

DRAFT
RESOLUTION NO. 2015-_____

Resolution to Contract for Financial Advisory Services

Executive Summary

In 2007, Jefferson County contracted with Institutional Capital Management (ICM) to provide investment advisory services for the County. The Finance Committee decided in 2014 to seek Requests for Proposals for investment advisory services. Four (4) staff and two (2) Finance Committee members reviewed the Request for Proposals to determine which consultant should be awarded the contract based on criteria such as the overall quality of the proposal which considered the scope of services, qualifications and experience of the consultant and cost of services. The Finance Committee recommends contracting with _____ for investment advisory services as described in the Request for Proposals.

WHEREAS, Jefferson County contracts for investment advisory services from an independent consultant, and

WHEREAS, commencing in 2007, the County's investment advisory services were provided by Institutional Capital Management (ICM),

WHEREAS, proposals were received from ten (10) companies providing investment advisory services as shown below:

- BMO Asset Management Corporation, Chicago, IL
- Columbia Capital Management, LLC, Overland Park, KS
- Cutler Investment Counsel, Charlottesville, VA
- DANA Investment Advisors, Brookfield, WI
- Ehlers Investment Services, Waukesha, WI
- Institutional Capital Management, Inc, Lafayette, CO
- PFM Asset Management, LLC, Chicago, IL
- Prudent Man Advisors, Inc, (PMA), Milwaukee, WI
- Spring Water Asset Management, LLC, Mequon, WI
- Wangard Investment Management. Brookfield, WI

WHEREAS, the Finance Committee recommended that the County Treasurer contract with _____ for investment advisory services as described in the Request for Proposals as soon as practical following passage of this resolution.

NOW, THEREFORE, BE IT RESOLVED that the County Treasurer is hereby directed to contract with _____ at the price _____ contained in its proposal for investment advisory services.

Fiscal Note: The cost of 2015 Investment Advisory Services will be _____ and is included in the 2015 budget. Cost for investment advisory services will be included in subsequent year's budgets as determined by the county board.

Ayes _____ Noes _____ Abstain _____ Absent _____ Vacant _____

Requested by
Finance Committee

06-09-15

Brian Lamers: 04-22-15, Blair Ward 04-22-15

APPROVED: Administrator _____; Corp Counsel _____; Finance Director _____

JEFFERSON COUNTY

PROFESSIONAL SERVICES CONTRACT

Purchase/Service Description: Investment Services

Time of Performance: July 2015 through June 2016 with the option to extend for additional years upon the consent of Jefferson County and _____

Total Amount of Contract: Not to exceed: ___ basis points, minimum annual _____

Performance, schedules and invoices will be approved by: Jefferson County Finance Director, 311 S Center Ave, Room 109, Jefferson, WI 53549

This Jefferson County Professional Services Standard Contract ("Contract") is made and entered into on this ___ day of _____, 2015 by and between _____ (the "CONTRACTOR"), and Jefferson County, a body corporate organized under the Laws of Wisconsin (the "COUNTY") (Collectively referred to as the "parties" or in the singular as the "party").

WITNESSETH:

WHEREAS, the COUNTY, a governmental entity organized and existing as a body corporate pursuant to Wis. Stat. § 59.01, is in the business of providing certain governmental services to the citizens of Jefferson County;

WHEREAS, the CONTRACTOR is in the business of providing investment services and has made express and implied representations to the COUNTY of being capable, experienced and qualified to undertake and personally perform those services as are required in fulfilling all obligations under the terms and conditions of this Contract; and

WHEREAS, relying upon the CONTRACTOR'S above-referenced express and implied representations, the COUNTY now desires to engage and the CONTRACTOR now desires to be engaged as an independent contractor and not as an employee of the COUNTY to perform said services, all in accordance with the terms and conditions of this Contract.

WHEREAS, work shall commence in accordance with the terms and conditions of this Contract after the CONTRACTOR has executed the Contract, and either: (a) has been notified in writing to commence the Performance of Services; or (b) has received from the COUNTY an original of the Contract that is complete and fully executed.

