
RFB: ITB0008021

Page: 1

Due Date: 04/13/2011 Time: 12:00 PM

Purchasing Agent: SHERRY OWENS

Mail To:

PURCHASING DIVISION

200 E WASHINGTON ST SUITE 1522

INDIANAPOLIS, IN 46204 3313

For questions regarding specifications contact:

SHERRY OWENS

317 327 3577

THIS IS A REQUEST FOR PROPOSAL FOR AUCTIONEERING SERVICES FOR VEHICLES
AND RELATED EQUIPMENT FOR DPW, INDIANAPOLIS FLEET SERVICES

.

PLEASE DISREGARD THE FOLLOWING ITEMS:

1. THIS BID FORM

2. INSTRUCTIONS TO BIDDERS

3. AFFIDAVIT OF NON-COLLUSION

.

ALL RELEVANT INFORMATION TO VENDORS WILL BE FOUND IN THE REQUEST

.

PROPOSALS ARE TO BE DELIVERED TO THE PURCHASING DIVISION

.

1522 CITY COUNTY BUILDING

FOR PROPOSAL DOCUMENT.

200 EAST WASHINGTON STREET

INDIANAPOLIS, INDIANA 46204

.

ALL PROPOSALS ARE DUE 04/13/2011 BY 12:00 NOON, LOCAL TIME.

.

LATE BIDS WILL NOT BE ACCEPTED.

Line	Quantity	Unit	Unit Cost	Total Cost
001	1.00	EA	\$	\$
DISREGARD THIS PRICE LINE. ALL PRICING FOR AUCTIONING CITY ASSESTS TO BE MARKED ON PAGE 8 OF THE RFP SPECIFICATIONS				
Grand Total: \$				

RFB: ITB0008021

Page: 2

Due Date: 04/13/2011 Time: 12:00 PM

Purchasing Agent: SHERRY OWENS

Firm Name	_____	Prices Firm Through	_____
	—		—
Address	_____	Payment Terms	_____
	—		—
City, State, Zip	_____	Delivery Date ARO	_____
	—		—
Phone #	_____	Fax #	_____
	—		—
BY	_____		
	Representative (Signature)		

	Typewritten Name of Representative		

INSTRUCTIONS TO BIDDERS – BIDDERS MUST COMPLY WITH ALL INSTRUCTIONS AS OUTLINED

IMMEDIATE CAUSE FOR REJECTION OF BID

- A. Failure to comply with all instructions or to sign all necessary forms including the Request For Bid (RFB) form.
- B. Failure to submit a bid surety completely and correctly executed at the time of bid submission in the correct amount (if required).
- C. Failure to correctly and completely execute the non-collusion affidavit (if required).
- D. Failure to comply with any other mandatory bid requirements.

BONDING REQUIREMENTS

- A. Bidders may be required to provide with a bid, at time of submission, a bid surety in either a flat dollar amount or percentage of bid, as specified. Acceptable forms of bid surety as follows:
 - 1. Bid Bond secured from a bona fide bid surety firm.
 - 2. A Certified Check (or equivalent) if issued by a financial institution insured by an agency of the United States.
 - 3. Other Forms of Bid Surety as specified in a particular bid.All forms of Bid Surety should be made payable to the City of Indianapolis/Marion County. No cash or personal checks accepted. All bid surety will be held until formal award is made by the appropriate governing body and until successful vendor complies with all terms of the award.
- B. Successful bidder may be requested to provide a Performance Bond/Payment Bond in either a flat dollar amount or a percentage of bid as specified, made payable to the City of Indianapolis/Marion County, within ten days after receipt of award letter. Other forms of performance guarantee may be acceptable as specified in a particular bid.

GENERAL CONDITIONS/CONTRACTUAL CLAUSES

- A. The City of Indianapolis and Marion County are exempt from Local, State and Federal Taxes and will not be responsible for any taxes levied on vendor as a result of a bid award.
- B. All terms contained in this document will become part of contract between successful bidder and the City of Indianapolis/Marion County unless bidder takes exception.
- C. The City of Indianapolis and Marion County reserve the right to reject any and all bids and to waive any of the terms and conditions and provisions contained in the Invitation to Bid or other documents, or any informality, irregularity or omission in any bid, and to award to one or more bidders.
- D. Bidders may be required to submit City of Indianapolis/Marion County Form #102 (Financial Statement) for non-construction (non-public works) bids, if specified in a particular bid's technical specifications. Bidders may also be required to submit Form #102 for each construction (public works) bid under \$100,000.00, if specified in a particular bid's technical specifications.
- E. Telegraphic/Facsimile bids are not acceptable unless specified.
- F. Manufacturer and/or model number of equipment being bid must be stated.
- G. If not bidding a delivered price to point of destination, shipping charges must be shown as a separate price on the RFB form.
- H. Upon delivery and/or inspection of ordered goods or upon performance of services, should the ordering agency determine that goods/services do not meet specifications, same will not be accepted and shall be returned at vendor's expense.
- I. Reference to brand names, catalogue numbers etc., are made to establish level of quality needed and not for the purpose of limiting competition. It is the vendor's responsibility to show proof that goods being offered are of equal quality to those that were specified.
- J. Formal contracts and/or proof of insurability may be required if applicable to the bid.
- K. The City of Indianapolis/Marion County reserves the right to deny payment to vendors ordering or delivering goods/services without benefit of a verbal or written purchase order number.
- L. Any exceptions to the specifications must be clearly set forth in vendor's bid.
- M. All bidders must comply with Consolidated City of Indianapolis Mayor's Execution Order #1, 1987. The apparent low bidder must submit or have on file form CC-09, which may be obtained from the DEO office. Failure to do so may cause your bid to be rejected. Information pertaining to the DEO Program and/or any questions should be directed to: The Division of Equal Opportunity, 200 E. Washington St., Suite 1501, Indpls., IN 46204, (317) 327-5262.
- N. The Vendor agrees to indemnify and hold harmless Marion County, Indiana, the City of Indianapolis and its officers, agents, officials, and employees for any and all claims, actions, causes of action, judgments, and liens arising out of any negligent act of omission by the Vendor or any of its officers, agents, employees, or subcontractors or any defect in materials or workmanship or any supply, material, mechanism or other product which it or any of its officers, agents, employees, or subcontractors has supplied to the City/County or has used in connection with this Agreement. Such indemnity shall include attorney's fees, costs and other expenses arising therefrom or incurred in connection therewith and shall not be limited by reason of the enumeration of any insurance coverage required herein.
- O. Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by City/County are at any time not forthcoming or are insufficient, through failure of any entity to appropriate funds or otherwise, then City/County shall have the right to terminate this agreement without penalty by giving prior written notice documenting the lack of funds, in which instance, unless otherwise agreed to by the parties, this Agreement shall terminate and become null and void on the last day of the fiscal period for which appropriations were received. City/County agrees that it will make its best effort to obtain sufficient funds, including but not limited to, including in its budget for each fiscal period during the term hereof a request for sufficient funds to meet its obligations hereunder in full. This contract may be terminated by either party at City's option, upon 30 days written notice.
- P. No portion of this Agreement shall be sublet, assigned or otherwise disposed of by Vendor except with the written consent of the City/County being first obtained. Consent to sublet, assign or otherwise dispose of any portion of this Agreement shall not be construed to relieve Vendor of any responsibility for the fulfillment of the Agreement.
- Q. Unless otherwise specified within the Agreement, this Agreement shall be governed by the laws of the State of Indiana, and by all Municipal Ordinances and Codes of the Consolidated City of Indianapolis, as the same shall be in full force and effect upon the date this Agreement is executed.
- R. This Agreement represents the entire and integrated Agreement between City/County and Vendor and supersedes all prior negotiations, representations, agreements, and/or contracts, either written or oral. This Agreement may be amended only by written instrument signed by both City/County and Vendor and attached hereto as an addendum.

