

REQUEST FOR QUALIFICATIONS

Issued: January 31, 2018

City of Indianapolis | Joseph H. Hogsett, Mayor

Department of Metropolitan Development | Emily C. Mack, Director



The City of Indianapolis – Dept. of Metropolitan Development Seeks a Request for Qualifications for Professional Services Regarding Public Engagement for the Marion County Land Use Plan

1. GENERAL INFORMATION

- 1.1 The City of Indianapolis through the Department of Metropolitan Development herein referred to as “City” is seeking responses to this Request for Qualifications (RFQ) regarding the contents herein. The City is looking for a qualified vendor to assist with public engagement, design and facilitate public meetings, and assist with Stakeholder Committee engagement for the Marion County Land Use Plan.
- 1.2 The vendor response must be received by Department of Metropolitan Development no later than February 14, 2018 at 12:00p.m. local time.
- 1.3 Questions pertaining to this RFQ should be directed to Jessica Thorpe at jessica.thorpe@indy.gov no later than February 5, 2018 at 12:00 p.m. local time.
- 1.4 The City reserves the right to reject any or all responses to this RFQ, to waive any informality or irregularity in any RFQ responses received, and to be the sole judge of the merits of the respective RFQs responses received.
- 1.5 It is expected that all final deliverables for this project will be completed prior to December 15, 2018.
- 1.6 **Brief Project Description**
The Marion County Land Use Plan is one element of the Comprehensive Plan for Indianapolis and Marion County. The plan is required by state statute as a basis for zoning and must include objectives and policies for future land use development. It is a policy document designed to promote the orderly development and redevelopment of the county. The Marion County Land Use Plan consists of two major components: A Land Use Pattern Book (completed in 2017) and a Land Use Map (the current phase of the plan development). The Land Use Pattern Book is the written component of the Marion County Land Use Plan, and lays out the land uses and typologies that will be applied to geographies in the Land Use Map. As a component of Plan 2020, a planning initiative for Indianapolis’ Bicentennial legacy the Marion County Land Use Plan is guided by the Plan 2020 Bicentennial Agenda.

Prior public engagement for the Marion County Land Use Plan included values-focused listening sessions with over 800 residents at 43 meetings, presentations at Neighbor Power Indy (a local grassroots community development conference), public review of the Pattern Book through CiviComment in online engagement platform), meetings with neighborhood organizations, and a six-class public education initiative called the People's Planning Academy. The People's Planning Academy was offered online, through recordings aired on public television, and in two in-person options. It provided nearly 300 residents with a basic knowledge of planning principles, an understanding of the four main goals from the Plan2020 Bicentennial Agenda (to make Indianapolis healthier, more resilient, more inclusive, and more competitive), and training on the Land Use Pattern Book. Participants of the People's Planning Academy have been invited to join the Stakeholder Committee for the Land Use Plan Map.

In addition to the People's Planning Academy participants, the Stakeholder Committee also consists of appointed members of Township Citizen Advisory Committees, which are required by state statute and municipal code to serve in an advisory capacity for Township Land Use Plans. There are 9 Township Citizen Advisory Committees, each consisting of 7 members appointed by Township Boards, the Metropolitan Development Commission, the City-County Council, and the Mayor. These committees are required to submit an advisory report prior to the adoption of Township Land Use Plans.

Planned public engagement for the mapping phase of the Marion County Land Use Plan includes 10 sets of public meetings, an undetermined number of remote offices staffed by city planners, an interactive online mapping platform, and a final exhibition-style city-wide public meeting.

- 1.7 **Study Area.** The Marion County Land Use Plan covers the entire county, but excludes geographies covered by a number of neighborhood, corridor, and other specific-area plans that were adopted in or after 2008.
- 1.8 **(Anticipated) Timeline.** Ten (10) sets of initial public meetings are anticipated to take place from April through June of 2018. Online mapping will occur continuously from the start of the public meetings until the beginning of the Stakeholder Committee engagement phase, which is anticipated to begin in August of 2018.

