



Jessica M. Kramer  
Leslie Elkins\*  
Nicholas C. Watt  
*\*Also licensed in Illinois*

Writer's e-mail: [kramer@kewlaw.com](mailto:kramer@kewlaw.com)

May 6, 2016

Gregg McManners  
5413 Retana Dr.  
Madison, WI 53714

Re: Ethics Complaint

Dear Mr. McManners:

We represent Katherine Hurtgen with respect to concerns regarding her employment with the City of Madison. Ms. Hurtgen has filed an Ethics Complaint as of today's date.

Enclosed please find the following documents:

- Copy of the Ethics Complaint including exhibits;
- Policy Manual; and
- Ethics Code.

Please note that the date of the jurisdictional hearing has not currently been set.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jessica M. Kramer', is written over a printed name.

Enclosures

JMK/sls



**CITY OF MADISON  
ETHICS COMPLAINT**

**Complainant Information**

Katherine M. Hurtgen  
Associate Director, Monona Terrace  
6082 Viroqua Drive  
Fitchburg, WI 53719

**Subject of Complaint**

Gregg McManners  
Executive Director, Monona Terrace  
5413 Retana Drive  
Madison, WI 53714

**Nature of Complaint**

This ethics complaint has been drafted by Complainant Katherine M. Hurtgen, with the help of her attorneys, Kramer, Elkins & Watt, LLC.

Complainant brings this complaint to the attention of the City of Madison Ethics Board for five violations committed by the Subject Gregg McManners ("McManners"), who is the Director of the Monona Terrace, a department head position for the City of Madison ("City" or "Madison"). The actions complained of are in violation of City of Madison Ordinance Section 3.35(4) and will each be addressed in turn.

**Violation 1:**

**The Hiebing Group, Inc. Contract**

**Failure to follow Section 4.26 of Madison Ordinances**

Gregg McManners violated the City of Madison Ordinance Section 3.35(4) in that he failed to carry out impartially the laws of the City of Madison, failed to discharge faithfully the duties of his office regardless of personal considerations; exceeded his authority; breached the law; and asked others to breach the law when he failed to comply with the provisions of Section 4.26 of the Madison Ordinances, "City Purchasing Ordinance" in the securing of an advertising and marketing services contract for The Hiebing Group, Inc. ("Hiebing"). Hiebing has provided advertising and marketing services for Monona Terrace for eighteen years. For the past seventeen years, Hiebing has not participated in the competitive bid process.

The City Purchasing Ordinance requires that except as otherwise directed by the Common Council, contracts for the purchase of services may only be entered into without Common Council approval when certain conditions are met, including Section (3)(d) which requires the contractor to be selected through a competitive bidding process. Section (4)(b)(2) of the City Purchasing Ordinance allows for an exception to the competitive bidding process if "[t]he service required is available from only one person or firm."

Facts

Effective January 2015, the City began using the new software program, Munis which, among other applications, tracked the contract acquisition process. Munis is more regimented than the old SXD system in that it requires users to comply with each step of the process including proving that a contract was put out to bid competitively or otherwise met an exception, and does not allow for work arounds like the SXD system allowed. With SXD, those with check signing authority, such as McManners and William Zeinemann ("Zeinemann") Associate Director of Monona Terrace (Marketing and Event Services), could bypass the system and use a Limited Purchase Order ("LPO") if they needed to pay a vendor. Upon information and belief, whenever Hiebing submitted an invoice, either McManners or Zeinemann would draft an LPO, then issue and sign a check to Hiebing.

On August 26, 2015, Kathryn Schwenn ("Schwenn"), Purchasing Director, advised Hurtgen that Hiebing was not chosen through the competitive bid process, and would require a new sole source/sole brand justification form and council approval (See Hiebing email chain attached hereto as **Exhibit 1**; See Sole Source/Sole Brand Justification Form attached hereto as **Exhibit 2**). Hurtgen forwarded that email to Zeinemann and McManners. On that same day, Zeinemann emailed both Hurtgen and McManners and indicated that he would begin drafting the sole source justification form, and asked Hurtgen for her assistance. (See **Exhibit 1**). Upon information and belief, Zeinemann and McManners communicated about the sole source justification form around this time. Hurtgen told both Zeinemann and McManners that she would not assist with the form as she did not believe that Hiebing qualified as a sole source under the Madison ordinance.

On August 31, 2015, Zeinemann completed and signed the sole source/sole brand justification form. McManners, the department head, was required to approve this form, and did approve this form. After Zeinemann drafted the Sole Source/Sole Brand Justification Form, Schwenn approved the document, and Zeinemann contacted Alder Mike Verveer to sponsor the resolution, which he did.

On November 3, 2015, the City of Madison Common Council heard the resolution regarding whether to approve the \$100,000 Hiebing contract for a one year term with three one year renewal options. Listed in the text of the legislative file was, "WHEREAS, the proposed contract with The Hiebing Group, Inc. meets the exception to the bidding process in section 4.26(4)(a)2 which states "The service required is available only from one person or firm.'" (See City of Madison Resolution attached hereto as **Exhibit 3**).

The council approved the resolution and as a result, Hiebing was given the contract, with three one-year renewal options. (See **Exhibit 3**). The contract was signed by Mayor Paul Soglin on November 13, 2015 and approved by Finance Director David P. Schmiedicke, and Risk Manager Eric T. Veum. (See Contract for Purchase of Services attached hereto as **Exhibit 4**). An Amendment to extend the term of the Hiebing's contract from December 31, 2015 to December 31, 2016 was signed by McManners and Glenn Krieg, Chair of the Monona Terrace Community Convention Center Board, and approved by Finance Director Schmiedicke and Eric T. Veum,

Risk Manager. (See Amendment #1 to Contract for Purchase of Services attached hereto as **Exhibit 5**).

The purchase order for the services was executed on January 1, 2016. (See Purchase Order attached hereto as **Exhibit 6**).

Analysis

Hiebing has been the exclusive advertiser for Monona Terrace for eighteen years, and they have not been required to participate in the competitive bidding process. Failure to put the contract out to bid is a violation of Section 4.26 as Hiebing is not the only person or firm that provides marketing and advertising services.

In collaborating to assert, in clear contravention of the City's purchasing ordinance, that Hiebing is the only company that is capable of providing advertising services for the City of Madison, McManners failed to carry out the laws of Madison thereby violating City of Madison Ordinance Section 3.35(4).

**Violation 2:**  
**Studio Gear Contract**

Failure to follow Section 39.02 of Madison Ordinances

Gregg McManners violated the City of Madison Ordinance Section 3.35(4) in that he failed to carry out impartially the laws of the City of Madison, failed to discharge faithfully the duties of his office regardless of personal considerations; exceeded his authority; breached the law; and asked others to breach the law when he failed to enforce the provisions of Section 39.02 of the Madison Ordinances, "Affirmative Action Ordinance" in that he allowed Studio Gear to provide services for Monona Terrace without completing an affirmative action plan.

Section 39.02(9)(e) of the Affirmative Action Ordinance requires all contractors to provide an affirmative action plan within thirty days from the effective date of contract or purchase order, and prohibits release of payment by the City until the plan is in place. Section 39.02(9)(a)(c) provides an exemption for contractors whose aggregate annual business with the City is less than \$25,000 for the calendar year in which the contract was signed.

Facts

Studio Gear had been used as an equipment rental vendor Monona Terrace for a couple years. On March 6, 2015, Lara Mainella, Assistant City Attorney, emailed Hurtgen and Eric Veum regarding Studio Gear's rental terms and stated that once Studio Gear reaches \$25,000 in invoiced services for the year, the City will need an Affirmative Action Plan. (See Studio Gear rental terms email string attached hereto as **Exhibit 7**).

Typically, Studio Gear was paid using a City credit card (called within the department a purchasing card or "P card"). By April of 2015, Studio Gear's invoice totaled \$25,760 which pushed it over the \$25,000 limit. (See Studio Gear Check Report attached hereto **Exhibit 8**). In April/May 2015, Studio Gear requested payment in the form of a check instead of the City credit

card. Munis will not issue a check once a vendor hits over \$25,000 in any given year and has not filed an affirmative action plan.

McManners instructed Hurtgen to pay with the P card anyway, instead of a check. Paying with a City P card would bypass the system and allow payment without the Affirmative Action Plan in place. Hurtgen refused. Because it failed to complete an Affirmative Action Plan, was not used as a vendor with the City for the remainder of 2015.

### **Violation 3: Friends of Monona Terrace**

#### **Failure to follow Section 3.35(5)(c) of Madison Ordinances**

Gregg McManners violated the City of Madison Ordinance Section 3.35(4) in that he failed to carry out impartially the laws of the City of Madison, failed to discharge faithfully the duties of his office regardless of personal considerations; exceeded his authority; breached the law; and asked others to breach the law when he failed to comply with the provisions of Section 3.35(5)(c) of the Madison Ordinances, "Outside Employment" in that he told Hurtgen to complete the financial documents for Friends of Monona Terrace. This conduct may have also violated one or more state laws.

McManners instructed Hurtgen to manage the checkbook and compile information for the tax returns for Friends of Monona Terrace, which is a 501(c)3 organization that is separate from the City of Madison. This was work that Hurtgen did on City time, at the direction of McManners, on many different days, and the work was not within her job duties or description. Upon information and belief, neither Monona Terrace nor the City received compensation or reimbursement for Hurtgen's time. McManners' conduct not only violated the laws indicated above, but it put Hurtgen at risk of being liable for errors, when she is not a certified public accountant or enrolled agent licensed to prepare tax documents for an organization. Hurtgen contacted the City Attorney's office regarding her concerns about this practice. (See Friends Group email string attached hereto as **Exhibit 9**). Assistant City Attorneys Lara Mainella and Steven Brist asked Hurtgen about the arrangement between Monona Terrace and Friends of Monona Terrace including whether an agreement defines the relationship. (See **Exhibit 9**).

### **Violation 4: Tai Ping Carpet**

#### **Failure to follow Section 39.02 of Madison Ordinances**

McManners violated the City of Madison Ordinance Section 3.35(4) in that he failed to carry out impartially the laws of the City of Madison, failed to discharge faithfully the duties of his office regardless of personal considerations; exceeded his authority; breached the law; and asked others to breach the law when he failed to comply with the provisions of Section 39.02 of the Madison Ordinances, "Affirmative Action Ordinance" in that he allowed Tai Ping Carpets Americas, Inc. to provide services for Monona Terrace without completing an affirmative action plan.

