

CONTRACT

FOR SERVICES UNDER \$50,000

ANY ALTERATIONS OF CONTRACT LANGUAGE WILL RESULT IN REVOCATION OF CITY ATTORNEY APPROVAL.

This Contract for Hearing Officer services is entered into by and between James Ryan herein referred to as "Contractor"), and the City of Columbus, Department of Public Health (herein referred to as "City").

WITNESSETH

WHEREAS, the City has a need for Hearing Officer Services; and

WHEREAS, the Contractor has the necessary experience and expertise to provide said service; and

NOW, THEREFORE, in consideration of the mutual promises as hereinafter set forth, the parties agree as follows:

ENTIRE AGREEMENT

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof. Understandings, agreements, representations, or warranties not contained in this Contract, or as written amendment hereto, shall not be binding on either party. Except as provided herein, no alteration of any terms, conditions, delivery, price, quality, or specifications of this Contract shall be binding on either party without the written consent of both parties. This Contract is subject to the Ohio Public Records Act.

1. Contract Term

The term of this Contract shall be from March 1, 2023 to February 29, 2024 subject to annual approval and authorization. This contract shall not automatically renew and is subject to annual appropriation approved by City Council.

2. Maximum Obligation

The maximum amount to be paid under any purchase order associated with this Contract shall not exceed \$4,000.00 unless additional funds are appropriated and authorized.

3. Pricing and Scope of Services

The Contractor agrees to perform and invoice the Scope of Services as set forth **ON ATTACHED EXHIBIT A*** and as contained in the bid specifications, which are expressly incorporated herein.

*Contract is NOT valid if the Scope of Services is NOT attached.

No other costs, rates, or fees shall be payable to the Contractor for services performed hereunder. The terms and conditions specified in this Contract constitute the entire contract governing the purchase of services by the City from the Contractor, and shall supersede any terms and conditions which may accompany Contractor's invoice/bid/estimate. Any and all verbal representations are superseded by this Contract. The terms of this Contract shall prevail over any conflicting or deficient terms or conditions listed in any attachments from Contractor.

4. Equal Opportunity Clause

Contractor agrees to abide by all of the terms, conditions and requirements set forth in Columbus City Code Section 3906.02, Equal Opportunity Clause. Failure or refusal of a Contractor or Subcontractor to comply with the provisions of Title 39 may result in cancellation of this Contract.

5. Taxes

Federal or State taxes are not to be included on invoices for the described services. Contractor will be provided an exemption certificate, if needed.

6. City's Contract Administrator/Contract Administration

John Richter will manage the Contract on behalf of the City and will be the principal point of contact for the City concerning the Contractor's performance under this Contract.

Any notice or demand or other communication required or permitted to be given under this Contract or applicable law shall only be effective if it is in writing, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Services as first-class certified mail, postage prepaid and return receipt requested, to the parties at the following addresses:

City: John Richter
Columbus Public Health
240 Parsons Avenue
Columbus, Ohio 43215

Contractor: James Ryan
Attorney at Law
237 East College Avenue
Westerville, Ohio 43081

7. Contractor as an Independent Contractor

The Contractor shall be and shall remain an Independent Contractor with respect to all services performed hereunder and neither Contractor nor its employees shall be considered "public employees" for purposes of OPERS membership. Contractor agrees to and does hereby accept full and exclusive liability for the payment of any and all contributions or taxes for Social Security, unemployment insurance or old age retirement benefits, pensions or annuities now or hereafter imposed under any state or federal law which are measured by the wages, salaries or other remunerations paid to the Contractor or persons employed by the Contractor for work performed under the terms of this Agreement and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now, or hereafter may be, issued or promulgated under said respective laws.