2. BACKGROUND INFORMATION

2.1 Partnering organizations

2.1.1 **City of Indianapolis Department of Metropolitan Development (DMD).** DMD is the community development, economic development, redevelopment, planning, and historic preservation entity for Indianapolis and Marion County. Its governing board, the Metropolitan Development Commission, serves as the planning and redevelopment commission for the City-County.

2.1.2 **Mayor’s Neighborhood Advocates (MNAs).**

3. DESIRED SCOPE OF WORK AND DELIVERABLES

3.1 Public Engagement

3.1.1 **Public Meeting Design.** Design the format and engagement activities for ten (10) sets of public meetings. Each set of public meetings will cover the geography of one of the ten Mayor’s Neighborhood Advocates. It is anticipated that each public meeting “set” consists of two identical meetings held at the same location at two different times on the same day. The consultant will work with city staff to identify outcomes necessary to inform the development of the land use map and then devise an innovative and engaging meeting process. It is expected the design of these meetings are to be interactive and accommodate meaningful input from a range of participant experience with land-use planning, from those who have never attended a public meeting to veteran neighborhood leaders.

3.1.2 **Public Meeting Facilitation.** Assist with the coordination, set-up and facilitation of ten (10) sets of initial public meetings and one (1) additional final exhibition-style public meeting.

3.2 Stakeholder Committee Engagement

3.2.1 **Stakeholder Committee Meeting Facilitation and Communication.** Facilitate nine (9) stakeholder committee meetings. Periodically update the Stakeholder Committee on project status.

3.2.2 **Advisory Report Facilitation.** Assist the Township Citizen Advisory Committees in reaching a consensus on advisory reports to the Metropolitan Development Commission.

3.3 Deliverables

3.3.1 A report outlining the results of each public meeting (digital file)

3.3.2 Sign-in materials/data for each public meeting (digital file)

3.3.3 Minutes for each stakeholder committee meeting (digital file)

4. STATEMENT OF QUALIFICATIONS (SELECTION CRITERIA)

- 4.1 **Desired Expertise:** The City of Indianapolis seeks qualified consultants or consultant teams with demonstrated expertise related to:
- Community engagement, facilitation, conflict resolution, and consensus-building
- 4.2 **Cover Letter** (1-page) containing at a minimum:
Organization name, contact name, address, phone number, and email address
- 4.3 **Team Organization, Project Understanding, and Project Approach** (4-pages) containing:
Description of team; a brief description of the roles of each team firm and key staff; organization chart with names; description of your understanding of the project; proposed project management approach; description of proposed project processes to be used for scope tasks; a general (i.e. week 1, week 2) timeline of scope tasks; and, discussion of any potential issues or concerns. Single-page resumes of each proposed team member should be included as Appendix A (resumes do not count toward page limit).
- 4.4 **Relevant Experience** (3-pages) containing:
Overall reputation, service capabilities and experience as it relates directly to the tasks and desired expertise outlined in this scope; and a brief description of up to 3 comparable projects completed or in progress by the team or its members, including member roles, contract value, project owner, project location, client contact name, title, phone number, and email address; and up to 3 additional reference contacts with reference name, title, phone number, and email address.
- 4.5 **Other Factors** (1 page) containing:
- 4.5.1 Description of current workload and ability to complete tasks in a timely manner.
- 4.5.2 Willingness to abide by City of Indianapolis standard form agreements (sample provided in this RFQ) with few or no objections or changes.
- 4.5.3 Disadvantaged-Based Business Participation, including commitment to meet current City of Indianapolis utilization goals with City-certified businesses of 15% Minority Business Enterprise, 8% Women Business Enterprise, 3% Veterans Business Enterprise, and 1% Disabled Owned Business. A list of City-certified vendors is available at www.indy.gov/VendorProfiles.

