# Contract Summary Sheet

(To be submitted when not competed through the Purchasing Division)

Doc #: BP01656

Contract #: 7541 - Term

Requesting Department/Division ~~Department of Metropolitan Develpoment~~ Date Prepared 04/14/10

Contact Person's Name David Condon Phone 327-4976

## Type of Service

**Personal** (*for definition refer to directions on the back*) ☐ **Legal Services** *(requires prior approval by City Legal)* ☐

**Professional** *(for definition refer to directions on the back)* ☐ **Lease** *(real-estate)* ☐

**Other Non-Competable Service** ☐ **Construction** ☐

## Contract Information

**New Agreement** ☒ **Amendment #** ____ **Requires Board Approval** Yes ☒ No ☐

**Debarment** ☒ http://www.epls.gov/ **Insurance Certificate** Yes ☒ No ☐

**Grant Funding** Yes ☐ No ☒ **Selected Firm is an** MBE ☐ WBE ☐

**Subcontract participation** MBE____% WBE____%

**Vendor Name** Construct Solutions, Inc. **Requisition Number** RQI0100008

**Amount of this Action** Estimated $310,000.00 per year year term of this agreement. **New Contract Total** Estimated $620,000.00 per the two

**Contract Expiration Date** 04/22/2012

**Department Method of Source Selection:** Proposal/Quotes/Bids ☒ Request for Qualifications ☐ No Competition ☐

(please explain) ____

**Specific Location of Source Documents** 1522 Purchasing **Contact Person/Documents** David Condon

## Summary/Justification (all amendments must include: original contract purpose/term/amount)

The Purchasing Division has determined that the lowest responsive and responsible bidder for ITB 7541 (Roofing Services) to be Construct Solutions, Inc. For more information please see the attached vendor summary sheet.

Approved: [signature] 4-10

Corporation Counsel/Date

Chief Financial Officer/Date

Departmental Approval Authority/Date

Carol Metz 4/23/10

Purchasing Administrator/Date

**This summary sheet must be completed by department and signed by Purchasing prior to presentation to departmental board and prior to execution of this contract.** 4/9/08

BPØ1656
#7541

# PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (hereinafter referred to as "Agreement"), entered into by and between the **City of Indianapolis Office of Finance and Management Purchasing Division**, (hereinafter referred to as "City"), and **Construct Solutions, Inc.,** (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 Section 1 and attached hereto, 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.

1.06 This Agreement shall be construed under and governed by the laws of the State of Indiana.

## SECTION II. DUTIES OF CONTRACTOR

2.01 The Contractor shall provide the services as set forth in Attachment A, attached hereto and made a part thereof.

## SECTION III. TERM

3.01 This Agreement shall be in effect for two (2) years from the date this Agreement becomes fully executed.

3.02 This Agreement may be renewed beyond the expiration date for like or lesser terms by agreement of the parties. Agreement for renewal shall be by written notice sent by either party and written acceptance by the other. All other terms and conditions of this Agreement

shall remain the same as set forth herein, and may be amended only by written instrument signed by both City and Contractor and attached hereto as an Amendment.

## 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.

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. Contractor shall provide a copy of all applicable Warranty documentation to City with the final invoice for any Warranty work completed. City shall pay Contractor within forty-five (45) days after receipt of such properly itemized claim forms; provided, however, that the final payment for any Warranty work shall not be made until Contractor has provided City with proper Warranty documentation.

## 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 the City for any loss of any kind whatsoever. The Contractor has no authority, express or implied, to bind or obligate the City in any way.

5.02 Subcontracting. 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.

5.03 Necessary Documentation. Contractor certifies that it will furnish the 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 in and will maintain its 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 the Contractor to comply with this paragraph shall constitute a material breach of this Agreement.

5.04 Confidentiality of City Information.

5.04.1 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 the City, be disclosed to a person not in the 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. 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. 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 the 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, the City that is required to be kept confidential by City pursuant to Indiana law except as contemplated by this section, clause (d).

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 the 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 the City.

