

WINNEBAGO COUNTY PURCHASE OF SERVICES CONTRACT

RE: Audit Services

THIS AGREEMENT, by and between Winnebago County, hereinafter referred to as "COUNTY" (whether a department, board, or agency thereof), and Clifton Larsen Allen LLP, hereinafter referred to as "CONSULTANT."

WITNESSETH:

WHEREAS the COUNTY, whose address is 415 Jackson Street, Oshkosh, WI 54901, desires to purchase services from the CONSULTANT for the purpose of Auditing Services and other financial reporting services as outlined in RFP F101-17 and engagement letter attached hereto as Schedule A; and

WHEREAS the CONSULTANT whose address is 311 Financial Way, Suite 100, Wausau, WI 54401, 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, the COUNTY and the CONSULTANT do agree as follows:

- TERM:** The term of this Agreement shall be effective on the date on which the last of the signatories to sign this contract signs it and shall terminate as of the 31st day of 2024, unless sooner agreed upon by the parties. In the event, the CONSULTANT shall complete its obligations under this Agreement not later than the 31st day of 2024, and upon its failure to do so, the COUNTY may invoke the penalties set forth in the bid specifications, RFP, RFQ, or Schedule A. The COUNTY shall not be liable for any services performed by CONSULTANT other than during the term of this Agreement.
- SERVICE TO BE PROVIDED:** CONSULTANT agrees to the following
 - services detailed in the bid specifications (RFB) # _____ ; or
 - request for proposals (RFP) #F101-17 and the response thereto, if any; or
 - request for quotes (RFQ) # _____ , and the response there to, if any; or
 - Schedule A,attached hereto, and incorporated herein by reference.

In the event of a conflict between or among any of the above-checked provisions, it is agreed that the terms of Schedule A, to extent of any conflict, will be controlling, but only as it pertains to the specific service to be provided.

3. **ASSIGNMENT**: CONSULTANT shall not assign any interest or obligation in this Agreement and shall not transfer any interest or obligation in this Agreement, whether by assignment or novation, without the prior written consent of the COUNTY unless permitted otherwise by the bid specifications, RFP, RFQ, and/or Schedule A.
4. **TERMINATION**: If, through any cause, the CONSULTANT shall fail to fulfill in timely and proper manner its obligations under this Agreement or, if, the CONSULTANT shall violate any of the covenants or stipulations of this Agreement, the COUNTY shall thereupon have the right to terminate this Agreement by giving a thirty (30) day written notice to the CONSULTANT of such termination, and shall specify the effective date thereof. There shall be no other termination or cancelation of this Agreement during its term, without the prior written consent of both parties unless specifically permitted otherwise by the bid specifications, RFP, RFQ, or Schedule A.
5. **UNFINISHED WORK**: In the event the COUNTY exercises its unilateral right to terminate this Agreement for cause in the manner provided for in Paragraph 4, above, all finished or unfinished documents, services, papers, data, products, or the like prepared, produced, or made by the CONSULTANT under this Agreement shall, at the option of the COUNTY, become the property of the COUNTY, and the CONSULTANT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents, services, papers, data, products, or the like. Notwithstanding the above, the CONSULTANT shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of any breach of this Agreement by the CONSULTANT, and the COUNTY may withhold any payments to the CONSULTANT for the purpose of set-off.
6. **FAILURE TO APPROPRIATE FUNDS**: The failure of the Winnebago County Board of Supervisors to appropriate sufficient funds in any year covered by this Agreement shall automatically terminate this Agreement.
7. **TERMS OF PAYMENT**: The COUNTY will pay the CONSULTANT for all the aforementioned work the sum of \$98,250 for work done in 2022 for the 2021 fiscal year; \$95,700 for work done in 2023 for the 2022 fiscal year; and \$96,700 for work done in 2024 for the 2023 fiscal year (\$__) upon satisfactory completion of the work and performance of this contract. All goods and services delivered prior to December 31st must be invoiced to

COUNTY by January 31st of the subsequent year or the invoice will be subject to a 10% deduction for late billing.

8. **WISCONSIN LAW CONTROLLING:** 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.

