

State of Nevada
Department of Business and Industry
Real Estate Division
3300 W Sahara Avenue
Suite 350
Las Vegas, NV 89102



Brian Sandoval
Governor

Sharath Chandra
Administrator

ATTACHMENT AA
SOLICITATION: CIC-MED-18-001
ALTERNATIVE DISPUTE RESOLUTION
MEDIATOR PANEL

November 22, 2017

Marina Benn
State of Nevada
Department of Business and Industry
Real Estate Division
Office of the Ombudsman
For Common-Interest Communities and Condominium Hotels
Phone Contact: 702-486-4482
Fax Delivery: 702-486-4520 or Email Delivery: mbenn@red.nv.gov

Subject: Mediation Services

The State of Nevada, Real Estate Division is seeking proposals from qualified vendors for mediator services for the Alternative Dispute Resolution program and statewide on an as needed basis. The State does not guarantee any minimum volume of services. It is the State's intent to enter into contracts with qualified mediators, acting as independent contractors, who have experience in meeting the various needs of agencies. These needs will vary but may include, at a minimum, scope of work:

1. Must be a Certified Mediator (current within recertification requirements).
2. Must have a minimum of two (2) years' experience with mediating disputes between parties in a professional capacity.
3. Must have training and experience with resolution of disputes concerning Associations, including, and without limitation, the interpretation, application and enforcement of covenants; conditions and restrictions pertaining to residential property and the articles of incorporation; bylaws; rules and regulations of an association.
4. During the term of the contract, and within each fiscal year of July 1 through June 30, be available to attend up to (4) hours of instruction if requested by the Division without compensation from the State.

5. Notify the Division in writing of any scheduled or non-scheduled absences, vacations, or time periods the Mediator will not be available for assignment to a hearing.
6. Agree to update Mediator's curriculum vitae or resume when necessary for posting on the Division's website.
7. Must not have any pending litigation against the State of Nevada within the last five (5) years.
8. Conduct Mediations, and draft legal agreements based upon the outcome of the Mediation, addressing issues regarding:
 - a) The interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property, and/or any bylaws, rules or regulations adopted by an Association.
 - b) The procedures used for increasing, decreasing or imposing additional assessments upon residential property in a Home Owner Association (HOA).
9. Agree to notify the Division within three (3) business days after a claim is assigned if a conflict of interest exists with any party.
10. Must be available within the geographic location of the parties to the assigned claim.
11. Secure locations for mediations that are accessible and amenable to all parties involved.
12. Not later than 5 days after selection or appointment, Mediator shall make contact with the parties for the purposes of setting a date for the mediation and to notify them that they must provide to the mediator a written statement which sets forth the issues in dispute no later than 5 days before the mediation.
13. Review all supporting documents provided by the parties, schedule and conduct mediations in a manner that adheres to all statutes and policies mandated by NRS 38.
14. Conduct mediations that must not exceed 3 hours, unless the parties agree to an extension of such time.
15. Use their best efforts to complete assigned mediations within 60 days from the date of filing of the claim, as per NRS 38.330(1).
16. Within 30 days of completion of a mediation (successful or unsuccessful), provide to the Division a summary of the mediation, including whether or not the parties resolved their dispute.
17. Charge a fee not to exceed \$500.00 for 3 hours of mediation. If the parties agree to extend mediation beyond 3 hours, the fee for additional hours must not exceed \$200.00 per hour. The cost of the mediation shall be shared equally by both sides, unless a subsidy is provided for one or both sides.
18. If the Mediator receives notice from the Division that any portion of the mediation is subsidized, submit, upon completion of mediation, a cost schedule detailing the hourly rate, costs and expenses of the proceedings. The amount of the subsidy shall not exceed \$500.00 per mediation or \$250.00 per party, whichever is less, or any amount authorized by law.
19. Obtain any and all other costs and expenses not covered by the amount subsidized directly from the parties.

These contracts will be administered by the State of Nevada, Real Estate Division and are anticipated to commence February 01, 2018, upon Board of Examiners' (or Clerk of the Board) approval for an initial two (2) year period.