5.06 Ownership of Documents and Materials.

5.06.1 All documents, including records, programs, data, film, tape, articles, memos, and other materials, created or developed under this Agreement, shall be considered "work for hire" and the Contractor transfers any ownership claim to City and all such matters will be the property of the City. Use of these materials, other than related to contract performance by the Contractor, without the prior written consent of the City, is prohibited. During the performance of the services specified herein, the Contractor shall be responsible for any loss or damage to these materials developed for or supplied by the City and used to develop or assist in the services provided herein while the materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. Full, immediate, and unrestricted access to the work product of the Contractor during the term of this Agreement shall be available to the City. Notwithstanding the foregoing, Contractor shall be entitled to retain a set of its work papers in accordance with professional standards.

5.06.2 Notwithstanding anything to the contrary contained in this Agreement, it is understood and agreed that Contractor shall retain all of its rights in its proprietary information including, without limitation, its methodologies and methods of analysis, ideas, concepts, expressions, know how, methods, techniques, skills, knowledge and experience possessed by Contractor prior to, or acquired by Contractor during, the performance of this Agreement and the same shall not be deemed to be Work Product or Work For Hire and Contractor shall not be restricted in anyway with respect thereto.

5.06.3 Upon completion of work for which a Warranty will apply Contractor shall provide a copy of all Warranty documents to the department requesting the work.

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. Worker's Compensation & Disability | Statutory |
| B. Employer's Liability Bodily Injury Accident | $ 100,000 each accident |
| Bodily Injury by Disease | $ 500,000 policy limit |
| Bodily Injury by Disease | $ 100,000 each employee |
| C. Excess Auto Liability | $1,000,000 (single limit) (owned, hired & non-owned) |
| Bodily injury & property damage | $1,000,000 each accident |
| D. Umbrella Excess Liability | $5,000,000 each occurrence and aggregate |

5.07.2 Certificates of Insurance, naming the City as an "additional insured," (C. and D. only) showing such coverage then in force (but not less than the amount shown above) shall be filed with the City prior to commencement of any work. These Certificates shall contain a provision that coverage afforded and the policies will not be canceled until at least thirty (30) days after written notice has been given to the 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. Notwithstanding any other provision of this Agreement, Contractor shall provide all insurance coverage required in the contract documents.

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 or consultants 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 (delivered by certified mail, return receipt requested) 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 (delivered certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with City prior to termination. If termination for convenience is effected by City, Contractor's compensation shall be equitably adjusted.

5.08.3 Upon receipt of a termination action for default or for the 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 data, drawings, specifications, reports, estimates, summaries, 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 effected 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 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 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 Debarment and Suspension

5.10.1 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 the Contractor.

5.10.2 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.

5.10.3 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.

5.11 Indemnification. Contractor agrees to indemnify, defend, and hold harmless the City 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 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. The City shall not provide such indemnification to the Contractor, provided, however, that the Contractor shall be relieved of its indemnification obligation to the extent any injury, damage, death or loss is attributable to the acts or omission of the City.

5.12 Key Persons. It is hereby agreed by the parties hereto that the work described in this Agreement to be performed by Contractor is of a personal services, 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's signatory to this Agreement is a firm, partnership, or corporation, in the event of the termination of employment of anyone understood to be personally responsible for the work described in this Agreement, the 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.

5.13 Notice. Any notice, invoice, order or other correspondence required to be sent under this Agreement shall be sent to:

*To Contractor:*
Joshua Glassburn
Construct Solutions, Inc.
9378 Castlegate, Dr.
Indianapolis, IN 46256

*to City:*
Carol Metz
Purchasing Administrator
1522 City County Building
200 E. Washington Street
Indianapolis, IN 46204

5.14 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 the Contractor fail to continue to perform its responsibilities as regards all non-disputed work without delay, any additional costs incurred by the City or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against the City for such costs. The City may withhold payments on disputed items pending resolution of the dispute.

5.15 Non-discrimination. Contractor and its 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.

5.16 Conflict of Interest. Contractor certifies and warrants to City that neither it nor any of its agents, representatives or employees 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.

5.17 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.

5.18 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 natural disaster or decrees of governmental bodies not the fault of the affected party (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 be immediately 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.