Section 39.02(9)(e) of the Affirmative Action Ordinance requires all contractors to provide an affirmative action plan within thirty days from the effective date of contract or purchase order, and prohibits release of payment by the City until the plan is in place.

In addition, the City of Madison follows a general policy, passed under resolution, RES-05-00361, that whenever possible, no public funds should be used in the purchase of goods made under sweatshop conditions.

#### Facts

Monona Terrace was in the market for carpet, and it received bids from vendors. One such vendor, Tai Ping Carpet had a particular type of carpet, Axminster carpet, which was attractive to McManners. Accordingly, upon information and belief, McManners, with the assistance of Zeinemann and one of his direct reports, procured the contract with Tai Ping Carpet to provide carpet for Monona Terrace in 2013 and 2014.

In August 2015, Contract Specialist, Dana Hanaman (“Hanaman”) sent an email to Schwenn, Hurtgen, and others stating that Tai Ping was not in compliance with the Affirmative Action Process (see Tai Ping Carpet email chain attached hereto as **Exhibit 10**). Tai Ping’s Market Development Manager, Kristy Jones, explained in an email on August 11, 2015 to Hanaman, that Tai Ping had advised, on October 26, 2012 that they would not submit an affirmative action plan. (see **Exhibit 10**).

Despite taking exception to the affirmative action process, the company still received the business without formal contract for almost another three years, and was paid over \$579,600 in 2014. (See **Exhibit 10**). McManners and Zeinemann chose to look the other way while this conduct, on the part of one of Zeinemann’s direct reports, was taking place. Tai Ping provided the carpet without providing an affirmative action plan despite the requirements under the Madison Ordinances. (See **Exhibit 10**).

The Tai Ping Carpet contract further violations the general policy and City opinion against the use of public funds for the purchase of goods made under sweatshop conditions.

McManners is responsible for capital expenditures by Monona Terrace, and a contract of this size should have been more closely watched by McManners.

#### Violation 5: Timecard Fraud

##### Failure to follow the Fair Labor Standards Act and Wisconsin Wage Payment and Collection Law

Gregg McManners violated the City of Madison Ordinance Section 3.35(4) in that he failed to carry out impartially the laws of the City of Madison, the State of Wisconsin, and the United States, failed to discharge faithfully the duties of his office regardless of personal considerations; exceeded his authority; breached the law; and asked others to breach the law when he failed to comply with the provisions of the Fair Labor Standards Act, as well as Wisconsin Wage Payment and Collection Law (Chapter 109, Wisconsin Statutes) in compensating employees.

Facts

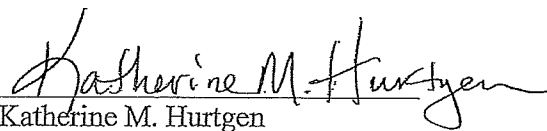
Jeff Griffith who was in charge of time cards for maintenance employees at Monona Terrace was let go in October 2014. While searching for his replacement, Hurtgen was assigned to review and approve the timecards, so they could be processed by payroll, for those employees, which she did until about February or March of 2015.

While reviewing the timecards, Hurtgen noticed that the maintenance employees were not correctly completing their timecards. In particular, they were not swiping the card every time in the Kronos system to accurately reflect actual time in and out; they may have been leaving early or working extra on certain days; and they had not signed the time card policy. In addition, every time the employees painted, the employees had each put exactly two hours of overtime onto their timecard, as Griffith had instructed them to do. Upon information and belief, this was not reflective of actual time worked.

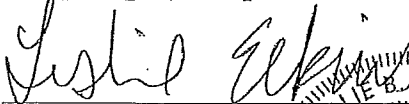
Hurtgen raised the issue to McManners and Zeinemann who dismissed Hurtgen's convictions to correctly institute the time card policy. Allowing such conduct to go on for a period of time and looking the other way has possibly cost the City a large sum of money and may amount to time card fraud.


Statement by Complainant

The undersigned, under oath, states that she has read the foregoing complaint and that the information contained in it is true and correct based on her personal knowledge, except for those matters alleged on information and belief and as to those matters, the undersigned believes them to be true and correct.

  
Katherine M. Hurtgen

Subscribed and sworn to before me  
this 29 day of April, 2016

  
Leslie Elkins  
Notary Public, State of Wisconsin  
My commission is permanent.





**Hurtgen, Katherine**

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**From:** Zeinemann, William  
**Sent:** Tuesday, September 01, 2015 4:23 PM  
**To:** Hurtgen, Katherine; McManners, Gregg  
**Subject:** FW: Hiebing Group  
**Attachments:** 20150901153941068.pdf; 20150901154516506.pdf

Here is a draft of the Purchase of Services Agreement with Hiebing for 2015, 2016, and 2017. The Agreement is up to \$100,000 per year for a total of up to \$300,000 for the three years. Also attached is a copy of the Sole Source Justification Form that was entered into Munis this morning. A requisition was done in Munis for \$100,000 total (\$55,000 to 54810 and \$45,000 to 54650) so we had a requisition number to enter on the Sole Source form.

After approval (hopefully) of the Sole Source Justification by Purchasing, next would be drafting the Council Resolution, checking with Mike V. on sponsoring, and getting that into the system.

Based on the e-mail chain below I thought this was the correct path to follow. If I need to do more, or different things please let me know. If we don't need the POS contract to cover 2015 and the Sole Source will be enough to satisfy purchasing this year, I can easily remove 2015 from the POS contract and make it for 2016, 2017, and 2018. If the Attachment A of the POS Agreement is not detailed enough for Purchasing, I can easily get a quote from Hiebing in various formats depending what Purchasing would like to see.

Please advise if I am on the correct path.

Thanks - Bill

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**From:** Zeinemann, William  
**Sent:** Wednesday, August 26, 2015 4:19 PM  
**To:** Hurtgen, Katherine  
**Cc:** McManners, Gregg  
**Subject:** RE: Hiebing Group

Okay. I have all of the information pulled together. Kathi, I could use your help with the Sole Source document (it asks for a Requisition Number). We didn't have to do this in Munis last year. Please let me know when you have a moment to discuss.

Here is what I have:

Text for sole source justification form.

Copy of 2014 Council Resolution.

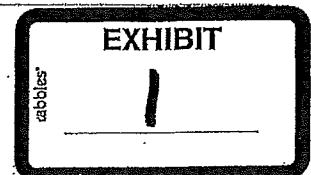
Copy of 2014 Purchase of Service Agreement that I have updated using the most current City POS form, and using the proper corporate name for Hiebing (The Hiebing Group, Inc.). I made for three years, 2015, 2016 and 2017. Let's do \$100,000 per year with the understanding it is unlikely we would need/want to spend that much with Hiebing per year (but if we are going to go through this Council process we may as well do a good dollar amount so we don't have to try and go back for more later if we want Hiebing to do a sizeable project).

Once I know that Kathy Schwenn has signed off on the Sole Source Justification, I will ask Mike Verveer to sponsor the updated Resolution.

Thanks - Bill

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**From:** Hurtgen, Katherine  
**Sent:** Wednesday, August 26, 2015 1:14 PM



**To:** Zeinemann, William  
**Cc:** McManners, Gregg  
**Subject:** FW: Hiebing Group

FYI-

Sounds like you need to re-up the sole source for Hiebing. That means council approval again. This is where we should go for at least 2-3 years this time. (one being this year of course)

Kathi

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**From:** Schwenn, Kathryn  
**Sent:** Wednesday, August 26, 2015 1:12 PM  
**To:** Hurtgen, Katherine  
**Subject:** Hiebing Group

Hi Kathi,

I am finally looking at this. I am not sure what exactly you need from me on this but in my digging it looks like MT has 6 PO's with this company for a total of \$12,687.49. You also have a req. for an additional \$2,371.01.

The attachments to the req's appear to show that this is a service. If that is true, you are spending more than \$5,000 with them this year so unless all of these services are completely unrelated, we will need a POS contract with this vendor.

I don't think this vendor was chosen in a competitive manner. If that is the case, we need to determine how much you think you will spend annually on this. If it is over \$25,000, you will need council approval for the sole source. If it is under \$25,000 and you can convince me that this is the only company that you could use for this, I can sign a sole source and the contract.

How would you like to proceed with this vendor?

Kathy

Kathy Schwenn, CPA  
Accountant 3  
City of Madison Finance Department  
Phone - (608) 266-4026  
Email - [kschwenn@cityofmadison.com](mailto:kschwenn@cityofmadison.com)



Office of the Comptroller  
**PURCHASING SERVICES**

210 Martin Luther King, Jr., Blvd. Room 513  
Tel: 608 266 4521; Fax: 608 266 5948  
www.ci.madison.wi.us/purch.html

### SOLE SOURCE / SOLE BRAND JUSTIFICATION FORM

REQUISITION NO.: 15004034	DATE: August 31, 2015
REQUESTOR NAME: Bill Zeinemann	TEL. & FAX #: 261-4010 261-4049
SIGNATURE: <i>Wm. Zeinemann</i>	

Supply sufficient detail to justify the use of a waiver instead of competitive bidding. Purchasing Services will determine the appropriateness of waiving the bid process on a case by case basis.

This is a request for: (Check one)  SOLE SOURCE Vendor Name: The Hiebing Group, Inc.  
 SOLE BRAND Product Mfg/Model: \_\_\_\_\_

#### REASON FOR REQUEST

Check all applicable items and provide detailed explanation below. Attach additional information as needed.

- SOLE SOURCE - UNAVAILABLE FROM ANY OTHER SOURCE.** Item is one-of-a-kind and is not sold through distributors, manufacturer is sole distributor. (Explain unique performance features of the product or brand requested that are not available in any other product or brand. For services, detail the unique qualifications this vendor possesses. Identify specific, measurable factors and qualifications.)

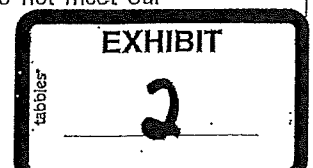
The Hiebing Group, Inc. is full-service advertising agency that has provided services to the City (Monona Terrace) on a similar basis in the recent past and it will be economical and effective for the City on the basis of time, money and quality of services to retain the same consultant.

Hiebing has worked on numerous projects for Monona Terrace since the "Monumental" campaign used to promote the grand opening of Monona Terrace in 1997.