AFFIDAVIT OF NON-COLLUSION

THE UNDERSIGNED, HAVING BID FOR _____
in accordance with notice given by the Purchasing Division and the City of Indianapolis and/or Marion
County for such supplies, merchandise, service or contract for and in behalf of himself, or themselves,
being first duly sworn says:

That said bidder has not directly or indirectly entered into any combination, collusion, undertaking or
agreement relative to the price to be bid by any person, or to prevent any bidder, or bidders, from bidding, or
to induce any bidder, or bidders, to refrain from bidding for such supplies, merchandise, service or contract,
and that said bid so made is without reference or regard to any other bid, or bids, and without agreement,
understanding or combination, either directly or indirectly, with any person or persons, with reference to such
bidding in any way or manner whatsoever.

STATE OF _____ Signed) _____
COUNTY OF _____ } SS: _____

Subscribed and sworn to before me this _____ day of _____, 20____
My commision expires _____
Notary public _____ (Seal)
Dated at _____
City State Date

FAILURE TO PROPERLY NOTARIZE AND RETURN THIS FORM WILL INVALIDATE YOUR BID

RFP – 11- 8021

REQUEST FOR PROPOSALS

The City of Indianapolis Purchasing Division requests proposals from qualified vendors for

Auctioneering Services for Vehicles and Related Equipment For the Department of Public Works, Indianapolis Fleet Services Division

PROPOSAL

The City of Indianapolis understands that respondents may have questions that cannot be answered by the information contained within this Request for Proposals ("RFP"). All questions shall be submitted in writing by 4:30 p.m. on March 30, 2011 to Ms Sherry Owens, Buyer, Purchasing Division, Suite 1522, 200 E. Washington Street, Indianapolis, IN 46204, or by FAX to (317) 327-4493, or (preferably) by e-mail to Sherry.Owens@indy.gov

PROPOSAL SUBMITTAL DEADLINE:

Date: April 13, 2011 @ 12:00 Noon Local Time

(All proposals must be delivered to Suite 1522 by 12:00 Noon.)

The City of Indianapolis reserves the right to reject any or all proposals.

NO LATE PROPOSALS WILL BE ACCEPTED FOR ANY REASON WHATSOEVER

Submit proposals to:

Ms Sherry Owens
Purchasing Division
Suite 1522
200 E. Washington Street
Indianapolis, IN 46204

ENVELOPE MUST STATE CLEARLY THAT THE ENCLOSED PROPOSAL IS FOR

**Auctioneering Services for Vehicles and Related Equipment
(RFP – 11 -8021)**

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1. Executive Summary

1.1 Overview

The resulting agreement will be between the selected contractor(s) and the City of Indianapolis/Marion County, Department of Public Works, Fleet Services Division, herein referred to as "City". The basis for agreement is this Request for Proposal (RFP).

The City of Indianapolis, Fleet Services Division, is requesting proposals for Auctioneer Services for Vehicles and Related Equipment. Licensed and qualified auctioneers are invited to submit proposals to establish a two (2) year agreement for these services as required by both the City and Marion County.

1.2 City History

This section is to provide the vendor with information regarding the history of the goods/services requested herein. Any references made regarding quantities of services to be provided to the City are estimates only based on past history of services required or department survey, and the City may request substantially more or less than the amounts indicated.

The City has in the past disposed of the majority of its rolling stock through the auction process when vehicles and equipment are either obsolete or at the end of their useful life. During the past three years, the average number of pieces of equipment disposed of per auction can be described as follows:

[Figures listed in the table below are for the past three (3) consecutive years (2008, 2009 and 2010)]

Description	Average number of units per auction	Number of Auction Sales Held
Cars, trucks, vans, equipment and other vehicles up to 19,500 lbs. GVW and not requiring a Commercial Drivers License	84	14
Heavy Trucks and equipment over 19,501 lbs. GVW and requiring a Commercial Drivers License	29	5
Scrap vehicles and equipment (such as mowers, trailers, tractors, etc.)	33	4

2. Proposal Submission

2.1 Proposal Timeline and Submittal Address

2.1.1 The City has established the following tentative timeline for the administration of this RFP. These dates are subject to amendment at the City's discretion.

Activity	Date & Time
RFP Released to Vendor Community	March 14, 2011
Final Written Questions Due from Vendors to City	March 30, 2011 – 4:30 PM Local Time
Final Response to Written Questions from the City	April 1, 2011 – Posted as an Addendum
Proposals Due	April 13, 2011 – 12:00 Noon Local Time

2.1.2 Response to this RFP shall be addressed and submitted to:

Attn: Ms Sherry Owens, Buyer
Purchasing Division
City of Indianapolis
1522 City County Building
200 E. Washington St.
Indianapolis, Indiana 46204

2.2 Proposal Copy and Submission Requirements

- 2.2.1 Vendor shall supply a sealed box/envelope containing two (2) signed Originals and five (5) signed hard copies separated as follows - The two (2) signed Originals and five (5) signed hard copies should be marked as "Proposal" and should contain all the proposal information except any information pertaining to the Cost Proposal / Budget.
- 2.2.2 All Cost Proposal/Budget information should (any and all information pertaining to pricing or costs) be marked with "Vendor Name, RFP 11- 8021– Cost Proposal / Budget". Two originals and five copies should be furnished. Please clearly identify accordingly.
- 2.2.3 The box/envelope shall be clearly labeled with the vendor's name and "RFP # 11- 8021 Auctioneering Services for Vehicles and Related Equipment, Due Date: April 13, 2011 at 12:00 noon local time. An authorized representative of the vendor must sign the proposal.
- 2.2.4 Proposals must be received by the Purchasing Division and time stamped by the deadline. The City will not consider any proposals received after the official deadline. (The City will not make any exceptions due to failure or delay of the U.S. Postal service or any other delivery service, and vendors are strongly encouraged to take any steps necessary to ensure that the proposal is received on time.)