5. SUBMITTAL REQUIREMENTS

- 5.1 The Statement of Qualifications (SOQ) shall include a one-page cover letter plus a maximum of eight (8) pages to address the SOQ criteria as specified in Section 4. Adherence to the maximum page criteria is critical; each page side (maximum size 8 ½" x 11") with criteria information will be counted. Pages that have photos, charts and graphs will be counted towards the maximum number of pages. The submittal cover, table of contents, section divider pages, and Appendix A resumes do not count towards the page

limits. Appendix A resumes for team members shall be no more than one (1) page for each team member.

5.2 Vendors must submit a digital copy of their response; no paper copies are required. All digital copies should be a single PDF document and be no larger than 20MB in file size. All responses must be received by 12:00 p.m. local time, February 14, 2018 and should be labeled with “RFQ: Land Use Plan Engagement.” Digital copies should be sent to the attention of Jessica Thorpe, Principal Planner for Land Use Strategy, at jessica.thorpe@indy.gov. Submittals on a flash drive or other electronic media can be submitted to the Department of Metropolitan Development, 200 E. Washington Street, Room 1842, Indianapolis, IN 46204.

5.3 Failure to comply with the following criteria may be grounds for disqualification:

- 5.3.1 Receipt of the submittal by DMD prior to the deadline specified.
- 5.3.2 The number of digital copies of the submittal specified.
- 5.3.3 Adherence to maximum page requirements.

6. SELECTION PROCESS AND SCHEDULE

6.1 A review team selected by the City will evaluate each Statement of Qualifications (SOQ) according to the above criteria, as well as past performance evaluations and other information available to the Partners. Subject to the quality of the submitted SOQs, the Partners will select one or more qualified finalists that will be “Short Listed” for the project. Interviews will be scheduled for the Short-Listed teams to discuss their qualifications with the review team. The purpose of these interviews will be to expand on the information provided in the SOQ, not to repeat information already provided. Those organizations selected for the Short-List will be provided additional instruction by the City.

6.2 The following tentative schedule has been prepared for this project. Organizations interested in submitting a SOQ for this project must be available to meet with the review team on the interview meeting date.

Activity	Date
RFQ Released	January 31, 2018
Questions Due	February 5, 2018 12:00 p.m. EST
Question Response	On or After February 7, 2018
SOQ Due	February 14, 2018 12:00 p.m. EDT
Teams Notified for Interview	February 16, 2018
Proposed First Interviews	February 19, 2018 Afternoon

7. ATTACHMENTS

7.1 **Sample Service Agreement** – See below “Professional Services Agreement Template – City”

**PROFESSIONAL SERVICES/ SERVICES [Choose either Professional Services or
Services] AGREEMENT
BETWEEN
THE CONSOLIDATED CITY OF INDIANAPOLIS AND MARION COUNTY - XXXX
AND
XXXX
FOR
XXXX**

This Professional Services/Services Agreement (hereinafter referred to as “Agreement”), entered into by and between the **Consolidated City of Indianapolis and Marion County XXXXXX** (hereinafter referred to as “City”) and **XXXXX** (hereinafter referred to as “Contractor”), 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 hereto and incorporated herein. However, in no event shall compensation for services under this Agreement exceed _____ (\$XXXX.XX).
- 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 (30) 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/or 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, Veterans, and Disability-Owned Business Enterprise 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, three percent (3%) Veteran's Business Enterprises, and one percent (1%) Disability-Owned 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 the City of Indianapolis Department of Minority & Women Business Development.

Failure of Contractor to comply with either (a) or (b), above, 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 Section 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 of Indianapolis 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, electronic art, computer generated art, 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. 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)
C. Excess/Umbrella Liability	\$1,000,000 (each occurrence and aggregate)
D. Worker's Compensation	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]	

5.07.1 Certificates of Insurance, naming the Consolidated City of Indianapolis and Marion County 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.

5.07.2 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.

5.07.3 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 Section 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, Marion County and their respective 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.

5.14.1 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.

5.14.2 For purposes of compliance with IC 36-1-21, Contractor certifies and warrants to City that Contractor, or a person who wholly or partially owns Contractor, is not a *relative*, as that term is defined by IC 36-1-21-3, of either the Mayor of Indianapolis, Indiana, or a member of the City-County Council of Indianapolis and Marion County, Indiana.