Your response should address, at a minimum, the following:

- The geographic regions you will provide service, i.e., statewide, rural, northern Nevada, southern Nevada
- A complete and notarized Mediator application
- A copy of your Mediator Certificate
- Nevada bar license number (if applicable)
- A current curriculum vitae or resume outlining education and experience
- Signed Attestations A and B
- A copy of your Certificate of Insurance (must provide the certificate of insurance identifying the coverages as specified in contract)
- A copy of an applicable city or county business license
- Contact person, and telephone number for service inquiries
- Provide a minimum of three references
- Company ownership and length of time in business
- Signed Cost Proposal
- Signed Mediation Policies and Procedures
- Signed and notarized Affidavit of Rejection of Industrial Insurance Coverage (if applicable)

Attached to this request you will find the State's standard Contract for Services of Independent Contractor form for your review.

Questions regarding this solicitation should be sent to Marina Benn, in writing, no later than December 01, 2017. Questions may be sent by fax to 702-486-4520 or e-mail to mbenn@red.nv.gov. Responses will be provided in writing on or about December 08, 2017, to all vendors who submit questions.

Please provide your written proposal no later than December 22, 2017, at 5:00 pm, PST. Your proposal must be addressed to Marina Benn. Solicitation number **CIC-MED-18-001** must be noted on the outside of your envelope.

Should you have any questions please do not hesitate to contact me at 702-486-4482.

Sincerely,

Marina Benn

Marina Benn
CIC Supervisor
State of Nevada
Department of Business and Industry
Real Estate Division
Office of the Ombudsman
For Common-Interest Communities and Condominium Hotels

SAMPLE STATE CONTRACT FORM

The following State Contract Form is provided as a courtesy to vendors interested in responding to this solicitation. Please review the terms and conditions in this form, as this is the standard contract used by the State for all services of independent contractors. It is not necessary for vendors to complete the Contract Form with their response.

If exceptions and/or assumptions require a change to the Contract Form, vendors *must* provide the specific language that is being proposed.

[Short Form Contract.docx](#)

If you are unable to access the above inserted file once you have doubled clicked on the icon, please contact Nevada State Purchasing at srypurch@admin.nv.gov for an emailed copy. This sample copy is provided for your reference.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

Independent Contractor's Signature

Date

Independent's Contractor's Title

Signature- State of Nevada

Date

Title

RMIns rev 03/08

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY - REAL ESTATE DIVISION
OFFICE OF THE OMBUDSMAN FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS
3300 W Sahara Ave, Ste. 325 * Las Vegas, NV 89104-4137
(702) 486-4480 * Toll free: (877) 829-9907 * Fax: (702) 486-4520
E-mail: CICombudsman@red.nv.gov <http://www.red.nv.gov>

ALTERNATIVE DISPUTE RESOLUTION
MEDIATOR APPLICATION FORM
(Please Print or Type)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Email address: _____

Phone number: _____ Cell: _____ Fax: _____

NEVADA BAR ID# _____ **Current Member Status:** _____
If applicable Must be in good standing

Company Information:

Name: _____

Ownership: Sole Proprietor Partnership Other: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone number: _____ Fax: _____ Email: _____

Qualifications:

List Mediation formal training/certifications. Include copies of any Certified Mediator certificates with the application.

Course/Training Titles: _____

Date(s): _____ Number of Hours: _____

Provider Name/Address: _____

Completion Validation: _____
(Attach additional training if applicable)

Profession: _____

Professional Certificates / Designations: _____

Please list foreign languages, or sign language, in which you have sufficient fluency to serve as a neutral:

Please describe any experience with the mediation of homeowner association disputes. If no experience, please enter N/A:

Geographic area I am able to conduct mediation services:

Reno/Carson/Tahoe Area

Central Nevada

Northeastern Nevada

Greater Las Vegas Area

Name of Mediation/Arbitration organization or service (If not applicable, please enter N/A):

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Member Since: _____

Fee and Expenses:

_____ Should I be appointed to the ADR Mediation panel, I acknowledge that as per NRS 38.330(1), all mediations are to be conducted at the maximum rate of \$500 for no more than (3) hours. Any additional mediation time must be agreed upon by all parties involved, and the rate for this additional time is to be no more than \$200.00 per hour.