NOW, THEREFORE BE IT RESOLVED that in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the COUNTY and the CONTRACTOR agree as follows:

1. REQUIREMENTS:

The CONTRACTOR hereby agrees to be retained by the COUNTY and the COUNTY hereby agrees to retain the CONTRACTOR to perform the services in accordance with the terms and conditions of this Contract, which include, but are not limited to:

- A. that the CONTRACTOR is required to do, perform, and carry out in a satisfactory, timely, and proper manner the services delineated in this Contract;
- B. that the CONTRACTOR be accessible to the County on a regular and as needed basis;
- C. that the CONTRACTOR will establish a regular communication format through which the County can be kept current of the portfolio;
- D. that the CONTRACTOR is required to comply with requirements listed with respect to reporting on progress of the services, additional approvals required, and other matters relating to the performance of the services under this Contract; and
- E. that the CONTRACTOR is required to comply with time schedules and payment terms.

The CONTRACTOR and its subcontractors, to the same extent as the CONTRACTOR, agree to fulfill all obligations described in the COUNTY'S RFP (hereinafter referred to as the "Project"), as well as the addenda attached thereto, copies of both which are attached hereto and incorporated herein by reference.

2. SCOPE OF SERVICES:

The CONTRACTOR will work with the County to develop an investment strategy that meets the following objectives:

- Protect the principal invested within the County's portfolio
- Maximize the return on investment within the County's portfolio
- Maintain sufficient liquidity of the portfolio to provide for the cash flow needs of the County

The County has the expectation that the CONTRACTOR will provide services including, but not limited to the following:

- Review of current adopted investment policy and recommendation of any necessary amendments to the policy and the County's investment procedures
- Invest the County's funds, upon review and approval of recommended instruments by the County, in accordance with the investment policy and all applicable State laws
- Assist the County with cash flow and maturity analysis
- Provide credit and risk management analysis of investment instruments to be used in a portfolio
- Provide appropriate periodic reporting, monthly, quarterly and/or annual; on all funds invested
- Evaluate market risk and develop strategies that minimize the impact on the portfolio

- Establish appropriate benchmarks
- Attend the Finance Committee meetings either in person or via conference technology. Specifically, to present results on an annual fiscal-year basis
- Be available to discuss investment strategy, concerns or inquires with board members and/or other County officials when requested

All investment practices and procedures must comply with Wisconsin State law and the County's investment policy. In addition, the CONTRACTOR will be held to the "Prudent Expert" Standard of Care.

3. REPORTS

- A. The CONTRACTOR agrees to timely submit reports as may be required by the COUNTY in its sole discretion.
- B. All reports, studies, analyses, memoranda and related data and material developed during the performance of this Contract shall be submitted to and be the exclusive property of the COUNTY and the COUNTY shall have the right to use them for any purpose without any further compensation to the CONTRACTOR. All of the documents and materials prepared or assembled by the CONTRACTOR under this Contract will not be made available to any individual, agency, public body or organization other than the COUNTY unless legally required otherwise, at which point the CONTRACTOR is obligated to notify the COUNTY of the same 10 days in advance thereof.
- C. The documents and materials prepared in whole or in part under this Contract shall not be made the subject of any report, book, writing or oral dissertation by the CONTRACTOR. If this Contract is terminated, all finished or unfinished documents or materials prepared under this Contract shall be immediately transmitted to the COUNTY upon termination.

