
- B. In order to protect itself and COUNTY, its officers, boards, commissions, agencies, agents, volunteers, employees and representatives under the indemnity provisions of the subparagraph above, PROVIDER shall, at PROVIDER's own expense, obtain and at all times during the term of this Agreement keep in full force and effect the insurance coverages, limits, and endorsements listed below. When obtaining required insurance under this Agreement and otherwise, PROVIDER agrees to preserve COUNTY's subrogation rights in all such matters that may arise that are covered by PROVIDER's insurance. Neither these requirements nor the COUNTY's review or acceptance of

PROVIDER's certificates of insurance is intended to limit or qualify the liabilities or obligations assumed by the PROVIDER under this Agreement. The County expressly reserves the right to require higher or lower insurance limits where County deems necessary.

1. Commercial General Liability.

PROVIDER agrees to maintain Commercial General Liability insurance at a limit of not less than \$1,000,000 per occurrence. Coverage shall include, but not be limited to, Bodily Injury and Property Damage to Third Parties, Contractual Liability, Personal Injury and Advertising Injury Liability, Premises-Operations, Independent PROVIDERs and Subcontractors, and Fire Legal Liability. The policy shall not exclude Explosion, Collapse, and Underground Property Damage Liability Coverage. The policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations.

2. Professional Liability Insurance.

If PROVIDER renders professional services (such as medical, architectural or engineering services) under this Agreement, then PROVIDER shall provide and maintain two million dollars (\$2,000,000.00) of professional liability insurance. If such policy is a "claims made" policy, all renewals during the life of the Agreement shall include "prior acts coverage" covering at all times all claims made with respect to PROVIDER's work performed under the Agreement. This Professional Liability coverage must be kept in force for a period of six (6) years after the services have been accepted by COUNTY

- 3. Commercial/Business Automobile Liability Insurance. If applicable to the services covered by this Agreement, PROVIDER shall provide and maintain commercial general liability and automobile liability insurance at a limit of not less than \$1,000,000 per occurrence. Coverage for commercial general liability and automobile liability insurance shall, at a minimum, be at least as broad as Insurance Services Office ("ISO") Commercial General Liability Coverage (Occurrence Form CG 0001) and ISO Business Auto Coverage (Form CA 0001), covering Symbol 1 (any vehicle).
- 4. Environmental Impairment (Pollution) Liability
  If PROVIDER will be transporting waste or will be disposing of waste or products under
  this Agreement, then PROVIDER agrees to maintain Environmental Impairment
  (Pollution) Liability insurance at a limit of not less than \$1,000,000 per occurrence for
  bodily injury, property damage, and environmental cleanup costs caused by pollution
  conditions, both sudden and non-sudden. This requirement can be satisfied by either a
  separate environmental liability policy or through a modification to the Commercial
  General Liability policy. Evidence of either must be provided.
- Workers' Compensation.
   PROVIDER agrees to maintain Workers Compensation insurance at Wisconsin statutory limits.
- 6. Umbrella or Excess Liability.
  PROVIDER may satisfy the minimum liability limits required above for Commercial General Liability and Business Auto Liability under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for the Commercial General Liability and Business Auto Liability. PROVIDER agrees to list DANE COUNTY as an "Additional Insured" on its Umbrella or Excess Liability policy.
- C. Required provisions.
  - Insurer's Requirement
     All of the insurance shall be provided on policy forms and through companies satisfactory to COUNTY, and shall have a minimum AM Best's rating of A- VIII

## 2. Additional Insured.

COUNTY, its elected and appointed officials, officers, employees or authorized representatives or volunteers are to be given additional insured status (via ISO endorsement CG 2010, CG 2033, or insurer's equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of PROVIDER; products and completed operations of PROVIDER; premises occupied or used by PROVIDER; and vehicles owned, leased, hired or borrowed by PROVIDER. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Except for the workers compensation policy, each insurance policy shall contain a waiver of subrogation endorsement in favor of COUNTY.

## 3. Provider's Insurance Shall be Primary

For any claims related to this Agreement, PROVIDER's insurance shall be primary insurance with respect to COUNTY, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Any insurance, self-insurance, or other coverage maintained by COUNTY, its elected and appointed officers, officials, employees or authorized representatives or volunteers shall not contribute to the primary insurance. PROVIDER's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability

## 4. Cancelation Notice

Each insurance policy required by this Agreement shall state, or be endorsed so as to the state, that coverage shall not be canceled by the insurance carrier or the PROVIDER, except after sixty (60) days (ten (10) days for non-payment of premium) prior written notice by U.S. mail has been given to COUNTY.

#### 5. Evidences of Insurance.

Prior to execution of the Agreement, PROVIDER shall file with COUNTY a certificate of insurance (Accord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative. Such evidence shall also include confirmation that coverage includes or has been modified to include all required provisions as detailed herein.

#### Sub-Contractors.

In the event that PROVIDER employs sub-contractors as part of this Agreement, it shall be the PROVIDER's responsibility to require and confirm that each sub-contractor meets the minimum insurance requirements specified above.

D. The parties do hereby expressly agree that COUNTY, acting at its sole option and through its Risk Manager, may waive any and all requirements contained in this Agreement, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by COUNTY's Risk Manager taking into account the nature of the work and other factors relevant to COUNTY's exposure, if any, under this Agreement.

## IX. NO WAIVER BY PAYMENT OR ACCEPTANCE:

In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be construed as a waiver by COUNTY of any breach of the covenants of this Agreement or a waiver of any default of PROVIDER and the making of any such payment or acceptance of any such service or product by COUNTY while any such default or breach shall exist shall in no way impair or prejudice the right of COUNTY with respect to recovery of damages or other remedy as a result of such breach or default.

#### X. NON-DISCRIMINATION:

During the term of this Agreement, PROVIDER agrees not to discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs against any person,

whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s). PROVIDER agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal law.

## XI. CIVIL RIGHTS COMPLIANCE:

- If PROVIDER has 20 or more employees and receives \$20,000 in annual contracts with COUNTY, the PROVIDER shall submit to COUNTY a current Civil Rights Compliance Plan (CRC) for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and Americans with Disabilities Act (ADA) of 1990. PROVIDER shall also file an Affirmative Action (AA) Plan with COUNTY in accordance with the requirements of chapter 19 of the Dane County Code of Ordinances. PROVIDER shall submit a copy of its discrimination complaint form with its CRC/AA Plan. The CRC/AA Plan must be submitted prior to the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by COUNTY. If an approved plan has been received during the previous CALENDAR year, a plan update is acceptable. The plan may cover a two-year period. Providers who have less than twenty employees, but who receive more than \$20,000 from the COUNTY in annual contracts, may be required to submit a CRC Action Plan to correct any problems discovered as the result of a complaint investigation or other Civil Rights Compliance monitoring efforts set forth herein below. If PROVIDER submits a CRC/AA Plan to a Department of Workforce Development Division or to a Department of Health and Family Services Division that covers the services purchased by COUNTY, a verification of acceptance by the State of PROVIDER's Plan is sufficient.
- B. PROVIDER agrees to comply with the COUNTY's civil rights compliance policies and procedures. PROVIDER agrees to comply with civil rights monitoring reviews performed by the COUNTY, including the examination of records and relevant files maintained by the PROVIDER. PROVIDER agrees to furnish all information and reports required by the COUNTY as they relate to affirmative action and non-discrimination. PROVIDER further agrees to cooperate with COUNTY in developing, implementing, and monitoring corrective action plans that result from any reviews.
- C. PROVIDER shall post the Equal Opportunity Policy, the name of PROVIDER's designated Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, applicants for employment and employees. The complaint process will be according to COUNTY's policies and procedures and made available in languages and formats understandable to applicants, clients and employees. PROVIDER shall supply to COUNTY's Contract Compliance Officer upon request a summary document of all client complaints related to perceived discrimination in service delivery. These documents shall include names of the involved persons, nature of the complaints, and a description of any attempts made to achieve complaint resolution.
- PROVIDER shall provide copies of all announcements of new employment opportunities to COUNTY's Contract Compliance Officer when such announcements are issued.
- E. If PROVIDER is a government entity having its own compliance plan, PROVIDER'S plan shall govern PROVIDER's activities.

## XII. COMPLIANCE WITH FAIR LABOR STANDARDS:

Reporting of Adverse Findings

During the term of this Agreement, PROVIDER shall report to the County Contract Compliance Officer, within ten (10) days, any allegations to, or findings by the National

Labor Relations Board (NLRB) or Wisconsin Employment Relations commission (WERC) that PROVIDER has violated a statute or regulation regarding labor standards or relations,. If an investigation by the Contract Compliance Officer results in a final determination that the matter adversely affects PROVIDER'S responsibilities under this Agreement, and which recommends termination, suspension or cancellation of this agreement, the County may take such action.

## B. Appeal Process

PROVIDER may appeal any adverse finding by the Contract Compliance Officer as set forth in Dane County Ordinances Sec. 25.08(20)(c) through (e).

## C. <u>Notice Requirement</u>

PROVIDER shall post the following statement in a prominent place visible to employees: "As a condition of receiving and maintaining a contract with Dane County, this employer shall comply with federal, state and all other applicable laws prohibiting retaliation for union organizing."

## XIII. CONTROLLING LAW AND VENUE:

It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in the Dane County Circuit Court.

## XIV. FINANCIAL INTEREST PROHIBITED:

Under s. 946.13, Wis. Stats. COUNTY employees and officials are prohibited from holding a private pecuniary interest, direct or indirect, in any public contract. By executing this Agreement, each party represents that it has no knowledge of a COUNTY employee or official involved in the making or performance of the Agreement that has a private pecuniary interest therein. It is expressly understood and agreed that any subsequent finding of a violation of s. 946.13, Wis. Stat. may result in this Agreement being voided at the discretion of the COUNTY.

## XV. LIMITATION OF AGREEMENT:

This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.

#### XVI. ENTIRE AGREEMENT:

The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended in any fashion except in writing, executed by both parties.

## XVII. COUNTERPARTS:

The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument.

#### XVIII. CONSTRUCTION:

This Agreement shall not be construed against the drafter.

## XIX. COPIES VALID:

This Agreement, and any amendment or addendum relating to it, may be executed and transmitted to any other party by legible facsimile reproduction or by scanned legible electronic PDF copy, and utilized in all respects as, an original, wet-inked manually executed document. Further, this Agreement and any amendment or addendum thereto, may be stored and reproduced by each party electronically, photographically, by photocopy or other similar process, and each party may at its option destroy any original document so reproduced. All parties hereto stipulate that any such legible reproduction shall be admissible in evidence as the original itself in any judicial, arbitration or administrative proceeding whether or not the original is in existence and whether or not such reproduction was made by each party in the regular course of business. This term does not apply to the service of notices under this Agreement.