Individuals utilizing a personal social security number for tax identification purposes and business entities with four (4) or fewer employees must complete and submit, as Exhibit D, the OPERS independent contractor acknowledgment form. THIS FORM CAN BE FOUND AT WWW.OPERS.ORG

8. Applicable Law, Remedies

This Agreement shall be governed in accordance with the laws of the State of Ohio and the ordinances, statutes and provisions of the Columbus City Code and Charter; specifically including, but not limited to Charter Sections 159 and 161. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the Contractor arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within the County of Franklin, State of Ohio.

Chapter 377 of the Columbus City Codes is hereby incorporated into the contract and Contractor is required to comply with said chapter. This includes, but is not limited to reporting requirements and the obligation to review the commission list of contractors and subcontractors that received an adverse determination. Penalties for failure to comply with the wage theft prevention code include suspension for three years, up to permanent disbarment.

9. Payment/Invoice Submittal

Fees shall be paid for services rendered following: (1) the City's receipt of a correct invoice, which designates the specific applicable charges, and (2) issuance of a certified purchase order. The City will not be subject to any late payment charges. Rates shall be firm during the term of this Contract. The City will process correctly documented invoices for payment and Contractor should receive payment for such invoice within thirty (30) days from receipt and approval by the City.

Invoices: All invoices shall be submitted to the address listed on the Purchase Order.

10. Modifications

No modification, amendment, alteration, addition or waiver of any section or condition of this Contract shall be effective or binding unless it is in writing and signed by an authorized representative of the City and the Contractor and approved by the appropriate City authorities.

11. Contract Termination

If either the City or the Contractor violates any material term or condition of this Contract or fails to fulfill in a timely and proper manner its obligations under this Contract, then the aggrieved party shall give the other party (the "responsible party") written notice of such failure or violation. The responsible party will correct the violation or failure within thirty (30) calendar days or as otherwise mutually agreed. If the failure or violation is not corrected, this Contract may be terminated immediately by written notice from the aggrieved party. The option to terminate shall be at the sole discretion of the aggrieved party.

When it is in the best interest of the City, the City may terminate this Contract, in whole or in part by providing seven (7) calendar days written notice to the Contractor prior to the effective date of termination. If this Contract is so terminated, the City is liable only for payments required by the terms of this Contract for services received and accepted by the City.

12. Nonexclusive Remedies

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under the law.

13. Survivorship

All services executed pursuant to the authority of this Contract shall be bound by all of the terms, conditions, prices discounts and rates set forth herein, notwithstanding the expiration of the initial term of this Contract, or any extension thereof. Further, the terms, conditions, and warranties contained in this Contract that by their sense in context are intended to survive this completion of the performance, cancellation or termination of this Contract, shall so survive.

14. Save Harmless/Indemnification

Contractor shall protect, indemnify and save the City harmless from and against any damage, cost, or liability, including reasonable attorneys' fees, resulting from claims for any or all injuries to persons or damage to property arising from intentional, willful or negligent acts or omissions of Contractor, its officers, employees, agents, or Subcontractors. The City will not indemnify the contractor and is prohibited from doing so.

15. Severability

If any term or condition of this Contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions for the Contract are declared severable.

16. Assignment

This Contract may not be assigned or otherwise transferred to others by the Contractor without the prior written consent of the City. If this Contract is so assigned, it shall inure to the benefit of and be binding upon any respective successors and assigns (including successive, as well as immediate, successors and assignees) of the Contractor.

17. Authority to Bind

The signatories to this Contract represent that they have the authority to bind themselves and their respective organizations to this Contract.

18. Worker's Compensation

The Contractor shall comply with all Workers' Compensation laws of the State of Ohio. **Proof of coverage shall be attached to this Contract AS EXHIBIT B.**

19. Insurance

Contractor shall carry at least the minimum amounts listed below of Commercial Liability Insurance (Bodily Injury and Property Damage) naming the City as an additional insured. **Contractor must attach a copy of the Certificate of Insurance to this Contract AS EXHIBIT C:**

Bodily Injury Liability:

Each Person	\$500,000
Each Accident	\$1,000,000

Property Damage Liability:

Each Accident	\$500,000
All Accidents	\$1,000,000

20. Campaign Contributions

Contractor hereby certifies the following: that it is familiar with Ohio Revised Code ("O.R.C.") Section 3517.13; that it is in full compliance with Divisions (I) and (J) of that Section; that it is eligible for this contract under the law and will remain in compliance with O.R.C. Section 3517.13 for the duration of this contract and for one year thereafter.

