



City of Indianapolis and Marion County

Request for Qualifications

Estimated Release Date	Thursday, March 19, 2026
Request for Qualifications Reference Number	RFQual-1ABNS-2026-6
Request for Qualifications Title	DBNS Right-of-Way Inspections Services RFQual
Agency	Department of Business and Neighborhood Services
Agency Contact	Jacob W. Miller Tel: (317) 327-2143 Email: jacob.miller@indy.gov
Questions & Answers	<ul style="list-style-type: none"> • The deadline to submit written questions is 12:00PM local (Eastern) time on Thursday, April 2, 2026. <ul style="list-style-type: none"> ○ All questions must be submitted in writing to Jacob.Miller@Indy.Gov. ○ <i>There will be no response to questions that are not submitted in writing by the deadline.</i> • Written responses, if any, will be provided by City via addendum posted to: https://www.indy.gov/activity/opportunities-to-become-a-vendor-for-bns no later than 12:00PM local (Eastern) time on Friday, April 10, 2026. • Only questions submitted in writing will be addressed via addendum. Only responses via addendum shall be considered official.
Request for Qualifications Electronic Submittal Deadline	<ul style="list-style-type: none"> • Thursday, April 16, 2026 at 12:00PM noon Local Time (Eastern) • Delivery by email only to jacob.miller@indy.gov • Submissions received after the response deadline will not be accepted. No exceptions. <p style="text-align: center;"><u>Electronic Submissions Only</u></p>

City of Indianapolis Request for Qualifications DBNS Right-of-Way Inspections Services

Questions pertaining to the Request for Qualifications (RFQ) documents may be directed to Jacob W. Miller, Chief Financial Officer, by email to jacob.miller@indy.gov, no later than **Thursday, April 2, 2026 by 12:00PM Noon Local Time (Eastern)**.

NOTE: Any related addenda to this RFQ, including written answers to questions, will be posted on the DBNS website <https://www.indy.gov/activity/opportunities-to-become-a-vendor-for-bns> as well as the Purchasing Division's official website at www.indy.gov/purch under the appropriate project heading. Addenda will NOT be sent directly to vendors. Vendors will be responsible for periodically checking this website for any related addenda up to and including the due date. Vendors should print out, sign, and return written acknowledgement(s) with their RFQ. Failure to sign and return the addenda may cause a response to be determined as non-responsive for review purposes.

The City of Indianapolis and Marion County by and through the Department of Business and Neighborhood Services is seeking Request for Qualifications (RFQ) submittals in regard to the contents herein. The City is looking for a qualified consultant to provide technical inspection services.

1. General Information

The Division of Construction and Business Services within the Department of Business and Neighborhood Services (DBNS) is looking for qualified consultants to provide construction observation/inspection and testing of excavations and restorations within the public right-of-way for impacts on existing public assets. The primary function of the consultant firm is to provide construction observation for right-of-way permits to ensure protection and maintenance of public assets through proper restoration in compliance with standards and specifications. (Please Note: the transportation infrastructure inspections and testing services outlined within this scope are separate from those in the Infrastructure Inspections & Testing RFQ. These inspections pertain to work covered under right-of-way excavation permits for impacts on existing public assets, whereas infrastructure inspections outlined under the Infrastructure Inspections & Testing RFQ pertain to new infrastructure permitted under street or driveway permits during development on private parcels.)

Due to the level of technical understanding necessary to conduct construction observation inspections and testing, the City is seeking partners to provide as-needed construction observation services on the City's behalf to ensure proper restoration of excavations within Indianapolis right-of-way.

This is a qualifications-based selection; submission of qualifications does not guarantee selection or award of work. It serves only as a notice of interest and proposal of potential approaches. Pricing will not be requested as part of the Statement of Qualifications.

2. Background

Program Background

DBNS is the permitting and inspection authority for projects involving the use, excavation, and occupation of the public right-of-way in the City of Indianapolis, and utilizes both staff and consultants to complete inspection processes. The right-of-way team includes approximately thirteen (13) staff members, who are responsible for DBNS Right-of-Way Inspections Services RFQual
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managing approximately 12,000 permit cases each year. Project compliance analysts review permit applications and coordinate with City stakeholders to issue permits that impact use of the public right-of-way. Staff inspectors conduct inspections of projects to determine whether temporary use or closure of the right-of-way is being accomplished in a manner compliant with safety standards. This RFQ is to explore opportunities to establish a program for construction observation of impacts to existing infrastructure that are permitted via right-of-way excavation permits (in many ways, an equivalent to the existing program for construction observation of newly constructed infrastructure). Similar to the current approach for inspecting new infrastructure (scope described under RFQual-1ABNS-2026-4, DBNS Infrastructure Inspections and Testing Services RFQual), contracted inspectors would complete construction observation at the beginning and end of the permit period to ensure that permitted excavations impacting the right-of-way are completed and restored in accordance with the permitted scope and required specifications. The primary function of the consultant firm is to provide construction observation for right-of-way permits to ensure protection and maintenance of public assets through proper restoration.