2.3 Questions and Answers

- 2.3.1 Any specific questions or comments concerning the RFP may:
- 2.3.1.1 Be presented by fax to the attention of Ms Sherry Owens, Buyer at 317-327-4493 or
 - 2.3.1.2 Be e-mailed to the attention of Ms Owens at Sherry.Owens@indy.gov , no later than 4:30 P.M. local time on March 30, 2011 (Questions or comments received after this time will not be entertained.)
- 2.3.2 **Please be sure to reference the RFP in question by name and RFP number when submitting questions.**
- 2.3.3 Vendors shall note that only the *written* answers provided will be binding on the City. These answers shall represent the City's official position and supersede any previous oral statements made during the Conference or at any time by City staff. The written answers will be posted on the City Purchasing Division web site (www.indy.gov/purch) as addenda to this RFP.

2.4 Addenda

- 2.4.1 Any related addenda to this RFP, including written answers to questions, will be posted on the Purchasing Division's official website at www.indy.gov/purch under the appropriate project heading. Addenda and updates will **NOT** be sent directly to vendors. It is recommended that any vendor submitting a proposal check the web site daily for addenda and updates after the release date. Vendors should print out, sign and return addenda acknowledgement(s) with their RFP (Reference Section H of the Response Format).

2.5 Conflicts Errors or Discrepancies

- 2.5.1 If a vendor finds conflicts, errors, discrepancies or ambiguities in the Proposal Documents or any sample form, or if the vendor is in doubt as to the intended meaning of any portion or provision therein, the vendor shall at once give written notice thereof to the City's Representative, at least seven (7) consecutive calendar days prior to the Proposal Due Date. No vendor shall be allowed any extra compensation or time extension by reason of any conflict, error, discrepancy or ambiguity of which the vendor had actual knowledge or reasonably shall have known and which he/she failed to report within the period and in the manner required herein.

3. Submission Format

3.1 General Requirements

- 3.1.1 All original and hard copies:
- 3.1.1.1 Shall be presented in a professional manner such as spiral bound, perfect bound, or professional grade folder/ three ring binder. (Ref 2.2 "Proposal Copy and Submission Requirements")
 - 3.1.1.2 Shall be appropriately titled on the front cover with the RFP name, RFP number, vendor name and the due date
 - 3.1.1.3 Foldouts that contain charts, spreadsheets, and oversize exhibits are permissible.
 - 3.1.1.4 Tabs or other separators shall serve to divide major sections of the proposal.
 - 3.1.1.5 Manuals and other reference documentation may be bound separately.
- 3.1.2 All responses, as well as any reference material presented, must be written in the English language. Main text shall be a common typeface (Arial, Times New Roman, etc.) and shall not be smaller than 11 pt.
- 3.1.3 The vendor should sufficiently address each item presented in the RFP and all Appendices in accordance with the directions found herein. Each item is expected to be addressed or the proposal may be judged as "non-responsive." Answers shall be clear, sufficiently detailed and specific to the City.
- 3.1.4 Proposals shall be based only on the material contained in the RFP. In addition to the main document, this includes written responses to questions as well as any other official amendments/addenda published by the City concerning the RFP. Proposals shall be prepared as simply as possible to provide straightforward, concise descriptions of the vendor's capability to satisfy the requirements of the RFP. Utmost attention shall be given to accuracy, completeness, and clarity of content. All parts, pages, figures, and tables shall be numbered and clearly labeled. The proposal shall be organized into the following major sections with tabs for sections numbered and titled as they appear below. Include a tab or section heading for each subsection.

3.2 Response Format – Section Definitions and Requirement Details

3.2.1 The format for RFP response submission is presented below. Please organize and format your proposal response in the following manner:

Response Section	Description
A.	Transmittal Letter
B.	Company Background and Team Arrangement
C.	Reference Reviews
D.	Vendor History
E.	Scope of Services
F.	MBE/WBE/VBE Participation
G.	Basic Service Agreement Acceptance
H.	Additional Information
I.	Cost Proposal / Budget

(The rest of this page left intentionally blank.)

A. Response Section – Transmittal Letter

- A.1. The vendor shall first submit a formal transmittal letter on *official company letterhead* that contains the following:
 - A.1.1. Statement of Interest – This statement shall indicate your firm’s general interest and capability to perform the project. It shall also include a brief summary of any information that you feel might be especially important to the City.
 - A.1.2. Statement of Proposal Life – The proposal must have a proposal life of at least one hundred eighty (180) calendar days from the RFP due date. This shall represent the minimum time during which the proposal is a firm offer and a contract may be entered into.
 - A.1.3. Contact Person – Please include the name, title, address, telephone number, fax number and e-mail of the key contact person for any questions regarding your proposal.
 - A.1.4. Signature of Authorized Representative – An authorized representative of the firm must sign the transmittal letter. **(Do not forget this signature)**

B. Response Section – Company Background and Team Arrangement

- B.1. This section should give a brief overview of the company and provide the following information:
 - B.1.1. Company name & local business address (Include any regional offices and/or headquarters.)
 - B.1.2. Year established (Include former names and year established, if applicable)
 - B.1.3. Proof of financial solvency (e.g. company balance sheets for the previous year)
- B.2. If a joint venture or subcontracts are contemplated, provide the same information as above for any subcontractors, and explain their role in the contract. (The Prime Contractor must assume all responsibility for the entire project, including the work of any subcontractors.)
- B.3. Please include any general pre-printed literature regarding your company in this section.

C. Response Section – Reference Reviews

- C.1. Please provide a detailed list of references showing your expertise and experience in providing the services requested. A minimum of three (3) references are required for this RFP. References should include project description, longevity, contact names, addresses, phone and e-mail.

D. Response Section – Vendor History

- D.1. The vendor must be a “responsible” vendor that is both ethically and financially in good standing within the industry, as determined by the City. If the vendor’s local office has had a contract terminated for default during the past three (3) years, this fact shall be disclosed in the RFP response along with the vendor’s position on the matter(s). If the vendor has experienced no such terminations for default in the past three years, then it should so indicate.
- D.2. Prime vendors should discuss their relationship with any subcontractor or lease holder, including the history of the partnership, formal certifications or authorizations, and any additional contractual or benefits that will accrue to the City based on the business relationship between the two entities. The proposal should include auctioneering services that are or have been managed successfully for at least five (5) years.

E. Response Section – Scope of Services

Based on the vendor’s understanding of the project, the vendor shall respond to each of the following items. Answers to this section shall become the basis for the Sample Service Agreement’s reference to Attachment A in Section II, “Duties of Contractor”. Responses shall be kept in the order in which they are presented herein by paragraph number.