9. **ARBITRATION:**

A. This Agreement shall be covered by the laws of the State of Wisconsin.

B. Claims, disputes, and other matters in question between the parties to this Agreement arising out of, or relating to, this Agreement or the breach thereof shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then pertaining, upon the express written consent of all parties of this Agreement. In the event the parties proceed to arbitration, the proceedings shall be governed by the following:

- 1) The American Arbitration Association shall submit a panel of five (5) arbitrators to the parties. The parties shall make alternate strikes until one arbitrator remains who shall arbitrate the dispute. The party initiating the first strike shall be determined by the winner of a coin flip.
- 2) The costs of the arbitration proceeding (except for the filing fee, which shall be paid by the party initiating the proceeding) shall be borne equally by the parties. Each party shall pay his own legal fees and expenses incurred in connection with the proceeding.
- 3) Any arbitration shall take place in the city of Oshkosh, Winnebago County, Wisconsin.
- 4) Unless otherwise agreed upon by the parties, the arbitration hearing shall be limited to one day in length with the arbitrator providing each side equal time to present its case during that day.
- 5) Any discovery proceeding shall be limited to the thirty (30) day period prior to the date of the arbitration hearing. The party requesting the discovery shall pay for all costs incurred by the opposite party, except for attorney's fees, relating to the discovery procedure including, but not limited to, witness, reporter's fees for depositions, photocopying fees, postage fees, and delivery fees.
- 6) In issuing any ruling regarding any arbitration matter, the arbitrator shall issue a written decision which shall include written findings of fact and conclusions of law.
- 7) The proceeding and arbitration shall be governed by the law of the State of Wisconsin including, specifically, Chapter 788, Wis Stats.

10. **CONSULTANT EFFICIENCY:** CONSULTANT shall commence, carry on, and complete its obligations under this Agreement with 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, the CONSULTANT agrees to cooperate with the various departments, agencies, employees, and officers of the COUNTY.
11. **CONSULTANT:** CONSULTANT shall not subcontract any work pursuant to this Agreement without the prior written consent of COUNTY. CONSULTANT shall maintain a written list of all subCONSULTANTS and suppliers performing labor or supplying materials under this Agreement and shall make the list available to COUNTY upon request. COUNTY, at its option, may make direct payments to subCONSULTANTS for various services performed pursuant to this Agreement or, alternatively, may issue a two-party check to CONSULTANT and his subCONSULTANTS.
12. **CONSULTANT:** CONSULTANT shall comply with any bonding requirements, which may be applicable pursuant to § 779.14(1m), Wis Stats.
13. **CONSULTANT:** CONSULTANT shall pay all legitimate claims for labor performed and materials furnished, used or consumed in making any public improvements or performing any public work pursuant to this Agreement. Failure to comply with this provision, if applicable, may subject CONSULTANT to criminal penalties pursuant to §§ 779.16 and 943.20, Wis Stats.
14. **CONSULTANT EMPLOYEES:** CONSULTANT agrees to secure at CONSULTANT's own expense all personnel necessary to carry out CONSULTANT's obligations under this Agreement. Such personnel shall not be deemed to be employees of the COUNTY nor have any direct contractual relationship with the COUNTY.
15. **DELIVERY BY MAIL:** 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. It shall be the duty of a party changing its address to notify the other party in writing within a reasonable time.
16. **HOLD HARMLESS:** At all times during the term of this Agreement, CONSULTANT agrees to indemnify, save harmless, and defend the COUNTY, its boards, commissions, agencies, officers, employees, and representatives against any and all liability, losses, damages, costs, or expenses, whether personal injury or property damage, that the COUNTY, its officers, employees, agencies, boards, commissions, and representatives may sustain, incur, or be required to pay by reason of the CONSULTANT furnishing the services or goods required to be provided under this Agreement, provided, however, that

the provisions of this section shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts or omissions of the COUNTY, its agencies, boards, commissions, officers, employees, or representatives.