Using Hiebing for the placement of digital and print advertising saves money two ways, rather than charging 10% to 15% of the cost of placing an ad as their commission fee (a common practice among ad agencies) Hiebing charges for this service at an hourly rate (an uncommon practice among ad agencies). Other ad agencies have a built in conflict because the cheaper they get the ads, the less their 10% to 15% commission will be based on the cost of the ad to the client. The second way is by a combination of expert media placement negotiating skills and leveraging purchasing power to get excellent pricing on advertising placements. This drives down to cost of advertising placements and saved Monona Terrace an estimated \$26,000 in 2014 alone.

Using Hiebing for other ad-agency services saves money by saving time, and makes money by obtaining high quality marketing support for Monona Terrace. Hiebing has more than an 18 year history with Monona Terrace and a deep knowledge of our vision, mission, operation and goals. We don't have to spend time educating them on who we are, what we do, and why it matters. High quality marketing support makes money by attracting more customers. Hiebing often provides advice and feedback on a pro-bono basis because of the long standing business relationship.

- SOLE BRAND.** Various vendors can supply the specified model and brand and competitive bids will be solicited for the requested brand only. Other manufacturers of this type of product do not meet our





Office of the Comptroller  
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Tel: 608 266 4521; Fax: 608 266 5948  
[www.cl.madison.wi.us/purch.html](http://www.cl.madison.wi.us/purch.html)

Sole Source Form  
Page 2 of 3

minimum requirements. List other brands that were evaluated, rejected and the reason why? A minimum of three products must be surveyed and noted below.

Manuf/Model: \_\_\_\_\_

Reason: \_\_\_\_\_

Manuf/Model: \_\_\_\_\_

Reason: \_\_\_\_\_

Manuf/Model: \_\_\_\_\_

Reason: \_\_\_\_\_

**ITEM MUST MATCH EXISTING EQUIPMENT because:**

\_\_\_\_\_  
\_\_\_\_\_

**OTHER REASONS:**

\_\_\_\_\_  
\_\_\_\_\_

**PURCHASING SUPERVISOR:**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



Sole Source Form  
Page 3 of 3

Office of the Comptroller  
**PURCHASING SERVICES**

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## PURCHASING SERVICES RECOMMENDATION

A copy of this form, signed by Purchasing Services, will be returned to Requestor.

**APPROVED:**

- Sole source justification is adequate and purchase to be authorized without competitive bidding.
- Sole brand justification is adequate and competitive bids will be solicited for the requested brand only.

**DISAPPROVED:**

- Justification is inadequate and requisition is returned to requestor.  
REASON:
  - Information provided does not meet State criteria and may not withstand an audit or vendor protest
  - Insufficient documentation to support review of comparable / equal equipment.
  - Other:
- Justification is inadequate and additional quotations will be solicited or RFP/ITB will be issued.

**PURCHASING SUPERVISOR:**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



# City of Madison

City of Madison  
Madison, WI 53703  
www.cityofmadison.com

Master

File Number: 40254

File ID: 40254	File Type: Resolution	Status: Passed
Version: 1	Reference:	Controlling Body: MONONA TERRACE COMMUNITY AND CONVENTION CENTER BOARD
File Name: The Hiebing Group, Inc. Advertising Contracts Resolution (4 year, 2015, 2016, 2017, 2018)		File Created Date: 09/29/2015 Final Action: 11/03/2015

**Title:** Authorizing the City to execute a service contract for a 1 year term of service, with three 1 year renewal options, provided by The Hiebing Group, Inc., for marketing and advertising of Monona Terrace Community and Convention Center.

Notes:

Sponsors: Michael E. Verveer

Effective Date: 11/05/2015

Attachments:

Enactment Number: RES-15-00862

Author: Steve Brist, Assistant City Attorney

Hearing Date:

Entered by: jbender@cityofmadison.com

Published Date:

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result
1	Attorney's Office	09/29/2015	Referred for Introduction				
	Action Text:	This Resolution was Referred for Introduction.					
	Notes:	Monona Terrace Community & Convention Center Board, Board of Estimates					
1	COMMON COUNCIL	10/06/2015	Refer	MONONA TERRACE COMMUNITY AND CONVENTION CENTER BOARD		10/22/2015	Pass
	Action Text:	A motion was made by DeMarb, seconded by Cheeks, to Refer to the MONONA TERRACE COMMUNITY AND CONVENTION CENTER BOARD. The motion passed by voice vote/other.					
	Notes:	Additional referral to Board fo Estimates					
1	MONONA TERRACE COMMUNITY AND CONVENTION CENTER BOARD	10/06/2015	Referred	BOARD OF ESTIMATES		10/12/2015	
	Action Text:	This Resolution was Referred to the BOARD OF ESTIMATES					
	Notes:						



1	BOARD OF ESTIMATES	10/12/2015	Return to Lead with the Recommendation for Approval	MONONA TERRACE COMMUNITY AND CONVENTION CENTER BOARD	10/22/2015	Pass
	Action Text:	A motion was made by DeMarb, seconded by Cheeks, to Return to Lead with the Recommendation for Approval to the MONONA TERRACE COMMUNITY AND CONVENTION CENTER BOARD. The motion passed by voice vote/other.				
	Notes:					
1	MONONA TERRACE COMMUNITY AND CONVENTION CENTER BOARD	10/22/2015	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER			Pass
	Action Text:	A motion was made by Clarke, seconded by Ziamik, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by voice vote/other. Excused: 1 Glenn R. Krieg				
1	COMMON COUNCIL	11/03/2015	Adopt			Pass
	Action Text:	A motion was made by DeMarb, seconded by Cheeks, to Adopt. The motion passed by voice vote/other.				
	Notes:					

Text of Legislative File 40254

Fiscal Note

The proposed resolution includes approval of a \$100,000 service contract with The Hiebling Group, Inc. for marketing and advertising of Monona Terrace Community and Convention Center. Funding for marketing and advertising services is included in Monona Terrace's annual operating budget. The total amount budgeted in 2015 and 2016 for marketing and advertising of Monona Terrace includes funds in anticipation of the contract with The Hiebling Group, Inc. The fiscal impact of the proposed resolution is \$100,000 in funds provided by the Room Tax for each year the contract is renewed.

Title

Authorizing the City to execute a service contract for a 1 year term of service, with three 1 year renewal options, provided by The Hiebling Group, Inc., for marketing and advertising of Monona Terrace Community and Convention Center.

Body

WHEREAS, funding for marketing and advertising services is provided for each year as part of the adopted Monona Terrace operating budget; and

WHEREAS, City Purchasing Ordinances provide under sec. 4.26(4)(b), of the Madison General Ordinances that, if the aggregate amount of the fee for services in a contract exceeds \$25,000 and the contract was not subject to a competitive bidding process, the contract shall meet one of the other requirements of sec. 4.26(4)(a) and must be approved by the Common Council; and

WHEREAS, the proposed contract with The Hiebling Group, Inc. meets the exception to the bidding process in section 4.26(4)(a)2 which states "The service required is available only from one person or firm"; and

WHEREAS, under Sec. 33.21(11), Madison General Ordinances, the Chair of the Board and the Director of Monona Terrace are authorized to sign contracts for the benefit of the Monona Terrace Community and Convention Center;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Clerk are authorized to execute a service contract, for a one year term, with option for three additional one year renewals, for marketing and advertising services from The Hiebing Group, Inc. at a price not to exceed \$100,000.00 per year; and

IT IS FURTHER RESOLVED, that the Chair of the Board and the Director of Monona Terrace are authorized to execute up to three (3) additional one year renewals of the contract, on the same terms and conditions as the original contract.



**CONTRACT FOR PURCHASE OF SERVICES**  
between the City of Madison and The Hiebing Group, Inc.

1. **PARTIES.**

This is a Contract between the City of Madison, Wisconsin, hereafter referred to as the "City" and The Hiebing Group, Inc. hereafter referred to as "Contractor."

The Contractor is at:  Corporation     Limited Liability Company     General Partnership     LLP  
(to be completed by contractor)  Sole Proprietor     Unincorporated Association     Other: \_\_\_\_\_

2. **PURPOSE.**

The purpose of this Contract is as set forth in Section 3.

3. **SCOPE OF SERVICES AND SCHEDULE OF PAYMENTS.**

Contractor will perform the following services and be paid according to the following schedule(s) or attachment(s):

See Exhibit A attached. (Attach and label documents as necessary.)

4. **TERM AND EFFECTIVE DATE.**

This Contract shall become effective upon execution by the Mayor, (or the Purchasing Agent, if authorized) on behalf of the City of Madison, unless another effective date is specified in the Attachment(s) incorporated in Section 3, however in no case shall work commence before execution by the City of Madison. The term of this Contract shall be January 1, 2015 through December 31, 2015.

5. **ENTIRE AGREEMENT.**

This Contract for Purchase of Services, including any and all attachments, exhibits and other documents referenced in Section 3 (hereafter, "Agreement" or "Contract") is the entire Agreement of the parties and supersedes any and all oral contracts and negotiations between the parties.

6. **ASSIGNABILITY/SUBCONTRACTING.**

Contractor shall not assign or subcontract any interest or obligation under this Contract without the City's prior written approval. All of the services required hereunder will be performed by Contractor and employees of Contractor.

7. **DESIGNATED REPRESENTATIVE.**

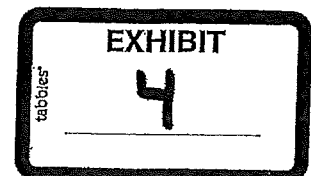
- A. Contractor designates Paul Thompson as Contract Agent with primary responsibility for the performance of this Contract. In case this Contract Agent is replaced by another for any reason, the Contractor will designate another Contract Agent within seven (7) calendar days of the time the first terminates his or her employment or responsibility using the procedure set forth in Section 15, Notices.
- B. In the event of the death, disability, removal or resignation of the person designated above as the Contract agent, the City may accept another person as the Contract agent or may terminate this Agreement under Section 25, at its option.