#### XX. REGISTERED AGENT:

PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin, that the persons executing this Agreement on its behalf are authorized to do so, and, if a corporation, that the name and address of PROVIDER's registered agent is as set forth opposite the heading REGISTERED AGENT on page 1 of this Agreement. PROVIDER shall notify COUNTY immediately, in writing, of any change in its registered agent, his or her address, and PROVIDER's legal status. For a partnership, the term 'registered agent' shall mean a general partner.

#### XXI. DEBARMENT:

By signing this Contract, PROVIDER attests that it is not debarred from participating in federal procurements. COUNTY reserves the right to cancel this Contract if PROVIDER is presently, or is in the future, on the list of parties excluded from federal procurements.

## XXII. EXECUTION:

- A. The parties agree that execution of this document may be made by electronic signatures. The parties may make electronic signatures by typing the name of the authorized signature followed by the words, "electronically signed" or by any other electronic means representing an authorized signature by PROVIDER. PROVIDER shall ensure that only authorized persons may affix electronic signatures to this Agreement and COUNTY may rely that the electronic signature provided by PROVIDER is authentic.
- B. This Agreement has no effect until signed by both parties. The submission of this Agreement to PROVIDER for examination does not constitute an offer. PROVIDER warrants that the persons executing this Agreement on its behalf are authorized to do so.

**IN WITNESS WHEREOF,** COUNTY and PROVIDER, by their respective authorized agents, have caused this Agreement and its Schedules to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

FOR PRO	WIDER:
Stanley H hichelatite	
**	*
FOR CO	UNTY:
Joseph T. Parisi Dane County Executive	Date
Scott McDonell Dane County Clerk	Date

# SCHEDULE A Scope of Services

#### I. EMPLOYEE BENEFIT HANDBOOK:

PROVIDER agrees that it has received a copy of the Employee Benefit Handbook ("EBH"), and has had an opportunity to review it prior to executing this Agreement. PROVIDER acknowledges that the EBH is subject to annual modifications, and the provisions related to the grievance process, the Impartial Hearing Officer ("IHO") services and the Independent Consultant services are subject to change.

## II. IMPARTIAL HEARING OFFICER:

PROVIDER shall serve as an Impartial Hearing Officer ("IHO") when selected in accordance with the EBH.

- PROVIDER agrees to perform the duties of an IHO, as required under the EBH.
   PROVIDER shall perform these duties in a professional manner.
- b. PROVIDER further agrees to follow the EBH's provisions related to IHO hearings, including but not limited to those provisions governing the conduct of the hearing, deadlines and the applicable legal standards to follow.

#### III. INDEPENDENT CONSULTANT:

PROVIDER acknowledges that Dane County Ordinance 18.24(4) requires an annual review of the EBH, and that this ordinance outlines a procedure to adopt changes to the EBH, and to settle disputes regarding such changes. PROVIDER agrees to serve as an Independent Consultant when selected to do so in accordance with the EBH.

- PROVIDER shall adhere to the standards, procedures and rules regarding how an Independent Consultant is to handle the dispute as set forth in Dane County Ordinances and the EBH.
- PROVIDER shall perform the duties of an Independent Consultant in a professional manner.

# SCHEDULE B Pricing Structure and Payment

#### I. COSTS SHARED EQUALLY:

When PROVIDER is selected to serve either as an Impartial Hearing Officer or as an Independent Consultant as described in Schedule A, the cost of those services are to be shared equally between Dane County and the individual, Employee Group, or interested stakeholder raising the Grievance or invoking the independent consultant procedure.

Prior to engaging in any activities under Schedule A, PROVIDER shall disclose their rates and fees and provide an estimate of the amount of time and cost to both parties. Additionally, prior to any hearing required under Schedule A, PROVIDER shall make both parties aware that costs are shared equally.

PROVIDER agrees that COUNTY is only responsible for its share of the cost of services. PROVIDER is responsible for collecting the share of the cost of services from the other party to services provided under schedule A.

#### II. INVOICES/PAYMENT:

PROVIDER shall issue an invoice upon completion of services and/or delivery of such deliverables. Invoices must reference the Dane County purchase order number issued for the services/deliverables described herein. Email delivery of invoices is encouraged and preferred – see the Bill To section of the purchase order. Payment shall be made within 30 days of COUNTY's receipt of accepted invoice unless otherwise noted.

## III. RATES AND FEES:

PROVIDER'S hourly rate for services rendered in Schedule A is \$200 per hour.

## IV. CANCELLATION POLICY/FEE:

If cancelled within three days, all scheduled days are charged. If a hearing is cancelled or postponed within 20 days of the date of hearing, then \$1,400 will be charged.

Dept./Divisio	Administra	Administration			Contract # 145		4558
Vendor Nam	Raleigh Jone	igh Jones Arbitration MUNIS # 32239		39	Type of Contract		
Brief Contrac Title/Descripti	Ct Independent	Service as an Impartial Hearing Officer and Independent Consultant			Dane County Contract Intergovernmental County Lessee County Lessor		
Contract Ter	m 1/1/22 - 10/3	31/26			Purchase of Property Property Sale		
Contract Amount	\$ 30,000.00	\$ 30,000.00			Grant Other		
	Contact Information		Vendor Conta	ct Informa	tion		
Name Phone #	Nick E 608-266				Raleigh Jones 608-244-8208		
Email	bubb.nicholas@co		Email		eighejones@gma		
Purchasing C	<b>Officer</b> Par	tten/Hidalgo					
Purchasing Authority	☐ Between \$11,000 ☐ Over \$37,000 (\$2 ☐ Bid Waiver – \$37 ☐ Bid Waiver – Over	Setween \$11,000 or under – Best Judgment (1 quote required)  Setween \$11,000 – \$37,000 (\$0 – \$25,000 Public Works) (3 quotes required)  Over \$37,000 (\$25,000 Public Works) (Formal RFB/RFP required)  RFB/RF  Rid Waiver – \$37,000 or under (\$25,000 or under Public Works)  Rid Waiver – Over \$37,000 (N/A to Public Works)  R/A – Grants, Leases, Intergovernmental, Property Purchase/Sale, Other			FP#	121073	
	Reg #	Org:	Obj:	Proj	j:		
MUNIS Reg	Req#	Org: Org:	Obj:	Proj Proj	*		
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## Goldade, Michelle

From: Goldade, Michelle

Sent: Friday, December 10, 2021 1:19 PM

To: Hicklin, Charles; Hidalgo, Carmen; Gault, David; Lowndes, Daniel

**Cc:** Stavn, Stephanie; Oby, Joe

**Subject:** Contract #14558 **Attachments:** 14558.pdf

Tracking: Recipient Read Response

Hicklin, Charles Read: 12/10/2021 1:21 PM Approve: 12/10/2021 1:21 PM Hidalgo, Carmen Read: 12/10/2021 1:32 PM Approve: 12/10/2021 2:30 PM Gault, David Read: 12/10/2021 2:21 PM Approve: 12/10/2021 2:21 PM Lowndes, Daniel Approve: 12/10/2021 1:44 PM

Stavn, Stephanie Read: 12/10/2021 2:20 PM

Oby, Joe

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

Contract #14558

Department: Administration Vendor: Raleigh Jones

Contract Description: Provide service as an Impartial Hearing Officer and Independent Consultant (Res 220)

Contract Term: 1/1/22 – 10/31/26 Contract Amount: \$30,000.00

## Michelle Goldade

Administrative Manager
Dane County Department of Administration
Room 425, City-County Building
210 Martin Luther King, Jr. Boulevard
Madison, WI 53703

PH: 608/266-4941 Fax: 608/266-4425 TDD: Call WI Relay 711

Please Note: I currently have a modified work schedule...I am in the office Mondays and Wednesdays and working remotely Tuesdays, Thursdays and Fridays in accordance with COVID 19 response guidelines.

**2021 RES-220** 

## APPROVING EIGHT CONTRACTS TO SERVE AS IMPARTIAL HEARING OFFICERS AND INDEPENDENT CONSULTANTS

 Dane County works with a pool of individuals to serve as Impartial Hearing Officers and/or Independent Consultants. County ordinances requires that a Request for Proposals be issued for service contracts after five years. It has been more than five years since the County began working with the current pool of Impartial Hearing Officers and a new request for proposals was required.

Dane County issued RFP#121073 in 2021 for a pool of candidates to serve as an Impartial Hearing Officer and/or Independent Consultant. The current pool of Impartial Hearing Officers were invited to submit a proposal. There were eight respondents. The Department of Administration has reviewed the qualifications of the respondents and all eight are qualified to serve as Impartial Hearing Officers and/or Independent Consultants. The Department is recommending that the County adopt agreements with all eight respondents.

The eight respondents were: 1) Susan J.M. Bauman, 2) Carne Dispute Resolution (Danielle L. Carne), 3) Raleigh Jones Arbitration, 4) Daniel Nielsen, 5) Herman Torosian Arbitration Services, and 6) Thomas L. Yaeger, 7) Howard Bellman, and 8) Stanley Michelstetter. Each respondent is offered a five-year contract, not to exceed \$30,000.

Selection of Impartial Hearing Officers and/or Independent Consultants, shall be completed in accordance with the procedures established in County Ordinance and the Employee Benefit Handbook.

**NOW, THEREFORE BE IT RESOLVED** that the County Executive and the County Clerk are authorized to execute agreements with Susan J.M. Bauman, Carne Dispute Resolution, Raleigh Jones Arbitration, Daniel Nielsen, Herman Torosian Arbitration Services, Thomas L. Yaeger, Howard Bellman, and Stanley Michelstetter each for \$30,000 and a term of five years.

## DANE COUNTY CONTRACT#

Revised 06/2021



Department:

Administration

Provider:

14558

Raleigh Jones Arbitration

**Expiration Date:** 

October 31, 2026

**Maximum Cost:** 

\$30,000

Registered Agent (if applicable):

N/A

Registered Agent Address:

N/A

**THIS AGREEMENT**, made and entered into, by and between the County of Dane (hereafter referred to as "COUNTY") and Raleigh Jones Arbitration (hereafter, "PROVIDER"),

#### WITNESSETH:

WHEREAS COUNTY, whose address is 210 Martin Luther King Jr. Blvd., Madison, WI 53703, desires to purchase services from PROVIDER for the purpose of providing impartial hearing officer or independent consulting services; and

WHEREAS PROVIDER, whose address is 3617 Cascade Rd., Madison, WI 53704, is able and willing to provide such services;

**NOW, THEREFORE,** in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, COUNTY and PROVIDER do agree as follows:

#### I. TERM:

The term of this Agreement shall commence as of the date by which all parties have executed this Agreement and shall end as of the EXPIRATION DATE set forth on page 1 hereof, unless sooner agreed to in writing by the parties. PROVIDER shall complete its obligations under this Agreement not later than the EXPIRATION DATE. COUNTY shall not be liable for any services performed by PROVIDER other than during the term of this Agreement. COUNTY shall never pay more than the Maximum Cost as stated above for all services. Upon failure of PROVIDER to complete its obligation set forth herein by the EXPIRATION DATE, COUNTY may invoke the penalties, if any, set forth in this document and its attachments.