5.19 Applicable Laws; Forum. The Contractor agrees to comply with all applicable federal, state and local laws, rules, regulations or ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. This includes 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 the City and the Contractor to determine whether the provisions of the Agreement require formal modification.

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.

5.20 Waiver. The City's delay or inaction in pursing its remedies set forth in this Agreement, or available by law, shall not operate as a waiver of any of the City's rights or remedies.

5.21 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.

5.22 Attorneys' Fees. Contractor shall be liable to the 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.

5.23 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.

5.24 Bond Requirement. Contractor shall furnish a performance bond in the amount of *twenty-five thousand dollars ($25,000)*. The performance bond shall be issued by a bona fide surety and be made payable to the City of Indianapolis. The performance bond shall be delivered to the Purchasing Division within ten (10) business days after receipt of the award letter. The bond shall remain in effect for the duration of the Agreement.

5.25 Authority to Bind Contractor. Notwithstanding anything in this Agreement to the contrary, the signatory for the Contractor represents that he/she has been duly authorized to execute agreements on behalf of the Contractor designated above, has filed proof of such authority with City and has obtained all necessary or applicable approval from the home office of the Contractor to make this Agreement fully binding upon the Contractor when his/her signature is affixed and accepted by the City.

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

**CITY OF INDIANAPOLIS OFFICE OF FINANCE AND MANAGEMENT PURCHASING DIVISION** ("City")

By: Carol C. Metz Date: 4/23/10
Carol Metz, City of Indianapolis Purchasing Administrator

**Construct Solutions, Inc.** ("Contractor")

By: Joshua D.M. Glassburn Date: 4/22/10

Printed: JOSHUA D.M. GLASSBURN

Title: C.E.O.

APPROVED AS TO AVAILABILITY OF FUNDING ( ):
APPROVED FOR EXECUTION (✓):

By: David P. Reynolds (1) Date: 4-23-10
David P. Reynolds, Controller

ccm
4/23/10

APPROVED AS TO FORM AND LEGALITY:

By: April E. Schultheis Date: 4-15-10
April E. Schultheis
Assistant Corporation Counsel

APPROVED FOR EXECUTION:

Gregory A. Ballard, Mayor

By: Chief Deputy Corporation Counsel Date: 04/26/10
Samantha S. Karn
Corporation Counsel

**Attachment A.**
**Scope of Services**

The following materials, standards, procedures and controls shall be followed by contractor.

16.1 In accordance with the National Roofing Contractors Association (NRCA) http://www.nrca.net, roofing services are generally divided into two (2) distinct classifications, Low-Slope Roofing and Steep-Slope Roofing.

16.2 There are five (5) general classifications of low slope roof membranes or systems. 1) built-up roof (BUR) membranes, 2) Metal panel roof systems for low-slope applications, 3) Polymer-modified bitumen sheet membranes, 4) Single-ply membranes [Thermoplastic membranes (e.g., PVC, TPO) and Thermoset membranes (e.g., EPDM)] and 5) Spray Polyurethane foam-based (SPF) roof systems

16.3 Most low-slope roof membranes have three (3) principal components. 1) Weatherproofing layer or layers — the weatherproofing component is the most important element because it keeps water from entering a roof assembly. 2) Reinforcement — reinforcement adds strength, puncture resistance and dimensional stability to a membrane. 3) Surfacing — surfacing is the component that protects the weatherproofing and reinforcement from sunlight and weather. Some surfaces provide other benefits such as increased fire resistance, improved traffic and hail resistance, and increased solar reflectivity.

16.4 There are six (6) generic classifications of steep-slope roof coverings. 1) Asphalt Shingles, 2) Clay tile and concrete tile, 3) Metal roof systems for steep-slope applications, 4) Slate, 5) Wood shakes and wood shingles and 6) Synthetic.

16.5 Steep-slope roof systems typically are composed of individual pieces or components installed in shingle fashion. Steep-slope roof assemblies typically consist of three (3) primary parts.

1) Roof deck — a roof deck is the structural substrate and usually is a wood-based material such as plywood or oriented strand board (OSB). 2) Underlayment — underlayment is a temporary protection until a roof covering is installed providing a secondary weatherproofing barrier. Sometimes underlayment is referred to as "felt" or "paper." 3) Roof covering — the roof covering is the external water-shedding material.