_____ I acknowledge that Mediation proceedings may be subsidized by the Division per NAC 116.520 in an amount not to exceed \$500 or \$250 for each party who is eligible for subsidy, whichever is less; and that I am not an employee of the State of Nevada, and therefore, I am eligible to receive subsidy payments from the State.

_____ I acknowledge that Mediation proceedings can be subsidized based application approval and to the extent that funds are available per Nevada Administrative Code (NAC) 116.520(1).

_____ I CERTIFY that the above information and any other information I am submitting for this application is true and correct to the best of my knowledge and that I may be removed from the Mediation panel or the approved Division Neutral List for intentionally falsifying the information provided. False certification may also subject me to civil or criminal penalties. I understand that all of the information provided is a public record. I agree to comply with all provisions of NRS Chapter 38.

_____ If I am listed on the Division Neutral list, I agree to perform resolution services to the best of my ability in an ethical and proper manner and in accordance with the time provisions of the Mediation process.

_____ I acknowledge that unless otherwise agreed to by the parties, the mediator is appointed on a rotating basis within the discretion of the Division.

_____ Signature _____ Print Name _____ Date _____

State of Nevada

County of _____

I certify that this is a true and correct copy of a document in the possession of: _____,

(Name of person who presented document)

on _____ of _____, 20 _____

Title (and Rank): _____

Printed Name: _____

My Commission Expires: _____

(SEAL)

Attestation A

**STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION
OFFICE OF THE OMBUDSMAN FOR COMMON-INTEREST COMMUNITIES
MEDIATOR PROGRAM
SOLICITATION #CIC-MED-18-001**

**Declaration of Certification
of Nevada Revised Statutes (NRS) 116
and
Nevada Administrative Code (NAC) 116
(including R050-13 and R052-13)**

I _____,
(print name)

certify that I have read and understand the provisions, amendments, and revisions in chapter 116 of Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) identified above.

“I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.”

Executed on _____
Date *Signature*

Attestation B

**STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION
OFFICE OF THE OMBUDSMAN FOR COMMON-INTEREST COMMUNITIES
MEDIATOR PROGRAM
SOLICITATION #CIC-MED-18-001**

**Declaration of Certification
of Nevada Revised Statutes (NRS) 38.300-.360 and
Nevada Administrative Code (NAC) 38.350**

I _____,
(print name)

certify that I have read and understand the statutes and amendments to Nevada Revised Statute (NRS) 38 and the Nevada Administrative Code (NAC) 38.

“I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.”

Executed on _____
Date *Signature*

COST PROPOSAL

VENDOR _____

The parties agree that Contractor will provide mediation services specified in paragraph 4 at a cost to the parties of no more than \$500.00 for 3 hours of mediation, to be split equally by both sides. Any additional mediation time may be billed at a cost of no more than \$200.00 per hour, and must be approved by the parties to the mediation. The parties to the mediation are billed for the mediator's service.

Cost of services per 3 hours \$ _____

Additional Cost of mediation time \$ _____/per hour

Signature _____



DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

CIOmbudsman@red.nv.gov
www.red.nv.gov

MEDIATION POLICIES & PROCEDURES

I. FILING AND SUBMISSION OF CLAIMS AND RESPONSES

- a. Each Alternative Dispute Resolution (ADR) claim is filed on form #520 and is submitted to the Real Estate Division, along with a \$50.00 filing fee.
- b. On the claim form #520, the claimant will indicate that they would like to participate in mediation by checking "Mediation" on the form.
- c. After reviewing the list of available mediators, the claimant will note their mediator selection on page 3 of the claim form.
- d. If the claimant wishes to apply for subsidy, the completed form #668 will be submitted along with the claim.
- e. The claimant serves the respondent, who will then have 30 days to complete the response form and file it with the Division along with their \$50.00 filing fee.
- f. If the claimant has selected mediation and the respondent selects the referee program, the method of resolution will default to mediation. This also applies if a claimant selects the referee program and the respondent does not agree to utilize this method.
- g. The respondent must note if they are in agreement with the claimant's selection of mediation or referee by selecting their method to resolution, either mediation or referee. (#521).
- h. If there is no response within 30 days of service, the claimant is forwarded a letter stating that the other party did not respond after being served – therefore, no referee hearing OR mediation will be scheduled.
- i. A claim that is closed due to lack of response may be reopened upon request from the claimant should a response be received within (1) year of closure without an additional claimant filing fee - allowing further opportunity for the parties to satisfy the requirements of NRS 38.310.

