



CITY OF BLOOMINGTON

REQUEST FOR QUOTE

Leafing and Yard Waste Composting

City of Bloomington, Indiana

Board of Public Works

July 28, 2016

SECTION 1.0

NOTICE OF QUOTE REQUEST

RFQ #2016-PW-002

SCOPE OF QUOTE

The City of Bloomington Board of Public Works (hereinafter "City") is seeking quotes from qualified and experienced Vendors or Contractors for Leaf and Yard Waste Composting Services for August 2016 through August 2018. The Quote information packet is also available on the City of Bloomington website located here: <https://bloomington.in.gov/rfp>

1.1 RFQ TIMELINE

Quote Title and Number:

Leaf and Yard Waste Composting Services –
RFQ #2016-PW-002

Issue Date:

Thursday, July 28, 2016

Quote Submittal Deadline:

Tuesday, August 9, 2016 at 12:00 p.m. local time.

Submit Quote to:

Julie Martindale
401 N Morton St., Ste. 240
Bloomington, IN 47404
PH: 812.349.3474 FX: 812.349.3456
martindj@bloomington.in.gov

Method of Submittal:

US Mail, Overnight or Parcel Delivery, or Hand Delivered.
Electronic or Fax submissions are acceptable.

Affirmative Action Plan Due:

Monday, August 8, 2016 at 12:00 p.m. local time.

Award of Quote:

The award, if issued, may be made at the August 9, 2016 meeting, or at a subsequent Board of Public Works meeting.

2.1 EVALUATION

Quotes will be evaluated on the basis of overall cost, experience and compliance with specifications included in the quote request. The following criteria may also be used to determine the best value for the City:

- (a) Ability to meet specifications or qualifications set out herein,
- (b) Vendor's/Contractor's past experience, service history, and technical reputation and capabilities when applicable, and
- (c) References

2.2 AWARD

An Award, if issued, will be made to a responsible and responsive Vendor/Contractor submitting the best overall value to the City, and complies with the conditions as provided as provided in Section 2.1.

- 2.2.1 The City reserves the right to award on an all or-none basis, or award to multiple Vendors or Contractors.
- 2.2.2 If an award is to be made, it may be made at the August 9, 2016 meeting, or at a subsequent meeting of the Board of Public Works. The City reserves the right to rescind any award if it is determined the offer is not in the best interest of the City, or if errors, omissions, inaccuracies, non-compliance, or any deficiencies are discovered after the award has been issued.
- 2.2.3 If the City determines that all quotes received should be rejected, Vendors/Contractors shall be notified by the Purchasing Manager accordingly. The City may or may not resubmit the quote request.
- 2.2.4 Quote tabulations shall be sent to all Vendors/Contractors who submitted a quote. Quote results shall not be given over the telephone, or prior to the award of a contract. Information regarding the award date of a quote is provided in Section 1.1.
- 2.2.5 Quotes may be withdrawn any time *prior* to the scheduled deadline for receipt of quotes; no quote may be modified or withdrawn for a period of sixty (60) calendar days thereafter.
- 2.2.6 The City reserves the right to reject the submittal based on its assessment of the Vendor's/Contractor's prior performance.

3.1 SUBMITTALS

Quotes must be received by the date and time set for closing receipt of offers. The envelope shall be identified with the RFQ Number and Title, and the Vendor or Contractor's Name.

- 3.1.1 Quotes must be received no later than 12:00 p.m. local time on August 9, 2016. Late submittals shall not be considered.
- 3.1.2 It is the responsibility of the submitter to assure delivery of quote documents prior to the established deadline. To confirm receipt of your submittal please contact Julie Martindale at 812.349.3474, or martindj@bloomington.in.gov.

3.2 SUBMITTAL INSTRUCTIONS

The Vendor/Contractor shall complete and submit the **Quote Form (Exhibit A)** provided in this packet. Include a brief summary of company history and experience, pricing information and reference request information.