8. **PROSECUTION AND PROGRESS.**

- A. Services under this Agreement shall commence upon written order from the City to the Contractor, which order will constitute authorization to proceed; unless another date for commencement is specified elsewhere in this Contract including documents incorporated in Section 3.
- B. The Contractor shall complete the services under this Agreement within the time for completion specified in Section 3, the Scope of Services, including any amendments. The Contractor's services are completed when the City notifies the Contractor in writing that the services are complete and are acceptable. The time for completion shall not be extended because of any delay attributable to the Contractor, but it may be extended by the City in the event of a delay attributable to the City, or in the event of unavoidable delay caused by war, insurrection, natural disaster, or other unexpected event beyond the control of the Contractor. If at any time the Contractor believes that the time for completion of the work should be extended because of unavoidable delay caused by an unexpected event, or because of a delay attributable to the City, the Contractor shall notify the City as soon as possible, but not later than seven (7) calendar days after such an event. Such notice shall include any justification for an extension of time and shall identify the amount of time claimed to be necessary to complete the work.
- C. Services by the Contractor shall proceed continuously and expeditiously through completion of each phase of the work.
- D. Progress reports documenting the extent of completed services shall be prepared by the Contractor and submitted to the City with each invoice under Section 24 of this Agreement, and at such other times as the City may specify, unless another procedure is specified in Section 3.
- E. The Contractor shall notify the City in writing when the Contractor has determined that the services under this Agreement have been completed. When the City determines that the services are complete and are acceptable, the City will provide written notification to the Contractor, acknowledging formal acceptance of the completed services.

9. **AMENDMENT.**

This Contract shall be binding on the parties hereto, their respective heirs, devisees, and successors, and cannot be varied or waived by any oral representations or promise of any agent or other person of the parties hereto. Any other change in any provision of this Contract may only be made by a written amendment, signed by the duly authorized agent or agents who executed this Contract.



10. EXTRA SERVICES.

The City may require the Contractor to perform extra services or decreased services, according to the procedure set forth in Section 24. Extra services or decreased services means services which are not different in kind or nature from the services called for in the Scope of Services, Section 3, but which may increase or decrease the quantity and kind of labor or materials or expense of performing the services. Extra services may not increase the total Contract price, as set forth in Section 23, unless the Contract is amended as provided in Section 9 above.

11. NO WAIVER.

No failure to exercise, and no delay in exercising, any right, power or remedy hereunder on the part of the City or Contractor shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall affect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided by the City or Contractor therein. A waiver of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.

12. NON-DISCRIMINATION.

In the performance of work under this Contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs or student status. Contractor further agrees not to discriminate against any subcontractor or person who offers to subcontract on this Contract because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.

13. AFFIRMATIVE ACTION.

A. The following language applies to all contractors employing fifteen (15) or more employees (MGO 39.02(9)(c)):

The Contractor agrees that, within thirty (30) days after the effective date of this Contract, Contractor will provide to the City of Madison Department of Civil Rights (the "Department"), certain workforce utilization statistics, using a form provided by the City.

If the Contract is still in effect, or if the City enters into a new Agreement with the Contractor, within one year after the date on which the form was required to be provided, the Contractor will provide updated workforce information using a second form, also to be furnished by the City. The second form will be submitted to the Department no later than one year after the date on which the first form was required to be provided.

The Contractor further agrees that, for at least twelve (12) months after the effective date of this Contract, it will notify the Department of each of its job openings at facilities in Dane County for which applicants not already employees of the Contractor are to be considered. The notice will include a job description, classification, qualifications, and application procedures and deadlines, shall be provided to the City by the opening date of advertisement and with sufficient time for the City to notify candidates and make a timely referral. The Contractor agrees to interview and consider candidates referred by the Department if the candidate meets the minimum qualification standards established by the Contractor, and if the referral is timely. A referral is timely if it is received by the Contractor on or before the date stated in the notice.

The Department will determine if a contractor is exempt from the above requirements (Sec. 13.A.) at the time the Request for Exemption in 13.B.(2) is made.

B. Articles of Agreement, Request for Exemption, and Release of Payment:

The "ARTICLES OF AGREEMENT" beginning on the following page, apply to all contractors, unless determined to be exempt under the following table and procedures:

NUMBER OF EMPLOYEES	LESS THAN \$25,000 Aggregate Annual Business with the City*	\$25,000 OR MORE Aggregate Annual Business with the City*
14 or less	Exempt**	Exempt**
15 or more	Exempt**	Not Exempt

\*As determined by the Finance Director

\*\*As determined by the Department of Civil Rights

(1) **Exempt Status:** In this section, "Exempt" means the Contractor is exempt from the Articles of Agreement in section 13.B.(5) of this Contract and from filing an Affirmative Action plan as required by Section IV of the Articles of Agreement. The Department of Civil Rights ("Department") makes the final determination as to whether a contractor is exempt. If the Contractor is not exempt, sec. 13.B.(5) shall apply and Contractor shall select option A. or B. under Article IV therein and file an Affirmative Action Plan.

(2) **Request for Exemption – Fewer Than 15 Employees:** (MGO 39.02(9)(a)2.) Contractors who believe they are exempt based on number of employees shall submit a Request for Exemption on a form provided by the Department within thirty (30) days of the effective date of this Contract.

(3) **Exemption – Annual Aggregate Business:** (MGO 39.02(9)(a)c.): The Department will determine, at the time this Contract is presented for signature, if the Contractor is exempt because it will have less than \$25,000 in annual aggregate business with the City in the calendar year. CONTRACTORS WITH 15 OR MORE EMPLOYEES WILL LOSE THIS EXEMPTION AND BECOME SUBJECT TO SEC. 13.B.(5) UPON REACHING \$25,000 OR MORE ANNUAL AGGREGATE BUSINESS WITH THE CITY WITHIN THE CALENDAR YEAR.

(4) Release of Payment: (MGO 39.02(9)(e)1.b.) All non-exempt contractors must have an approved Affirmative Action plan meeting the requirements of Article IV below on file with the Department within thirty (30) days of the effective date of this Contract and prior to release of payment by the City. Contractors that are exempt based on number of employees agree to file a Request for Exemption with the Department within thirty (30) days of the effective date and prior to release of payment by the City.

(5) Articles of Agreement:

ARTICLE I

The Contractor shall take affirmative action in accordance with the provisions of this Contract to insure that applicants are employed, and that employees are treated during employment without regard to race, religion, color, age, marital status, disability, sex, sexual orientation, gender identity or national origin and that the employer shall provide harassment-free work environment for the realization of the potential of each employee. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training including apprenticeship insofar as it is within the control of the Contractor. The Contractor agrees to post in conspicuous places available to employees and applicants notices to be provided by the City setting out the provisions of the nondiscrimination clauses in this Contract.

ARTICLE II

The Contractor shall in all solicitations or advertisements for employees placed by or on behalf of the Contractor state that all qualified applicants will be employed without regard to race, religion, color, age, marital status, disability, sex, sexual orientation, gender identity or national origin.

ARTICLE III

The Contractor shall send to each labor union or representative of workers with which it has a collective bargaining Agreement or other Contract or understanding a notice to be provided by the City advising the labor union or workers representative of the Contractor's equal employment opportunity and affirmative action commitments. Such notices shall be posted in conspicuous places available to employees and applicants for employment.

ARTICLE IV

(This Article applies to non-public works contracts.)

The Contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison (MGO 39.02) including the Contract compliance requirements. The Contractor warrants and certifies that one of the following paragraphs is true (check one):

- A. Contractor has prepared and has on file an affirmative action plan that meets the formal requirements of Federal Revised Order No. 4, 41 CFR part 60-2, as established by 43 FR 51400 November 3, 1978, including appendices required by City of Madison ordinances or it has prepared and has on file a model affirmative action plan approved by the Madison Common Council.
- B. Within thirty (30) days after the effective date of this Contract, Contractor will complete an affirmative action plan that meets the formal requirements of Federal Revised Order No. 4, 41 CFR Part 60-2, as established by 43 FR 51400, November 3, 1978, including appendices required by City of Madison ordinance or within thirty (30) days after the effective date of this Contract, it will complete a model affirmative action plan approved by the Madison Common Council.
- C. Contractor believes it is exempt from filing an affirmative action plan because it has fewer than fifteen (15) employees and has filed, or will file within thirty (30) days after the effective date of this Contract, a form required by the City to confirm exempt status based on number of employees. If the City determines that Contractor is not exempt, the Articles of Agreement will apply.
- D. Contractor believes it is exempt from filing an affirmative action plan because its annual aggregate business with the City for the calendar year in which the contract takes effect is less than twenty-five thousand dollars (\$25,000), or for another reason listed in MGO 39.02(9)(e)2. If the City determines that Contractor is not exempt, the Articles of Agreement will apply.

ARTICLE V

(This Article applies only to public works contracts.)

The Contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison, including the Contract compliance requirements. The Contractor agrees to submit the model affirmative action plan for public works Contractors in a form approved by the Director of Affirmative Action.

ARTICLE VI

The Contractor will maintain records as required by Section 39.02(9)(f) of the Madison General Ordinances and will provide the City's Department of Affirmative Action with access to such records and to persons who have relevant and necessary information, as provided in Section 39.02(9)(f). The City agrees to keep all such records confidential, except to the extent that public inspection is required by law.

ARTICLE VII

In the event of the Contractor's or subcontractor's failure to comply with the Equal Employment Opportunity and Affirmative Action provisions of this Contract or Sections 39.03 and 39.02 of the Madison General Ordinances, it is agreed that the City at its option may do any or all of the following:

- A. Cancel, terminate or suspend this Contract in whole or in part.
- B. Declare the Contractor ineligible for further City contracts until the Affirmative Action requirements are met.
- C. Recover on behalf of the City from the prime Contractor 0.5 percent of the Contract award price for each week that such party fails or refuses to comply, in the nature of liquidated damages, but not to exceed a total of five percent (5%) of the Contract price, or five thousand dollars (\$5,000), whichever is less. Under public works contracts, if a subcontractor is in noncompliance, the City may recover liquidated damages from the prime Contractor in the manner described above. The preceding sentence shall not be construed to prohibit a prime Contractor from recovering the amount of such damage from the noncomplying subcontractor.

ARTICLE VIII

(This Article applies to public works contracts only.)

The Contractor shall include the above provisions of this Contract in every subcontract so that such provisions will be binding upon each subcontractor. The Contractor shall take such action with respect to any subcontractor as necessary to enforce such provisions, including sanctions provided for noncompliance.

ARTICLE IX

The Contractor shall allow the maximum feasible opportunity to small business enterprises to compete for any subcontracts entered into pursuant to this Contract. (In federally funded contracts the terms "DBE, MBE, and WBE" shall be substituted for the term "small business" in this Article.)

14. **SEVERABILITY.**

It is mutually agreed that in case any provision of this Contract is determined by any court of law to be unconstitutional, illegal or unenforceable, it is the intention of the parties that all other provisions of this Contract remain in full force and effect.

