**MARQUETTE UNIVERSITY**

**CONSULTING AGREEMENT**

This Consulting Agreement (“**Agreement**”) is effective as of February 19, 2020 (“**Effective Date**”) between MARQUETTE UNIVERSITY, a Wisconsin nonstock corporation (“**MU**”) and SUE KELLEY CONSULTING, 2216 East Stratford Court, Shorewood, WI 53211 (“**Consultant**”).

RECITAL

MU and Consultant desire to enter into this Agreement to provide for each party’s responsibilities with respect to the Project services described on the attached Exhibit A (the “**Services**”). The Services support **[Awarding Agency]** Grant #**[Grant Number]** (CFDA #**[CFDA Number]**), “**[Project Title]**” (the “**Project**”). The Project’s Principal Investigator is **[PI Name]**, **[PI Title]**, **[PI Department]**.

AGREEMENT

MU and Consultant agree as follows:

1. Consultant Responsibilities; Fees and Payments. Consultant will perform the Services, and MU will pay Consultant, as set forth on Exhibit A. Consultant is an independent contractor and will be solely and personally responsible for all federal, state and local taxes, contributions and premiums with regard to such payments.
2. Term and Termination. The term of this Agreement will run from the Effective Date of this Agreement until completion of the Services and payment by MU. Either party may terminate this Agreement for material breach of this Agreement. MU may immediately terminate this Agreement upon the death or incapacity of Consultant to provide for the timely completion of the Services.

In addition, MU may, at any time and for its convenience, terminate this Agreement in whole or in part by written notice to the Consultant. Upon receipt of the notice, Consultant will discontinue the Services to be terminated at the time and in the manner set forth in the notice, or if none, immediately. In addition, Consultant will also make all commercially reasonable efforts to secure the cancellation of any subcontract and material orders not fully performed on terms satisfactory to MU. Consultant will be entitled to receive progress payments for all completed work and unrecovered costs associated with the cancellation of outstanding subcontracts and material orders.

1. Ownership, Licensure and Usage of Work Product. Consultant acknowledges that the Project, and therefore by extension, the Services, are being funded by the Federal Government. The Services are expected to result in work product which may include reports, documents or other copyrightable materials (“**Work Product**”). Consultant retains ownership of any Work Product resulting from the Services; provided, however, that Consultant grants the following rights in any Work Product developed from this Agreement:

a. a royalty-free, nonexclusive and irrevocable right to the Federal Government to reproduce, publish or otherwise use the Work Product for Federal purposes and to authorize others to do so; and

b. a royalty-free, non-exclusive, irrevocable, non-transferable license to MU to use, reproduce and publish Work Product **only** for the following purposes: (i) to enable MU to honor its contractual and reporting obligations to the Federal Government; and (ii) for purposes consistent with MU’s not-for-profit educational mission, including, but not limited to, education and additional research projects related to the Project.

Consultant represents and warrants to MU that no third party will have any rights in any Work Product prepared by Consultant for MU under this Agreement and that Consultant has the necessary rights and authority to grant the licenses to the Work Product prepared by Consultant for MU under this Agreement.

1. Relationship. The parties are independent contractors. Nothing in this Agreement will be construed to create or imply any joint venture, employer/employee, principal/agent or partnership relationship between the parties. Consultant will not become an employee of MU. Neither party is authorized to nor will either party represent itself as the agent, representative, partner or joint venture of the other party unless agreed upon by both parties in specified circumstances. Consultant will make clear to all third-parties that Consultant is an independent contractor and consultant to MU and that Consultant is not an employee or official of MU. Neither party will have the authority to nor will either party attempt to assume any obligation by or on behalf of the other party.
2. Insurance. During the term of this Agreement, each party will maintain the following insurance policies from insurers licensed to do business in the State of Wisconsin: (a) Commercial general liability (CGL) insurance of not less than $1,000,000/occurrence and $2,000,000 aggregate; (b) Worker’s Compensation insurance in accordance with applicable state statutory limits; (c) Automobile insurance in the amount of $1,000,000 (including coverage for insured, uninsured, underinsured, owned and non-owned vehicles). Both parties agree that such insurance may not be revoked, reduced or changed in a material way without at least thirty (30) days advance written notice to the other party. Certificates of insurance will be provided upon request.

6. Hold Harmless. To the fullest extent permitted by law, each party agrees to indemnify, defend, and hold harmless the other party, and its agents, officers, directors and employees, from and against all losses, damages, liabilities, settlements or expenses, including costs and reasonable attorney’s fees, by reason of liability for damages including suits at law or in equity, caused by a party’s intentionally wrongful or negligent acts or omissions connected with its performance under this Agreement.

7. Nondisclosure of Confidential Information. Consultant will not, either directly or indirectly, as an employee, agent, consultant, shareholder or in any other capacity, use or disclose any confidential or proprietary information, including without limitation employee and student data, technical data, software, financial data and mailing lists (“**Confidential Information**”) of MU for any purpose other than performance of the Services. Unless Consultant has obtained the prior written consent of MU, Consultant will not disclose the Confidential Information to any third parties and Consultant will limit disclosure of the Confidential Information to Consultant employees with a need to know the Confidential Information. Consultant agrees that it is responsible for any breach of this Agreement by its officers, directors, shareholders, employees, consultants and agents. Confidential Information will not include any information that Consultant can demonstrate by written evidence: (a) was known to Consultant prior to the disclosure to Consultant by MU; or (b) has become public knowledge without a breach of this Agreement or other confidentiality obligation.

8. Delivery of Documents. MU may discontinue furnishing or making available access to Confidential Information at any time in the sole discretion of MU. Upon demand by MU, Consultant will promptly deliver to MU all Confidential Information and all correspondence, designs, sketches, drawings, manuals, letters, notes, computer diskettes, computer or voice tapes, notebooks, reports or any other documents or media embodying or concerning the Confidential Information that came into Consultant’s possession by any means whatsoever, during the performance of the Services.

9. Expenses. Except as expressly provided to the contrary in this Agreement, all expenses incurred by the parties will be the sole responsibility of the party who ordered the service or incurred the expense.

10. Governing Law. This Agreement will be governed by and construed exclusively in accordance with the laws of the State of Wisconsin, regardless of choice of law requirements. The parties hereby consent to the jurisdiction of the state courts and federal courts of for any suit, action or proceeding arising out of or related to this Agreement and expressly waive any and all objections they may have as to venue in any Wisconsin courts.

11. Assignment. This Agreement may not be assigned without the written consent of the other party. Consultant’s services are personal in nature and may not be assigned or delegated to any other person.

12. Entire Agreement. This Agreement represents the entire Agreement between the parties and supersedes any prior oral or written understandings with respect to the Services. This Agreement may only be amended in writing signed by the parties. Upon execution, this Agreement will be a valid and binding obligation of each party and enforceable in accordance with its terms.

CONSULTANT MARQUETTE UNIVERSITY

By: By:

Katherine Durben, Executive Director

Print Name: Research and Sponsored Programs

SSN:

**EXHIBIT A**

**Services and Fees**

**Description of Services:**

**Service Deliverables (if any):**

**Date(s) for Services:**

**Date for Final Completion of Services:**

**Payment for Services:**

**Payment Date(s):**