- E.1. General Feature Requirements – Vendor shall provide a brief narrative delineating the general understanding of the services and the approach proposed to complete the required work.
- E.2. Vendor shall provide a detailed description of the Scope of Services to be completed including how the vendor will address the main areas. All the areas of the Scope of Services listed below must be clearly addressed in order for the contractor(s) to be fully qualified by City. For ease of scoring, responses to this section shall be kept in the same order in which they appear herein.
- E.2.1. Indicate the number of licensed auctioneers your company has on staff. Please provide name, address, and phone number and number of years experience in auctioneering services.
- E.2.2. Which days of the week would your company be available for auction services?
- E.2.3. It is anticipated that Indianapolis Fleet Services (IFS) will request auctions on an as needed basis during the contract term. Describe the “lead time” and coordination that would be required to schedule an auction through your company (lead time = number of business days from notification to date of auction).
- E.2.4. Please discuss how your company would handle transportation, reconditioning, storage, advertising and minor repairs for vehicles and equipment. Please include response time frames after receipt of IFS request is received. Note: Any repairs would be subject to and require pre-approval from the IFS Surplus Coordinator.
- E.2.5. Indicate where your auctions would be located and why you believe your facilities would be able to handle the volumes the City has traditionally seen over the past few years.
- E.2.6. Indicate how your company would meet the requirements of Indiana Code 5-22-22-4 (Advertising)
- E.2.7. Indicate how your company would handle the transfer of title and any other titling and related documents and how this will be verified to the City. Also, describe how duplicate and other related titling and related documents will be handled and any fees associated with those services.
- E.2.8. Describe the type of sales receipt your company would be willing to provide the City.
- E.2.9. Indicate your policies with regard to selling vehicles with/without warranties.
- E.2.10. Describe the process your company uses to identify vehicles that are “Salvage Only” and the manner in which these vehicles are advertised.
- E.2.11. Describe your company policy on reserves. (“Minimum” to be bid)
- E.2.12. How would you handle the removal of hazardous materials?
- E.2.13. What remedies would be available for damage to City/County owned vehicles while on your company's premises?
- E.2.14. What would your process be to educate buyers concerning the requirements of I.C. 5-22-22-9? (Requirement for repainting of ex-law enforcement vehicles that are painted in a law enforcement scheme involving more than one color)
- E.2.15. Please describe documentation/accounting records available to the City pursuant to this agreement.
- E.2.16. Would a legible, itemized listing of all items sold at the sale be made available to the City? If so, please describe the information available about the vehicles and equipment sold.
- E.2.17. Contractor will be responsible for collection of funds from sales. Describe your company process for the collection of funds from all patrons of the sale?
- E.2.18. What is your process for setting up lots that best represent the items being auctioned?
- E.2.19. Contractor will adjust lots. Can you work with the City Surplus Coordinator to adjust lots? What are your requirements for making lot adjustments?
- E.2.20. Contractor will be required to handle all aspects of the auction. Describe how you would conduct an auction including the actions of all Auctioneers and Barkers.

- E.2.21. Contractor will be required to submit a cashier's check to the City for the portion owed to the City within ten (10) business days. Describe how your firm protects such funds from point of sale until a check is furnished.
- E.2.22. Contractor will assist in the disposal of unsold property. Please describe your process for disposal of such property.

F. Response Section – MBE/WBE/VBE Participation

- F.1. It is the policy of the City that Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), and Veteran Business Enterprises (VBEs) shall have the maximum feasible opportunity to participate in the performance of contracts. Consequently, the City, through Article IV, sections 201-401 of the revised municipal code and Executive Order 5, 2008, has established MBE participation goals of 15%, WBE participation goals of 8%, and VBE participation goals of 3% for its dollars spent on public works, goods, and services.
- F.2. In order to help accomplish this goal, the City is requesting that you include with your response information regarding your status as an MBE, WBE or VBE. Additionally, please include contact information for any MBE, WBE or VBE owned contractors directly participating in your business operations. The City also requests contact information for any MBE, WBE or VBE sub-contractors that you might use in the course of doing business with the City. Some examples of this kind of service include, but are not limited to, office suppliers, courier services, shipping services, etc. These services can occur at the local, state, or national level. Please include an estimated percentage or dollar amount that you anticipate using.
- F.3. Be advised that the information provided on MBE/WBE/VBE participation will be included as part of the scoring criteria for this RFP. Accordingly, it is imperative that you do everything possible to obtain the information above and supply it as part of the RFP response.
- F.4. In order to be recognized by the City of Indianapolis as an MBE/WBE/VBE participant, your company must be certified with the Department of Minority & Women Business Development (DMWBD). The City will recognize only City of Indianapolis certified firms regardless of any other state or national affiliation. If you should need assistance in obtaining information or certification for possible participation in a contract, please contact the Division of Minority & Women Business Development (DMWBD) <http://www.indy.gov/eGov/City/DMWBD/MBE-WBE-VBE/Pages/Certification.aspx> or (317) 327-5262. Respondents can view a list of City DMWBD approved MBE/WBE/VBE contractors by going to this web page: <http://www.indy.gov/eGov/City/DMWBD/MBE-WBE-VBE/Pages/VendorList.aspx> and selecting the appropriate "Vendor List".

G. Response Section – Basic Services Agreement Acceptance

- G.1. The vendor should view the Sample Services Agreement found in RFP Section 6. Additional provisions as needed or required by the City will be discussed with the vendor during any negotiation process. The vendor does NOT need to sign this agreement but rather review and note any areas that need to be discussed with the City if selected for this project. The final contract with the vendor will include similar language to that shown in the Sample Service Agreement and specific language for this project. Note: Any proposed exceptions to this document should be listed in detail, attached and returned with the proposal.

H. Response Section – Additional Information

- H.1. Provide any additional information deemed necessary by the vendor to ensure success of the project. Any exceptions that the vendor would like to have for this project should be provided in detail. This section should also include any addenda published on the Purchasing Division web site prior to the due date for the RFP.

I. Response Section – Cost Proposal / Budget

- I.1. **Please be sure that this section is separated from the rest of the proposal on all originals and copies.**
- I.2. Answers to this section shall become the basis for the Sample Service Agreement's reference to Attachment B in Section IV, "Compensation". A table for other costs shall be used for all costs not associated with a particular task or deliverable listed.
- I.3. **Please cover the following items related to pricing:**

Item	Description	Pricing
I.3.1.	Transportation of Vehicles and Equipment (provided by Auctioneer) a. Pick-up By Auctioneer b. Towing By Auctioneer c. Removal of Drive Shafts	 a. \$ _____ per vehicle b. \$ _____ per vehicle c. \$ _____ per vehicle
I.3.2.	Special Services May Be Required by the City a. Basic Clean-up: Wash Unit, Vacuum Inside, Clean Windows and Trunk b. Detailing of Vehicles (Under 19,500 lbs GVW) c. Removal of Decals d. Replacement of Battery e. Replacement of Wheel Covers f. Jump Starting	 a. \$ _____ per vehicle b. \$ _____ per vehicle c. \$ _____ per vehicle d. \$ _____ per vehicle e. \$ _____ per vehicle f. \$ _____ per vehicle
I.3.3.	Additional Services Hourly Rate for Minor Repairs (Please provide a listing of repairs available)	\$ _____ per hour

I.3.4.	<u>Itemized Breakdown</u> - Please provide an itemized breakdown of auction service fees based on sale price.
I.3.5.	<u>Auctions at City Locations</u> - The City anticipates that auctions will be conducted at the Auctioneer's location and at City locations for special sales. Please indicate any special charges for conducting auctions at City locations within Marion County, IN., ie: buyer's fee.