21. City Income Taxes

Contractor hereby further agrees to withhold and pay all city income taxes due or payable under the provisions of Chapter 362, Columbus City Codes, for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold and pay any such city income taxes due under said chapter for services performed under this Contract. If it has been determined by the Columbus Income Tax Division that Contractor, or any of its subcontractors, owes city income taxes, the Contractor agrees that the City may withhold the amount due to the City from any amount due to the Contractor for services performed under this Contract notwithstanding paragraph 9 hereinabove.

IN WITNESS WHEREOF, the parties have executed this Contract as of the day and year written below.

EXHIBITS A, B AND C MUST BE ATTACHED HERETO.

ANY ALTERATIONS OF CONTRACT LANGUAGE WILL RESULT IN REVOCATION OF CITY ATTORNEY APPROVAL.

CITY OF COLUMBUS

DocuSigned by:

MWR by Anita Clark 3/2/2023
Signature Date

Dr. Mysheika W. Roberts, Columbus Public Health
Printed Name, Title, Department Date

CONTRACTOR

[Signature] 2/28/23
Signature Date

James G. Ryan
Printed Name and Title

Federal ID Number: 284-62-3586

Please list remit address below:

237 East College Avenue
Westerville, Ohio 43081

EXHIBIT A

SCOPE OF SERVICES AND PRICING

SCOPE OF SERVICES:

- Contractor will preside over hearings on matters relating to business conducted by the Board of Health as prescribed by Ohio Revised Code 3709.20, Ohio Administrative Code 3701-21-26 and Ohio Administrative Code 901:3-4-08 and Columbus City Health Code 209.05.
- Contractor will maintain a valid license to practice law in the State of Ohio, and remain in good standing with the Ohio Supreme Court.
- Contractor will schedule hearings in a timely manner (no less than 10 days from the date of request; no more than 20 days from the date of request; and at least 6 days before the next regularly scheduled Board of Health meeting if possible).
- Contractor will conduct the hearings between the hours of 8 a.m. and 4 p.m. on Monday through Friday, unless the Environmental Health Administrator approves another time in advance. No hearings will be scheduled on designated holidays for the Columbus Public Health.
- All hearings will be conducted at Columbus Public Health or, if requested by the Environmental Health Administrator, hearings will be held remotely online utilizing the WebEx conferencing application.
- Contractor will make audio recordings of hearings with equipment provided by the Board of Health. Such audio recordings shall remain the property of the Board of Health, but Contractor may make use of the recordings to prepare the written recommendations.
- Contractor will make written recommendations for the Board of Health.
- Contractor will deliver the recommendation to the Board of Health within seven (7) business days, and representatives of the Board of Health will deliver such recommendation to the other parties as prescribed in applicable codes. Depending on the complexity of the hearing (i.e., length of testimony, number of exhibits), the Department can allow for more time for delivery of the recommendations to the Board of Health.
- Contractor agrees to perform all services in accordance with the privacy regulations [45 CFR 164.502(e); 164.504 (e)] issued pursuant to the Health Insurance Portability and Accountability Act [42 USC 1320 – 1320d-8] and the terms of the attached Columbus Public Health Privacy Agreement.

The maximum expenditure permitted is as follows:

- Board of Health shall be charged \$450.00 per hearing, all inclusive, for each hearing conducted.

Pricing

The City agrees to compensate the Contractor an amount not to exceed \$4000.00 for the provision of the services of a Hearing Officer/Referee for Environmental Health through February 29, 2024.

The maximum expenditure permitted is as follows:

- Board of Health shall be charged \$450.00 per hearing, all inclusive, for each hearing conducted.