#### II. SERVICES:

- A. PROVIDER agrees to provide the services detailed in the bid specifications, if any; the request for proposals (RFP) and PROVIDER's response thereto, if any; and on the attached Schedule A, which is fully incorporated herein by reference. In the event of a conflict between or among the bid specifications, the RFP or responses thereto, or the terms of Schedule A or any of them, it is agreed that the terms of Schedule A, to the extent of any conflict, are controlling.
- B. PROVIDER shall commence, carry on and complete its obligations under this Agreement with all deliberate speed and in a sound, economical and efficient manner, in accordance with this Agreement and all applicable laws. In providing services under this Agreement, PROVIDER agrees to cooperate with the various departments, agencies, employees and officers of COUNTY.
- C. PROVIDER agrees to secure at PROVIDER's own expense all personnel necessary to carry out PROVIDER's obligations under this Agreement. Such personnel shall not be

deemed to be employees of COUNTY nor shall they or any of them have or be deemed to have any direct contractual relationship with COUNTY.

- D. No portion of funds under this Agreement may be used to support or advance religious activities.
- E. PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin and has met all state and federal service standards, certifications and assurances as expressed by State and Federal statutes, rules, and regulations applicable to the services covered by this Agreement.
- F. PROVIDER will follow applicable public health guidelines to provide safe services and a safe workplace. In addition, by signing this Agreement, PROVIDER acknowledges the contagious nature of COVID-19 and voluntarily assumes the risk that PROVIDER and its staff may be exposed to or infected by COVID-19 by providing services under this Agreement and that such exposure or infection may result in personal injury, illness, permanent disability, and death.

PROVIDER further acknowledges that PROVIDER is assuming all of the foregoing risks and accept sole responsibility for any injury to itself and staff, including, but not limited to, personal injury, disability, death, illness, damage, loss, claim, liability, or expense or any kind, that PROVIDER or its staff may experience or incur in connection with providing services. PROVIDER hereby releases, covenants not to sue, discharges, and holds harmless and indemnifies the COUNTY, its employees, agents, and representatives, of and from any and all claims, including all liabilities, claims, actions, damages, costs or expenses of any kind arising out of or relating thereto. Provider understands and agrees that this release includes any claims based on the actions, omissions, or negligence of COUNTY, its employees, agents and representatives, whether a COVID-19 infection occurs before, during, or after the provision of services under this Agreement.

## III. <u>ASSIGNMENT/TRANSFER:</u>

PROVIDER shall not assign, subcontract or transfer any interest or obligation in this Agreement, without the prior written consent of COUNTY, including the hiring of independent contract service providers unless otherwise provided herein. Claims for money due or to become due PROVIDER from COUNTY under this Agreement may be assigned to a bank, trust company or other financial institution without such approval if and only if the instrument of assignment contains a provision substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to PROVIDER shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Agreement. PROVIDER shall promptly provide notice of any such assignment or transfer to COUNTY.

#### IV. TERMINATION:

- A. Failure of PROVIDER to fulfill any of its obligations under this Agreement in a timely manner, or violation by PROVIDER of any of the covenants or stipulations of this Agreement, shall constitute grounds for COUNTY to terminate this Agreement by giving a thirty (30) day written notice to PROVIDER.
- B. The following shall constitute grounds for immediate termination:
  - 1. violation by PROVIDER of any State, Federal or local law, or failure by PROVIDER to comply with any applicable States and Federal service standards, as expressed by applicable statutes, rules and regulations.
  - 2. failure by PROVIDER to carry applicable licenses or certifications as required by law.
  - failure of PROVIDER to comply with reporting requirements contained herein.
  - 4. inability of PROVIDER to perform the work provided for herein.

- C. Failure of the Dane County Board of Supervisors or the State or Federal Governments to appropriate sufficient funds to carry out COUNTY's obligations hereunder, shall result in automatic termination of this Agreement as of the date funds are no longer available, without notice.
- D. In the event COUNTY terminates this Agreement as provided herein, all finished and unfinished documents, services, papers, data, products, and the like prepared, produced or made by PROVIDER under this Agreement shall at the option of COUNTY become the property of COUNTY, and PROVIDER shall be entitled to receive just and equitable compensation, subject to any penalty, for any satisfactory work completed on such documents, services, papers, data, products or the like. Notwithstanding the above, PROVIDER shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by PROVIDER, and COUNTY may withhold any payments to PROVIDER for the purpose of offset.

#### V. PAYMENT:

COUNTY agrees to make such payments for services rendered under this Agreement as and in the manner specified herein and in the attached Schedule B, which is fully incorporated herein by reference. Notwithstanding any language to the contrary in this Agreement or its attachments, COUNTY shall never be required to pay more than the sum set forth on page 1 of this Agreement under the heading MAXIMUM COST, for all services rendered by PROVIDER under this Agreement.

## VI. <u>REPORTS:</u>

PROVIDER agrees to make such reports as are required in the attached schedules, which is fully incorporated herein by reference. With respect to such reports it is expressly understood that time is of the essence and that the failure of PROVIDER to comply with the time limits set forth in said schedules shall result in the penalties set forth herein.

## VII. <u>DELIVERY OF NOTICE:</u>

Notices, bills, invoices and reports required by this Agreement shall be deemed delivered as of the date of postmark if deposited in a United States mailbox, first class postage attached, addressed to a party's address as set forth above. It shall be the duty of a party changing its address to notify the other party in writing within a reasonable time.

## VIII. NO WAIVER BY PAYMENT OR ACCEPTANCE:

In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be construed as a waiver by COUNTY of any breach of the covenants of this Agreement or a waiver of any default of PROVIDER and the making of any such payment or acceptance of any such service or product by COUNTY while any such default or breach shall exist shall in no way impair or prejudice the right of COUNTY with respect to recovery of damages or other remedy as a result of such breach or default.

## IX. NON-DISCRIMINATION:

During the term of this Agreement, PROVIDER agrees not to discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs against any person, whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s). PROVIDER agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal law.

## X. CIVIL RIGHTS COMPLIANCE:

- If PROVIDER has 20 or more employees and receives \$20,000 in annual contracts with COUNTY, the PROVIDER shall submit to COUNTY a current Civil Rights Compliance Plan (CRC) for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and Americans with Disabilities Act (ADA) of 1990. PROVIDER shall also file an Affirmative Action (AA) Plan with COUNTY in accordance with the requirements of chapter 19 of the Dane County Code of Ordinances. PROVIDER shall submit a copy of its discrimination complaint form with its CRC/AA Plan. The CRC/AA Plan must be submitted prior to the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by COUNTY. If an approved plan has been received during the previous CALENDAR year, a plan update is acceptable. The plan may cover a two-year period. Providers who have less than twenty employees, but who receive more than \$20,000 from the COUNTY in annual contracts, may be required to submit a CRC Action Plan to correct any problems discovered as the result of a complaint investigation or other Civil Rights Compliance monitoring efforts set forth herein below. If PROVIDER submits a CRC/AA Plan to a Department of Workforce Development Division or to a Department of Health and Family Services Division that covers the services purchased by COUNTY, a verification of acceptance by the State of PROVIDER's Plan is sufficient.
- B. PROVIDER agrees to comply with the COUNTY's civil rights compliance policies and procedures. PROVIDER agrees to comply with civil rights monitoring reviews performed by the COUNTY, including the examination of records and relevant files maintained by the PROVIDER. PROVIDER agrees to furnish all information and reports required by the COUNTY as they relate to affirmative action and non-discrimination. PROVIDER further agrees to cooperate with COUNTY in developing, implementing, and monitoring corrective action plans that result from any reviews.
- C. PROVIDER shall post the Equal Opportunity Policy, the name of PROVIDER's designated Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, applicants for employment and employees. The complaint process will be according to COUNTY's policies and procedures and made available in languages and formats understandable to applicants, clients and employees. PROVIDER shall supply to COUNTY's Contract Compliance Officer upon request a summary document of all client complaints related to perceived discrimination in service delivery. These documents shall include names of the involved persons, nature of the complaints, and a description of any attempts made to achieve complaint resolution.
- D. PROVIDER shall provide copies of all announcements of new employment opportunities to COUNTY's Contract Compliance Officer when such announcements are issued.
- E. If PROVIDER is a government entity having its own compliance plan, PROVIDER'S plan shall govern PROVIDER's activities.

## XI. COMPLIANCE WITH FAIR LABOR STANDARDS:

A. Reporting of Adverse Findings

During the term of this Agreement, PROVIDER shall report to the County Contract Compliance Officer, within ten (10) days, any allegations to, or findings by the National Labor Relations Board (NLRB) or Wisconsin Employment Relations commission (WERC) that PROVIDER has violated a statute or regulation regarding labor standards or relations,. If an investigation by the Contract Compliance Officer results in a final determination that the matter adversely affects PROVIDER'S responsibilities under this Agreement, and which recommends termination, suspension or cancellation of this agreement, the County may take such action.

B. Appeal Process

PROVIDER may appeal any adverse finding by the Contract Compliance Officer as set forth in Dane County Ordinances Sec. 25.08(20)(c) through (e).

## C. Notice Requirement

PROVIDER shall post the following statement in a prominent place visible to employees: "As a condition of receiving and maintaining a contract with Dane County, this employer shall comply with federal, state and all other applicable laws prohibiting retaliation for union organizing."

## XII. CONTROLLING LAW AND VENUE:

It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in the Dane County Circuit Court.

## XIII. FINANCIAL INTEREST PROHIBITED:

Under s. 946.13, Wis. Stats. COUNTY employees and officials are prohibited from holding a private pecuniary interest, direct or indirect, in any public contract. By executing this Agreement, each party represents that it has no knowledge of a COUNTY employee or official involved in the making or performance of the Agreement that has a private pecuniary interest therein. It is expressly understood and agreed that any subsequent finding of a violation of s. 946.13, Wis. Stat. may result in this Agreement being voided at the discretion of the COUNTY.

## XIV. LIMITATION OF AGREEMENT:

This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.

## XV. ENTIRE AGREEMENT:

The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended in any fashion except in writing, executed by both parties.

## XVI. COUNTERPARTS:

The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument.

## XVII. CONSTRUCTION:

This Agreement shall not be construed against the drafter.