Upon assignment of a project, consultants are responsible for completing routine inspection and observation of work impacting the public right-of-way, including confirmation of asset restoration to the appropriate standard, coordinating with City staff, and providing real-time project updates via electronic communication and DBNS' case management system.

Program Objectives

The goal of inspections, and specifically of construction observation, is to ensure that excavations, alterations, and restorations on existing public assets in the public right-of-way do not result in undue deterioration of public assets and unnecessary expenditure of taxpayer funds. Construction observation and inspection – along with the resulting documentation – provide a means of documenting the pre-and post-permitting condition of infrastructure assets and ensuring that any impacts to public assets are addressed so that Indianapolis residents are ensured public access to safe and well-maintained public ways.

3. Anticipated Scope of Work

Vendor will be responsible for providing construction observation/inspection and testing services during permitted excavation and restoration or reconstruction of public right-of-way (including streets and sidewalks). These services pertain to work covered under right-of-way excavation permits for impacts on existing public assets. Inspections and testing contracts are considered pass-through contracts, and the consultant is required to communicate with both the project manager/property owner and DBNS staff. The anticipated scope of work includes:

- Maintaining a thorough understanding of permitted scope, construction schedule, plans, specifications, and applicable conditions for all assigned projects, and observing construction for compliance with respect to listed provisions
- Serving as the subject matter expert on infrastructure installation standards, specifications, and best practice
- Documenting inspections and, when necessary, testing of infrastructure throughout the course of each assigned project

The scope of inspection/construction observation and testing includes:

- Means and methods of restoration of public assets within the right of way, including:
 - Backfill for temporary restorations
 - Sub-grade materials and compaction
 - Pavement materials and thickness
- Status of restoration upon completion of work
- Compliance with requirements for erosion and sediment control and pollution prevention practices in

accordance with the Construction Stormwater General Permit

Standards, specifications, and testing requirements can be found in City of Indianapolis ordinance (645) and regulation, including Chapter 200 of the DPW Transportation Section Standards Manual and INDOT Standard Specifications where applicable.

Responses should specifically address a respondent's experience with each scope, ways in which the respondent has performed similar services for other clients in the past, and propose models of work for how such a working partnership could be structured.

Respondents should indicate the number of active projects they have the capacity to accept at a given time for the duration of the agreement.

Cost information should be assembled in a separate Cost Proposal document, to be provided to the Department of Business and Neighborhood Services upon request only after qualification is determined. Any vendor submission of compensation/costs without the request of the Department will cause your submittal to be rejected.

4. Submission Requirements

All submittals must include the following:

4.1 Cover Letter

- Organization name, contact name, address, phone number, and email address. The cover letter should document the organization's capacity and intent to proceed without delay if selected for this work.

4.2 Qualifications Criteria

- General Information – Responses to this portion should total no more than five (5) pages.
 - Description of the organization & team.
 - Organizational chart with names and titles.
 - Special certificates and/or licenses held by the organization.
- Team Experience and Qualifications – Responses to this portion should total no more than five (5) pages.
 - Detail each team member's role on this project.
 - Inspection teams must be supervised by a licensed professional engineer.
 - Inspectors must be qualified by educational degree and/or certification to inspect transportation infrastructure.
 - To be qualified for inspection of transportation infrastructure, inspectors must have a construction observation certification or an engineering degree and an INDOT Certified Technician qualification.
 - Pre-approved certifications that meet the construction observation certification requirement include Certified Public Infrastructure Inspector credentials through the American Public Works Association or the Construction Observation Course through Indiana Water Environment Association; equivalents approved by the City in writing will also qualify
 - Inspectors with Certified Erosion, Sediment and Stormwater Inspector (CESSWI) credentials from EnviroCert International, Inc. (or similar) are preferred. Firms must have 1-3 years' experience providing services similar to those detailed in this RFQ.
 - Firms must have the capacity to absorb a caseload of at least 50 active projects simultaneously.
 - Office and staff local to the Central Indiana region is required