- 3.2.1 **REFERENCES** - The summary shall also include three (3) business references of recent projects similar in nature to the Scope of Work requested in this RFQ. Include a brief summary of the work performed for each reference, and a date of when this work was completed.
- 3.2.2 **FORM 96 – Contractor's Bid for Public Work (Exhibit B)**
Each submittal shall include a completed Form 96. The form is included with this packet and only the Parts and Sections noted below are required to be completed and notarized. Offers submitted without proper signatures and notarization will be considered invalid and shall be deemed non-compliant.
 - (a) Part 1- ***Is required*** and must be completed.
 - (b) Part II – Sections I - III are ***not required*** since this project is less than \$150,000.
 - (c) Part II – Section IV - Contractor's Non-Collusion Affidavit and Section V – Oath and Affirmation - ***are required*** and must be completed and notarized. The form must be signed by an authorized person of the company.
- 3.2.3 **AFFIRMATIVE ACTION PLANS (Exhibit C) – (REQUIRED ON CONTRACTS OVER \$10,000)**
Each Vendor/Contractor submitting an offer for over \$10,000.00 shall submit and have approved by the City of Bloomington Contract Compliance Officer, Barbara McKinney, his/her written ***Affirmative Action Plan at least twenty-four (24) hours prior to the deadline for submission of quotes.***

Each Vendor/Contractor must insure that all employees and applicants for employment are not discriminated against because of race, religion, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, veteran status or housing status. All the protected classes must be included in your Affirmative Action Plan for it to be acceptable.

In addition to other requirements, your plan MUST include a workforce breakdown, an internal grievance procedure, a non-retaliation statement, designation of a person by name or position who is responsible for implementation of the Plan, applicability to both applicants and employees, recruitment of minorities, equal access to training programs, and an explanation of your method of communicating the operations of your Affirmative Action Plan to employees and prospective applicants.

Barbara McKinney, Contract Compliance Officer, may be contacted at (812) 349-3429, 8:00 a.m. to 5:00 p.m. Monday through Friday. The Affirmative Action Plan paperwork is provided in this Request for Quote.

3.2.4 **AFFIDAVITS (Exhibit B & D)** – Vendors/Contractors submitting a quote shall also include the following Affidavits with its Quote submission. The Affidavits must be properly executed and notarized to be considered valid.

- E-Verify Employment Affidavit (**Exhibit D**)
- Non-Collusion Affidavit (Included in **Exhibit B** under Part II - Section IV)

3.2.5 **QUOTE SUBMITTALS** – Submittals shall include all of the completed forms listed below:

1. City of Bloomington Quote Form with pricing (Exhibit A)
2. Form 96 Contractor’s Bid for Public Work including the Non-Collusion Affidavit (Exhibit B)
3. E- Verify Employment Affidavit (Exhibit D)

Note: The Affirmative Action Plan (Exhibit C) must **not** be submitted with the quote. The plan is required to be approved prior to the quote deadline. See Section 3.2.3 for details.

3.3 **INCOMPLETE INFORMATION**

Failure to complete or provide any of the information requested in this Request for Quote, including reference requests, and/or additional information request when indicated, may result in disqualification by reason of "non-responsiveness."

3.4 **INQUIRES AND ADDENDA**

It is the responsibility of the Vendor or Contractor to clarify any details in question before a quote is submitted. All questions should be emailed to the attention of Julie Martindale at martindj@bloomington.in.gov. Responses shall be in written form via email to the requesting Vendor/Contractor within one (1) business day, when possible. If necessary, an addendum or addenda will be issued, and accessible on the City’s RFP page which is located here: <https://bloomington.in.gov/rfp>. It is the responsibility of the Vendor or Contractor to access the City’s RFP webpage prior to submitting a quote to insure no updates, additions, omissions, or corrections have been posted.

SECTION 4.0 GENERAL TERMS AND CONDITIONS

4.1 **REJECTION OR PARTIAL ACCEPTANCE**

The City reserves the right to accept or reject any or all quotes or parts thereof. The City has the right to award by individual line item, by group of line items, or as a total. The City further reserves the right to waive technicalities and formalities in quotes, as well as to accept in whole, or in part.