## XVIII. COPIES VALID:

This Agreement, and any amendment or addendum relating to it, may be executed and transmitted to any other party by legible facsimile reproduction or by scanned legible electronic PDF copy, and utilized in all respects as, an original, wet-inked manually executed document. Further, this Agreement and any amendment or addendum thereto, may be stored and reproduced by each party electronically, photographically, by photocopy or other similar process, and each party may at its option destroy any original document so reproduced. All parties hereto stipulate that any such legible reproduction shall be admissible in evidence as the original itself in any judicial, arbitration or administrative proceeding whether or not the original is in existence and whether or not such reproduction was made by each party in the regular course of business. This term does not apply to the service of notices under this Agreement.

## XIX. REGISTERED AGENT:

PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin, that the persons executing this Agreement on its behalf are authorized to do so, and, if a corporation, that the name and address of PROVIDER's registered agent is as set forth opposite the heading REGISTERED AGENT on page 1 of this Agreement. PROVIDER shall notify COUNTY immediately, in writing, of any change in its registered agent, his or her address, and PROVIDER's legal status. For a partnership, the term 'registered agent' shall mean a general partner.

## XX. DEBARMENT:

By signing this Contract, PROVIDER attests that it is not debarred from participating in federal procurements. COUNTY reserves the right to cancel this Contract if PROVIDER is presently, or is in the future, on the list of parties excluded from federal procurements.

## XXI. EXECUTION:

- A. The parties agree that execution of this document may be made by electronic signatures. The parties may make electronic signatures by typing the name of the authorized signature followed by the words, "electronically signed" or by any other electronic means representing an authorized signature by PROVIDER. PROVIDER shall ensure that only authorized persons may affix electronic signatures to this Agreement and COUNTY may rely that the electronic signature provided by PROVIDER is authentic.
- B. This Agreement has no effect until signed by both parties. The submission of this Agreement to PROVIDER for examination does not constitute an offer. PROVIDER warrants that the persons executing this Agreement on its behalf are authorized to do so.

**IN WITNESS WHEREOF,** COUNTY and PROVIDER, by their respective authorized agents, have caused this Agreement and its Schedules to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

	FOR PROVIDER:	
Raleigh Jones		October 19, 202,  Date
	* * *	
	FOR COUNTY:	
Joseph T. Parisi Dane County Executive		Date
Scott McDonell Dane County Clerk		Date

# SCHEDULE A Scope of Services

## I. EMPLOYEE BENEFIT HANDBOOK:

PROVIDER agrees that it has received a copy of the Employee Benefit Handbook ("EBH"), and has had an opportunity to review it prior to executing this Agreement. PROVIDER acknowledges that the EBH is subject to annual modifications, and the provisions related to the grievance process, the Impartial Hearing Officer ("IHO") services and the Independent Consultant services are subject to change.

## II. IMPARTIAL HEARING OFFICER:

PROVIDER shall serve as an Impartial Hearing Officer ("IHO") when selected in accordance with the EBH.

- a. PROVIDER agrees to perform the duties of an IHO, as required under the EBH. PROVIDER shall perform these duties in a professional manner.
- b. PROVIDER further agrees to follow the EBH's provisions related to IHO hearings, including but not limited to those provisions governing the conduct of the hearing, deadlines and the applicable legal standards to follow.

## III. INDEPENDENT CONSULTANT:

PROVIDER acknowledges that Dane County Ordinance 18.24(4) requires an annual review of the EBH, and that this ordinance outlines a procedure to adopt changes to the EBH, and to settle disputes regarding such changes. PROVIDER agrees to serve as an Independent Consultant when selected to do so in accordance with the EBH.

- a. PROVIDER shall adhere to the standards, procedures and rules regarding how an Independent Consultant is to handle the dispute as set forth in Dane County Ordinances and the EBH.
- b. PROVIDER shall perform the duties of an Independent Consultant in a professional manner.

# SCHEDULE B Pricing Structure and Payment

## I. COSTS SHARED EQUALLY:

When PROVIDER is selected to serve either as an Impartial Hearing Officer or as an Independent Consultant as described in Schedule A, the cost of those services are to be shared equally between Dane County and the individual, Employee Group, or interested stakeholder raising the Grievance or invoking the independent consultant procedure.

Prior to engaging in any activities under Schedule A, PROVIDER shall disclose their rates and fees and provide an estimate of the amount of time and cost to both parties. Additionally, prior to any hearing required under Schedule A, PROVIDER shall make both parties aware that costs are shared equally.

PROVIDER agrees that COUNTY is only responsible for its share of the cost of services. PROVIDER is responsible for collecting the share of the cost of services from the other party to services provided under schedule A.

## II. INVOICES/PAYMENT:

PROVIDER shall issue an invoice upon completion of services and/or delivery of such deliverables. Invoices must reference the Dane County purchase order number issued for the services/deliverables described herein. Email delivery of invoices is encouraged and preferred – see the Bill To section of the purchase order. Payment shall be made within 30 days of COUNTY's receipt of accepted invoice unless otherwise noted.

## III. RATES AND FEES:

PROVIDER'S hourly rate for services rendered in Schedule A is \$140 per hour.

## IV. CANCELLATION POLICY/FEE:

A cancellation fee of \$1000 is charged if the hearing is cancelled within two weeks of the scheduled hearing date.

PROVIDER will not charge any expenses for travel, lodging or meals.

PROVIDER will not charge any fee other than the hourly rate and/or cancellation fee noted above.

Dept./Division	Administra	Administration			Contract # 14559					
Vendor Nam	ne Carne Dispu	Carne Dispute Resolution MUNIS # 32374			Type of Contract					
Brief Contra Title/Descript	Ct Indopondent	Service as an Impartial Hearing Officer and Independent Consultant			Dane County Contract Intergovernmental County Lessee County Lessor					
Contract Ter	m 1/1/22 - 10/				chase o	f Property ale				
Contract Amount	ntract \$ 30,000,00				Gra Oth	nt				
Department (	Contact Information	n	Vendor Co	ontact Info	ormation					
Name	Nick E		Name		Danielle C					
Phone # Email	608-266 bubb.nicholas@co		Phone # Email	da	608-620-4		com			
Purchasing C		tten/Hidalgo	Liliali	ua	iniene @ carriedispute	resolution	.com			
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## Goldade, Michelle

From: Goldade, Michelle

Sent: Friday, December 10, 2021 1:43 PM

To: Hicklin, Charles; Hidalgo, Carmen; Gault, David; Lowndes, Daniel

**Cc:** Stavn, Stephanie; Oby, Joe

**Subject:** Contract #14559 **Attachments:** 14559.pdf

Tracking: Recipient Read Response

Hicklin, Charles Read: 12/13/2021 9:22 AM Approve: 12/13/2021 9:23 AM Hidalgo, Carmen Read: 12/10/2021 1:46 PM Approve: 12/10/2021 1:46 PM Gault, David Read: 12/10/2021 2:21 PM Approve: 12/10/2021 2:21 PM Lowndes, Daniel Read: 12/10/2021 1:57 PM Approve: 12/10/2021 1:57 PM

 Stavn, Stephanie
 Read: 12/10/2021 2:20 PM

 Oby, Joe
 Deleted: 12/13/2021 9:02 AM

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

Contract #14559

Department: Administration Vendor: Carne Dispute Resolution

Contract Description: Provide service as an Impartial Hearing Officer and Independent Consultant (Res 220)

Contract Term: 1/1/22 – 10/31/26 Contract Amount: \$30,000.00

## Michelle Goldade

Administrative Manager
Dane County Department of Administration
Room 425, City-County Building
210 Martin Luther King, Jr. Boulevard
Madison, WI 53703

PH: 608/266-4941 Fax: 608/266-4425 TDD: Call WI Relay 711

Please Note: I currently have a modified work schedule...I am in the office Mondays and Wednesdays and working remotely Tuesdays, Thursdays and Fridays in accordance with COVID 19 response guidelines.

**2021 RES-220** 

## APPROVING EIGHT CONTRACTS TO SERVE AS IMPARTIAL HEARING OFFICERS AND INDEPENDENT CONSULTANTS

Dane County works with a pool of individuals to serve as Impartial Hearing Officers and/or Independent Consultants. County ordinances requires that a Request for Proposals be issued for service contracts after five years. It has been more than five years since the County began working with the current pool of Impartial Hearing Officers and a new request for proposals was required.

Dane County issued RFP#121073 in 2021 for a pool of candidates to serve as an Impartial Hearing Officer and/or Independent Consultant. The current pool of Impartial Hearing Officers were invited to submit a proposal. There were eight respondents. The Department of Administration has reviewed the qualifications of the respondents and all eight are qualified to serve as Impartial Hearing Officers and/or Independent Consultants. The Department is recommending that the County adopt agreements with all eight respondents.

The eight respondents were: 1) Susan J.M. Bauman, 2) Carne Dispute Resolution (Danielle L. Carne), 3) Raleigh Jones Arbitration, 4) Daniel Nielsen, 5) Herman Torosian Arbitration Services, and 6) Thomas L. Yaeger, 7) Howard Bellman, and 8) Stanley Michelstetter. Each respondent is offered a five-year contract, not to exceed \$30,000.

Selection of Impartial Hearing Officers and/or Independent Consultants, shall be completed in accordance with the procedures established in County Ordinance and the Employee Benefit Handbook.

**NOW, THEREFORE BE IT RESOLVED** that the County Executive and the County Clerk are authorized to execute agreements with Susan J.M. Bauman, Carne Dispute Resolution, Raleigh Jones Arbitration, Daniel Nielsen, Herman Torosian Arbitration Services, Thomas L. Yaeger, Howard Bellman, and Stanley Michelstetter each for \$30,000 and a term of five years.

## DANE COUNTY CONTRACT #

14559

Revised 06/2021



Department: Administration

Provider: Carne Dispute Resolution

Expiration Date: October 31, 2026

Maximum Cost: \$30,000

Registered Agent (if applicable):

N/A

Registered Agent Address:

N/A

THIS AGREEMENT, made and entered into, by and between the County of Dane (hereafter referred to as "COUNTY") and Carne Dispute Resolution (hereafter, "PROVIDER"),

## WITNESSETH:

WHEREAS COUNTY, whose address is 210 Martin Luther King Jr. Blvd., Madison, WI 53703, desires to purchase services from PROVIDER for the purpose of providing impartial hearing officer or independent consulting services; and

WHEREAS PROVIDER, whose address is P.O. Box 8553, Madison, WI 53708, is able and willing to provide such services;

**NOW, THEREFORE,** in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, COUNTY and PROVIDER do agree as follows:

## I. TERM:

The term of this Agreement shall commence as of the date by which all parties have executed this Agreement and shall end as of the EXPIRATION DATE set forth on page 1 hereof, unless sooner agreed to in writing by the parties. PROVIDER shall complete its obligations under this Agreement not later than the EXPIRATION DATE. COUNTY shall not be liable for any services performed by PROVIDER other than during the term of this Agreement. COUNTY shall never pay more than the Maximum Cost as stated above for all services. Upon failure of PROVIDER to complete its obligation set forth herein by the EXPIRATION DATE, COUNTY may invoke the penalties, if any, set forth in this document and its attachments.