(End of Response Format Sections)

4. Proposal Evaluation

- 4.1 Proposals will be evaluated and scored according to the following evaluation criteria. Proposals that significantly deviate from the City's requirements may be found "non-responsive" without further evaluation.

Evaluation Criteria	Percentage (Weight Factor)
Pricing	40%
Overall Capability to Perform Services (includes company history, qualifications and experience of staff, willingness to meet the scope of services)	40%
Contractor's References	15%
MBE/WBE /VBE Participation Plan	5%

5. Additional Provisions

- 5.1 Revision to the RFP - The City may modify or amend this RFP at any time. If it becomes necessary for the City to revise any part of this RFP, the revision(s) will be posted on the City's web site (www.indygov.org/purch). In such an event, the submission deadline may be extended, at the option of the City, to allow vendors the opportunity to revise their proposals accordingly.

5.2 Use, Disclosure and Confidentiality of Information

- 5.2.1 This RFP distributed by the City, including any other required terms, will be incorporated by reference and made a part of any resulting contract
- 5.2.2 The information supplied by a vendor as part of an RFP response will become the property of the City. Proposals will be available to interested parties in accordance with the Indiana Access to Public Records Act (IC 5-14-3). None of the proposal responses will be made available to the public until after negotiation and award of a contract or cancellation of the procurement.
- 5.2.3 To the extent requested by a vendor and allowed by law, the City will treat *trade secrets* and *confidential financial information* as confidential (if designated as confidential and submitted separately in a sealed envelope). The vendor must request confidential status before the proposals are opened. If the City believes that information designated as confidential should not be treated as such, the vendor will be notified and afforded reasonable time to present objections prior to any release of the information. The City will take into consideration the possibility of harm resulting from any disclosure, but reserves the right to make the final determination in accordance with the law. (Note: Pricing information may not be considered confidential.)

- 5.3 Errors in Proposals** – Vendors will not be allowed to change or alter their proposals after the deadline for proposal submission. The City reserves the right, however, to correct obvious errors such as math errors in extended pricing (not unit pricing). This type of correction may only be allowed for “obvious” errors such as arithmetic, typographical, or transposition errors. Any such corrections must be approved by the Purchasing Division and countersigned by the vendor. Vendors are advised to make sure that their proposals are true and correct when submitted.
- 5.4 Accessibility** – Individuals with disabilities or needing special assistance during site visits, scheduled conferences, openings or any other activities related to a bid, quote or request for proposal should contact the Purchasing Division at (317) 327- 4900 to make arrangements for such assistance.
- 5.5 Vendor Expenses** – By submitting a response to this RFP or participating in the process, each vendor agrees that all of its related expenses are its sole responsibility, and that the City will not be responsible for any costs whatsoever incurred by the vendor in connection with or resulting from the RFP process, including but not limited to costs for preparation/submission of proposals, travel & per diem, attending interviews, providing presentations or demonstrations, and participating in contract negotiation sessions.
- 5.6 Proposal Life** - Vendors must hold their proposals open and pricing firm for one hundred eighty (180) calendar days from the proposal submission deadline. Any proposal accepted by the City for the purpose of contract negotiations shall remain valid until superseded by an executed contract or until rejected by the City.
- 5.7 Post- Proposal Discussions and Presentations** – After the Proposal Due Date, the City may conduct discussions with representatives of one or more vendors submitting proposals for the purpose of obtaining clarification of a vendor’s proposal and/or to assure full understanding of the solicitation requirements. As part of this process, the City may require a vendor to provide one or more formal presentations to City officials to further explain or clarify their proposed solution. Any presentation will be at a time and place to be determined by City staff. The vendor will be notified in advance of the specifics if such a presentation is required. The commencement of discussions or the scheduling of presentations does not signify a commitment by the City to execute an agreement or to continue discussions with the vendor.
- 5.8 Contract Renewal** – Any resulting contract may be renewed beyond the expiration date by mutual agreement of the parties. The term of the renewal may not be longer than the term of the original contract.
- 5.9 Multiple Awards** – The City may award a contract to a single vendor; or, at its option, may award contracts to a team of vendors if deemed to be in the best interest of the City.
- 5.10 Intent to Purchase** - Although this solicitation and resultant contract may state a specific model or version and an estimated number of items or units to be purchased, it is understood and agreed that the City may purchase additional products and/or services from the contractor including subsequent product releases or replacement products; provided that these additional items do not materially differ from the original product and represent the same manufacturer and essential functionality.
- 5.11 Monitoring** - For management purposes, City agencies or departments may report contract problems to the Purchasing Division by using the City Intranet “Contract Monitoring Report”. This program of quality control is to ensure that contractors successfully fulfill their contractual obligations with the City and maintain a positive contractor performance status.

- 5.12 Contract Negotiations** – The City will use the requirements set forth in the RFP as the basis for proposal evaluations. After identifying one or more responsive and responsible vendors who appear to be most advantageous to the department, the City may enter into contract negotiations with the vendor(s). If at any time the contract negotiations are judged to be ineffective, the City may cease all activities with a vendor and begin/continue contract negotiation and preparation activities with another vendor and the process may continue until a contract is executed. As a part of this process, the City may obtain “best and final offers” from all vendors judged to be finalists. The City reserves the right to cease all contract negotiation activities at any time and reject all proposals if such action is determined by the City to be in its best interest.
- 5.13 No Obligation to Proceed** – The City is under no obligation to proceed with this project or any subsequent project, and may cancel this RFP at any time without the substitution of another, if such cancellation is deemed in the best interest of the City. Furthermore, the City may reject any and all proposals, waive any irregularities or informalities in a proposal, and issue a new or modified RFP, if it is found to be in the best interest of the City.
- 5.14 Proposal Withdrawal and Modification** – The City may allow a vendor representative bearing proper authorization and identification to sign for, receive, and withdraw the vendor's unopened proposal prior to submission deadline. A vendor wishing to modify its proposal may do so by withdrawing the initial submission and then submitting a modified proposal prior to the deadline.
- 5.15 Bonds** – A bond is not required for this RFP.
- 5.16 Purchase Orders** – The vendor shall furnish no services, equipment and materials or labor unless a properly executed order is received from the City directing the supply of the same.
- 5.17 Subcontractors** – The City intends to contract with one or more prime vendors who will be solely responsible for contractual performance. In the event a prime vendor utilizes one or more subcontractors, the prime vendor will assume all responsibility for performance of services by the subcontractor(s). Additionally, the City must be named as a third party beneficiary in all subcontracts. A list of all subcontractors proposed to take part in the performance of the contract (at its outset) shall be provided to the City for approval prior to contract execution. This request may require that sufficient financial or background information be provided. To the degree available, this information shall be included in an Appendix with the proposal response.
- 5.18 Taxes** – The City of Indianapolis and Marion County are exempt from Federal, State and Local Taxes and will not be responsible for any such taxes in connection with the award of this contract.
- 5.19 Licenses and Permits** – The successful vendor shall furnish the City upon request any and all documentation regarding necessary licenses, permits, certifications and/or registrations required by the laws or rules and regulations of the City of Indianapolis, Marion County, other units of local government, the State of Indiana and the United States. The vendor certifies that it is now and will remain in good standing with such governmental agencies and that it will keep its licenses, permits, certifications and/or registrations in force during the term of the agreement.
- 5.20 Use of the City's Name** – Upon entering an agreement, the successful vendor agrees not to use the name of the City of Indianapolis or Marion County in relation to the agreement in commercial advertising, trade literature or press releases to the extent without the prior written approval of the City.