Independent Contractor Contract Checklist

- 1 Contract is signed and complete Including required Schedule A (Scope of Services) ☒ YES
- 2 Bureau of Workers Compensation Certificate - current and attached ☐ YES ☒ N/A
- 3 Required Copy of Proof of Insurance attached ☐ YES ☒ N/A
- 4 Currently employed by the City of Columbus ☐ YES ☒ NO
- 5 OPERS Independent Contractor/Worker Acknowledgement (PEDACKN) attached
Required if: Independent contractor using SSN ☐ YES ☒ N/A
Business using SSN or EIN with four or fewer EMPLOYEES
- 6 Do you receive OPERS retirement benefits or did you retire from the City of Columbus? ☐ YES ☒ NO
If answer is NO Skip to number 8
*If yes, discuss with OPERS and notify Auditor's office #6
- 7 SR-6 completed and submitted to City Auditors office? ☐ YES

(Name of employee given form)
- 8 Are you legally eligible to work in the United States? ☒ Yes ☐ No

I have read and acknowledge that the information provided is correct to the best of my knowledge.

Independent Contractor

2/28/23

Date

City Employee/Contract Processor

- 1 Attach a copy of the Contract, BWC, Insurance, OPERS Pedackn and SR6 if applicable as well as this signed checklist to the encumbering document.
- 2 Scan the OPERS PEDACKN form as a stand alone document, use the following naming conventions
XX XXXX Name (Dept/Year/Contractor Last Name) and save to
X:\OPERS Pedackn\New PEDACKN
**This form will be submitted to OPERS

Encumbering Document # _____

Processor _____



INDEPENDENT CONTRACTOR/WORKER ACKNOWLEDGMENT

Ohio Public Employees Retirement System
277 East Town Street, Columbus, Ohio 43215-4642

Employer Services: 1-888-400-0965
www.opers.org

This form is to be completed if you are an individual who begins providing personal services to a public employer on or after Jan. 7, 2013 but are not considered by the public employer to be a public employee (e.g., you are an independent contractor) and will not have contributions made to OPERS. This form must be completed not later than 30 days after you begin providing personal services to the public employer.

STEP 1: Personal Information

Social Security Number

284-62-3586

Date of Birth

Month Day Year

01/31/1960

First Name

JAMES

MI

Last Name

G RYAN

Name of Current Employer

BAILEY CAVALZERI LLC

☐ I am an OPERS or other retirement system benefit recipient

STEP 2: Public Employer Information

Name of Public Employer for Which You Are Providing Personal Services

Employer Contact

First Name

J o h n

MI

Last Name

R i c h t e r

Employer Code

304708

Employer Contact Phone Number

614 — 645 — 7243

Service Provided to Public Employer

H e a r i n g O f f i c e r

Start Date of Service

Month Day Year

03 / 01 / 2023

End Date of Service

Month Day Year

02 / 29 / 2024

STEP 3: Acknowledgment

The public employer identified in Step 2 has identified you as an independent contractor or another classification other than a public employee. Ohio law requires that you acknowledge in writing that you have been informed that the public employer identified in Step 2 has classified you as an independent contractor or another classification other than a public employee for the services described in Step 2 and that you have been advised that contributions to OPERS will not be made on your behalf for these services.

In accordance with Ohio Administrative Code section 145-1-42(A)(2), an independent contractor means an individual who:

- Is a party to a bilateral agreement which may be a written document, ordinance or resolution that defines the compensation, rights, obligations, benefits and responsibilities of both parties;
- Is paid a fee, retainer or other payment by contractual arrangement for particular services;
- Is not eligible for workers' compensation or unemployment compensation;
- May not be eligible for employee fringe benefits such as vacation or sick leave;
- Does not appear on a public employer's payroll;
- Is required to provide his own supplies and equipment, and provide and pay his assistants or replacements if necessary;
- Is not controlled or supervised by personnel of the public employer as to the manner of work; and
- Should receive an Internal Revenue Service form 1099 for income tax reporting purposes.