4. CONDITIONS OF PERFORMANCE AND COMPENSATION:

- A. **Performance** - The CONTRACTOR agrees that its work shall conform to such recognized high professional standards as are prevalent in this field of endeavor and like services.
- B. **Compensation** - The COUNTY agrees to pay, subject to the contingencies herein, and the CONTRACTOR agrees to accept for the satisfactory performance of the services under this Contract, the amount as indicated on the top of Page 1 of this Contract under "Total Amount of Contract," inclusive of all expenses.
- D. **Taxes, Social Security and Government Reporting** - Personal income tax payments, social security contributions and all other governmental reporting and contributions as a consequence of the CONTRACTOR receiving payment under this Contract shall be the sole responsibility of the CONTRACTOR.
- E. **Subcontracting** - The CONTRACTOR shall not subcontract for the performance of any of the services set forth herein without prior written approval obtained from the COUNTY. If any work or service is subcontracted, it shall be specified by written contract or agreement and shall be subject to each provision of this Contract. The CONTRACTOR shall be as fully responsible to the COUNTY for the acts and omissions of subcontractors and/or persons either directly or indirectly employed by the CONTRACTOR, as the CONTRACTOR is for the acts and omissions of persons directly employed by the CONTRACTOR.

5. INDEMNIFICATION AND DEFENSE OF SUITS:

The CONTRACTOR agrees to release, indemnify, defend, and hold harmless the COUNTY, its officials, officers, employees, and agents from and against all judgments, damages, penalties, losses, costs, claims, expenses, suits, demands, debts, actions and/or causes of action of any type or nature whatsoever, including actual and reasonable attorney fees, which may be sustained or to which they may be exposed, directly or indirectly, by reason of personal injury, death, property damage, or other liability, alleged or proven, resulting from or arising out of the acts or omissions in the performance under this agreement by CONTRACTOR, its officers, officials, employees, agents or assigns. This section specifically includes but is not limited to, indemnification for any fines or penalties incurred by COUNTY as well as any denial, in whole or part, of grants, awards or other funding that COUNTY would have received but for the acts or omissions by CONTRACTOR. The COUNTY does not waive, and specifically reserves, its right to assert any and all affirmative defenses and limitations of liability as specifically set forth in Wisconsin Statutes, Chapter 893 and related statutes.

6. REGULATIONS:

CONTRACTOR agrees to comply with all of the requirements of all federal, state and local laws related thereto.

7. VENUE AND APPLICABLE LAW:

Any lawsuits related to or arising out of disputes under this Contract shall be commenced and tried in the Circuit Court of Jefferson County, Wisconsin and the COUNTY and CONTRACTOR shall submit to the jurisdiction of the Circuit Court for such lawsuits. This Contract and any disputes arising under it shall be governed by the laws of the State of Wisconsin.

8. TERMINATION OF CONTRACT FOR CAUSE:

If through any cause, the CONTRACTOR shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if the CONTRACTOR violates the covenants, agreements or stipulations of this Contract, the COUNTY shall have the right to terminate this Contract by giving written notice to the CONTRACTOR of such termination. The written notice shall be provided to the CONTRACTOR at least five (5) days before the effective date of such termination. The COUNTY, in its sole discretion, may allow the CONTRACTOR a reasonable amount of time to cure a breach of the terms of this Contract if the COUNTY determines that the breach is amenable to a cure. The COUNTY shall not unreasonably withhold such permission. The COUNTY'S decision to allow the CONTRACTOR a reasonable amount of time to cure said breach in one instance does not constitute a waiver of a subsequent breach of the same or any other term of this Contract, nor shall it be deemed to waive the need for further consent or approval from the COUNTY to cure any subsequent breaches, regardless of their nature.

In the event that this Contract is terminated for any reason by either party, all finished and unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports or other materials related to the services prepared by the CONTRACTOR under this Contract shall, at the option of the COUNTY, become the property of the COUNTY.

Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of any breach of this Contract by the CONTRACTOR, and the COUNTY may withhold any payments due the CONTRACTOR for the

purpose of offset until such time as the exact amount of damages due to the COUNTY from the CONTRACTOR is determined and recovered.