(The rest of this page left intentionally blank.)

6. Sample Service Agreement

This Service Agreement (hereinafter referred to as "Agreement"), entered into by and between _____ (hereinafter referred to as "Contractor") and the Consolidated City of Indianapolis/Marion County, by and through the Department of _____, (hereinafter referred to as "City"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

SECTION I. INTERPRETATION AND INTENT

- 1.01 The "Agreement", as referred to herein, shall mean this Agreement executed by City and Contractor, and shall include these Terms and Conditions, the Attachments described in Sections II and IV and attached hereto, all addenda issued prior to receipt of RFPs, quotes, or bids, whether or not receipt thereof has been acknowledged by Contractor, all conditions, plans, specifications and standards, instructions and notice to vendors, and any written supplemental agreement or modification entered into between City and Contractor, in writing, after the date of this Agreement.
- 1.02 This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, written or verbal, between City and Contractor. No statements, promises or agreements whatsoever, in writing or verbal, in conflict with the terms of the Agreement have been made by City or Contractor which in any way modify, vary, alter, enlarge or invalidate any of the provisions and obligations herein stated. This Agreement may be amended and modified only in writing signed by both City and Contractor.
- 1.03 In resolving conflicts, errors, discrepancies and disputes concerning the scope of the work or services to be performed by Contractor or other rights or obligations of City or Contractor the document or provision thereof expressing the greater quantity, quality or scope of service or imposing the greater obligation upon Contractor and affording the greater right or remedy to City, shall govern.
- 1.04 Any interpretation applied to this Agreement, by the parties hereto, by an arbitrator, court of law, or by any other third party, shall not be made against City solely by virtue of City or City's representatives having drafted all or any portion of this Agreement.
- 1.05 This Agreement shall include, and incorporate by reference, any provision, covenant or condition required or provided by law or by regulation of any state or federal regulatory or funding agency.

SECTION II. DUTIES OF CONTRACTOR

- 2.01 Contractor shall provide services as specified in Attachment A, _____, attached hereto and incorporated into this Agreement.

SECTION III. TERM

- 3.01 The term of this Agreement shall begin upon execution date of this Agreement by all parties and shall terminate on _____ unless terminated earlier in accordance with this Agreement.
- 3.02 This Agreement may be renewed by agreement of parties. The term of the renewal may be less but shall not be longer than the term of the original Agreement. A renewal shall be only by written instrument signed by both City and Contractor and attached hereto as an amendment. All other terms and conditions of the Agreement shall remain the same as set forth herein.

SECTION IV. COMPENSATION

- 4.01 Contractor proposes to furnish all labor, materials and supplies in accordance with the conditions of this Agreement necessary to complete the work as defined in Attachment A at the rates set forth in Attachment B, attached here to and incorporated herein. However, in no event shall compensation for services under this Agreement exceed _____.
- 4.02 Contractor shall submit a properly itemized invoice for services performed and expenses incurred under this Agreement and shall cooperate with and provide any other necessary information to City. City will pay Contractor within thirty days after receipt of such properly itemized claim forms.

SECTION V. GENERAL PROVISIONS

- 5.01 Independent Contractor – The parties agree that Contractor is an independent contractor as that term is commonly used and is not an employee of the Consolidated City of Indianapolis and of Marion County. As such, Contractor is solely responsible for all taxes and none shall be withheld from the sums paid to Contractor. Contractor acknowledges that it is not insured in any manner by City for any loss of any kind whatsoever. Contractor has no authority, express or implied, to bind or obligate City in any way.
- 5.02 Subcontracting
- 5.02.1 Approval required – The parties agree that Contractor shall not subcontract, assign or delegate any portion of this Agreement or the services to be performed hereunder without prior written approval of City. In the event that City approves of any such subcontracting, assignment or delegation, Contractor shall remain solely responsible for managing, directing and paying the person or persons to whom such responsibilities or obligations are sublet, assigned or delegated. City shall have no obligation whatsoever toward such persons. Contractor shall take sole responsibility for the quality and quantity of any services rendered by such persons. Any consent given in accordance with this provision shall not be construed to relieve Contractor of any responsibility for performing under this Agreement.
- 5.02.2 Minority, Women and Veterans Participation – To the extent Contractor uses subcontractors or other agents in the performance of services under this Agreement, Contractor shall either:
- (a) Use, at a minimum, fifteen percent (15%) Minority Business Enterprises, eight percent (8%) Women's Business Enterprises, and three percent (3%) Veteran's Business Enterprises in the performance of services under this Agreement; or
 - (b) Demonstrate a good faith effort to achieve such percentages, in compliance with the policies and to the satisfaction of Indianapolis's Department of Minority & Women Business Development.
- Violation of this Subsection shall constitute a breach of this Agreement.
- 5.03 Necessary Documentation – Contractor certifies that it will furnish City, if requested, any and all documentation, certification, authorization, license, permit, or registration required by the laws or rules and regulations of the City of Indianapolis, the County of Marion, other units of local government, the State of Indiana, and the United States. Contractor further certifies that it is now and will remain in good standing with such governmental agencies and that it is now and will maintain its license, permit, registration, authorization, or certification, as applicable, in force during the term of this Agreement. Failure of Contractor to comply with this paragraph shall constitute a material breach of this Agreement.

5.04 Confidentiality

5.04.1 The obligations of this section shall survive the termination of this Agreement and shall be applicable to the full extent permissible under statutes governing access to public records. Contractor understands that the information provided to it or obtained from City during the performance of its services is confidential and may not, without prior written consent of City, be disclosed to a person not in City's employ except to employees or agents of Contractor who have a need to know in order to provide the services. Further, Contractor's work product generated during the performance of this Agreement is confidential to City. The failure to comply in all material respects with this section shall be considered a material breach of this Agreement. Confidential information shall not include information, that: (a) was known by Contractor at the time it was received; (b) is, as of the time of its disclosure or thereafter becomes, part of the public domain through a source other than Contractor; (c) is made known to Contractor by a third person who does not impose any obligation of confidence on Contractor with respect to such information; (d) is required to be disclosed pursuant to governmental authority, law, regulation, duly authorized subpoena or court order whereupon Contractor shall provide notice to City prior to such disclosure; or (e) information that is independently developed by Contractor without references to the confidential information.