17. **INSURANCE:**

A. Prior to commencing work, CONSULTANT shall, at its own cost and expense, furnish COUNTY with a Certificate of Insurance indicating proof of the following insurance from companies licensed in the State of Wisconsin:

- 1) **Workers' Compensation:** (Statutory) In compliance with the Compensation law of the State of Wisconsin and Employers' Liability Insurance with a limit not less than \$100,000 each accident.
- 2) **Comprehensive or Commercial General Liability Insurance** with a minimum limit of \$1,000,000 per occurrence/\$1,000,000 aggregate combined Single Limit for bodily injury and property damage. This insurance shall include, but not be limited to, the following coverages:
 - a) Premises—Operations
 - b) Products and Completed Operations
 - c) Broad Form Property Damage
 - d) Contractual
 - e) Personal Injury

If excavating, underground, or collapse is involved, the limits of liability stated above shall be changed to \$2,000,000. If Asbestos is involved, the limits of liability stated above shall be changed to \$5,000,000.

- 3) **Automobile Liability:** Insurance with a minimum limit of \$1,000,000 per occurrence/\$1,000,000 aggregate Combined Single Limit for bodily injury and property damage, and shall include coverage for all of the following:
 - a) Owned Automobiles
 - b) Hired Automobiles
 - c) Non-Owned Automobiles

B. The certificate shall list the **Certificate Holder and Address** as follows:

WINNEBAGO COUNTY
ATTENTION PURCHASING MANAGER
P.O. BOX 2808
OSHKOSH WI 54903-2808

The Winnebago County Department(s) involved shall be listed under "**Description of Operations.**"

C. Such insurance shall include under the **General Liability and Automobile Liability Policies** Winnebago County, its employees, elected officials, representatives, and members of its boards and/or commissions as "**Additional Insureds.**"

D. CONSULTANT shall require subCONSULTANTS, if applicable, to furnish identical Certificates of Insurance to the Winnebago County Purchasing Manager prior to the contract taking effect.

E. Such Certificates of Insurance shall include a thirty (30) day notice prior to cancelation or material policy change, which notice shall be given to:

WINNEBAGO COUNTY
ATTENTION PURCHASING MANAGER
P.O. BOX 2808
OSHKOSH WI 54903-2808

All such notices will name the CONSULTANT and identify the project.

The Winnebago County Purchasing Manager must approve any exception to these requirements. Submit any requests in writing to:

WINNEBAGO COUNTY
ATTENTION PURCHASING MANAGER
P.O. BOX 2808
OSHKOSH WI 54903-2808

or email to: lforbes@co.winnebago.wi.us.

18. **LIMITATION EFFECT ON PAYMENTS BY COUNTY:** In no event shall the making of any payment required by this Agreement constitute or be construed as a waiver by the COUNTY of any breach of the covenants of this Agreement or a waiver of any default of the CONSULTANT, and the making of any such payment by the COUNTY while any such default or breach shall exist in no way shall impair or prejudice the right of the COUNTY with respect to recovery of damages or other remedies as a result of such breach or default.
19. **DISCRIMINATION:** During the term of this Agreement, the CONSULTANT agrees not to discriminate against any person, whether a recipient of services (actual or potential), an employee, or an applicant for employment on the basis of race, religion, sex, handicap, national origin, age, cultural differences, sexual preference, marital status, or physical appearance. Such equal opportunity shall include but not be limited to the following: employments, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, or any other form of compensation. The CONSULTANT agrees to post in conspicuous places, available to all employees and applicants for employment, notices setting forth the provisions of this Agreement as they relate to affirmative action and nondiscrimination.
20. **AFFIRMATIVE ACTION:** CONSULTANT may be required to file an Affirmative Action Plan with the COUTNY if the CONSULTANT receives \$10,000 in annual aggregate

contracts or other such consideration of comparable worth, and CONSULTANT has ten (10) or more employees. Such plan must be filed within fifteen (15) days of the effective date of this Agreement, and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by the COUNTY.