9. CHANGES:

All changes that are mutually agreed upon by and between the COUNTY and the CONTRACTOR, including any increase or decrease in the amount of the CONTRACTOR'S compensation, shall be in writing and designated as written amendments to be attached to this Contract. The COUNTY'S agent under this paragraph is the County Administrator. The CONTRACTOR's agent under this paragraph is _____

10. WAIVER:

One or more waivers by any party of any term of this Contract will not be construed as a waiver of a subsequent breach of the same or any other term hereof. The consent or approval given by any party with respect to any act by the other party requiring such consent or approval shall not be deemed to waive the need for further consent or approval of any subsequent act by such party.

11. PERSONNEL:

- A. The CONTRACTOR represents that it has or will secure, at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.
- B. All of the services required hereunder will be performed by the CONTRACTOR or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized and permitted under state and local law to perform such services.

12. ASSIGNMENT:

The CONTRACTOR shall not assign or transfer this Contract and shall not transfer any interest in it without the prior written consent of the COUNTY. Claims for money due or to become due to the CONTRACTOR from the COUNTY under this Contract may be assigned to a bank, trust company or other financial institution without COUNTY approval; however, notices of any such assignment or transfer shall be furnished promptly to the COUNTY.

13. NON-DISCLOSURE:

- A. **Indemnification by the CONTRACTOR.** The CONTRACTOR agrees to take precautions to avoid wrongful disclosures or use of Confidential Information and will indemnify the COUNTY and hold the COUNTY harmless from all losses; expenses, including reasonable attorney's fees; or liability arising from or in connection with such unauthorized use or disclosure. In addition, the CONTRACTOR acknowledges that in the event of a breach or threatened breach of this Contract, irreparable damage will immediately occur to the COUNTY and the CONTRACTOR will indemnify the COUNTY from all losses, liabilities, and expenses, including reasonable attorney's fees, incurred by the COUNTY as a result thereof.
- B. **Duty to Inquire.** If either party has a question concerning whether information qualifies as Sensitive and/or Confidential Information under this Contract, each shall have a duty to inquire whether the information is deemed sensitive and/or confidential before taking any action contrary to this Contract.

For COUNTY inquire to:

J. Blair Ward
Corporation Counsel
jblairw@jeffersoncountywi.gov
(920) 674-7135

For CONTRACTOR inquire to:

- C. **Duty to Safeguard.** Each party shall take all reasonable steps to safeguard any and all Sensitive and/or Confidential Information in their possession. Each party shall ensure, to the extent possible, that access to Sensitive and/or Confidential Information is restricted only to properly authorized employees, agents, officers and/or subcontractors and shall take measures to protect the security of any documentation or computer containing Sensitive and/or Confidential Information.

14. CONFLICT OF INTEREST:

- A. **Interest in Contract** - No officer, employee or agent of the COUNTY who exercises any functions or responsibilities in connection with the carrying out of any services or requirements to which this Contract pertains, shall have any personal interest, direct or indirect in this Contract.
- B. **Interest of Other Local Public Officials** - No member of the governing body of the locality, who exercises any functions of responsibilities in the review or approval of the carrying out of this Contract, shall have any personal interest, direct or indirect, in this Contract.
- C. **Interest of Contractor and Employees** - If the CONTRACTOR is aware or becomes aware that any person described in Sections 14, A. and B. of this Contract has any personal financial interest, direct or indirect, in this Contract, the CONTRACTOR shall immediately disclose such knowledge to the COUNTY. The CONTRACTOR further covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The CONTRACTOR further covenants that in the performance of this Contract no person having any conflicting interest shall be employed or subcontracted.

15. DISCRIMINATION PROHIBITED:

- A. The CONTRACTOR shall not discriminate against any individual on the basis of age, race, creed, color, disability, marital status, sex, national origin, ancestry, membership in the National Guard, state defense force or any reserve component of the military forces of the United States or this state or as otherwise prohibited by Federal, State or Local Law. The CONTRACTOR may refuse to employ individuals based on conviction and arrest records only as allowed by Sec. 111.335, Wis. Stats.
- B. The CONTRACTOR will cause the foregoing provisions to be inserted into all subcontracts, if any, for any work covered by this Contract so that such provision will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