4.3 Relevant Organizational Experience

- An outline of experience in performing similar services as described in the Anticipated Scope of Work. Responses to this portion should total no more than five (5) pages.
 - The outline should include examples that demonstrate the firm’s relevant experience and qualifications.
- Provide the firm’s proposed approach to the Anticipated Scope of Work, as described in Section 3, including but not limited to the staffing structure (traditional third-party vendor engagement, on-site staff augmentation, etc.), and the number of staff available to achieve the scope. Responses to this section should total no more than five (5) pages.
 - Proposals may include multiple options for approach. If selected to proceed to the interview stage of the procurement process, firms will be expected to provide cost estimates for all proposed staffing structures.
- Three (3) business references; preference will be given to references where similarly requested services were performed. Do not include references that are currently employed by City. References should be formatted as follows:
 - Name:
 - Title:
 - Address:
 - Phone Number:
 - Email Address:
 - Brief description of the services performed:
- If applicable, please provide a list of lawsuits that your company has been a party to as related to the types of services provided in this RFQ. For each lawsuit, please provide a brief description of the facts at issue as well as the resulting outcome.

4.4 MBE/WBE/VBE/DOBE (“XBE”) participation form or waiver

It is the policy of the City that Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs), Veteran Business Enterprises (VBEs), and Disability-Owned Business Enterprises (DOBEs) shall have the maximum feasible opportunity to participate in the performance of contracts. Consequently, the City, through Article IV, Section 202-401 of the revised municipal code & The Consolidated City of Indianapolis and Marion County MBE/WBE/VBE/DOBE Business Utilization Plan in Indianapolis, has established MBE participation goals of 15%, WBE participation goals of 8%, VBE participation goals of 3%, and DOBE participation goals of 1% for its dollars spent on public works, goods, and services.

In order to help accomplish this goal, the City is requesting that you include with your submittal information regarding your status as an MBE, WBE, VBE, or DOBE. Additionally, please include contact information for any MBE, WBE, VBE, or DOBE owned Vendors directly participating in your business operations. The City also requests contact information for any MBE, WBE, VBE, or DOBE sub-contractors that you might use in the course of doing business with the City. Some examples of this kind of service include, but are not limited to: office suppliers, courier services, shipping services, etc. These services can occur at the local, state, or national level. Please include an estimated percentage or dollar amount that you anticipate using.

Be advised that the information provided on MBE/WBE/VBE/DOBE participation will be included as part of the review process. Accordingly, it is imperative that you do everything possible to obtain the information above and supply it as part of the submittal.

In order to be recognized by the City of Indianapolis/Marion County as an MBE/WBE/VBE/DOBE participant, your company must be certified with the Office of Minority & Women Business Development (OMWBD). The City will recognize only City of Indianapolis certified firms regardless of any other state or national affiliation.

If you should need assistance in obtaining information or certification for possible participation in a contract, please contact the OMWBD on the Internet at www.indy.gov/omwbd or by phone at (317) 327-5262.

Respondents can view a list of City OMWBD approved MBE/WBE/VBE/DOBE vendors by going to this web page: <https://www.indy.gov/activity/find-omwbd-contractor> and selecting the appropriate monthly "Vendor Listing" spreadsheet.

5. Compensation / Cost

Since this is a Request for Qualifications only, **any Vendor submission of compensation/costs will cause your submittal to be rejected**. After the City selects a short list of candidates, interviews will begin with qualified Vendors and the City will encourage, only at that time, innovative responses regarding compensation/costs for representing the City in providing consulting services.

6. Submission Instructions

Please provide **an electronic submission** of the response to this Request for Qualification. **Submissions must be received before 12:00PM Noon Local Time (Eastern) on Thursday, April 16, 2026. Late submissions will not be accepted or considered.**

Please send your submittal via email to **Jacob W. Miller, jacob.miller@indy.gov**, on or before **Thursday, April 16, 2026 at 12:00PM Noon Local Time (Eastern)**. Subject must read **DBNS Right-of-Way Inspections Services – RFQual-1ABNS-2026-6**.

Submissions must be signed by a representative of the respondent organization authorized to submit and establish fees on behalf of the respondent organization and bind the respondent organization to the terms and conditions of this RFQ.

(The rest of this page is left intentionally blank.)

8. Sample Agreement

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CONSOLIDATED CITY OF INDIANAPOLIS AND MARION COUNTY –
DEPARTMENT OF BUSINESS AND NEIGHBORHOOD SERVICES
AND
XXXX
FOR
RIGHT-OF-WAY INSPECTION SERVICES**

This Professional Services Agreement (hereinafter referred to as “Agreement”), entered into by and between the **Consolidated City of Indianapolis and Marion County Department of Business and Neighborhood Services** (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

- 1.1. 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.
- 1.2. 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.
- 1.3. 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.
- 1.4. 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.
- 1.5. 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.