II. ASSIGNMENT OF MEDIATOR

- a. The respondent submits their response form to the Division that indicates whether they agree with the claimant's selection of mediator. If they do not agree with the selection, a mediator will be randomly assigned. If they are in agreement with the selection of mediator, then that mediator will preside over the claim.
- b. The Division will then forward an assignment letter along with the claim and response forms to the assigned mediator.
- c. Upon receipt of the assignment letter and review of the forms, the mediator will notify the Division, within in three (3) business days, if a conflict of interest exists with any party.

- d. Should there be no conflict of interest, the mediator shall sign the mediator disclaimer form and submit at the time the claim is closed.
- e. Within three (3) days of assignment and review of the claim, the mediator will contact both parties to set up a time and date for the mediation. The mediator will request that each party submit a written statement which sets forth the issues in dispute no later than 5 days before the mediation is scheduled to be conducted.

MEDIATOR PROCEEDINGS AND DECISION

- a. The mediator is responsible for securing a location that is amenable to the parties. The mediator schedules and conducts a mediation that does not exceed 3 hours at the rate of \$500.00 for three hours, unless the parties agree to an extension of time, at an hourly rate that is not to exceed \$200.00 per hour.
- b. Mediators are to use their best effort to conclude mediation proceedings within 60 days from the date the claim was filed. Within 20 days after the conclusion of the mediation, any agreement obtained through mediation pursuant to NRS 38.330 must be reduced to writing by the mediator and a copy thereof provided to each party.
- c. An agreement reached through mediation may be enforced as any other written agreement. Mediation agreements are deemed as confidential – therefore, the mediator does not need to submit a copy of the signed agreement to the Division, but shall advise the Division as to the date of the mediation’s conclusion and the result (successful or unsuccessful).
- d. Should the parties not come to an agreement at the conclusion of a mediation, either party may proceed with a civil court filing within 30 days after the date of the unsuccessful mediation.

III. BILLING AND PAYMENT

- a. Mediators may request a deposit of up to \$250.00 from each party prior to the start of mediation proceedings. If a deposit is received, any amounts that are unused by the mediator must be returned to the party or parties.
- b. Should subsidy be granted by the Division, an ‘Invoice’ (form #631) must be submitted at the time of notification of the mediation’s conclusion and the result. Any amounts approved for subsidy (up to \$250.00 per party) will be direct deposited into the referee’s account on file with the State, up to 60 days after the receipt of the billing statement and decision.

This form is to be used if the awarded vendor is a sole proprietor and rejects the State's requirement of Workers Compensation.

Contact Risk Management for assistance at (775) 687-3188.

in the performance of this Contract. _____

6. I acknowledge that by signing this waiver I am not eligible for any workers' compensation or occupational disease benefits that I may be otherwise eligible, in the performance of this Contract. I acknowledge that should I incur any industrial injury or occupational disease in the performance of this Contract that I will be responsible for any costs, including medical, disability and rehabilitation benefits that I may incur. _____

7. Prior to executing this affidavit, I have had a full and fair opportunity to answer any questions I may have had regarding industrial insurance or occupational disease benefits and liabilities under Nevada law, including the opportunity to consult with counsel of my choice, and this Waiver is made with full knowledge of any liabilities that may incur. _____

8. I have read the provisions of NRS Chapters 616A to 616D, inclusive, and NRS Chapter 617 and I am otherwise in compliance with the terms, conditions and provisions thereof. _____

9. I, _____, do hereby swear under penalty of perjury that the assertions of this affidavit are true. _____

NAME

SUBSCRIBED and SWORN to before me

by _____

this ____ day of _____ 20____.

Notary Public, in and for said
County and State