4.2 CONTRACT INFORMATION (Exhibit E)

Any award for Services will require a properly executed Agreement of Services contract which shall include a Scope of Work, a compensation not to exceed amount, the term of the contract and renewal options, general Terms and Conditions, and any specific Terms and Conditions required based on the type of service being provided. Vendors/Contractors are strongly advised to review the Sample Contract provided with this packet. Submission of a Quote indicates acceptance of the Terms and Conditions contained within this Quote Request unless clearly noted in the quote submittal. A draft contract has been supplied with this quote packet.

4.3 ERRORS OR OMISSIONS

The City is not responsible for the Respondent's errors and/or omissions. It is the responsibility of the Respondent to notify the Purchasing Manager as soon as any ambiguities, inconsistencies, or omissions are identified.

- 4.3.1 The quote may be rejected if it shows any omissions, alterations of the form, additions not called for in the quote, or any irregularities of any kind.

4.4 INSURANCE

If awarded a contract the Vendor/Contractor shall maintain the minimum amount of insurance coverage shown below during the performance period of the service contract. If additional Insurance coverage is required above the types and amounts listed in this section, it will be stated in the draft Contract supplied with this request.

- 4.4.1 All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana.
- 4.4.2 Commercial General Liability (Occurrence Basis) bodily injury, personal injury, property damage, contractual liability, products-completed operations, Insurance coverage, with a minimum combined single limit coverage amount of \$1,000,000 for each occurrence, and \$2,000,000 in the aggregate.
- 4.4.3 Comprehensive Automobile Liability Insurance coverage, with a minimum combined single limit of \$1,000,000 for each person, and \$1,000,000 for each accident.
- 4.4.4 Worker's Compensation Insurance coverage in accordance with the statutory requirements.
- 4.4.5 Umbrella Excess Liability insurance coverage with a minimum of \$5,000,000 for each occurrence and \$5,000,000 in the aggregate. The deductible on the Umbrella Liability shall not exceed \$10,000.
- 4.4.6 The City of Bloomington, the Department, the officers, employees and agents of each shall be named as additional insured under the General Liability Insurance and Automobile Liability Insurance policies. The policies shall stipulate that the insurance will operate as primary insurance and that no other insurance effected by the City will be called upon to contribute to a loss.

4.5 COMPLIANCE

The Vendor/Contractor warrants and agrees that its performance under any type of contract that may be rendered from this quote will at all times comply with all local, state and federal laws, codes, rules, ordinances and regulations.

Vendor/Contractor further agrees they and their employees are properly licensed to perform the Scope of Work for this request if the State of Indiana requires a current and valid license.

4.6 WARRANTIES

The Vendor/Contractor warrants that all articles, equipment, materials, and goods furnished or used in the performance of this contract shall be consistent with manufacturer's specifications, and shall be free from defects.

The Vendor/Contractor also warrants that all Services and Workmanship furnished under this contract shall conform to the methods, standards and best practices of the trade, and all work shall be performed by skilled and experienced staff, or workers trained in the specific Services covered by this contract.

4.7 BID/PERFORMANCE/PAYMENT BONDS – *Not applicable for this quote*

Each Quoter shall file with their sealed quote a cashier's check or certified check drawn on an acceptable bank or a Bid Bond equal to five (5) percent of the total amount of Quote. The successful Quoter shall furnish Performance and Payment Bonds for one hundred percent (100%) of the contract amount prior to the execution of the contract, and said bonds shall remain in effect for a period of one (1) year after final acceptance of the work.

4.8 RETAINAGE - *Not applicable for this quote*

Contracts for public work in excess of \$100,000 require retainage provisions. The retainage amount shall be placed in an escrow account. The City shall withhold five percent (5%) of the total contract dollar value for all work completed until the contract work is one hundred (100%) completed.