## II. SERVICES:

- A. PROVIDER agrees to provide the services detailed in the bid specifications, if any; the request for proposals (RFP) and PROVIDER's response thereto, if any; and on the attached Schedule A, which is fully incorporated herein by reference. In the event of a conflict between or among the bid specifications, the RFP or responses thereto, or the terms of Schedule A or any of them, it is agreed that the terms of Schedule A, to the extent of any conflict, are controlling.
- B. PROVIDER shall commence, carry on and complete its obligations under this Agreement with all deliberate speed and in a sound, economical and efficient manner, in accordance with this Agreement and all applicable laws. In providing services under this Agreement, PROVIDER agrees to cooperate with the various departments, agencies, employees and officers of COUNTY.
- C. PROVIDER agrees to secure at PROVIDER's own expense all personnel necessary to carry out PROVIDER's obligations under this Agreement. Such personnel shall not be

deemed to be employees of COUNTY nor shall they or any of them have or be deemed to have any direct contractual relationship with COUNTY.

- No portion of funds under this Agreement may be used to support or advance religious D. activities.
- PROVIDER warrants that it has complied with all necessary requirements to do business E. in the State of Wisconsin and has met all state and federal service standards, certifications and assurances as expressed by State and Federal statutes, rules, and regulations applicable to the services covered by this Agreement.
- PROVIDER will follow applicable public health guidelines to provide safe services and a F. safe workplace. In addition, by signing this Agreement, PROVIDER acknowledges the contagious nature of COVID-19 and voluntarily assumes the risk that PROVIDER and its staff may be exposed to or infected by COVID-19 by providing services under this Agreement and that such exposure or infection may result in personal injury, illness, permanent disability, and death.

PROVIDER further acknowledges that PROVIDER is assuming all of the foregoing risks and accept sole responsibility for any injury to itself and staff, including, but not limited to, personal injury, disability, death, illness, damage, loss, claim, liability, or expense or any kind, that PROVIDER or its staff may experience or incur in connection with providing services. PROVIDER hereby releases, covenants not to sue, discharges, and holds harmless and indemnifies the COUNTY, its employees, agents, and representatives, of and from any and all claims, including all liabilities, claims, actions, damages, costs or expenses of any kind arising out of or relating thereto. Provider understands and agrees that this release includes any claims based on the actions, omissions, or negligence of COUNTY, its employees, agents and representatives, whether a COVID-19 infection occurs before, during, or after the provision of services under this Agreement.

#### ASSIGNMENT/TRANSFER: 111.

PROVIDER shall not assign, subcontract or transfer any interest or obligation in this Agreement, without the prior written consent of COUNTY, including the hiring of independent contract service providers unless otherwise provided herein. Claims for money due or to become due PROVIDER from COUNTY under this Agreement may be assigned to a bank, trust company or other financial institution without such approval if and only if the instrument of assignment contains a provision substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to PROVIDER shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Agreement. PROVIDER shall promptly provide notice of any such assignment or transfer to COUNTY.

#### TERMINATION: IV.

- Failure of PROVIDER to fulfill any of its obligations under this Agreement in a timely manner, or violation by PROVIDER of any of the covenants or stipulations of this Agreement, shall constitute grounds for COUNTY to terminate this Agreement by giving a thirty (30) day written notice to PROVIDER.
- The following shall constitute grounds for immediate termination: B.
  - violation by PROVIDER of any State, Federal or local law, or failure by PROVIDER 1. to comply with any applicable States and Federal service standards, as expressed by applicable statutes, rules and regulations.
  - failure by PROVIDER to carry applicable licenses or certifications as required by 2. law.
  - failure of PROVIDER to comply with reporting requirements contained herein. 3.
  - inability of PROVIDER to perform the work provided for herein. 4.

- Failure of the Dane County Board of Supervisors or the State or Federal Governments to C. appropriate sufficient funds to carry out COUNTY's obligations hereunder, shall result in automatic termination of this Agreement as of the date funds are no longer available, without notice.
- In the event COUNTY terminates this Agreement as provided herein, all finished and D. unfinished documents, services, papers, data, products, and the like prepared, produced or made by PROVIDER under this Agreement shall at the option of COUNTY become the property of COUNTY, and PROVIDER shall be entitled to receive just and equitable compensation, subject to any penalty, for any satisfactory work completed on such documents, services, papers, data, products or the like. Notwithstanding the above, PROVIDER shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by PROVIDER, and COUNTY may withhold any payments to PROVIDER for the purpose of offset.

#### PAYMENT: ٧.

COUNTY agrees to make such payments for services rendered under this Agreement as and in the manner specified herein and in the attached Schedule B, which is fully incorporated herein by reference. Notwithstanding any language to the contrary in this Agreement or its attachments, COUNTY shall never be required to pay more than the sum set forth on page 1 of this Agreement under the heading MAXIMUM COST, for all services rendered by PROVIDER under this Agreement.

#### REPORTS: VI.

PROVIDER agrees to make such reports as are required in the attached schedules, which is fully incorporated herein by reference. With respect to such reports it is expressly understood that time is of the essence and that the failure of PROVIDER to comply with the time limits set forth in said schedules shall result in the penalties set forth herein.

#### **DELIVERY OF NOTICE:** VII.

Notices, bills, invoices and reports required by this Agreement shall be deemed delivered as of the date of postmark if deposited in a United States mailbox, first class postage attached, addressed to a party's address as set forth above. It shall be the duty of a party changing its address to notify the other party in writing within a reasonable time.

#### INSURANCE & INDEMNIFICATION: VIII.

- PROVIDER shall indemnify, hold harmless and defend COUNTY, its boards, A. commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which COUNTY, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of PROVIDER's furnishing the services or goods required to be provided under this Agreement, provided, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts or omissions of COUNTY, its agencies, boards, commissions, officers, employees or representatives. Any failure on the part of the PROVIDER to comply with reporting or other provisions of its insurance policies shall not affect this PROVIDER's obligations under this paragraph. COUNTY reserves the right, but not the obligation, to participate in defense without relieving PROVIDER of any obligation under this paragraph. The obligations of PROVIDER under this paragraph shall survive the expiration or termination of this Agreement.
- In order to protect itself and COUNTY, its officers, boards, commissions, agencies, В. agents, volunteers, employees and representatives under the indemnity provisions of the subparagraph above, PROVIDER shall, at PROVIDER's own expense, obtain and at all times during the term of this Agreement keep in full force and effect the insurance coverages, limits, and endorsements listed below. When obtaining required insurance under this Agreement and otherwise, PROVIDER agrees to preserve COUNTY's subrogation rights in all such matters that may arise that are covered by PROVIDER's insurance. Neither these requirements nor the COUNTY's review or acceptance of

PROVIDER's certificates of insurance is intended to limit or qualify the liabilities or obligations assumed by the PROVIDER under this Agreement. The County expressly reserves the right to require higher or lower insurance limits where County deems necessary.

Commercial General Liability.

PROVIDER agrees to maintain Commercial General Liability insurance at a limit of not less than \$1,000,000 per occurrence. Coverage shall include, but not be limited to, Bodily Injury and Property Damage to Third Parties, Contractual Liability, Personal Injury and Advertising Injury Liability, Premises-Operations, Independent PROVIDERs and Subcontractors, and Fire Legal Liability. The policy shall not exclude Explosion, Collapse, and Underground Property Damage Liability Coverage. The policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations.

Professional Liability Insurance.

If PROVIDER renders professional services (such as medical, architectural or engineering services) under this Agreement, then PROVIDER shall provide and maintain two million dollars (\$2,000,000.00) of professional liability insurance. If such policy is a "claims made" policy, all renewals during the life of the Agreement shall include "prior acts coverage" covering at all times all claims made with respect to PROVIDER's work performed under the Agreement. This Professional Liability coverage must be kept in force for a period of six (6) years after the services have been accepted by COUNTY

- Commercial/Business Automobile Liability Insurance. If applicable to the services covered by this Agreement, PROVIDER shall provide and maintain commercial general liability and automobile liability insurance at a limit of not less than \$1,000,000 per occurrence. Coverage for commercial general liability and automobile liability insurance shall, at a minimum, be at least as broad as Insurance Services Office ("ISO") Commercial General Liability Coverage (Occurrence Form CG 0001) and ISO Business Auto Coverage (Form CA 0001), covering Symbol 1 (any vehicle).
- Environmental Impairment (Pollution) Liability If PROVIDER will be transporting waste or will be disposing of waste or products under this Agreement, then PROVIDER agrees to maintain Environmental Impairment (Pollution) Liability insurance at a limit of not less than \$1,000,000 per occurrence for bodily injury, property damage, and environmental cleanup costs caused by pollution conditions, both sudden and non-sudden. This requirement can be satisfied by either a separate environmental liability policy or through a modification to the Commercial General Liability policy. Evidence of either must be provided.
- Workers' Compensation. PROVIDER agrees to maintain Workers Compensation insurance at Wisconsin statutory limits.
- Umbrella or Excess Liability. PROVIDER may satisfy the minimum liability limits required above for Commercial General Liability and Business Auto Liability under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for the Commercial General Liability and Business Auto Liability. PROVIDER agrees to list DANE COUNTY as an "Additional Insured" on its Umbrella or Excess Liability policy.
- Required provisions. C.
  - 1. Insurer's Requirement All of the insurance shall be provided on policy forms and through companies satisfactory to COUNTY, and shall have a minimum AM Best's rating of A- VIII

Additional Insured.

COUNTY, its elected and appointed officials, officers, employees or authorized representatives or volunteers are to be given additional insured status (via ISO endorsement CG 2010, CG 2033, or insurer's equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of PROVIDER; products and completed operations of PROVIDER; premises occupied or used by PROVIDER; and vehicles owned, leased, hired or borrowed by PROVIDER. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Except for the workers compensation policy, each insurance policy shall contain a waiver of subrogation endorsement in favor of COUNTY.

Provider's Insurance Shall be Primary For any claims related to this Agreement, PROVIDER's insurance shall be primary insurance with respect to COUNTY, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Any insurance, self-insurance, or other coverage maintained by COUNTY, its elected and appointed officers, officials, employees or authorized representatives or volunteers shall not contribute to the primary insurance. PROVIDER's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability

4. Cancelation Notice

Each insurance policy required by this Agreement shall state, or be endorsed so as to the state, that coverage shall not be canceled by the insurance carrier or the PROVIDER, except after sixty (60) days (ten (10) days for non-payment of premium) prior written notice by U.S. mail has been given to COUNTY.