16.6 Each type of roofing requires special skills for installation and the City may require one type or another dependent upon the roof surface to be repaired or replaced. It is understood by the City that all materials and methods used by the Contractor(s) shall be in compliance with all applicable sections of the current assembly, material or environmental standards adopted by the following organizations: National Roofing Contractors Association (NRCA), American Standards for Testing and Materials (ASTM), American National Standards Institute (ANSI), National Fire Protection Association (NFPA), Federal Construction Guide Specifications (FCGS), American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE), International Standards Organization (ISO) and Underwriters Laboratories (UL).

16.7 Contractor shall make every effort to apply the latest in technologies regarding "green" (environmentally friendly) materials to any job. The Contractor(s) shall suggest alternatives to provide energy savings and elimination of bio-hazards to the City when applicable and the alternative does not reflect large increases in cost or sacrifice the quality of installation. The City shall maintain sole responsibility for making the decision to use such materials or processes.

16.8 Work may include, but not be limited to, repairs, replacement, assembly and disassembly, maintenance and/or service to: Glazed Spanish Tile, Coal Tar - Built-up, Manville Asphalt - Build-up, Fiberglass Shingles, Corrugated Metal Panels, Goodyear Versigard EPDM (ethylene propylene diene monomer rubber), Trocal Membrane, Ballasted and Mechanically Fastened, Carlisle Membrane, Ballasted, Firestone Rubbergard Membrane, Ballasted and Mechanically Fastened, U.S.Intec Brai APP and Brai/Flex Membranes, And Other Types of Roof Systems

16.9 Contractor is expected to hold any factory certifications pertaining to the installation or replacement of these roofs. These certifications may include, but are not limited to, manufacturers such as: Johns Manville, Firestone, Goodyear, Carlisle, Garland, GAF, Tremco and Soprema. **Contractor shall submit to the City currently held factory certifications; Contractor shall submit any newly obtained certifications to City upon completion of certifications.**

16.10 For roofing, work may range from small repairs or patchwork to replacement of entire roofs. For guttering and downspouts, work may range from repair/replacement of an individual guttering and downspout section to replacement of all guttering and downspout sections.

16.11 Contractor shall supply all parts and labor necessary for repair/replacement and general maintenance activities in order to complete any work order issued under this Agreement.

16.12 Contractor shall be a licensed, bonded, and an insured Roofing Contractor. Contractor shall obtain all necessary permits when required by federal, state, or municipal laws to cover the scope of services to be performed by the Contractor. (The City shall not be responsible for the costs of any of the above documents.)

16.13 Contractor must have a twenty-four (24) hour phone or pager service capable of supporting responses to Emergency calls within two (2) hours of notification, High Priority calls within twenty-four (24) hours of notification and Non-Emergency calls (or Scheduled Work) within forty-eight (48) hours of notification.

16.14 Contractor must include a suitable back-up provision for vacations, illnesses, or other situations that arise infrequently, but prevent the Contractor from responding directly to a notification. Contractor shall be ultimately responsible for ensuring that City's needs are met at all times.

16.15 Emergency work shall be defined as work that the Contractor will start within two (2) hours of notice from the City. A written quote must be prepared and submitted to the City within three (3) calendar days of work completion. Once the work has started, Contractor shall commit to a continuing around the clock work schedule until the project

is completed inclusive of weekends and official City holidays. A verbal agreement between the City and Contractor shall define Emergency work.

16.16 High Priority work shall be defined as work that the Contractor will start within twenty-four (24) hours of notice from the City. A written quote must be prepared and submitted to the City within three (3) calendar days of work completion. Once the work has started, Contractor shall commit to a continuing schedule of at least forty-hours per week (if necessary) plus overtime, without any holidays or Sundays, until the project is completed. A verbal agreement between the City and Contractor shall define High Priority work.