15. **NOTICES.**

All notices to be given under the terms of this Contract shall be in writing and signed by the person serving the notice and shall be sent registered or certified mail, return receipt requested, postage prepaid, or hand delivered to the addresses of the parties listed below:

**FOR THE CITY:**

Bill Zelnemann

(Department or Division Head)

Monona Terrace Community and Convention Center

One John Nolen Drive, Madison, WI 53703

**FOR THE CONTRACTOR:**

Hleblng

Attn: Business Office

315 Wisconsin Avenue

Madison, WI 53703

16. **STATUS OF CONTRACTOR/INDEPENDENT/TAX FILING.**

It is agreed that Contractor is an Independent Contractor and not an employee of the City, and that any persons who the Contractor utilizes and provides for services under this Contract are employees of the Contractor and are not employees of the City of Madison.

Contractor shall provide its taxpayer identification number (or social security number) to the Finance Director, 210 Martin Luther King Jr. Blvd, Room 406, Madison, WI 53703, prior to payment. The Contractor is informed that as an independent Contractor, s/he may have a responsibility to make estimated tax returns, file tax returns, and pay income taxes and make social security payments on the amounts received under this Contract and that no amounts will be withheld from payments made to this Contractor for these purposes and that payment of taxes and making social security payments are solely the responsibility and obligation of the Contractor. The Contractor is further informed that s/he may be subject to civil and/or criminal penalties if s/he fails to properly report income and pay taxes and social security taxes on the amount received under this Contract.

17. **GOODWILL.**

Any and all goodwill arising out of this Contract inures solely to the benefit of the City; Contractor waives all claims to benefit of such goodwill.

18. **THIRD PARTY RIGHTS.**

This Contract is intended to be solely between the parties hereto. No part of this Contract shall be construed to add, supplement, amend, abridge or repeal existing rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.

19. **AUDIT AND RETAINING OF DOCUMENTS.**

The Contractor agrees to provide all reports requested by the City including, but not limited to, financial statements and reports, reports and accounting of services rendered, and any other reports or documents requested. Financial and service reports shall be provided according to a schedule (when applicable) to be included in this Contract. Any other reports or documents shall be provided within five (5) working days after the Contractor receives the City's written requests, unless the parties agree in writing on a longer period. Payroll records and any other documents relating to the performance of services under the terms of this Contract shall be retained by the Contractor for a period of three (3) years after completion of all work under this Contract, in order to be available for audit by the City or its designee.

20. **CHOICE OF LAW AND FORUM SELECTION.**

This Contract shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of Wisconsin. The parties agree, for any claim or suit or other dispute relating to this Contract that cannot be mutually resolved, the venue shall be a court of competent jurisdiction within the State of Wisconsin and the parties agree to submit themselves to the jurisdiction of said court, to the exclusion of any other judicial district that may have jurisdiction over such a dispute according to any law.

21. **COMPLIANCE WITH APPLICABLE LAWS.**

The Contractor shall become familiar with, and shall at all times comply with and observe all federal, state, and local laws, ordinances, and regulations which in any manner affect the services or conduct of the Contractor and its agents and employees.

22. CONFLICT OF INTEREST.

- A. The Contractor warrants that it and its agents and employees have no public or private interest, and will not acquire directly or indirectly any such interest, which would conflict in any manner with the performance of the services under this Agreement.
- B. The Contractor shall not employ or contract with any person currently employed by the City for any services included under the provisions of this Agreement.

23. COMPENSATION.

It is expressly understood and agreed that in no event will the total compensation for services under this Contract exceed \$ 100,000.

24. BASIS FOR PAYMENT.

A. GENERAL

- (1) The City will pay the Contractor for the completed and accepted services rendered under this Contract on the basis and at the Contract price set forth in Section 23 of this Contract. The City will pay the Contractor for completed and approved "extra services", if any, if such "extra services" are authorized according to the procedure established in this section. The rate of payment for "extra services" shall be the rate established in this Contract. Such payment shall be full compensation for services rendered and for all labor, material, supplies, equipment and incidentals necessary to complete the services.
- (2) The Contractor shall submit invoices, on the form or format approved by the City, specified in the Scope of Services, Section 3 of this Contract. The City will pay the Contractor in accordance with the schedule set forth in the Scope of Services. The final invoice shall be submitted to the City within three months of completion of services under this Agreement.
- (3) Should this Agreement contain more than one service, a separate invoice and a separate final statement shall be submitted for each individual service.
- (4) Payment shall not be construed as City acceptance of unsatisfactory or defective services or improper materials.
- (5) Final payment of any balance due the Contractor will be made upon acceptance by the City of the services under the Agreement and upon receipt by the City of documents required to be returned or to be furnished by the Contractor under this Agreement.
- (6) The City has the equitable right to set off against any sum due and payable to the Contractor under this Agreement, any amount the City determines the Contractor owes the City, whether arising under this Agreement or under any other Agreement or otherwise.
- (7) Compensation in excess of the total Contract price will not be allowed unless authorized by an amendment under Section 9, AMENDMENT.
- (8) The City will not compensate for unsatisfactory performance by the Contractor.

B. SERVICE ORDERS, EXTRA SERVICE, OR DECREASED SERVICE.

- (1) Written orders regarding the services, including extra services or decreased services, will be given by the City, using the procedure set forth in Section 15, NOTICES.
- (2) The City may, by written order, request extra services or decreased services, as defined in Section 10 of this Contract. Unless the Contractor believes the extra services entitle it to extra compensation or additional time, the Contractor shall proceed to furnish the necessary labor, materials, and professional services to complete the services within the time limits specified in the Scope of Services, Section 3 of this Agreement, including any amendments under Section 9 of this Agreement.
- (3) If in the Contractor's opinion the order for extra service would entitle it to extra compensation or extra time, or both, the Contractor shall not proceed to carry out the extra service, but shall notify the City, pursuant to Section 15 of this Agreement. The notification shall include the justification for the claim for extra compensation or extra time, or both, and the amount of additional fee or time requested.
- (4) The City shall review the Contractor's submittal and respond in writing, either authorizing the Contractor to perform the extra service, or refusing to authorize it. The Contractor shall not receive additional compensation or time unless the extra compensation is authorized by the City in writing.

25. DEFAULT/TERMINATION.

- A. In the event Contractor shall default in any of the covenants, agreements, commitments, or conditions herein contained, and any such default shall continue unremedied for a period of ten (10) days after written notice thereof to Contractor, the City may, at its option and in addition to all other rights and remedies which it may have at law or in equity against Contractor, including expressly the specific enforcement hereof, forthwith have the cumulative right to immediately terminate this Contract and all rights of Contractor under this Contract.
- B. Notwithstanding paragraph A., above, the City may in its sole discretion and without any reason terminate this Agreement at any time by furnishing the Contractor with ten (10) days' written notice of termination. In the event of termination under this subsection, the City will pay for all work completed by the Contractor and accepted by the City.

26. INDEMNIFICATION.

The Contractor shall be liable to and hereby agrees to indemnify, defend and hold harmless the City of Madison, and its officers, officials, agents, and employees against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its officers, officials, agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the Contractor's and/or Subcontractor's acts or omissions in the performance of this Agreement, whether caused by or contributed to by the negligence of the City, its officers, officials, agents, or its employees.

27. **INSURANCE.**

The Contractor will insure, and will require each subcontractor to insure, as indicated, against the following risks to the extent stated below. The Contractor shall not commence work under this Contract, nor shall the Contractor allow any Subcontractor to commence work on its Subcontract, until the insurance required below has been obtained and corresponding certificate(s) of insurance have been approved by the City Risk Manager.

Commercial General Liability

The Contractor shall procure and maintain during the life of this Contract, Commercial General Liability insurance including, but not limited to bodily injury, property damage, personal injury, and products and completed operations (unless determined to be inapplicable by the Risk Manager) in an amount not less than \$1,000,000 per occurrence. This policy shall also provide contractual liability in the same amount. Contractor's coverage shall be primary and list the City of Madison, its officers, officials, agents and employees as additional insureds. Contractor shall require all subcontractors under this Contract (if any) to procure and maintain insurance meeting the above criteria, applying on a primary basis and listing the City of Madison, its officers, officials, agents and employees as additional insureds.

Automobile Liability

COVERED BY EARL VENN IN PRIOR YEARS - BY 11/13/11  
The Contractor shall procure and maintain during the life of this Contract Business Automobile Liability insurance covering owned, non-owned and hired automobiles with limits of not less than \$1,000,000 combined single limit per accident. Contractor shall require all subcontractors under this Contract (if any) to procure and maintain insurance covering each subcontractor and meeting the above criteria.

Worker's Compensation

The Contractor shall procure and maintain during the life of this Contract statutory Workers' Compensation insurance as required by the State of Wisconsin. The Contractor shall also carry Employers Liability limits of at least \$100,000 Each Accident, \$100,000 Disease - Each Employee, and \$500,000 Disease - Policy Limit. Contractor shall require all subcontractors under this Contract (if any) to procure and maintain such insurance, covering each subcontractor.

Professional Liability

The Contractor shall procure and maintain professional liability insurance with coverage of not less than \$1,000,000. If such policy is a "claims made" policy, all renewals thereof during the life of the Contract shall include "prior acts coverage" covering at all times all claims made with respect to Contractor's work performed under the Contract. This Professional Liability coverage must be kept in force for a period of six (6) years after the services have been accepted by the City.

**Acceptability of Insurers.** The above-required insurance is to be placed with insurers who have an A.M. Best rating of no less than A- (A minus) and a Financial Category rating of no less than VII.

**Proof of Insurance, Approval.** The Contractor shall provide the City with certificate(s) of insurance showing the type, amount, effective dates, and expiration dates of required policies prior to commencing work under this Contract. Contractor shall provide the certificate(s) to the City's representative upon execution of the Contract, or sooner, for approval by the City Risk Manager. If any of the policies required above expire while this Contract is still in effect, Contractor shall provide renewal certificate(s) to the City for approval. Certificate Holder language should be listed as follows:

City of Madison  
ATTN: Risk Management, Room 406  
210 Martin Luther King, Jr. Blvd.  
Madison, WI 53703

The Contractor shall provide copies of additional insured endorsements or insurance policies, if requested by the City Risk Manager. The Contractor and/or insurer shall give the City thirty (30) days advance written notice of cancellation, non-renewal or material changes to any of the above-required policies during the term of this Contract.