5.04.2 Contractor shall not, under any circumstances, release information provided to it by, or on behalf of, City that is required to be kept confidential by City pursuant to Indiana law except as contemplated by this 5.04.1(d), above.

5.04.3 Contractor acknowledges that City will not treat this Agreement as confidential information and will post the Agreement on the City website as required by Section 141-105 of the Revised Code of the Consolidated City of Indianapolis and Marion County. Use by the public of any document or the information contained therein, shall not be considered an act of City.

5.05 Records; Audit – Contractor shall maintain books, records, documents and other evidence directly pertinent to performance of services under this Agreement. Contractor shall make such materials available at its offices at all reasonable times during the Agreement period and for three (3) years from the date of final payment under this Agreement for inspection by City or any other authorized representative of the City of Indianapolis, Marion County, Indiana. Copies thereof, if requested, shall be furnished at no cost to City.

5.06 Ownership

5.06.1 "Works" means works of authorship fixed in any tangible medium of expression by Contractor or its officers, employees, agents or subcontractors in the course of performing the services under this Agreement, including, but not limited to, computer programs, notes, specifications, drawings, flow charts, memoranda, correspondence, records, notebooks, documentation, reports and charts, regardless of the medium in which they are fixed, and all copies thereof.

5.06.2 All Works made or created by Contractor, either solely or jointly with City, in the course of Contractor's performance of services under this Agreement shall be deemed to be works for hire and are and shall be the exclusive property of City. At City's request, Contractor will execute all documents reasonably required to confirm or perfect ownership of such Works and any corresponding copyright rights in and to such Works in City. Without the prior written consent of City, Contractor shall not use, copy or prepare derivative works of the Works, or any parts of them, other than as related to the performance of this Agreement. During the performance of this Agreement, Contractor shall be responsible for loss or damage to the Works while they are in Contractor's possession or control. Any loss or damage shall be restored at Contractor's expense. City shall have free and unlimited access to the Works at all times and, upon demand, shall have the right to claim and take possession of the Works and all copies.

Notwithstanding the foregoing, Contractor shall be entitled to retain a set of its work papers for archival purposes only, in accordance with applicable professional standards.

- 5.06.3 Contractor shall retain all rights in and to its know-how, methods, techniques, discoveries, concepts, and ideas, whether patentable or not, and whether possessed by Contractor prior to or acquired by Contractor during the performance of this Agreement. Contractor also shall retain all rights in and to all works of authorship fixed in a tangible medium of expression which were made, created or acquired by Contractor prior to the effective date of this Agreement ("Pre-Existing Works"), provided that a listing of such Pre-Existing Works is attached to this Agreement.

5.07 Insurance

5.07.1 Contractor shall, as a condition precedent to this Agreement, purchase and thereafter maintain such insurance as will protect it and City from the claims set forth below which may arise out of or result from Contractor's operations under this Agreement, whether such operations be by Contractor or by its subcontractors or by anyone directly or indirectly employed by any of them, or by anyone directly for whose acts any of them may be liable:

- 1) Claims under Worker's Compensation and Occupational Disease Acts, and any other employee benefits acts applicable to the performance of the work;
- 2) Claims for damages because of bodily injury and personal injury, including death, and;
- 3) Claims for damages to property

Contractor's insurance shall be not less than the amounts shown below:

A. Commercial General Liability (Occurrence Basis)	
Bodily Injury, personal injury, property damage, Contractual liability, product/completed operations	
Each Occurrence Limit	\$1,000,000.00
Damage to Rented Premises	\$100,000.00
	(each occurrence)
Medical Expense Limit	\$5,000.00
Personal and Advertising Injury Limit	\$500,000.00
General Aggregate Limit	\$2,000,000.00
	(Other than Products Completed Operations)
NOTE: GENERAL AGGREGATE TO APPLY PER PROJECT	
Products/Completed Operations	\$1,000,000.00
B. Auto Liability	\$1,000,000.00
	(combined single limit)
	(owned, hired & non-owned)
Bodily injury & property damage	\$1,000,000.00 each accident
C. Excess/Umbrella Liability	\$1,000,000 (each occurrence and aggregate)
D. Worker's Compensation & Disability	Statutory
E. Employer's Liability	
Bodily Injury Accident	\$100,000 each accident
Bodily Injury by Disease	\$100,000 each employee
Bodily Injury by Disease	\$500,000 policy limit
F. [Reserved for Professional Liability or additional riders as needed]	

- 5.07.2 Certificates of Insurance, naming the City _____ as an "additional insured," (A. B. and C. only) showing such coverage then in force (but not less than the amount shown above) shall be filed with City prior to commencement of any work. These certificates shall contain a provision that the policies and the coverage afforded will not be canceled until at least thirty (30) days after written notice has been given to City.
- 5.07.3 With the prior approval of City, Contractor may substitute different types of coverage for those specified as long as the total amount of required protection is not reduced. Contractor shall be responsible for all deductibles.
- 5.07.4 Nothing in the above provisions shall operate as or be construed as limiting the amount of liability of Contractor to the above enumerated amounts.

--OR--

Insurance - Pursuant to agreement from all parties, in light of the nature of this Agreement, i.e. personal and professional services, no insurance shall be required.

5.08 Termination for Cause or Convenience

- 5.08.1 If Contractor becomes insolvent, or if it refuses or fails to perform the work and services provided by this Agreement, or if it refuses to perform disputed work or services as directed pending resolution of such dispute, or if it fails to make payments to subcontractors employed by it, or if it otherwise violates or fails to perform any term, covenant or provision of this Agreement, then City may, without prejudice to any other right or remedy, terminate this Agreement in whole or in part, in writing, provided that Contractor shall be given (1) not less than ten (10) calendar days written notice of City's intent to terminate, and (2) an opportunity for consultation with City prior to termination. In determining the amount of final payment to be made to Contractor upon such termination for default, if any, no amount shall be allowed for anticipated profit on unperformed services or other work; furthermore, an adjustment shall be made to the extent of any additional costs incurred or reasonably foreseen by City to be incurred by reason of Contractor's default.
- 5.08.2 This Agreement may be terminated in whole or in part in writing by City for City's convenience; provided that Contractor is given (1) not less than ten (10) calendar days written notice of intent to terminate and (2) an opportunity for consultation with City prior to termination. If City terminates for convenience, Contractor's compensation shall be equitably adjusted.
- 5.08.3 Upon receipt of notice of termination for default or for City's convenience, Contractor shall (1) promptly discontinue all services affected, unless the termination notice directs otherwise, and (2) deliver or otherwise make available to City all Works and such other information, materials or documents as may have been accumulated by Contractor in performing this Agreement, whether completed or in process.
- 5.08.4 If, after termination for Contractor's default, it is determined that Contractor was not in default, the termination shall be deemed to have been made for the convenience of City. In such event, adjustment of the price provided for in this Agreement shall be made as provided in Paragraph 5.08.2 and the recovery of such price adjustment shall be Contractor's sole remedy and recovery.
- 5.09 Termination for Failure of Funding – Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by City are at any time insufficient or not forthcoming through failure of any entity to appropriate funds or otherwise, then City shall have the right to terminate this Agreement without penalty by giving written notice documenting the lack of funding, in which instance this Agreement shall terminate and become null and void on the last day of the fiscal period for which appropriations were received. City agrees that it will make its best efforts to obtain sufficient funds, including but not limited to, requesting in its budget for each fiscal period during the term hereof sufficient funds to meet its obligations hereunder in full.