SECTION 5.0

GENERAL REQUIREMENTS

5.1 VENDOR/CONTRACTOR REGISTRATION

Upon notification of an award or order, a Vendor or Contractor must meet the approval requirements of the City. Therefore, the Vendor or Contractor shall submit a current and completed Request for Taxpayer Identification Number and Certification form (IRS Form W-9) to the Controller's Office as soon as they have been notified of an award of an order or contract. A substitute IRS W-9 form can also be obtained from the City of Bloomington website located here: <http://bloomington.in.gov/controller>. The completed documents must be submitted through one of the methods listed on the form

5.2 PAYMENT PREFERENCE

The City's preferred method of payment is Electronic Funds Transfer (EFT). Payments processed through an EFT save dollars by increasing efficiency and streamlining the payment process. This eliminates the cost of paper, printing, postage, paperwork, and time.

If awarded an order or contract, the Vendor or Contractor shall submit a completed EFT form to the Controller's office through one of the methods listed on the form. The form is located on the City of Bloomington website located here: <http://bloomington.in.gov/controller>.

5.3 TAX EXEMPTION

The City of Bloomington is exempt from payment of all state and federal sales taxes. Tax documents are available upon request.

5.4 PAYMENT INFORMATION AND INVOICE SUBMITTAL

Payment terms for invoices shall be net forty-five (45) days upon receipt of an acceptable original invoice and after all material or goods have been received and verified for accuracy.

Invoices shall include the following information:

- Company name and address
- Date of shipment
- Total amount due
- Unit price
- Extended price
- Quantity
- Description of goods
- PO number

5.4.1 Surcharges (i.e., fuel surcharges, restocking, etc.) shall NOT be added to invoices as an additional line item unless approved in writing from the Purchasing Manager.

5.4.2 The City is exempt from the payment of sales taxes. Any charges for taxes from which the City is exempt shall be deducted from invoices before payment is made.

5.4.3 The City may withhold payment for reasons including, but not limited to:

- Damage for which Vendor/Contractor is liable
- Valid liens or claims of lien
- Delay in the delivery of Service
- Inability of Vendor/Contractor to complete the service to the City's specifications

5.5 ABANDONMENT

Notwithstanding any other provision of this Award, if funds for the continued fulfillment of the Award by the City are at any time not forthcoming or are insufficient, through failure of any entity to appropriate the funds or otherwise, then the City shall have the right to terminate this Award or Contract without penalty by giving prior written notice documenting the lack of funding in which instance, unless otherwise agreed by the City and Recipient, this Award shall terminate and become null and void. The City agrees that it shall make its best effort to obtain sufficient funds, including but not limited to, including in its budget for each fiscal period during the term of this Award a request for sufficient funds to meet its obligations under the Award in full.

The City of Bloomington Street and Sanitation Departments will be requiring Leaf and Yard Waste Composting Services beginning August, 2016. The respective departments will be responsible for delivering leaf and yard waste to the contracted composting site.

The site shall be a properly licensed site and must be located in close proximity to the City as possible. The site must also be located in an easily accessible area for large dump trucks with trailers transporting twenty-five cubic yards of material. There must be ample area to maneuver vehicles in a safe and sufficient manner.

The City of Bloomington yard waste collection is a service provide by the Sanitation Department and is available to all City residents. Yard waste service typically begins in April and continues through January of the following year. Yard waste may consist of leaves, grass clippings, brush, tree prunings, and holiday trees.

The Sanitation Department will deliver the yard waste to the contracted site an average of two (2) times a week during the summer months, and four (4) times a week during the fall and holiday seasons. The total estimated cubic yards collected during these time periods is approximately one thousand nine hundred (1,900) cubic yards.

The City of Bloomington Street Department offers curbside leaf collection to City residents which begins in November and continues through December of each year. The Street Department will deliver leaves to the contracted site on a daily basis during this time period. Daily deliveries will average from one (1) to ten (10) times per day depending on collection rates. The total estimated cubic yards collected during this time period is approximately eight thousand five hundred (8,500) cubic yards.

The City reserves the right to deliver decreased or increased quantities from those specified. However, the estimates are as accurate as we are able to determine.



CITY OF BLOOMINGTON QUOTE FORM

RFQ #2016-PW-002

LEAF AND YARD WASTE COMPOSTING

Important:

Both pages of this Quote Form must be completed for the quote to be valid and accepted.