28. **OWNERSHIP OF CONTRACT PRODUCT.**

All of the work product, including, but not limited to, documents, materials, files, reports, data, including magnetic tapes, disks of computer-aided designs or other electronically stored data or information (the "Documents"), which the Contractor prepares pursuant to the terms and conditions of this Contract are the sole property of the City. The Contractor will not publish any such materials or use them for any research or publication, other than as expressly required or permitted by this Contract, without the prior written permission of the City. The grant or denial of such permission shall be at the City's sole discretion.

The Contractor intends that the copyright to the Documents shall be owned by City, whether as author (as a Work Made For Hire), or by assignment from Contractor to City. The parties expressly agree that the Documents shall be considered a Work Made For Hire as defined by Title 17, United States Code, Section 101(2).

As further consideration for the City entering into this Contract, the Contractor hereby assigns to City all of the Contractor's rights, title, interest and ownership in the Documents, including the right to procure the copyright therein and the right to secure any renewals, reissues and extensions of any such copyright in any foreign country. The City shall be entitled to the sole and exclusive benefit of the Documents; including the copyright thereto, and whenever required by the City, the Contractor shall at no additional compensation, execute all documents of assignment of the full and exclusive benefit and copyright thereof to the City. Any subcontractors and other independent Contractors who prepare portions of the Documents shall be required by the Contractor to execute an assignment of ownership in favor of the City before commencing work.

29. **LIVING WAGE (Applicable to contracts exceeding \$5,000).**  
Unless exempt by MGO 4.20, the Contractor agrees to pay all employees employed by the Contractor in the performance of this Contract, whether on a full-time or part-time basis, a base wage of not less than the City minimum hourly wage as required by Section 4.20, Madison General Ordinances.
30. **EQUAL BENEFITS REQUIREMENT (Sec. 39.07, MGO.) (Applicable to contracts exceeding \$25,000).**  
This provision applies to service contracts of more than \$25,000 executed, extended, or renewed by the City on July 1, 2012 or later, unless exempt by Sec. 39.07 of the Madison General Ordinances (MGO).
- For the duration of this Contract, the Contractor agrees to offer and provide benefits to employees with domestic partners that are equal to the benefits offered and provided to married employees with spouses, and to comply with all provisions of Sec. 39.07, MGO. If a benefit would be available to the spouse of a married employee, or to the employee based on his or her status as a spouse, the benefit shall also be made available to a domestic partner of an employee, or to the employee based on his or her status as a domestic partner. "Benefits" include any plan, program or policy provided or offered to employees as part of the employer's total compensation package, including but not limited to, bereavement leave, family medical leave, sick leave, health insurance or other health benefits, dental insurance or other dental benefits, disability insurance, life insurance, membership or membership discounts, moving expenses, pension and retirement benefits, and travel benefits.
- Cash Equivalent. If after making a reasonable effort to provide an equal benefit for a domestic partner of an employee, the Contractor is unable to provide the benefit, the Contractor shall provide the employee with the cash equivalent of the benefit.
- Proof of Domestic Partner Status. The Contractor may require an employee to provide proof of domestic partnership status as a prerequisite to providing the equal benefits. Any such requirement of proof shall comply with Sec. 39.07(4), MGO.
- Notice Posting, Compliance. The Contractor shall post a notice informing all employees of the equal benefit requirements of this Contract, the complaint procedure, and agrees to produce records upon request of the City, as required by Sec. 39.07, MGO.
- Subcontractors (Service Contracts Only). Contractor shall require all subcontractors, the value of whose work is twenty-five thousand dollars (\$25,000) or more, to provide equal benefits in compliance with Sec. 39.07, MGO.
31. **WEAPONS PROHIBITION.**  
Contractor shall prohibit, and shall require its subcontractors to prohibit, its employees from carrying weapons, including concealed weapons, in the course of performance of work under this Contract, other than while at the Contractor's or subcontractor's own business premises. This requirement shall apply to vehicles used at any City work site and vehicles used to perform any work under this Contract, except vehicles that are an employee's "own motor vehicle" pursuant to Wis. Stat. sec. 175.60(15m).
32. **IT NETWORK CONNECTION POLICY.**  
If this Contract includes services such as software support, software maintenance, network services, and/or system development services and will require a Network Connection the City Network (as defined in the following link), the City's Network Connection Policy found at this link: <http://www.cityofmadison.com/attorney/documents/popNetworkConnection.doc> is hereby incorporated and made a part of this Contract and Contractor agrees to comply with all of its requirements.
33. **AUTHORITY.**  
Contractor represents that it has the authority to enter into this Contract. If the Contractor is not an individual, the person signing on behalf of the Contractor represents and warrants that he or she has been duly authorized to bind the Contractor and sign this Contract on the Contractor's behalf.
34. **COUNTERPARTS, ELECTRONIC DELIVERY.**  
This Contract may be signed in counterparts, each of which shall be taken together as a whole to comprise a single document. Signatures on this Contract may be exchanged between the parties by facsimile, electronic scanned copy (.pdf) or similar technology and shall be as valid as original. Executed copies or counterparts of this Contract may be delivered by facsimile or email and upon receipt will be deemed original and binding upon the parties hereto, whether or not a hard copy is also delivered. Copies of this Contract, fully executed, shall be as valid as an original.

IN WITNESS WHEREOF, the parties hereto have set their hands at Madison, Wisconsin.

CONTRACTOR

The Hiebling Group, Inc.  
(Type or Print Name of Contracting Entity)

By: [Signature]  
(Signature)

Paul Thompson STRATEGY DIRECTOR  
(Print Name and Title of Person Signing)

Date: 11/13/15

CITY OF MADISON, WISCONSIN  
a municipal corporation

By: [Signature]  
Paul R. Soglin, Mayor

Date: 12-18-15

Approved:

[Signature]  
David P. Sohmledtke, Finance Director

Date: 12/11/15

By: [Signature]  
Maribeth Witzel-Behl, City Clerk

Date: November 23, 2015

Approved as to Form:  
[Signature]  
Michael P. May, City Attorney

[Signature]  
Eric T. Veum, Risk Manager

Date: 12/8/15

Date: 16 DECEMBER 2015

NOTE: Certain service contracts may be executed by the designee of the Finance Director on behalf of the City of Madison:

By: Kathryn L. Schwenn, CPA, Accountant 3  
Designee of Finance Director

Date: \_\_\_\_\_

MGO 4.26(3) and (5) authorize the Finance Director or designee to sign purchase of service contracts when all of the following apply:

- (a) The funds are included in the approved City budget.
- (b) An RFP or competitive process was used, or the Contract is exempt from competitive bidding under 4.26(4)(a).
- (c) The City Attorney has approved the form of the Contract.
- (d) The Contract complies with other laws, resolutions and ordinances.
- (e) The Contract is for a period of 1 year or less, OR not more than 3 years AND the average cost is not more than \$50,000 per year, AND was subject to competitive bidding. (If over \$25,000 and exempt from bidding under 4.26(4)(a), regardless of duration of the Contract, the Common Council must authorize the Contract by resolution and the Mayor and City Clerk must sign, per 4.26(5)(b).)

Emergency Service contracts may also be signed by the designee of the Finance Director if the requirements of MGO 4.26(3)(c) are met.



**Exhibit A**  
**Purchase of Services Agreement 2015**  
**Between City and The Heibing Group, Inc.**

**Contractor Responsibilities**

The work may include, but is not limited to:

- Reformatting and copy changes to existing print advertisements.
- Advise on creative execution, positioning and corresponding message strategy.
- Creation of new advertisements for print and digital use.
- Advise on media placement strategy, and social media use and content.
- Market research and evaluation.
- Placement of annual 10 to 12 month print media schedule in each of approximately 5 publications.
- Work with publications to trouble shoot any technical or production glitches in Monona Terrace advertisements.
- Other projects as needed (such as development/enhancement of Monona Terrace social media including Facebook, Twitter, LinkedIn pages, or Google Adwords best practices advice). Content development for Monona Terrace.
- Print or broadcast placement will be done by Contractor at an hourly rate. No placement commission percentage will be retained by Contractor.

**AMENDMENT # 1**  
to the Contract For Purchase of Services  
between the City of Madison and The Hiebing Group, Inc.,  
dated December 18, 2015.

**AMENDMENT:**

The City of Madison and Contractor listed above agree to amend the Contract for Purchase of Services executed by the City on December 18, 2015 ("Original Contract"), as follows:

1. Amend section 4, Term, to extend the term of the contract from December 31, 2015 to December 31, 2016.
2. All other provisions of the Original Contract shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto, by their respective authorized agents, have caused this Amendment #1 to be executed:

**CONTRACTOR**

Hiebing  
(Type or Print Name of Contracting Entity)  
By: [Signature]  
(Signature)  
Paul Thompson Strategy Director  
(Print Name and Title of Person Signing)  
Date: 1.5.2016

**CITY OF MADISON, WISCONSIN**  
a municipal corporation

By: [Signature]  
Gregg McManis, as Executive Director of the  
Monona Terrace Community Convention Center  
Board  
Date: 1-19-16  
By: [Signature]  
Glenn Krieg, as Chair of the Monona Terrace  
Community Convention Center Board  
Date: 1-21-16

Approved:

[Signature]  
David P. Schmiedicke, Finance Director

Date: 1/13/16

[Signature]  
Eric T. Veum, Risk Manager

Date: 1/8/16

Approved as to Form:

[Signature]  
Michael P. May, City Attorney

Date: 19 JANUARY 2016





# Purchase Order

Fiscal Year 2016 Page 1 of 1

MONONA TERRACE COMM CONV CTR  
 1 JOHN NOLEN DRIVE  
 MADISON WI 53703  
 (608) 261-4000

Purchase Order # 16000153-00

HIEBING GROUP INC  
 315 WISCONSIN AVE  
 MADISON WI 53703

MONONA TERRACE COMM CONV CTR  
 1 JOHN NOLEN DRIVE  
 MADISON WI 53703

Vendor Phone Number	Vendor Fax Number	Request Number	Way Reference	
608-256-6357		16000224		
Date Ordered	Vendor Number	Date Received	Project Name/Location	
01/12/2016	605120	01/20/2016	MONONA TERRACE CONVENTION CENT	
Item #	Description	UOM	Unit Price	Total
	COMMUNICATIONS AND MEDIA RELAT.			
1	Advertising Agency Services	1.0 EACH	\$45,000.000	\$45,000.00
2	Advertising Agency Services	1.0 EACH	\$55,000.000	\$55,000.00
<i>Resolution already approved; 100,000 split of 55/45 given by Bill Z. (MT).</i>				