Evidences of Insurance.

Prior to execution of the Agreement, PROVIDER shall file with COUNTY a certificate of insurance (Accord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative. Such evidence shall also include confirmation that coverage includes or has been modified to include all required provisions as detailed herein.

- Sub-Contractors.
- In the event that PROVIDER employs sub-contractors as part of this Agreement, it shall be the PROVIDER's responsibility to require and confirm that each sub-contractor meets the minimum insurance requirements specified above.
- The parties do hereby expressly agree that COUNTY, acting at its sole option and through D. its Risk Manager, may waive any and all requirements contained in this Agreement, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by COUNTY's Risk Manager taking into account the nature of the work and other factors relevant to COUNTY's exposure, if any, under this Agreement.
- NO WAIVER BY PAYMENT OR ACCEPTANCE: IX.

In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be construed as a waiver by COUNTY of any breach of the covenants of this Agreement or a waiver of any default of PROVIDER and the making of any such payment or acceptance of any such service or product by COUNTY while any such default or breach shall exist shall in no way impair or prejudice the right of COUNTY with respect to recovery of damages or other remedy as a result of such breach or default.

NON-DISCRIMINATION: X.

During the term of this Agreement, PROVIDER agrees not to discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs against any person,

whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s). PROVIDER agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal

#### CIVIL RIGHTS COMPLIANCE: XI.

- If PROVIDER has 20 or more employees and receives \$20,000 in annual contracts with COUNTY, the PROVIDER shall submit to COUNTY a current Civil Rights Compliance Plan (CRC) for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and Americans with Disabilities Act (ADA) of 1990. PROVIDER shall also file an Affirmative Action (AA) Plan with COUNTY in accordance with the requirements of chapter 19 of the Dane County Code of Ordinances. PROVIDER shall submit a copy of its discrimination complaint form with its CRC/AA Plan. The CRC/AA Plan must be submitted prior to the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by COUNTY. If an approved plan has been received during the previous CALENDAR year, a plan update is acceptable. The plan may cover a two-year period. Providers who have less than twenty employees, but who receive more than \$20,000 from the COUNTY in annual contracts, may be required to submit a CRC Action Plan to correct any problems discovered as the result of a complaint investigation or other Civil Rights Compliance monitoring efforts set forth herein below. If PROVIDER submits a CRC/AA Plan to a Department of Workforce Development Division or to a Department of Health and Family Services Division that covers the services purchased by COUNTY, a verification of acceptance by the State of PROVIDER's Plan is sufficient.
- PROVIDER agrees to comply with the COUNTY's civil rights compliance policies and B. procedures. PROVIDER agrees to comply with civil rights monitoring reviews performed by the COUNTY, including the examination of records and relevant files maintained by the PROVIDER. PROVIDER agrees to furnish all information and reports required by the COUNTY as they relate to affirmative action and non-discrimination. PROVIDER further agrees to cooperate with COUNTY in developing, implementing, and monitoring corrective action plans that result from any reviews.
- PROVIDER shall post the Equal Opportunity Policy, the name of PROVIDER's designated C. Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, applicants for employment and The complaint process will be according to COUNTY's policies and procedures and made available in languages and formats understandable to applicants, clients and employees. PROVIDER shall supply to COUNTY's Contract Compliance Officer upon request a summary document of all client complaints related to perceived discrimination in service delivery. These documents shall include names of the involved persons, nature of the complaints, and a description of any attempts made to achieve complaint resolution.
- PROVIDER shall provide copies of all announcements of new employment opportunities D. to COUNTY's Contract Compliance Officer when such announcements are issued.
- If PROVIDER is a government entity having its own compliance plan, PROVIDER'S plan E. shall govern PROVIDER's activities.

### COMPLIANCE WITH FAIR LABOR STANDARDS: XII.

Reporting of Adverse Findings During the term of this Agreement, PROVIDER shall report to the County Contract Compliance Officer, within ten (10) days, any allegations to, or findings by the National Labor Relations Board (NLRB) or Wisconsin Employment Relations commission (WERC) that PROVIDER has violated a statute or regulation regarding labor standards or relations,. If an investigation by the Contract Compliance Officer results in a final determination that the matter adversely affects PROVIDER'S responsibilities under this Agreement, and which recommends termination, suspension or cancellation of this agreement, the County may take such action.

Appeal Process В.

PROVIDER may appeal any adverse finding by the Contract Compliance Officer as set forth in Dane County Ordinances Sec. 25.08(20)(c) through (e).

Notice Requirement C.

PROVIDER shall post the following statement in a prominent place visible to employees: "As a condition of receiving and maintaining a contract with Dane County, this employer shall comply with federal, state and all other applicable laws prohibiting retaliation for union organizing."

CONTROLLING LAW AND VENUE: XIII.

It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in the Dane County Circuit Court.

FINANCIAL INTEREST PROHIBITED: XIV.

Under s. 946.13, Wis. Stats. COUNTY employees and officials are prohibited from holding a private pecuniary interest, direct or indirect, in any public contract. By executing this Agreement, each party represents that it has no knowledge of a COUNTY employee or official involved in the making or performance of the Agreement that has a private pecuniary interest therein. It is expressly understood and agreed that any subsequent finding of a violation of s. 946.13, Wis. Stat. may result in this Agreement being voided at the discretion of the COUNTY.

LIMITATION OF AGREEMENT: XV.

This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.

**ENTIRE AGREEMENT:** XVI.

The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended in any fashion except in writing, executed by both parties.

COUNTERPARTS: XVII.

The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument.

CONSTRUCTION: XVIII.

This Agreement shall not be construed against the drafter.

COPIES VALID: XIX.

This Agreement, and any amendment or addendum relating to it, may be executed and transmitted to any other party by legible facsimile reproduction or by scanned legible electronic PDF copy, and utilized in all respects as, an original, wet-inked manually executed document. Further, this Agreement and any amendment or addendum thereto, may be stored and reproduced by each party electronically, photographically, by photocopy or other similar process, and each party may at its option destroy any original document so reproduced. All parties hereto stipulate that any such legible reproduction shall be admissible in evidence as the original itself in any judicial, arbitration or administrative proceeding whether or not the original is in existence and whether or not such reproduction was made by each party in the regular course of business. This term does not apply to the service of notices under this Agreement,

#### REGISTERED AGENT: XX.

PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin, that the persons executing this Agreement on its behalf are authorized to do so, and, if a corporation, that the name and address of PROVIDER's registered agent is as set forth opposite the heading REGISTERED AGENT on page 1 of this Agreement. PROVIDER shall notify COUNTY immediately, in writing, of any change in its registered agent, his or her address, and PROVIDER's legal status. For a partnership, the term 'registered agent' shall mean a general partner.

#### DEBARMENT: XXI.

By signing this Contract, PROVIDER attests that it is not debarred from participating in federal procurements. COUNTY reserves the right to cancel this Contract if PROVIDER is presently, or is in the future, on the list of parties excluded from federal procurements.

#### EXECUTION: XXII.

- The parties agree that execution of this document may be made by electronic signatures. The parties may make electronic signatures by typing the name of the authorized signature followed by the words, "electronically signed" or by any other electronic means representing an authorized signature by PROVIDER. PROVIDER shall ensure that only authorized persons may affix electronic signatures to this Agreement and COUNTY may rely that the electronic signature provided by PROVIDER is authentic.
- This Agreement has no effect until signed by both parties. The submission of this B. Agreement to PROVIDER for examination does not constitute an offer. PROVIDER warrants that the persons executing this Agreement on its behalf are authorized to do so.

**IN WITNESS WHEREOF**, COUNTY and PROVIDER, by their respective authorized agents, have caused this Agreement and its Schedules to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

FOR P	ROVIDER:
Se Ma	10/13/2021
Danielle L. Carne	Date
	**
FOR	COUNTY:
Joseph T. Parisi Dane County Executive	Date
Scott McDonell Dane County Clerk	Date

## SCHEDULE A Scope of Services

#### EMPLOYEE BENEFIT HANDBOOK: 1.

PROVIDER agrees that it has received a copy of the Employee Benefit Handbook ("EBH"), and has had an opportunity to review it prior to executing this Agreement. PROVIDER acknowledges that the EBH is subject to annual modifications, and the provisions related to the grievance process, the Impartial Hearing Officer ("IHO") services and the Independent Consultant services are subject to change.

#### IMPARTIAL HEARING OFFICER: II.

PROVIDER shall serve as an Impartial Hearing Officer ("IHO") when selected in accordance with the EBH.

- a. PROVIDER agrees to perform the duties of an IHO, as required under the EBH. PROVIDER shall perform these duties in a professional manner.
- PROVIDER further agrees to follow the EBH's provisions related to IHO hearings, including but not limited to those provisions governing the conduct of the hearing, deadlines and the applicable legal standards to follow.

#### INDEPENDENT CONSULTANT: III.

PROVIDER acknowledges that Dane County Ordinance 18.24(4) requires an annual review of the EBH, and that this ordinance outlines a procedure to adopt changes to the EBH, and to settle disputes regarding such changes. PROVIDER agrees to serve as an Independent Consultant when selected to do so in accordance with the EBH.

- a. PROVIDER shall adhere to the standards, procedures and rules regarding how an Independent Consultant is to handle the dispute as set forth in Dane County Ordinances and the EBH.
- b. PROVIDER shall perform the duties of an Independent Consultant in a professional

## SCHEDULE B **Pricing Structure and Payment**

#### COSTS SHARED EQUALLY: L

When PROVIDER is selected to serve either as an Impartial Hearing Officer or as an Independent Consultant as described in Schedule A, the cost of those services are to be shared equally between Dane County and the individual, Employee Group, or interested stakeholder raising the Grievance or invoking the independent consultant procedure.

Prior to engaging in any activities under Schedule A, PROVIDER shall disclose their rates and fees and provide an estimate of the amount of time and cost to both parties. Additionally, prior to any hearing required under Schedule A, PROVIDER shall make both parties aware that costs are shared equally.

PROVIDER agrees that COUNTY is only responsible for its share of the cost of services. PROVIDER is responsible for collecting the share of the cost of services from the other party to services provided under schedule A.

#### INVOICES/PAYMENT: 11.

PROVIDER shall issue an invoice upon completion of services and/or delivery of such deliverables. Invoices must reference the Dane County purchase order number issued for the services/deliverables described herein. Email delivery of invoices is encouraged and preferred - see the Bill To section of the purchase order. Payment shall be made within 30 days of COUNTY's receipt of accepted invoice unless otherwise noted.