SEND OR DELIVER QUOTE TO:

Julie Martindale
401 N Morton St. Ste. 240
Bloomington, IN 47404
812-349-3456 (Fax)
martindj@bloomington.in.gov

ITEM NO.	DESCRIPTION	COST PER LOAD
1	Leaf and Yard Waste Composting Services for City of Bloomington Approximately 10,000 – 10,500 Cubic Yards <div style="text-align: right;"> Cost per 25 Cubic Yard Load: \$ _____ Cost per less than Truckload: \$ _____ </div>	

VENDOR / CONTRACTOR INFORMATION

Company: _____

Name (print): _____

Address: _____

Telephone: _____ Fax: _____

E-Mail: _____

Signature: _____

(Must be signed by an authorized company representative.)

CITY OF BLOOMINGTON QUOTE FORM

(Page 2)

BUSINESS EXPERIENCE AND QUALIFICATIONS

Document prior business experience with similar projects and give a detailed listing of the company's qualifications which are applicable to the Scope of Work listed in the Request for Quote.

REFERENCES

Please provide three (3) customer references for contracts of similar scope and size.

1. Contact Name: _____
Company Name: _____
Address: _____
Phone: _____ **Email Address:** _____

2. Contact Name: _____
Company Name: _____
Address: _____
Phone: _____ **Email Address:** _____

3. Contact Name: _____
Company Name: _____
Address: _____
Phone: _____ **Email Address:** _____



CONTRACTOR'S QUOTE FOR PUBLIC WORK- FORM 96

State Form 52414 (R2 / 2-13) / Form 96 (Revised 2013)
Prescribed by State Board of Accounts

EXHIBIT B
(6 pages)

PART I

(To be completed for all quotes. Please type or print)

Date (month, day, year): _____

1. Governmental Unit (Owner): _____
2. County: _____
3. Quoter _____ (Firm): _____
Address: _____
City/State/ZIP code: _____
4. Telephone Number: _____
5. Agent of Quoter *(if applicable)*: _____

Pursuant to notices given, the undersigned offers to furnish labor and/or material necessary to complete the public works project of _____

(Governmental Unit) in accordance with plans and specifications prepared by _____ and

dated _____ for the sum of \$ _____

The undersigned further agrees to furnish a bond or certified check with this bid for an amount specified in the notice of the letting. If alternative quotes apply, the undersigned submits a proposal for each in accordance with the notice. Any addendums attached will be specifically referenced at the applicable page.

If additional units of material included in the contract are needed, the cost of units must be the same as that shown in the original contract if accepted by the governmental unit. If the bid is to be awarded on a unit basis, the itemization of the units shall be shown on a separate attachment.

The contractor and his subcontractors, if any, shall not discriminate against or intimidate any employee, or applicant for employment, to be employed in the performance of this contract, with respect to any matter directly or indirectly related to employment because of race, religion, color, sex, national origin or ancestry. Breach of this covenant may be regarded as a material breach of the contract.

CERTIFICATION OF USE OF UNITED STATES STEEL PRODUCTS

(If applicable)

I, the undersigned quoter or agent as a contractor on a public works project, understand my statutory obligation to use steel products made in the United States (I.C. 5-16-8-2). I hereby certify that I and all subcontractors employed by me for this project will use U.S. steel products on this project if awarded. I understand that violations hereunder may result in forfeiture of contractual payments.

ACCEPTANCE

The above quote is accepted this _____ day of _____, subject to the following conditions: _____

Contracting Authority Members:

_____	_____
_____	_____
_____	_____

PART II

(For projects of \$150,000 or more -IC 36-1-12-4)

Governmental Unit: _____ Quoter

(Firm) _____

Date (month, day, year): _____

These statements to be submitted under oath by each quoter with and as a part of his quote. Attach additional pages for each section as needed.

SECTION I EXPERIENCE QUESTIONNAIRE

1. What public works projects has your organization completed for the period of one (1) year prior to the date of the current quote?