5.10 Indemnification – Contractor agrees to indemnify, defend, and hold harmless the City of Indianapolis and its officers, agents, officials and employees for any and all third party claims, actions, causes of action, judgments and liens to the extent they arise out of any negligent or wrongful act or omission or breach of any provision of this Agreement by Contractor or any of its officers, agents, employees or subcontractors regardless of whether or not it is caused in part by the negligence of a party indemnified hereunder. Such indemnity shall include attorney's fees and all costs and other expenses arising therefrom or incurred in connection therewith and shall not be limited by reason of the enumeration of any insurance coverage required herein. City shall not provide such indemnification to Contractor, provided, however, that Contractor shall be relieved of its indemnification obligation to the extent any injury, damage, death or loss is attributable to the acts or omissions of City.

5.11 Notice – Any notice required to be sent under this Agreement shall be sent by internationally recognized overnight courier, certified mail, facsimile or other delivery method which provides confirmation of receipt and shall be directed to the persons and addresses specified below (or such other persons and/or addresses as any party may indicate by giving notice to the other party) :

To Contractor:

To City:

5.12 Disputes – Contractor shall carry on all work required under this Agreement and maintain the schedule for services during all disputes or disagreements with City. No work shall be delayed or postponed pending resolution of any disputes or disagreements except as Contractor and City may otherwise agree in writing. Should Contractor fail to continue to perform its responsibilities as regards all non-disputed work without delay, any additional costs incurred by City or Contractor as a result of such failure to proceed shall be borne by Contractor, and Contractor shall make no claim against the City for such costs. City may withhold payments on disputed items pending resolution of the dispute.

5.13 Non-discrimination – Contractor and its officers, agents, employees, and subcontractors shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to her or his hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of her or his race, sex, sexual orientation, gender identity, religion, color, national origin, ancestry, age, disability, or United States military service veteran status. Breach of this section shall be regarded as a material breach of this Agreement.

5.14 Conflict of Interest – Contractor certifies and warrants to City that neither it nor any of its officers, agents, employees, or subcontractors who will participate in the performance of any services required by this Agreement has or will have any conflict of interest, direct or indirect, with City.

5.15 Non-contingent Fees – Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty City shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

- 5.16 Force Majeure – In the event that either party is unable to perform any of its obligations under this Agreement – or to enjoy any of its benefits – because of fire, explosion, power blackout, natural disaster, strike, embargo, labor disputes, war, terrorism, acts of God, acts or decrees of governmental bodies or other causes beyond such party's reasonable control (hereinafter referred to as Force Majeure Event), the party who has been so affected shall immediately give notice to the other and shall take commercially reasonable actions to resume performance. Upon receipt of such notice, all obligations under this Agreement shall immediately be suspended except for payment obligations with respect to service already provided. If the period of nonperformance exceeds sixty (60) days from the receipt of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement.
- 5.17 Applicable Laws; Forum
- 5.17.1 Contractor agrees to comply with all applicable federal, state and local laws, rules, regulations or ordinances, and all provisions required thereby to be included in this Agreement are hereby incorporated by reference. This includes, but is not limited to, the Federal Civil Rights Act of 1964 and, if applicable, the Drug-Free Workplace Act of 1988. The enactment of any state or federal statute or the promulgation of regulations thereunder after execution of this Agreement shall be reviewed by City and Contractor to determine whether the provisions of the Agreement require formal modification.
- 5.17.2 This Agreement shall be construed in accordance with the laws of the State of Indiana, and by all applicable Municipal Ordinance or Codes of the Consolidated City of Indianapolis, County of Marion. Suit, if any, shall be brought in the State of Indiana, County of Marion
- 5.18 Waiver – City's delay or inaction in pursuing its remedies set forth in this Agreement, or available by law, shall not operate as a waiver of any of City's rights or remedies.
- 5.19 Severability – if any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the provision shall be stricken, and all other provisions of this Agreement which can operate independently of such stricken provisions shall continue in full force and effect.
- 5.20 Attorneys' Fees – Contractor shall be liable to City for reasonable attorneys' fees incurred by City in connection with the collection or attempt to collect, any damages arising from the negligent or wrongful act or omission of Contractor, or from Contractor's failure to fulfill any provisions or responsibility provided herein.
- 5.21 Successors and Assigns – City and Contractor each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as otherwise provided herein, Contractor shall not assign, sublet or transfer its interest in this Agreement without the written consent of City. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of City.
- 5.22 Authority to Bind Contractor – Notwithstanding anything in this Agreement to the contrary, the signatory for Contractor represents that he/she has been duly authorized to execute agreements on behalf of Contractor and has obtained all necessary or applicable approval from the home office of Contractor to make this Agreement fully binding upon Contractor when his/her signature is affixed and accepted by City.

5.23 Debarment and Suspension

- 5.23.1 Contractor certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from or ineligible for participation in any Federal assistance program by any Federal department or agency, or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Agreement means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of Contractor.
- 5.23.2 Contractor shall provide immediate written notice to City if, at any time after entering into this Agreement, Contractor learns that its certification was erroneous when submitted, or Contractor is debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded from or becomes ineligible for participation in any Federal assistance program. Any such event shall be cause for termination of this Agreement as provided herein.
- 5.23.3 Contractor shall not subcontract with any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in any Federal assistance programs by any Federal department or agency, or by any department, agency or political subdivision of the State of Indiana.
- 5.24 Key Persons – The parties agree that the work described in this Agreement to be performed by Contractor is a personal service, highly professional in nature, and that the identity of the individual who is to be personally responsible for such work is of prime importance to City. The parties therefore agree that in the event of the death or disability of Contractor, or, if Contractor is a firm, partnership, or corporation, in the event of the death, or disability or termination of employment of anyone understood to be personally responsible for the work described in this Agreement, City may, without penalty and in its discretion, terminate this Agreement, and make its own new Agreement with any other party for completion of the work herein described.

(The Remainder of This Page Intentionally Left Blank)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates subscribed below.

DEPARTMENT OF

Director _____

Date _____

**APPROVED FOR AVAILABILITY
OF FUNDING []
APPROVED FOR EXECUTION []**

Jeffrey L. Spalding, Controller

Date _____

APPROVED AS TO LEGAL FORM:

XXXXXXXXXXXXXXXX
Assistant Corporation Counsel

“CONTRACTOR”

Printed Name

Signature

Title _____

Date _____

Address _____

City _____

State _____ Zip _____

Phone _____