16.17 Non-Emergency/Scheduled work shall be defined as work determined in advance by the City, with a written quote prepared in advance and agreed to by the Contractor and the City. Unless a longer timeframe is agreed to by both parties, the Contractor will begin work within forty-eight (48) hours after the City has agreed to the quote, and shall commit to a normal forty-hour per week work schedule (if necessary) until the work is completed. No overtime, holiday or weekend work will be allowed unless approved in advance by the City.

16.18 Time extensions on a job may be granted by the City based upon inclement weather, acts of God, or other events beyond the control of the Contractor. Such extensions must be in writing and agreed to by both parties.

16.19 Contractor shall have the capability to perform all enumerated services in-house, or by the use of fully qualified subcontractors. (Please include a list of subcontractors on the Subcontractor Form.)

16.20 All labor rates stated in bid shall include the following:

- Hourly Labor Rate(s)
- Consumable Items
- Overhead, Supervision, and Profits
- Common Hand and Power Tools (generally associated with the trade)
- Shrinkage Losses
- Mileage and Transportation Costs (unless approved by the City prior to work being performed)

16.21 The company hourly rate(s) as bid by the Contractor shall apply to all work done under the Final Agreement by the Contractor. The City will pay the Contractor only for those hours actually worked.

16.22 Contractor shall ensure that staffing levels, labor types and hours worked are reasonable and necessary for any given project.

16.23 Prior to work being performed, Contractor shall submit a Written Quote (or Estimate) to the City for each job on a time and materials basis, with a "not to exceed" dollar cost. The Quote shall include an itemized listing of all labor hours and materials required to complete the specific project. The cost of any specialized equipment rental shall also be provided for approval by the applicable department/agency. This Quote is for the City's budgetary purposes only. After project completion the City will pay only for those hours

actually worked and/or materials actually required. (For "Emergency" and "High Priority" work the written quote must be completed within a three day period of the completion of the work order.)

16.24 City will order the services under this Contract by purchase order or other legitimate method as determined by the department/agency. The order will detail a specific number of hours at the specific dollar amount per hour, and a specific dollar amount for any parts and materials required to complete the work.

16.25 Contractor shall submit time sheets for each project detailing hours worked, original rental sheets of approved equipment rentals, material invoices, and material delivery sheets, to the City representative for review and approval. Invoices shall show a Nomenclature of the part, Manufacturer, Manufacturers part number and Manufactures list price then extended with contractors bid discount.

16.26 City will pay the Contractor for only 3 types of charges:

- Hourly Labor Rates
- Parts & Materials
- Approved Equipment Rental

16.27 It is hereby understood by both parties that time is of the essence in this agreement. Failure of the Contractor to perform Roofing, Guttering and Downspout Repair/Replacement as herein provided will result in liquidated damages to the City. It is hereby agreed that City will be damaged in the sum of two hundred ($200.00) liquidated damages per day for each day Contractor is unable, or refuses, to provide the services in the amount and manner herein provided. Contractor agrees to pay City said damages or, in the alternative, City may withhold monies otherwise due the Contractor. It is expressly understood by the parties hereto that these damages relate to the time of performance and do not limit the City's other remedies under this agreement, or as provided by applicable law.

16.28 Upon the submittal of approved claims, City shall compensate the Contractor for all legitimate charges, including labor rates in an amount not to exceed the per unit prices as shown on the "Pricing Form."

16.29 The total amount paid to Contractor for work performed on any one project under this agreement may be limited to a quoted total price of up to one hundred thousand dollars. Any project with a total estimated cost that equals or exceeds one hundred thousand dollars will be bid separately in order to comply with Purchasing Division rules and policies.

16.30 The bid prices stated shall remain in effect for the entire term of this agreement. There are no price escalators for the hourly labor rate.

16.31 Contractor shall maintain proper accounting records for the scope of all services under this agreement and provide an accounting for all charges and expenditure as may be necessary for audit purposes. All such records shall be subject to inspection and examination by City representatives during normal business hours.

16.32 Contractor shall submit quarterly reports and an annual summary of work provided during the term of this agreement. These reports shall include but not be limited to: The Agreement ITB Number, Project Date, Location, Agency/Department Purchase Order Number and Name, Hours to Complete Project and Total Cost for each project. These reports may be submitted (preferably) by electronic means such as e-mail or CD-ROM or by fax. The City prefers a Microsoft Office program format. Reports may be sent by e-mail to mkmoore@indy.gov, faxed to Mr. Mike Moore at 317-327-4493, or a CD can be mailed to Mr. Mike Moore, 1522 City-County Building, 200 East Washington Street, Indianapolis, IN 46204.