Contract Amount	Class of Work	Completion Date	Name and Address of Owner

2. What public works projects are now in process of construction by your organization?

Contract Amount	Class of Work	Expected Completion Date	Name and Address of Owner

3. Have you ever failed to complete any work awarded to you? _____ If so, where and why?

4. List references from private firms for which you have performed work.

SECTION II PLAN AND EQUIPMENT QUESTIONNAIRE

1. Explain your plan or layout for performing proposed work. *(Examples could include a narrative of when you could begin work, complete the project, number of workers, etc. and any other information which you believe would enable the governmental unit to consider your quote.)*

2. Please list the names and addresses of all subcontractors *(i.e. persons or firms outside your own firm who have performed part of the work)* that you have used on public works projects during the past five (5) years along with a brief description of the work done by each subcontractor.

3. If you intend to sublet any portion of the work, state the name and address of each subcontractor, equipment to be used by the subcontractor, and whether you will require a bond. However, if you are unable to currently provide a listing, please understand a listing must be provided prior to contract approval. Until the completion of the proposed project, you are under a continuing obligation to immediately notify the governmental unit in the event that you subsequently determine that you will use a subcontractor on the proposed project.

4. What equipment do you have available to use for the proposed project? Any equipment to be used by subcontractors may also be required to be listed by the governmental unit.

5. Have you entered into contracts or received offers for all materials which substantiate the prices used in preparing your proposal? If not, please explain the rationale used which would corroborate the prices listed.

SECTION III CONTRACTOR'S FINANCIAL STATEMENT

Attachment of quoter's financial statement is mandatory. Any quote submitted without said financial statement as required by statute shall thereby be rendered invalid. The financial statement provided hereunder to the governing body awarding the contract must be specific enough in detail so that said governing body can make a proper determination of the quoter's capability for completing the project if awarded.

SECTION IV CONTRACTOR'S NON- COLLUSION AFFIDAVIT

The undersigned quoter or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be quote by anyone at such letting nor to prevent any person from quoting nor to include anyone to refrain from quoting, and that this quote is made without reference to any other quote and without any agreement, understanding or combination with any other person in reference to such quoting.

He further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee, gift, commission or thing of value on account of such sale.

SECTION V OATH AND AFFIRMATION

I HEREBY AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FACTS AND INFORMATION CONTAINED IN THE FOREGOING QUOTE FOR PUBLIC WORKS ARE TRUE AND CORRECT.

Dated at _____ this _____ day of _____

(Name of Organization) _____

By _____

(Title of Person Signing) _____

ACKNOWLEDGEMENT

STATE OF _____)

) ss

COUNTY OF _____)

Before me, a Notary Public, personally appeared the above-named _____ and swore that the statements contained in the foregoing document are true and correct.

Subscribed and sworn to before me this _____ day of _____

Notary Public

My Commission Expires: _____

County of Residence: _____

QUOTE OF

(Contractor)

(Address)

FOR

PUBLIC WORKS PROJECTS OF

Filed_____

Action taken_____



City of Bloomington Human Rights Commission

2016

RE: Affirmative Action and Living Wage Ordinance To: Prospective Bidders/Vendors

Affirmative Action: All bidders and vendors with the City of Bloomington for projects in excess of \$10,000.00 must submit an affirmative action plan to my office. This plan must insure that applicants are employed and that employees are treated in a manner that provides equal employment opportunity and tends to eliminate inequality based upon race, religion, color, sex, national origin, ancestry, disability, sexual orientation, gender identity, veteran status and housing status. Please note that the last four categories are new, adopted by the Common Council in September, 2015.

Even if your company already has a plan on file with the City, you must check with me to make sure that it complies with our current and recently updated requirements. If you already have a plan, but it does not cover all of the City's current requirements, you may submit a separate supplement with your plan to fill any gaps.

You must submit your written affirmative action plan (or supplement) to me at least twenty-four hours before the bid, quote or proposal deadline. You must submit your plan to me separately from your bid or quote. The twenty-four hours will give me sufficient time to review your and the other plans. I recommend that you submit your affirmative action plan to me earlier, if possible, so that you and I will have time to work out any problems that may be in your plan. Vendor's who fail to submit acceptable plans by the deadline are subject to disqualification.