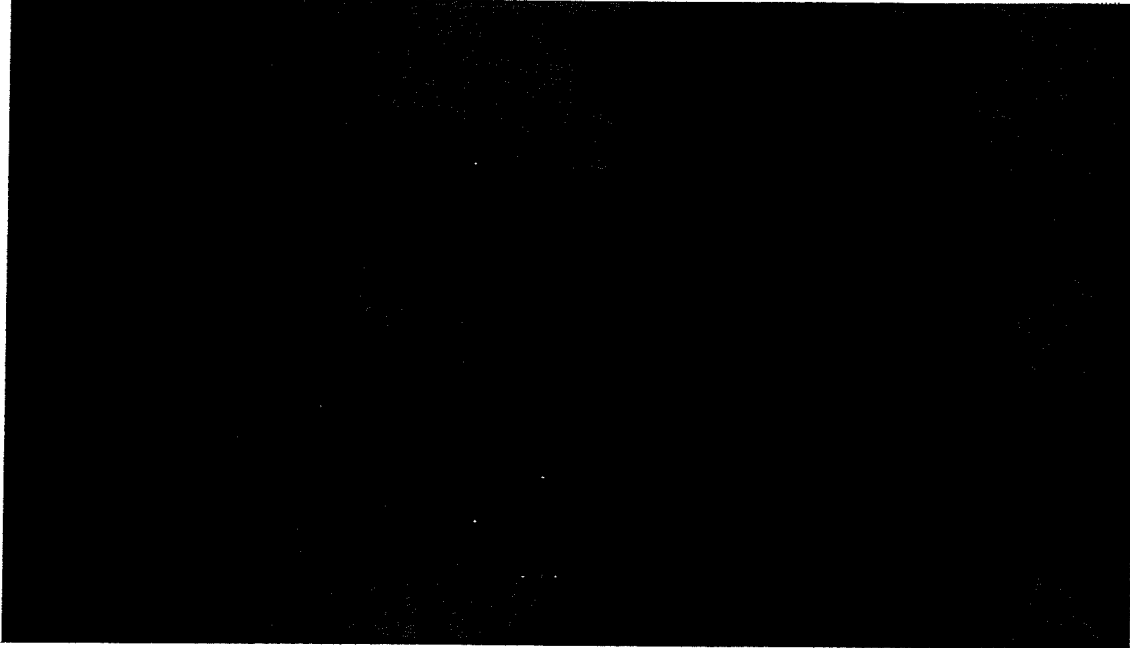
EXHIBIT  
 6

By David Chludubek  
 Finance Director

VENDOR COPY

PO Total \$100,000.00

**From:** [Kathi Hurtgen](#)  
**To:** [Sarah L. Stroik](#)  
**Subject:** Fwd: Studio Gear rental terms.  
**Date:** Thursday, April 07, 2016 4:17:09 PM



**From:** "Mainella, Lara" <[LMainella@cityofmadison.com](mailto:LMainella@cityofmadison.com)>  
**Date:** March 6, 2015 at 4:24:25 PM CST  
**To:** "Veum, Eric" <[EVeum@cityofmadison.com](mailto:EVeum@cityofmadison.com)>, "Hurtgen, Katherine" <[KHurtgen@cityofmadison.com](mailto:KHurtgen@cityofmadison.com)>  
**Cc:** "Schwenn, Kathryn" <[KSchwenn@cityofmadison.com](mailto:KSchwenn@cityofmadison.com)>, "Brist, Steven" <[SBrist@cityofmadison.com](mailto:SBrist@cityofmadison.com)>  
**Subject:** RE: Studio Gear rental terms.

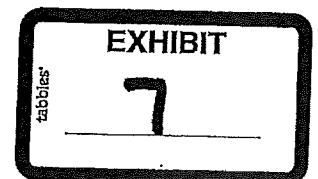
Kathi – in an effort to get things moving, I am sending you:

- (1) marked up copy of their rental terms and conditions with the edits requested by me and the risk manager
- (2) an addendum that includes only the essential terms and conditions from the back of the City's PO.

This is how we are willing to handle equipment rental that does not involve any services.

If they are providing services for us or personnel, along with the equipment, we will want to use a POS because additional legal terms will apply.

This will work for the pending TASC rental.  
After that, once they reach \$25k we will need an affirmative action plan.



And if they are providing services we will want to do a POS.

Hope this works.

See also the info below that Eric needs to add their equipment to our property insurance.

PLEASE NOTE: I am on vacation March 11-19.

thanks,Lara

From: Veum, Eric  
Sent: Wednesday, March 04, 2015 3:58 PM  
To: Mainella, Lara; Hurtgen, Katherine  
Subject: RE:

apvdrmnt0001.txt

04/09/2016 15:25 |CITY OF MADISON

mtkmh

|CHECKS BROWSE

|P 1

|apvdrmnt

Cash Account	Check #	Check Date	Check Ru	Clr	Cleared Da
Amount	Stale	Comments	Void	Comments	Type

0000 11102 00000	10390	04/14/2015	041415A	Y	04/16/2015
16,520.00					

0000 11102 00000	1172	01/13/2015	011305A	Y	01/16/2015
9,240.00					

PRINTED

Vendor 604606 STUDIO GEAR has 2 Checks for: 25,760.00

\*\* END OF REPORT - Generated by KATHERINE M HURTGEN \*\*



**From:** [Kathi Hurtgen](#)  
**To:** [kathi.hurtgen](#); [Jessica M. Kramer](#)  
**Subject:** Fwd: Friends groups  
**Date:** Thursday, April 28, 2016 11:58:48 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)



**From:** "Brist, Steven" <[SBrist@cityofmadison.com](mailto:SBrist@cityofmadison.com)>  
**Date:** September 4, 2015 at 9:00:31 AM CDT  
**To:** "Hurtgen, Katherine" <[KHurtgen@cityofmadison.com](mailto:KHurtgen@cityofmadison.com)>  
**Subject:** RE: Friends groups

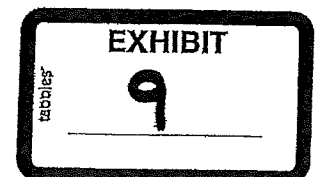
Do you know whether there is an agreement between Monona Terrace and Monona Terrace Community Programs Inc., that describes the relationship between the two entities? Thanks, Steve

Steven C. Brist

Assistant City Attorney

City of Madison-- Office of the City Attorney 210 Martin  
Luther King Jr. Blvd. Room 401 Madison, WI 53703  
telephone 608-266-4511 fax. 608-267-8715

PRIVILEGE AND CONFIDENTIALITY NOTICE



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---

**From:** Hurtgen, Katherine  
**Sent:** Thursday, September 03, 2015 1:57 PM  
**To:** Brist, Steven  
**Subject:** RE: Friends groups

Hi Steve-

I dug up the bylaws. They want to change the address for their insurance to my City address. My fear is that by being the address for bills needing to be paid (and the organization putting my name on as the addressee) that I am somehow liable if I give the bills to the entity's officer and he/she doesn't pay it on time. For example, insurance on the officers. If the bill comes to MT addressed to me, but is for another organization's officers, Am I liable now because my name is on the bill and it's delivered to my office?

FYI- This organization keeps it checkbook at MT. I am routinely asked to write out the check (except signature) and run it up to BMO Harris for the signature (by one of the organization's officers). It seems having the officer receive "official" mail here at my office address saddles me with responsibility I don't want or need for ensuring payment.

I am gun-shy because when I first started here at MT I was told it was part of my job to file the taxes for this organization. I did them. I made a mistake on them. I don't do them any longer, but I don't want to backslide into the way it used to be either. It was never appropriate to have a City employee doing the tax filing for this organization. This is dangerously close in my eyes.

What do you think?

---

**From:** Brist, Steven



**Sent:** Thursday, September 03, 2015 10:41 AM  
**To:** Hurtgen, Katherine  
**Cc:** Mainella, Lara  
**Subject:** FW: Friends groups

Hi: Lara forwarded your question to me. Is it possible to get me a copy of the group's bylaws? I am aware that other agencies have Friends groups associated with them, and I believe that the Friends groups are closely tied to those agencies, even to the extent that they may even have an office address in their City facility. I will look into this in light of the Ethics code. I might need to contact you for further information. Steve

Steven C. Brist

Assistant City Attorney

City of Madison-- Office of the City Attorney 210 Martin  
Luther King Jr. Blvd. Room 401 Madison, WI 53703  
telephone 608-266-4511 fax. 608-267-8715

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---

**From:** Mainella, Lara  
**Sent:** Thursday, September 03, 2015 10:32 AM  
**To:** Brist, Steven  
**Subject:** FW: Friends groups

Hi Steve – please see the question below from Kathi Hurtgen at MT. It's mostly an ethics question, I think.

---

**From:** Hurtgen, Katherine  
**Sent:** Thursday, September 03, 2015 10:30 AM

**To:** Mainella, Lara  
**Subject:** RE: Friends groups

Monona Terrace Community Programs Inc

---

**From:** Mainella, Lara  
**Sent:** Thursday, September 03, 2015 10:29 AM  
**To:** Hurtgen, Katherine  
**Subject:** RE: Friends groups

thanks. what's the full name of the friends group?

---

**From:** Hurtgen, Katherine  
**Sent:** Thursday, September 03, 2015 10:29 AM  
**To:** Mainella, Lara  
**Subject:** RE: Friends groups

Sure.

---

**From:** Mainella, Lara  
**Sent:** Thursday, September 03, 2015 10:23 AM  
**To:** Hurtgen, Katherine  
**Subject:** RE: Friends groups

Hi Kathi – do you mind if I ask Steve Brist? aside from being the atty for MT, he is also the ethics/ conflicts of interest guy. he will likely have some follow up questions.

---

**From:** Hurtgen, Katherine  
**Sent:** Thursday, September 03, 2015 9:17 AM  
**To:** Mainella, Lara  
**Subject:** Friends groups

Hi Lara-

Quick question....I am objecting to my agency's directive to keep the checkbook onsite at MT for our Friends of Monona Terrace group. Their board has 3 members who all could keep the checkbook at their offices but direct me to keep it here. They now want to change the legal address for their officer's insurance policy billing and payment to my office. Again I said no because the City has no need or want to be involved with if and when their insurance gets paid. As the finance manager, I believe holding their checkbook and taking responsibility for their mail/insurance bill is a conflict of interest. Am I off base on this? No one believes me.