16.33 Contractor shall guarantee replacement projects and repairs for a minimum period of one (1) year from the date of installation or completion. Contractor shall provide the City with documentation for any manufacturer warranty periods longer than one (1) year, and shall properly inspect and install the components in a manner that does not void any manufacturer's warranty. Failure of any portion of the repairs or parts within one (1) year due to improper workmanship, materials of construction, or design may result in a refund to the City of the purchase price of that portion which failed; or, may result in the forfeiture of the Contractor's Performance Bond, in addition to all other remedies provided by law.

16.34 If a manufacturer's warranty extends beyond the one (1) year period mentioned herein, the City shall take full advantage.

16.35 City shall be the sole judge of sufficiency of workmanship and quality of materials. Disputes shall be resolved by the Chief Executive Officer of the Department in conflict and are not subject to arbitration.

16.36 Contractor shall be solely responsible for initiating, supervising and maintaining all needed safety precautions in connection with the work. Contractor shall take all necessary precautions for the safety of, and provide for the necessary protection to prevent damage, injury or loss to, employees, bystanders, materials, equipment and property. In so doing, Contractor shall comply with the applicable rules and regulations of any regulatory body (e.g. OSHA, IOSHA,) having jurisdiction over the safety of persons or property. Contractor shall be liable for any resulting damage arising from its operations. Hard hats and fall protection shall be worn and functional as required by OSHA, IOSHA, and local building ordinances when employees are working on City property.

16.37 Likewise, the Contractor shall abide by all federal, state and local laws, rules and regulations as relates to the handling, storage, transportation and disposal of hazardous

waste on all projects, and shall in no instance improperly store or dispose of a hazardous waste on City property. Contractor shall comply with all other environmental laws or regulations in effect.

16.38 The installation of BRAND NEW systems or units, or the performance of modifications that change the "fit, form or function" of existing systems or units is not implied or approved under the terms of this agreement. Any such work will be subject to Public Works Construction Laws, and bid separately. Any and all replacements under this agreement will be "like for like" replacements.

16.39 All replacement parts shall be of the same manufacturer make and model if possible, or shall otherwise be industry standard parts equal in design and quality to those of the original manufacturer. All parts that have been replaced shall be made available for inspection by the City if required.

16.40 The City reserves the right to furnish any parts and materials required to complete repairs.

16.41 The City reserves the right to shop for better pricing on any specialized rental equipment.

16.42 The Contractor will be required to remove all trash, debris, or surplus materials related to the work from City property prior to completion and properly dispose of the same. (The City will not be responsible for providing for trash or material disposal unless specifically identified herein.) The Contractor shall otherwise return City property to a state equal to or better than that found at the commencement of the work.

16.43 The Contractor may assume the use of the City's basic utilities for the project, including standard electrical outlets, water outlets and drains; to the extent such utilities are available and suitable for the intended use. The Contractor should not assume that any special or unusual utilities are available from the facility.

16.44 The Contractor shall maintain any current manufacturer installation certifications. If the Contractor, in the course of the performance of replacement or repair under this agreement, encounters a job requiring manufacturer certification that is not currently held by the Contractor, the Contractor must notify the City during the quote process. The City reserves the right to quote or bid any replacement or repairs if the Contractor cannot, under this agreement, initiate proper installation or repairs within manufacturer certified standards. Any emergency or High Priority work commencement shall be at the sole discretion of the City.

16.45 Contractor shall monitor Quality Control over suppliers, manufacturers, products, services, site conditions, and workmanship, to furnish work of specified quality. Contractor will comply with the manufacturer's instruction, including each sequential step. Contractor shall ask for clarification in the event of conflict between manufacturer's instructions and contract documents. Contractor shall comply with specified standards as minimum quality levels except where more stringent parameters on any phase would demand higher levels of quality. All work will be done to the highest level of quality and workmanship per industry standards. Contractor shall assure that all work is performed only by persons capable of producing the required level of quality. Contractor shall

assure that all products being secured are secured positively by devices that withstand stress, vibration, distortion or disfigurement.