#### RATES AND FEES: 111.

Eight-hour per diem fee of \$1,200 for each day of hearing. A day is any portion of a hearing day up to eight hours. Prorated per diem is charged for non-hearing activity, including the following: hearing time on hearing days exceeding eight hours; necessary prehearing activity; recommendation drafting; travel time outside Dane County, Wisconsin.

For travel outside Dane County, Wisconsin, only, the actual cost of reasonable travel expenses, including air and train fares, car rental, mileage (IRS rate) for use of personal vehicle, and lodging

#### CANCELLATION POLICY/FEE: IV.

A cancellation fee of \$1,200 is charged for each hearing date cancelled or postponed less than fourteen calendar days prior to the scheduled date.

Dept./Divis	sion	Administration				Contract # 14560		
Vendor Na	ame	Howard S. B	MUNIS #	3359	Type of Contract			
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Contrac Amoun		\$ 30,000.00		Grant Other				
Departmen	t Cont	act Information	1	Vendor	Contact In	formation		
Name		Nick E	Bubb	Name		Howard S		
Phone #		608-266		Phone	#		6-4020	
Email	Offic	bubb.nicholas@co	tten/Hidalgo	Emai		belmediate	e@aol.com	
Purchasing	Onic	er Fa	llen/Hidalqo					
Purchasing Authority							121073	
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## Goldade, Michelle

From: Goldade, Michelle

Sent: Friday, December 10, 2021 2:02 PM

To: Hicklin, Charles; Hidalgo, Carmen; Gault, David; Lowndes, Daniel

**Cc:** Stavn, Stephanie; Oby, Joe

**Subject:** Contract #14560 **Attachments:** 14560.pdf

Tracking: Recipient Read Response

Hicklin, Charles Read: 12/13/2021 9:22 AM Approve: 12/13/2021 9:22 AM Hidalgo, Carmen Read: 12/10/2021 2:09 PM Approve: 12/10/2021 2:09 PM Gault, David Read: 12/10/2021 2:21 PM Approve: 12/10/2021 2:22 PM Lowndes, Daniel Approve: 12/10/2021 2:05 PM

Stavn, Stephanie Read: 12/10/2021 2:21 PM

Oby, Joe

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

Contract #14560

Department: Administration Vendor: Howard Bellman

Contract Description: Provide service as an Impartial Hearing Officer and Independent Consultant (Res 220)

Contract Term: 1/1/22 – 10/31/26 Contract Amount: \$30,000.00

## Michelle Goldade

Administrative Manager
Dane County Department of Administration
Room 425, City-County Building
210 Martin Luther King, Jr. Boulevard
Madison, WI 53703

PH: 608/266-4941 Fax: 608/266-4425 TDD: Call WI Relay 711

Please Note: I currently have a modified work schedule...I am in the office Mondays and Wednesdays and working remotely Tuesdays, Thursdays and Fridays in accordance with COVID 19 response guidelines.

**2021 RES-220** 

## APPROVING EIGHT CONTRACTS TO SERVE AS IMPARTIAL HEARING OFFICERS AND INDEPENDENT CONSULTANTS

 Dane County works with a pool of individuals to serve as Impartial Hearing Officers and/or Independent Consultants. County ordinances requires that a Request for Proposals be issued for service contracts after five years. It has been more than five years since the County began working with the current pool of Impartial Hearing Officers and a new request for proposals was required.

Dane County issued RFP#121073 in 2021 for a pool of candidates to serve as an Impartial Hearing Officer and/or Independent Consultant. The current pool of Impartial Hearing Officers were invited to submit a proposal. There were eight respondents. The Department of Administration has reviewed the qualifications of the respondents and all eight are qualified to serve as Impartial Hearing Officers and/or Independent Consultants. The Department is recommending that the County adopt agreements with all eight respondents.

The eight respondents were: 1) Susan J.M. Bauman, 2) Carne Dispute Resolution (Danielle L. Carne), 3) Raleigh Jones Arbitration, 4) Daniel Nielsen, 5) Herman Torosian Arbitration Services, and 6) Thomas L. Yaeger, 7) Howard Bellman, and 8) Stanley Michelstetter. Each respondent is offered a five-year contract, not to exceed \$30,000.

Selection of Impartial Hearing Officers and/or Independent Consultants, shall be completed in accordance with the procedures established in County Ordinance and the Employee Benefit Handbook.

 **NOW, THEREFORE BE IT RESOLVED** that the County Executive and the County Clerk are authorized to execute agreements with Susan J.M. Bauman, Carne Dispute Resolution, Raleigh Jones Arbitration, Daniel Nielsen, Herman Torosian Arbitration Services, Thomas L. Yaeger, Howard Bellman, and Stanley Michelstetter each for \$30,000 and a term of five years.

## DANE COUNTY CONTRACT #

Revised 06/2021



**Department:** Administration

**Provider:** Howard S. Bellman

**Expiration Date:** October 31, 2026

Maximum Cost: \$30,000

Registered Agent (if applicable): N/A
Registered Agent Address: N/A

**THIS AGREEMENT**, made and entered into, by and between the County of Dane (hereafter referred to as "COUNTY") and Howard S. Bellman (hereafter, "PROVIDER"),

## WITNESSETH:

**WHEREAS** COUNTY, whose address is 210 Martin Luther King Jr. Blvd., Madison, WI 53703, desires to purchase services from PROVIDER for the purpose of providing impartial hearing officer or independent consulting services; and

**WHEREAS** PROVIDER, whose address is 82 Oak Creek Trail., Madison, WI 53717, is able and willing to provide such services;

**NOW, THEREFORE,** in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, COUNTY and PROVIDER do agree as follows:

## I. TERM:

The term of this Agreement shall commence as of the date by which all parties have executed this Agreement and shall end as of the EXPIRATION DATE set forth on page 1 hereof, unless sooner agreed to in writing by the parties. PROVIDER shall complete its obligations under this Agreement not later than the EXPIRATION DATE. COUNTY shall not be liable for any services performed by PROVIDER other than during the term of this Agreement. COUNTY shall never pay more than the Maximum Cost as stated above for all services. Upon failure of PROVIDER to complete its obligation set forth herein by the EXPIRATION DATE, COUNTY may invoke the penalties, if any, set forth in this document and its attachments.

### II. SERVICES:

- A. PROVIDER agrees to provide the services detailed in the bid specifications, if any; the request for proposals (RFP) and PROVIDER's response thereto, if any; and on the attached Schedule A, which is fully incorporated herein by reference. In the event of a conflict between or among the bid specifications, the RFP or responses thereto, or the terms of Schedule A or any of them, it is agreed that the terms of Schedule A, to the extent of any conflict, are controlling.
- B. PROVIDER shall commence, carry on and complete its obligations under this Agreement with all deliberate speed and in a sound, economical and efficient manner, in accordance with this Agreement and all applicable laws. In providing services under this Agreement, PROVIDER agrees to cooperate with the various departments, agencies, employees and officers of COUNTY.
- C. PROVIDER agrees to secure at PROVIDER's own expense all personnel necessary to carry out PROVIDER's obligations under this Agreement. Such personnel shall not be

- deemed to be employees of COUNTY nor shall they or any of them have or be deemed to have any direct contractual relationship with COUNTY.
- D. No portion of funds under this Agreement may be used to support or advance religious activities.
- E. PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin and has met all state and federal service standards, certifications and assurances as expressed by State and Federal statutes, rules, and regulations applicable to the services covered by this Agreement.
- F. PROVIDER will follow applicable public health guidelines to provide safe services and a safe workplace. In addition, by signing this Agreement, PROVIDER acknowledges the contagious nature of COVID-19 and voluntarily assumes the risk that PROVIDER and its staff may be exposed to or infected by COVID-19 by providing services under this Agreement and that such exposure or infection may result in personal injury, illness, permanent disability, and death.

PROVIDER further acknowledges that PROVIDER is assuming all of the foregoing risks and accept sole responsibility for any injury to itself and staff, including, but not limited to, personal injury, disability, death, illness, damage, loss, claim, liability, or expense or any kind, that PROVIDER or its staff may experience or incur in connection with providing services. PROVIDER hereby releases, covenants not to sue, discharges, and holds harmless and indemnifies the COUNTY, its employees, agents, and representatives, of and from any and all claims, including all liabilities, claims, actions, damages, costs or expenses of any kind arising out of or relating thereto. Provider understands and agrees that this release includes any claims based on the actions, omissions, or negligence of COUNTY, its employees, agents and representatives, whether a COVID-19 infection occurs before, during, or after the provision of services under this Agreement.

## III. ASSIGNMENT/TRANSFER:

PROVIDER shall not assign, subcontract or transfer any interest or obligation in this Agreement, without the prior written consent of COUNTY, including the hiring of independent contract service providers unless otherwise provided herein. Claims for money due or to become due PROVIDER from COUNTY under this Agreement may be assigned to a bank, trust company or other financial institution without such approval if and only if the instrument of assignment contains a provision substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to PROVIDER shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Agreement. PROVIDER shall promptly provide notice of any such assignment or transfer to COUNTY.

## IV. TERMINATION:

- A. Failure of PROVIDER to fulfill any of its obligations under this Agreement in a timely manner, or violation by PROVIDER of any of the covenants or stipulations of this Agreement, shall constitute grounds for COUNTY to terminate this Agreement by giving a thirty (30) day written notice to PROVIDER.
- B. The following shall constitute grounds for immediate termination:
  - violation by PROVIDER of any State, Federal or local law, or failure by PROVIDER to comply with any applicable States and Federal service standards, as expressed by applicable statutes, rules and regulations.
  - failure by PROVIDER to carry applicable licenses or certifications as required by law.
  - 3. failure of PROVIDER to comply with reporting requirements contained herein.
  - 4. inability of PROVIDER to perform the work provided for herein.

- C. Failure of the Dane County Board of Supervisors or the State or Federal Governments to appropriate sufficient funds to carry out COUNTY's obligations hereunder, shall result in automatic termination of this Agreement as of the date funds are no longer available, without notice.
- D. In the event COUNTY terminates this Agreement as provided herein, all finished and unfinished documents, services, papers, data, products, and the like prepared, produced or made by PROVIDER under this Agreement shall at the option of COUNTY become the property of COUNTY, and PROVIDER shall be entitled to receive just and equitable compensation, subject to any penalty, for any satisfactory work completed on such documents, services, papers, data, products or the like. Notwithstanding the above, PROVIDER shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by PROVIDER, and COUNTY may withhold any payments to PROVIDER for the purpose of offset.

## V. PAYMENT:

COUNTY agrees to make such payments for services rendered under this Agreement as and in the manner specified herein and in the attached Schedule B, which is fully incorporated herein by reference. Notwithstanding any language to the contrary in this Agreement or its attachments, COUNTY shall never be required to pay more than the sum set forth on page 1 of this Agreement under the heading MAXIMUM COST, for all services rendered by PROVIDER under this Agreement.