21. **EQUAL OPPORTUNITY EMPLOYER**: CONSULTANT shall, in all solicitations for employment placed on CONSULTANT's behalf, state that CONSULTANT is an "Equal Opportunity Employer."
22. **COMPLIANCE INFORMATION**: CONSULTANT agrees to furnish all information and reports required by the COUNTY as they relate to affirmative action and nondiscrimination, which may include any books, records, or accounts deemed appropriate to determine such compliance.
23. **CONSULTANT'S LEGAL STATUS**: CONSULTANT 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 CONSULTANT's registered agent is as set forth opposite the heading REGISTERED AGENT on the last page of this Agreement. CONSULTANT shall notify COUNTY immediately, in writing, of any change in its registered agent, his or her address, and the CONSULTANT's legal status.
24. **COMPLIANCE WITH WISCONSIN PUBLIC RECORDS LAW**: Consultant understands that Winnebago County is bound by the Wisconsin Public Records Law, Wis. Stat. sec. 19.21, et. seq. Pursuant to Wis. Stat. sec. 19.36 (3), County may be obligated to produce to a third party the records of a Consultant that are "produced or collected" by the Consultant under this Agreement ("Records"). Consultant is further directed to Wis. Stat. sec. 19.21, et. seq. for the statutory definition of Records subject to disclosure under this paragraph, and Consultant acknowledges that it has read and understands that definition. Notwithstanding any other term of this Agreement, Consultant is (1) obligated to retain Records for seven (7) years from the date of the Record's creation; and (2) produce such Records to County if, in County's determination, County is required to produce the records to a third party in response to a public records request. Consultant's failure to retain and produce Records as required by this paragraph shall constitute a material breach of this Agreement, and Consultant must defend and hold County harmless from liability due such breach.
25. **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.

IN WITNESS WHEREOF, the COUNTY and the CONSULTANT have executed this Agreement and its Schedules as of the day and date first set forth above.

FOR THE PROVIDER:

Date

Date

FOR WINNEBAGO COUNTY:

Jonathan Doemel
Winnebago County Executive
Date

Susan T. Ertmer
Winnebago County Clerk
Date

REGISTERED AGENT:

Name

Address

City/State/Zip

Drafted by:
Mary Anne Mueller
Corporation Counsel for
Winnebago County

Revised: 07/2021



Schedule A

CliftonLarsonAllen LLP
311 Financial Way, Suite 100
Wausau, WI 54401

phone 715-675-2351 fax 715-675-2812
CLAconnect.com

December 21, 2021

Vicky Fitzgerald, Finance Director
Winnebago County
112 Otter Ave.
Oshkosh, WI 54901

Dear Vicky:

Thank you for allowing us the opportunity to again propose on your audit services. We are excited about this opportunity to continue providing services to your organization. This extension will extend to Winnebago County and CliftonLarsonAllen, LLP the same conditions and requirements included in our prior proposal for audit services. Below is a summary of the services and the proposed fee. If you have any questions about our offerings, please do not hesitate to contact Jon Trautman at 920-455-4312 or Amber Drewieske at 920-455-4138.

Fees for professional services

Our fees are based on the timely delivery of the services provided, and the experience of personnel assigned to the engagement. Based on past work with you, we propose our fees (professional fees and expenses) will not exceed the following for the years ending December 31, 2021, 2022, and 2023 –

Professional Services	2021	2022	2023
Perform an audit of the financial statements for Winnebago County	\$ 81,000	\$ 81,500	\$ 82,000
Compile the Annual Comprehensive Financial Report	\$ 14,750	\$ 12,000	\$ 12,500
Compile the State Municipal Financial Report	\$ 2,500	\$ 2,200	\$ 2,200
Technology and Client Support Fee (5%)*	Included	Included	Included
Total	\$ 98,250	\$ 95,700	\$ 96,700

**Like most firms, we are investing heavily in technology to enhance the client experience, protect our data environment, and deliver quality services. We believe our clients deserve clarity around fees, and we will continue to be transparent with our fee structure.*

Our fees do not anticipate unusual or unforeseen circumstances. Before the scope of our work is changed for any unanticipated circumstances or events, we will inform you of the change and related change in fee.

CLA has a very open fee philosophy with our clients, and will work with you to establish a mutually acceptable fee arrangement for any future or special project engagements. We reiterate our strong interest in continuing to provide you the quality of service and support that will help you achieve your goals. If at any time you have a question concerning our services or fees, please call it to our attention so that we can discuss it.

Sincerely,

CliftonLarsonAllen LLP

A handwritten signature in black ink that reads "Jon Trautman". The signature is written in a cursive style with a large initial "J" and "T".

Jon Trautman, CPA
Principal