16.46 Contractor shall monitor all tolerances of installed and assure that tolerances do not accumulate. Contractor shall comply with manufacturer's tolerances. In the event of a conflict between the Contract Documents and the manufacturer's tolerances, the Contractor shall request clarification from the Agency/Department before proceeding. Contractor shall establish dimensions within tolerances before securing products permanently. References Contractor shall use as a reference for workmanship standards; code, association, trade or accepted practices (in that order) Conformance to referenced standards shall be to that standard in effect at the time of the completion of the work The contractual relationship, duties, and responsibilities of parties under this Contract shall not be changed by any reference Document by mention or inference.

16.47 If required, Contractor shall secure the field service or data collection and distribution services of any manufacturer to support Quality level of any project under the terms of this Agreement. Contractor shall report to the City Agency or Department, before implementation, any specific changes originating from such field service visits.

## Attachment B.

## Pricing Form

The Bid is submitted by: **Construct Solutions Inc.** for providing Repair and/or Replacement of Roofing, Guttering and Downspouts as described in this invitation to bid.

| Trade | Regular Rate in Dollars/Hour/Worker | Overtime Rate in Dollars/Hour/Worker | Emergency/Holiday Rate in Dollars/Hour/Worker |
|---|---|---|---|
| **Roofer** | **$ 44.00** | **$ 66.00** | **$ 66.00** |
| **Sheet Metal Worker** | **$ 54.00** | **$81.00** | **$ 81.00** |
| **Other Skilled Worker** | **$54.00** | **$ 81.00** | **$ 81.00** |
| **Unskilled Laborer** | **$ 40.00** | **$60.00** | **$ 60.00** |

In the space below, or on an attachment, please thoroughly outline the days and hours for which overtime and emergency rates would actually apply. (These days/hours should generally correspond to industry standard practices for the roofing industry.)

Overtime Rate: Hours Outside Monday – Friday 7AM-3:30PM

Emergency/Holiday Rate: Same as above.

Parts & Materials

Current purchasing laws do not allow the City to enter into a "Cost Plus Percentage of Cost" type contract. The City requests that all parts and materials be provided either at a specified discount (if any) from the manufacturer's Printed Price List or at actual cost. Parts and materials that do not have a published manufacturer list price or those purchased in the field (ex: home center store) should be provided at cost. Note: Consumable supplies shall be included in Labor Rates.

Percent discount from manufacturer's price list **0 %** (Please submit your current standard catalog(s) and list pricing with the bid.)

By submission of this bid, the contractor declares examination of this Invitation to Bid for Repair and Replacement of Roofing, Guttering and Downspouts and has full knowledge of the work expectations, materials that may be required and conditions under which the work will be performed or materials supplied. Further, the contractor agrees to comply with all provisions of the Invitation to Bid (except as noted on the Exception Sheet and agreed to by the City).

## 1.0 Extended Price Sheet

20.1 If awarded an agreement as a result of the pricing proposed herein, will you extend this pricing to political subdivisions in Marion County (and notify Indianapolis Purchasing Division upon initial extension to an additional subdivision)?

YES_____X_____ NO_____

20.2 If awarded an agreement as a result of the pricing proposed herein, will you extend this pricing to political subdivisions in adjoining counties (and notify Indianapolis Purchasing division upon initial extension to an additional subdivision)?

YES_____X_____ NO_____

[Political subdivisions include cities, towns, school corporations, and county governments. If you mark YES you are agreeing that you are willing to extend your proposed pricing to any of these entities if they wish to purchase from any resulting Agreement.]

20.3 Will there be a freight differential required to extend pricing to political subdivisions outside Marion County?

YES_____X_____ NO_____

20.4 The City of Indianapolis DOES NOT accept responsibility for purchase orders issued by other political subdivisions. All political subdivisions must be willing to accept all items(s) as described in the specifications without any change or alteration, no matter how minute, once accepted by the City of Indianapolis.

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