## VI. REPORTS:

PROVIDER agrees to make such reports as are required in the attached schedules, which is fully incorporated herein by reference. With respect to such reports it is expressly understood that time is of the essence and that the failure of PROVIDER to comply with the time limits set forth in said schedules shall result in the penalties set forth herein.

## VII. DELIVERY OF NOTICE:

Notices, bills, invoices and reports required by this Agreement shall be deemed delivered as of the date of postmark if deposited in a United States mailbox, first class postage attached, addressed to a party's address as set forth above. It shall be the duty of a party changing its address to notify the other party in writing within a reasonable time.

## VIII. NO WAIVER BY PAYMENT OR ACCEPTANCE:

In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be construed as a waiver by COUNTY of any breach of the covenants of this Agreement or a waiver of any default of PROVIDER and the making of any such payment or acceptance of any such service or product by COUNTY while any such default or breach shall exist shall in no way impair or prejudice the right of COUNTY with respect to recovery of damages or other remedy as a result of such breach or default.

## IX. NON-DISCRIMINATION:

During the term of this Agreement, PROVIDER agrees not to discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs against any person, whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s). PROVIDER agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal law.

## X. CIVIL RIGHTS COMPLIANCE:

- If PROVIDER has 20 or more employees and receives \$20,000 in annual contracts with COUNTY, the PROVIDER shall submit to COUNTY a current Civil Rights Compliance Plan (CRC) for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and Americans with Disabilities Act (ADA) of 1990. PROVIDER shall also file an Affirmative Action (AA) Plan with COUNTY in accordance with the requirements of chapter 19 of the Dane County Code of Ordinances. PROVIDER shall submit a copy of its discrimination complaint form with its CRC/AA Plan. The CRC/AA Plan must be submitted prior to the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by COUNTY. If an approved plan has been received during the previous CALENDAR year, a plan update is acceptable. The plan may cover a two-year period. Providers who have less than twenty employees, but who receive more than \$20,000 from the COUNTY in annual contracts, may be required to submit a CRC Action Plan to correct any problems discovered as the result of a complaint investigation or other Civil Rights Compliance monitoring efforts set forth herein below. If PROVIDER submits a CRC/AA Plan to a Department of Workforce Development Division or to a Department of Health and Family Services Division that covers the services purchased by COUNTY, a verification of acceptance by the State of PROVIDER's Plan is sufficient.
- B. PROVIDER agrees to comply with the COUNTY's civil rights compliance policies and procedures. PROVIDER agrees to comply with civil rights monitoring reviews performed by the COUNTY, including the examination of records and relevant files maintained by the PROVIDER. PROVIDER agrees to furnish all information and reports required by the COUNTY as they relate to affirmative action and non-discrimination. PROVIDER further agrees to cooperate with COUNTY in developing, implementing, and monitoring corrective action plans that result from any reviews.
- C. PROVIDER shall post the Equal Opportunity Policy, the name of PROVIDER's designated Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, applicants for employment and employees. The complaint process will be according to COUNTY's policies and procedures and made available in languages and formats understandable to applicants, clients and employees. PROVIDER shall supply to COUNTY's Contract Compliance Officer upon request a summary document of all client complaints related to perceived discrimination in service delivery. These documents shall include names of the involved persons, nature of the complaints, and a description of any attempts made to achieve complaint resolution.
- D. PROVIDER shall provide copies of all announcements of new employment opportunities to COUNTY's Contract Compliance Officer when such announcements are issued.
- E. If PROVIDER is a government entity having its own compliance plan, PROVIDER'S plan shall govern PROVIDER's activities.

## XI. COMPLIANCE WITH FAIR LABOR STANDARDS:

## A. Reporting of Adverse Findings

During the term of this Agreement, PROVIDER shall report to the County Contract Compliance Officer, within ten (10) days, any allegations to, or findings by the National Labor Relations Board (NLRB) or Wisconsin Employment Relations commission (WERC) that PROVIDER has violated a statute or regulation regarding labor standards or relations,. If an investigation by the Contract Compliance Officer results in a final determination that the matter adversely affects PROVIDER'S responsibilities under this Agreement, and which recommends termination, suspension or cancellation of this agreement, the County may take such action.

## B. Appeal Process

PROVIDER may appeal any adverse finding by the Contract Compliance Officer as set forth in Dane County Ordinances Sec. 25.08(20)(c) through (e).

## C. Notice Requirement

PROVIDER shall post the following statement in a prominent place visible to employees: "As a condition of receiving and maintaining a contract with Dane County, this employer shall comply with federal, state and all other applicable laws prohibiting retaliation for union organizing."

## XII. CONTROLLING LAW AND VENUE:

It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in the Dane County Circuit Court.

## XIII. FINANCIAL INTEREST PROHIBITED:

Under s. 946.13, Wis. Stats. COUNTY employees and officials are prohibited from holding a private pecuniary interest, direct or indirect, in any public contract. By executing this Agreement, each party represents that it has no knowledge of a COUNTY employee or official involved in the making or performance of the Agreement that has a private pecuniary interest therein. It is expressly understood and agreed that any subsequent finding of a violation of s. 946.13, Wis. Stat. may result in this Agreement being voided at the discretion of the COUNTY.

## XIV. LIMITATION OF AGREEMENT:

This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.

## XV. ENTIRE AGREEMENT:

The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended in any fashion except in writing, executed by both parties.

## XVI. COUNTERPARTS:

The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument.

## XVII. CONSTRUCTION:

This Agreement shall not be construed against the drafter.

## XVIII. COPIES VALID:

This Agreement, and any amendment or addendum relating to it, may be executed and transmitted to any other party by legible facsimile reproduction or by scanned legible electronic PDF copy, and utilized in all respects as, an original, wet-inked manually executed document. Further, this Agreement and any amendment or addendum thereto, may be stored and reproduced by each party electronically, photographically, by photocopy or other similar process, and each party may at its option destroy any original document so reproduced. All parties hereto stipulate that any such legible reproduction shall be admissible in evidence as the original itself in any judicial, arbitration or administrative proceeding whether or not the original is in existence and whether or not such reproduction was made by each party in the regular course of business. This term does not apply to the service of notices under this Agreement.

## XIX. REGISTERED AGENT:

PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin, that the persons executing this Agreement on its behalf are authorized to do so, and, if a corporation, that the name and address of PROVIDER's registered agent is as set forth opposite the heading REGISTERED AGENT on page 1 of this Agreement. PROVIDER shall notify COUNTY immediately, in writing, of any change in its registered agent, his or her address, and PROVIDER's legal status. For a partnership, the term 'registered agent' shall mean a general partner.

## XX. <u>DEBARMENT:</u>

By signing this Contract, PROVIDER attests that it is not debarred from participating in federal procurements. COUNTY reserves the right to cancel this Contract if PROVIDER is presently, or is in the future, on the list of parties excluded from federal procurements.

## XXI. EXECUTION:

- A. The parties agree that execution of this document may be made by electronic signatures. The parties may make electronic signatures by typing the name of the authorized signature followed by the words, "electronically signed" or by any other electronic means representing an authorized signature by PROVIDER. PROVIDER shall ensure that only authorized persons may affix electronic signatures to this Agreement and COUNTY may rely that the electronic signature provided by PROVIDER is authentic.
- B. This Agreement has no effect until signed by both parties. The submission of this Agreement to PROVIDER for examination does not constitute an offer. PROVIDER warrants that the persons executing this Agreement on its behalf are authorized to do so.

**IN WITNESS WHEREOF,** COUNTY and PROVIDER, by their respective authorized agents, have caused this Agreement and its Schedules to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

## FOR PROVIDER:

Howard S.Bellman	11/30/21
Howard S. Bellman	Date
**	*
FOR CO	UNTY:
Joseph T. Parisi Dane County Executive	Date
Scott McDonell Dane County Clerk	 Date

# SCHEDULE A Scope of Services

## I. EMPLOYEE BENEFIT HANDBOOK:

PROVIDER agrees that it has received a copy of the Employee Benefit Handbook ("EBH"), and has had an opportunity to review it prior to executing this Agreement. PROVIDER acknowledges that the EBH is subject to annual modifications, and the provisions related to the grievance process, the Impartial Hearing Officer ("IHO") services and the Independent Consultant services are subject to change.

### II. IMPARTIAL HEARING OFFICER:

PROVIDER shall serve as an Impartial Hearing Officer ("IHO") when selected in accordance with the EBH.

- a. PROVIDER agrees to perform the duties of an IHO, as required under the EBH. PROVIDER shall perform these duties in a professional manner.
- b. PROVIDER further agrees to follow the EBH's provisions related to IHO hearings, including but not limited to those provisions governing the conduct of the hearing, deadlines and the applicable legal standards to follow.

### III. INDEPENDENT CONSULTANT:

PROVIDER acknowledges that Dane County Ordinance 18.24(4) requires an annual review of the EBH, and that this ordinance outlines a procedure to adopt changes to the EBH, and to settle disputes regarding such changes. PROVIDER agrees to serve as an Independent Consultant when selected to do so in accordance with the EBH.

- a. PROVIDER shall adhere to the standards, procedures and rules regarding how an Independent Consultant is to handle the dispute as set forth in Dane County Ordinances and the EBH.
- b. PROVIDER shall perform the duties of an Independent Consultant in a professional manner.

# SCHEDULE B Pricing Structure and Payment

## I. COSTS SHARED EQUALLY:

When PROVIDER is selected to serve either as an Impartial Hearing Officer or as an Independent Consultant as described in Schedule A, the cost of those services are to be shared equally between Dane County and the individual, Employee Group, or interested stakeholder raising the Grievance or invoking the independent consultant procedure.

Prior to engaging in any activities under Schedule A, PROVIDER shall disclose their rates and fees and provide an estimate of the amount of time and cost to both parties. Additionally, prior to any hearing required under Schedule A, PROVIDER shall make both parties aware that costs are shared equally.

PROVIDER agrees that COUNTY is only responsible for its share of the cost of services. PROVIDER is responsible for collecting the share of the cost of services from the other party to services provided under schedule A.

### II. INVOICES/PAYMENT:

PROVIDER shall issue an invoice upon completion of services and/or delivery of such deliverables. Invoices must reference the Dane County purchase order number issued for the services/deliverables described herein. Email delivery of invoices is encouraged and preferred – see the Bill To section of the purchase order. Payment shall be made within 30 days of COUNTY's receipt of accepted invoice unless otherwise noted.

## III. RATES AND FEES:

PROVIDER'S hourly rate for services rendered in Schedule A is \$150 per hour.

## IV. CANCELLATION POLICY/FEE:

In the event a scheduled hearing is cancelled within 14 days thereof, the parties shall be charged a fee of \$1,200 (\$600 per party).