- 1.6. Where the term “Revised Code” is stated, it shall mean the municipal ordinances of Indianapolis-Marion County, Indiana that is formally known as the “Revised Code of the Consolidated City of Indianapolis and Marion County, Indiana”.

2. DUTIES OF CONTRACTOR

- 2.1. Contractor shall provide services as specified in Attachment A, Scope of Services, attached hereto and incorporated into this Agreement.

3. TERM

- 3.1. The two (2) year term of this Agreement shall begin July 1, 2026 (07/01/2026) and shall terminate at the close of business June 30, 2028 (06/30/2028) unless terminated earlier in accordance with this Agreement.
- 3.2. 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.

4. COMPENSATION

- 4.1. 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).
- 4.2. 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.

5. GENERAL PROVISIONS

- 5.1. 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.

- 5.2. 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:

5.2.1.1.1. 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

5.2.1.1.2. Demonstrate a good faith effort to achieve such percentages, in compliance with the policies and to the satisfaction of the City of Indianapolis Office 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 Prompt pay requirement. Contractor shall pay subcontractors and suppliers funds due from previous progress payments within fifteen (15) business days of receipt of payment from the City. During the term of this Agreement and upon completion of this Agreement, the City may request documentation to certify payments to subcontractors and suppliers and Contractor shall provide such documentation within fourteen (14) days of such request. Violation of this requirement shall constitute a breach of this Agreement.

5.06 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.

5.07 Ownership.

5.07.1 "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.

5.07.2 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.

5.07.3 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.

5.08 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.

The following liability amounts in paragraphs A through E represent a baseline. City reserves the right to increase or decrease the baseline amounts depending on the nature of the Scope of Services.

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
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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. Professional Liability

5.08.1 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. The coverages afforded under the policies shall not be cancelled or not renewed until at least thirty (30) days after written notice has been given to City. Upon cancellation, Contractor shall obtain a new insurance policy in accordance with Section 5.07 of this Agreement and send a copy of the new policy to the City.

5.08.2 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.

5.08.3 Nothing in the above provisions shall operate as or be construed as limiting the amount of liability of Contractor to the above enumerated amounts.

5.09 Termination for Cause or Convenience.

5.09.1 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.

5.09.2 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.

5.09.3 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.

5.09.4 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.

5.10 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.

5.11 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.

5.12 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:

Department of Business and Neighborhood Services
Attn: CFO
200 E. Washington St., Suite 107
Indianapolis, IN 46204

- 5.13 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.
- 5.14 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.
- 5.15 Conflict of Interest.
- 5.15.1 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.
- 5.15.2 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.
- 5.16 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.
- 5.17 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.

5.18 Applicable Laws; Forum.

5.18.1 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.

5.18.2 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.

5.19 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.

5.20 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.

5.21 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.

5.22 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.

5.23 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.

5.24 Debarment and Suspension.

5.24.1 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.

5.24.2 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.

5.24.3 Contractor shall not subcontract with any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in any Federal assistance programs by any Federal department or agency, or by any department, agency or political subdivision of the State of Indiana.

5.25 Compliance With E-Verify Program. By executing this Agreement, the Contractor affirms under the penalties of perjury that the Contractor does not knowingly employ an unauthorized alien. The Contractor further agrees that:

5.25.1 The Contractor shall enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify program as defined in IC § 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.

5.25.2 The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

5.25.3 The Contractor shall require its subcontractors, who perform work under this Contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

If Contractor is in violation of IC § 22-5-1.7, and fails to cure the breach within 30 days after being notified by the City, such circumstance may constitute a material breach of this Agreement and the City may terminate this Agreement as provided by this statute.

5.26 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.

5.27 Electronic Signature. Contractor and City agree to signature both in counterparts and by facsimile.

5.28 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:

5.28.1 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;

5.28.2 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;

5.28.3 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;

5.28.4 Is currently an official or deputy mayor of, or has appointing authority to, any agency of the City of Indianapolis or Marion County; and

5.28.5 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.

5.29 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.

5.30 Additional Information upon Request. The Contractor shall, upon request of the City, make available its policies, practices and standards for the hiring of applicants, except as prohibited under Indiana Code section 22-2-17-3, to the extent such information is related to the provision of services under this Agreement.

5.31 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.

By executing this Agreement, Contractor affirms under the penalties of perjury that Contractor has not had any adverse determinations rendered against the Contractor within the preceding three (3) years.

E-sign digital signature block: This agreement will require electronic signatures by Awarded Vendor and City to constitute a legally binding transaction.

SAMPLE

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 **Department of Business and Neighborhood Services** (hereinafter "Contractor"), Contractor shall do, perform, and carry out in a good and professional manner the following services:

SAMPLE

ATTACHMENT B: PRICING

SAMPLE