Kathi Hurtgen  
Associate Director  
Monona Terrace Community & Convention Center  
A public place by Frank Lloyd Wright  
Where business and inspiration meet

One John Nolen Drive  
Madison, WI 53703  
608-261-4033  
608-261-4049 (fax)  
[khurtgen@mononaterrace.com](mailto:khurtgen@mononaterrace.com)  
[www.mononaterrace.com](http://www.mononaterrace.com)



**From:** [Kathi Hurtgen](#)  
**To:** [Sarah L. Stroik](#)  
**Subject:** Fwd: Probable debarment/payment hold on Tai Ping Carpets--defaulted/non AA compliance  
**Date:** Thursday, April 07, 2016 4:22:51 PM

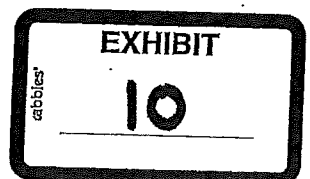


**From:** "Whitehead, Randy" <[RWhitehead@cityofmadison.com](mailto:RWhitehead@cityofmadison.com)>  
**Date:** August 12, 2015 at 2:01:19 PM CDT  
**To:** "Schwenn, Kathryn" <[KSchwenn@cityofmadison.com](mailto:KSchwenn@cityofmadison.com)>, "Hanaman, Dana" <[DHanaman@cityofmadison.com](mailto:DHanaman@cityofmadison.com)>  
**Cc:** "Hurtgen, Katherine" <[KHurtgen@cityofmadison.com](mailto:KHurtgen@cityofmadison.com)>, "Davis, Norman" <[NDavis@cityofmadison.com](mailto:NDavis@cityofmadison.com)>, "McCarthy, Kate" <[KMcCarthy@cityofmadison.com](mailto:KMcCarthy@cityofmadison.com)>  
**Subject:** RE: Probable debarment/payment hold on Tai Ping Carpets--defaulted/non AA compliance

Dana,

In reviewing the documents submitted by Tai Ping, there is no exception listed for the AA Plan. They had a list of exceptions which were apparently worked out between Monona Terrace and the vendor, but nothing mentioned about AA compliance. We, of course, have no way of knowing if something was verbally communicated from Tai Ping to Jeff Griffith at Monona Terrace, but there was nothing documented in their written proposal. I am also confident that were Monette aware of any issue with AA compliance that she would not have allowed this vendor to be awarded the contract.

It is City policy to issue PO's for the purchase of goods, which is what



happened in this case. We only sign a contract for purchase of services if there are services involved, which in this case there were none. If you believe a written contract for the purchase of goods is a necessary requirement you should work with the City Attorney's office to create that contract. We would also at that point need to determine the dollar threshold for which that contract would be required.

In the future, it would be appreciated if you would ask Purchasing what happened in these cases rather than accusing us of not following proper procedures. We are not perfect, and I'm sure from time-to-time mistakes are made, but giving the benefit of the doubt up front seems like a reasonable course of action.

Randy

---

**From:** Schwenn, Kathryn  
**Sent:** Wednesday, August 12, 2015 1:47 PM  
**To:** Hanaman, Dana; Whitehead, Randy  
**Cc:** Hurtgen, Katherine; Davis, Norman; McCarthy, Kate  
**Subject:** RE: Probable debarment/payment hold on Tai Ping Carpets--defaulted/non AA compliance

Dana,  
Attached is the RFP and Tai Ping's proposal.  
This was a purchase of goods only.  
Kathy

---

**From:** Hanaman, Dana  
**Sent:** Wednesday, August 12, 2015 11:35 AM  
**To:** Whitehead, Randy; Schwenn, Kathryn  
**Cc:** Hurtgen, Katherine; Davis, Norman; McCarthy, Kate  
**Subject:** FW: Probable debarment/payment hold on Tai Ping Carpets--defaulted/non AA compliance  
**Importance:** High

Hello all:

We are in the middle of our annual AA default process, and must advise that this vendor defaulted, should be inactivated and placed on payment hold due to their refusal to comply with the AA plan requirements. Apparently, the company even initially "took exception" with AA compliance during the 2012 RFP process, but in spite of this, still was awarded the bid and was paid over ~~\$579,600~~ (off only one invoice and without contract for carpet???) last year. (See below)

We are confused as to how no contract was ever done for this,

which is a large violation of purchasing rules and requirements. Further, if this bidder actually said they would not comply with AA, as its rep claim's below, then this company's bid should never been accepted, nor should they have been paid without AA compliance. Because it seems that this Georgia company refused and continues to refuse to provide an AA Plan, it will be debarred and because of the very large amount of this contract, additional remedies will be sought.

Kathy S.—Could you please reply with the RFP on this?

Brian confirmed that there was an RFP on file, but no contract could be located, although this company was paid well over half a million dollars last year??, so we would like further detailed information on how they were contracted and allowed to receive this large of amount of City money.

(FYI: After investigation, it sounds like they bid in 10/12, but did not invoice us until 11/13, and were not paid until 1/14.)

I gather from our prior communications that agencies would like a final opportunity to assist vendors to comply before inactivation, so I have copied Kathy H. since the contractor states they contracted with MTerrace.

Please confirm payment hold, and thank you for your feedback and follow up to provide rectification of this sort of very large single invoicing without contract, in order to avoid, particularly, such large amounts of City dollars being paid out to non-compliant companies ever again.

We would suggest that we crucially need to put in place an automatic finance trigger process that alerts our AA Division when ANY invoice for over \$50k contains no payment over a month after contract date such that the City confirms that an AA Plan or Exemption has actually been properly submitted before any further monies are paid out.

Dana Hanaman, Esq.

Contract Compliance Specialist 2

City of Madison--Dept. of Civil Rights/AA Div.

Communications Team, Racial Equity and Social Justice Initiative (RESJI)

Main Tel 608 266 4910 • Direct Tel 608 267 1141 • Fax 608 266 6514

Web [www.cityofmadison.com/dcr/aaForms.cfm](http://www.cityofmadison.com/dcr/aaForms.cfm)

» » » Please consider the environment before printing this email. « « «

**From:** Kristy Jones [mailto:kristyjones@taipingcarpets.com]  
**Sent:** Tuesday, August 11, 2015 4:05 PM  
**To:** Hanaman, Dana  
**Cc:** Davis, Norman; Shelly Waters; Pat Goggin  
**Subject:** Re: Affirmative Action Plan

Hi Dana:

We took exception to the affirmative action plan and advised we would not submit one in our bid submitted on 10/26/12. Our bid was accepted with this exception taken. We do not have an affirmative action plan and cannot provide you with one.

Thank you,

Kristy Jones  
Market Development Manager  
Tai Ping Carpets Americas, Inc.  
715 Curtis Parkway SE  
Calhoun, GA 30701  
Tel +1 800 433 2440  
Dir +1 706 602 5434  
Fax +1 706 879 6179

[www.taipingcarpets.com](http://www.taipingcarpets.com)

On Mon, Aug 3, 2015 at 3:29 PM, Hanaman, Dana


<[DHanaman@cityofmadison.com](mailto:DHanaman@cityofmadison.com)> wrote:

No.... whatever bid/RFP or solicitation there was, we did not receive our Model Plan for Vendors completed by you within 30 days of any contracting/purchasing, or receiving over \$25K from the City/MTerrace.

We have a City AA Ordinance which controls here; therefore, it is not only federal contractors...some jurisdictions have their own local AA legislation, which is the source of our AAP authority regarding all City of Madison contractors OVER \$25K annually and 14 employees.

Again, refer to link below to bring up our Model AA Plan, thoroughly complete and reply with it attached. Thank you.

Dana Hanaman, Esq.  
Contract Compliance Specialist 2

City of Madison--Dept. of Civil Rights/AA Div.  
Communications Team, Racial Equity and Social Justice Initiative (RESJI)  
*Main Tel 608 266 4910 • Direct Tel 608 267 1141 • Fax 608 266 6514*  
*Web [www.cityofmadison.com/dcr/aaForms.cfm](http://www.cityofmadison.com/dcr/aaForms.cfm)*  
» » »  Please consider the environment before printing this email. « « «

---

**From:** Kristy Jones [mailto:[kristyjones@taipingcarpets.com](mailto:kristyjones@taipingcarpets.com)]  
**Sent:** Friday, July 31, 2015 12:14 PM  
**To:** Hanaman, Dana  
**Cc:** Davis, Norman  
**Subject:** Re: Affirmative Action Plan

Dana, did we submit one with the bid? I don't show any record of that. Also typically in any case that is similar we submit our HR hiring policies.

Kristy Jones  
Market Development Manager  
Tai Ping Carpets Americas, Inc.  
715 Curtis Parkway SE  
Calhoun, GA 30701  
Tel [+1 800 433 2440](tel:+18004332440)  
Dir [+1 706 602 5434](tel:+17066025434)  
Fax [+1 706 879 6179](tel:+17068796179)

[www.taipingcarpets.com](http://www.taipingcarpets.com)

On Fri, Jul 31, 2015 at 12:48 PM, Hanaman, Dana  
<[DHanaman@cityofmadison.com](mailto:DHanaman@cityofmadison.com)> wrote:  
Yes, when you contracted with the City/MTerrace you were advised in purchase orders or contract of our Ordinance. Please reply with our Model AA Plan for Vendors fully completed available via my signature below before 8.28 or the City's debasement/default process will proceed. After reviewing our model plan, please email me if you need any technical assistance completing.

I am out of office today.  
Thank you.

---

**From:** Kristy Jones [[kristyjones@taipingcarpets.com](mailto:kristyjones@taipingcarpets.com)]  
**Sent:** Friday, July 31, 2015 7:37 AM  
**To:** Hanaman, Dana  
**Subject:** Affirmative Action Plan

Hi Dana:

Can you please call me today. Monona Terrace bought carpet from us in 2013 or 14 and I'm getting a letter for an affirmative action plan? We are a corporation and a manufacturer. Not sure why this is applicable at this late stage. We are a publicly traded company.



Please contact me confused why we are now receiving this.....

thank you,  
Kristy Jones  
Market Development Manager  
Tai Ping Carpets Americas, Inc.  
715 Curtis Parkway SE  
Calhoun, GA 30701  
Tel +1 800 433 2440  
Dir +1 706 602 5434  
Fax +1 706 879 6179

www.taipingcarpets.com<<http://www.taipingcarpets.com>>