An independent contractor is not a public employee and shall not become a contributor to the retirement system. If you disagree with the public employer's classification, you may contact OPERS to request a determination as to whether you are a public employee eligible for OPERS contributions for these services. Ohio law provides that a request for a determination must be made within five years after you begin providing personal services to the public employer, unless you are able to demonstrate through medical records to the Board's satisfaction that at the time the five-year period ended, you were physically or mentally incapacitated and unable to request a determination. Under the OPERS Health Reimbursement Arrangement (HRA) and the OPERS Retiree Medical Account (RMA), re-employed retirees who are not independent contractors are not eligible for a monthly allowance or reimbursement of any medical expenses incurred during the re-employment period. If you are not an independent contractor and receive an allowance or reimbursements, you may be liable to OPERS and/or the applicable plan.

By signing this form, you are acknowledging that the public employer for whom you are providing personal services has informed you that you have been classified as an independent contractor or another classification other than a public employee and that no contributions will be remitted to OPERS for the personal services you provide to the public employer. If you entered into a contract to provide services as an independent contractor, you are acknowledging that you meet the requirements of an "independent contractor" as that term is defined in Ohio Administrative Code section 145-1-42(A)(2). If you begin to provide services as an independent contractor to the same employer from which you retired, or to any employer if less than two months after the retirement allowance commences, you are acknowledging the pension portion of your benefit will be forfeited during the period of the contract. You are acknowledging that the annuity portion of your benefit will be suspended and will be paid in a lump sum upon termination of the contract, and you may be liable to the retirement system for any amounts incorrectly paid from the plan(s). You are also acknowledging that you are not eligible for a monthly allowance or reimbursement of medical expenses incurred during the period you are providing services under the OPERS HRA or the OPERS RMA, and you may be liable to OPERS and/or the applicable plan for any allowance or reimbursements received. This acknowledgment will remain valid as long as you continue to provide the same services to the same employer with no break in service regardless of whether the initial contract period is extended by any additional agreement of the parties. You also acknowledge that you understand you have the right to request a determination of your eligibility for OPERS membership if you disagree with the public employer's classification. **This form must be retained by the public employer and a copy sent to OPERS. The public employer's failure to retain this acknowledgment may extend your right to request a determination beyond the five years referenced above.**

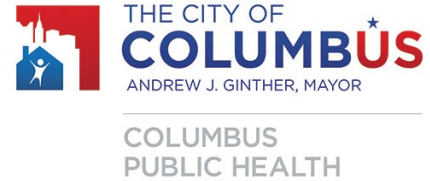
Signature



Do not print or type name

Today's Date

2/28/23



To: City Attorney's Office
From: Mysheika W. Roberts, MPH, Health Commissioner
Subject: Worker's Compensation Certificate and Commercial Liability Insurance Waiver
Date: 2/23/2023

To the City Attorney's Office:

Columbus Public Health has a need for the services referenced in the attached contract. This vendor does not have a Worker's Compensation Certificate nor commercial liability insurance as this vendor is an Independent Contractor and does not employ any full-time employees. Due to the small size of the contract and limited risk associated with the contract, I am asking that the Worker's Compensation Clause, Article 18, and Insurance, Article 19 in the standard City contract under \$50,000.00, be waived for this vendor. The services that this vendor will provide are deemed necessary for the betterment of the staff to continue their work with the public.

Sincerely,

DocuSigned by:

MWR by Anita Clark

5631545F188F46E...

Mysheika W. Roberts, M.D., M.P.H.
Health Commissioner

HEALTH COMMISSIONER | Mysheika W. Roberts, MD, MPH
BOARD OF HEALTH PRESIDENT, EX-OFFICIO:
Mayor Andrew J. Ginther



BOARD OF HEALTH:
Andrew E. Boy | Deena Chisolm, PhD | Shayne N. Downton
William A. Grobman, MD, MBA | Karen J. Morrison, JD, MS