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 certifies, by entering into this Agreement, that it does not engage in investment activities in Iran as more particularly described in IC 5-22-16.5.
- 5.23.3 Contractor shall provide immediate written notice to City if, at any time after entering into this Agreement, Contractor learns that its certifications were erroneous when submitted, or Contractor is debarred, suspended, proposed for debarment, declared ineligible, has been included on a list or

received notice of intent to include on a list created pursuant to IC 5-22-16.5, 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.

5.23.4 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 Compliance With E-Verify Program. Pursuant to IC 22-5-1.7, Contractor shall enroll in and verify the work eligibility status of all newly hired employees of Contractor through the E-Verify Program (“Program”). Contractor is not required to verify the work eligibility status of all newly hired employees through the Program if the Program no longer exists.

5.24.1 Contractor and its subcontractors shall not knowingly employ or contract with an unauthorized alien or retain an employee or contract with a person that Contractor or its subcontractor subsequently learns is an unauthorized alien. If Contractor violates this Section 5.24, City shall require Contractor to remedy the violation not later than thirty (30) days after City notifies Contractor. If Contractor fails to remedy the violation within the thirty (30) day period, City shall terminate the contract for breach of contract.

If City terminates the contract, Contractor shall, in addition to any other contractual remedies, be liable to City for actual damages. There is a rebuttable presumption that Contractor did not knowingly employ an unauthorized alien if Contractor verified the work eligibility status of the employee through the Program.

5.24.2 If Contractor employs or contracts with an unauthorized alien but City determines that terminating the contract would be detrimental to the public interest or public property, City may allow the contract to remain in effect until City procures a new contractor.

5.24.3 Contractor shall, prior to performing any work, require each subcontractor to certify to Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and has enrolled in the Program. Contractor shall maintain on file a certification from each subcontractor throughout the duration of the Project. If Contractor determines that a subcontractor is in violation of this Section 5.24, Contractor may terminate its contract with the subcontractor for such violation.

5.24.4 Pursuant to IC 22-5-1.7 a fully executed affidavit affirming that the business entity does not knowingly employ an unauthorized alien and confirming Contractor’s enrollment in the Program, unless the Program no longer exists, shall be filed with City prior to the execution of this Agreement. This Agreement shall not be deemed fully executed until such affidavit is filed with the City.

- 5.25 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.
- 5.26 Electronic Signature. Contractor and City agree to signature both in counterparts and by facsimile.
- 5.27 Post-Employment Restrictions. Contractor, providing supplies, real property, or services under this Agreement, certifies to City that no employee, contract employee, or sub-contractor of Contractor:
- 5.27.1 Participated in any way in the solicitation, negotiation, or awarding of this Agreement while previously employed by an agency of the City of Indianapolis or Marion County for a period of one (1) year prior to the execution of this Agreement;
 - 5.27.2 For a period of one (1) year after such employee ceased supervising the administration or performance of this Agreement on behalf of an agency of the City of Indianapolis or Marion County, shall perform any functions on behalf of Contractor under this Agreement with respect to the City, unless the employee's former agency has consented to the employee's performance for Contractor in writing;
 - 5.27.3 Has violated any provision of Chapter 293 of the Revised Code of the Consolidated City of Indianapolis and Marion County, regarding the solicitation, negotiation, awarding, or performance of this Agreement;
 - 5.27.4 Is currently an official or deputy mayor of, or has appointing authority to, any agency of the City of Indianapolis or Marion County; and
 - 5.27.5 Was previously employed by the City of Indianapolis or Marion County within one (1) year of this Agreement and currently has the performance of lobbying activity (as that term is defined in Section 909-101 of the Revised Code of the Consolidated City of Indianapolis and Marion County) related to an agency or an official as a responsibility of his or her employment or contractual relationship with Contractor.