16. INSURANCE:

- A. The CONTRACTOR shall be solely responsible to meet the CONTRACTOR'S insurance needs as required by the COUNTY during the terms of this Contract or any extension thereof.
- B. The Certificate(s) of Insurance shall be issued by a company or companies authorized to do business in the State of Wisconsin and satisfactory to the COUNTY. Such insurance shall be primary. The CONTRACTOR shall furnish the COUNTY with a certificate of insurance and upon request, certified copies of the required insurance policies. The certificate(s) shall reference the Contract and name Jefferson County, its boards, commissions, agencies, officers, employees and representatives as additional insureds and provide for thirty (30) days advance notice of any change, cancellation or non-renewal during the term of this Contract.
- C. The CONTRACTOR shall not allow subcontractors, if any, to commence work until the aforementioned documents, where applicable, have been obtained from the subcontractor(s) and approved by the COUNTY.
- D. No payments or disbursements under this Contract shall be made if such proof has not been furnished to the COUNTY. Failure to submit an insurance certificate, as required, can make this Contract void at the COUNTY'S discretion.

17. OTHER PROVISIONS:

- A. **Publicity Releases** – The CONTRACTOR agrees not to refer to award of this Contract in commercial advertising in such a manner that states or implies that the products or services provided are endorsed or preferred by the COUNTY.
- B. **Appropriation of Funds** – This Contract is contingent upon annual authorization of funding by the COUNTY governing body. In the event funding is not approved or is terminated, the COUNTY may terminate this Contract by providing forty-five (45) days written notice to the CONTRACTOR.
- C. **Severability** – In the event that any of the provisions of this Contract are deemed invalid or unenforceable, the remaining provisions shall be construed and enforced as if such invalid or unenforceable provisions were not contained herein.
- D. **Independent Contractor Status** - This Contract- does not in any way create the relationship of joint venture, partnership, principal, or employer/employee between the CONTRACTOR and the COUNTY, their agents, employees, subcontractors, officers and/or representatives. The CONTRACTOR, its employees, agents, subcontractors, and/or representatives shall not act or attempt to act, or represent itself, directly or by implication, as an agent for the COUNTY or in any manner assume any obligation on behalf of or in the name of the COUNTY which is outside the scope of services described in this contract.

18. NOTICES:

Any and all notices shall be in writing and deemed served upon depositing same with the United States Postal Service as "Certified Mail, Return Receipt Requested", addressed to the CONTRACTOR at:

And to the COUNTY at:
Jefferson County Finance
311 S Center Ave-Room 109
Jefferson, WI 53549

All other correspondence shall be addressed as above, but may be sent by "Regular Mail" and deemed delivered upon receipt by the addressee.

COUNTY

JEFFERSON COUNTY TREASURER

John Jensen, County Treasurer

Signature: _____

Date: _____

**JEFFERSON COUNTY CORPORATION
COUNSEL**

J. Blair Ward, Corporation Counsel

Signature: _____

Date: _____

JEFFERSON COUNTY ADMINISTRATION

Benjamin Wehmeier, County Administrator

Signature: _____

Date: _____

CONTRACTOR (To be signed by the person authorized to legally bind your firm to this Contract.)

Firm: _____

Address: _____

City/State: _____

Printed Name: _____

Signed Name: _____

(Required)

Title: _____

Date: _____

Distribution:

Original – Purchasing

Copy – Contractor

Copy – Responsible Department(s)

- Baraboo, City of
- Beaver Dam, City of
- Brookfield, City of
- CVMIC
- De Pere, City of
- Dodge County
- Door County
- Eau Claire County
- Kenosha County
- La Crosse County
- Madison Metropolitan Sewerage District
- Milwaukee County
- Milwaukee Metropolitan Sewerage District
- Neenah, City of
- Oak Creek, City of
- Oconomowoc, City of
- Outagamie County General Fund
- Ozaukee County
- Racine County, WI
- Racine, City of, WI
- Waukesha County
- Waukesha, City of
- Winnebago County
- WMMIC