Violation of this certification shall constitute a material breach of this Agreement and, upon such a violation, City may terminate this Agreement. In addition, upon a violation of this certification, City shall report such violation to the Office of Corporation Counsel who may, at its discretion, debar Contractor from eligibility for future city and/or county purchasing, bids, contracts, and/or projects.

- 5.28 Method of Payment. Contractor shall accept invoice payments via City/County check, City/County Purchasing Card (Master Card) or Automated Clearing House (ACH) at the City's sole option and discretion. The City will not be responsible for any card fees or other bank charges incurred by the Contractor.
- 5.29 Ban the Box. Contractor acknowledges Sections 670-101 to 670-108 of the Revised Code of the Consolidated City of Indianapolis and Marion County and will make available its policies, practices and standards for the hiring of applicants with prior criminal convictions upon the City's request.
- 5.30 Wage Theft/Payroll Fraud. The Contractor shall report, and shall require its subcontractors to report, all complaints or adverse determinations of Wage Theft or Payroll Fraud against the Contractor or its subcontractors to the City's Office of Finance and Management within thirty (30) days of notification of the complaint or adverse determination. If an adverse decision is rendered against the Contractor with respect to services provided to the City, the City may terminate this Agreement, reduce the incentives or subsidies to be provided under this Agreement, or seek other remedies. Contractor shall provide a sworn statement on whether the Contractor had any adverse determinations rendered against the Contractor within the preceding three (3) years.

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

XXXXXXXXXX (“Contractor”)

By: _____

Date: _____

Printed: _____

Title: _____

CONSOLIDATED CITY OF INDIANAPOLIS AND MARION COUNTY, XXXXXXXXX (“City”)

By: _____

Date: _____

XXXXXX, XXXXXX

APPROVED AS TO FORM AND LEGALITY:

By: _____

Date: _____

XXXXX, Assistant Corporation Counsel

APPROVED AS TO AVAILABILITY OF FUNDING:

By: _____

Date: _____

Fady Qaddoura, Controller

APPROVED FOR EXECUTION:

Joseph H. Hogsett, Mayor

By Mayor’s Designee:

By: _____

Date: _____

Andrew J. Mallon, Corporation Counsel

ATTACHMENT A: SCOPE OF SERVICES

In accordance with the terms and conditions of the attached Professional Services Agreement (hereinafter "Agreement") by and between the **Consolidated City of Indianapolis and Marion County, XXXXX** (hereinafter "City") and **XXXXXXXX** (hereinafter "Contractor"), Contractor shall do, perform, and carry out in a good and professional manner the following services:

ATTACHMENT B: PRICING

AFFIDAVIT

- A. E-Verify. Pursuant to Indiana Code 22-5-1.7-11, the Contractor entering into a contract with the City is required to enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify program. The Contractor is not required to verify the work eligibility status of all its newly hired employees through the E-Verify program if the E-Verify program no longer exists.

The undersigned, on behalf of the Contractor, being first duly sworn, deposes and states that the Contractor does not knowingly employ an unauthorized alien. The undersigned further affirms that, prior to entering into its contract with the City, the undersigned Contractor will enroll in and agrees to verify the work eligibility status of all its newly hired employees through the E-Verify program.

- B. Wage Enforcement. Pursuant to the Wage Enforcement provisions found in Chapter 272 of the Revised Code of the Consolidated City of Indianapolis and Marion County, the undersigned, on behalf of the Contractor, being first duly sworn, deposes and states the following: (please check one of the following)

1. _____ That there has not been any adverse determination against the Contractor within the proceeding 3-year period for wage theft or payroll fraud; Or

2. _____ That there has been an adverse determination against the Contractor within the preceding 3-year period for wage theft or payroll fraud.

(Contractor): _____

By (Written Signature): _____

(Printed Name): _____

(Title): _____

Important - Notary Signature and Seal Required in the Space Below

STATE OF _____

SS:

COUNTY OF _____

Subscribed and sworn to before me this _____ day of _____,
20 ____

My commission expires: _____ (Signed) _____

Residing in _____ County, State of _____