I strongly advise you to confirm with me that I have received your plan and that it meets our requirements well before the submittal deadline. We will make every effort to work with you to clearup problems. But it remains your responsibility to confirm that I received your plan and that it complies with our requirements. If you fail to confirm that I received and approved your plan, you risk losing your eligibility to submit a bid or quote. We will be glad to provide a receipt upon request. Please let us know if you want a receipt when you submit your plan.

You must insure that all the protected classes listed above are included in your plan. In addition to other requirements, your plan **MUST** include a current workforce breakdown, an internal grievance procedure, a non-retaliation statement, designation of a person by name or position who is responsible for implementing the plan, applicability to both applicants and employees, recruitment of minorities, equal access to training programs, and an explanation of your methods of communicating the operations of your affirmative action plan to your employees and prospective applicants.

Accompanying this letter you will find the following materials:

- (1) A workforce breakdown form. You MUST submit a workforce breakdown (sometimes called a "utilization report") with your Affirmative Action plan. This form is provided for your convenience. If you already have a current form you have completed for another jurisdiction that includes the same type of information, you may substitute a copy of that form instead of using our form. Your workforce breakdown figures must be updated every six months. Even if you already have an acceptable affirmative action plan on file with my office, you should submit a new workforce breakdown each time you bid for a City Contract, to be sure we have up-to-date figures.
- (2) An Affirmative Action Plan checklist. I will use this checklist to review your affirmative action plan. If you compare your plan with this list, you should be able to tell whether your plan fulfills the City's requirements. If you omit any of the elements on the checklist, your plan will not be approved.
- (3) A sample affirmative action plans. These may be useful if your company has never designed an affirmative action plan before. Feel free to adopt this plan as your own or to amend it to meet your needs.

Additional materials, such as the City of Bloomington's Contract Compliance Regulations, are available from my office upon request.

Living Wage: Also, please be aware that you may be required to comply with the Bloomington Living Wage Ordinance. Whether the LWO applies to your project depends upon the size and type of your project and the number of people you employ. If you have questions about the applicability of the LWO, click on the LWO flow chart at: www.bloomington.in.gov/livingwage or call me. For 2016, the living wage for covered employees is \$12.32 an hour.

If you have any questions, contact me at 812.349.3429 or email me at the following address: mckinneb@bloomington.in.gov. My office hours are Monday through Friday, 8-5.

Thank you.

Barbara E. McKinney, Human Rights Director/Contract Compliance Officer

BLOOMINGTON HUMAN RIGHTS COMMISSION

Model Affirmative Action Plan for

_____, Inc., declares its policy to provide equal opportunity in employment, training and advancement, and to administer its employment practices without regard to race, color, religion, sex, national origin, ancestry, disability, sexual orientation, gender identity, veteran status, or housing status.. Our policy of nondiscrimination will prevail throughout every aspect of our employment practices, including recruitment, hiring, training and all other terms and conditions of employment. We shall implement an affirmative action plan to make it widely known that equal employment opportunities are available on the basis of individual merit. We shall survey and analyze our employment workforce annually to determine what steps, if any, are needed to conform effectively to this equal employment policy.

Responsible Officer

Mr. or Ms. _____ (or the _____ officer) is the equal employment opportunity officer for our company and is responsible for implementing this affirmative action policy.

Publication of Policy

Our employees will be made aware of our commitment to affirmative action through the following procedures:

- posting notices on employee bulletin boards,
- including our policy statement and plan in our personnel manual,
- regularly sending out notice of our policy in paycheck envelopes,
- and training supervisors to recognize discriminatory practices.

We will make potential employees aware of our policy through the following procedures:

- including the words "Equal Opportunity Employer" in all of our advertisements and notices for job openings,
- notifying employment agencies about our commitment, and
- sending notice of our policy to unions.

Implementing Our Policy

Our affirmative action plan will be implemented by widening our recruitment sources. We shall advertise in newspapers and other media that reach people in protected classes. We shall send job notices to schools with large percentages of students in the protected classes and to local groups that serve these classes.

We shall examine our hiring practices periodically to insure that we consider only job-related qualifications in filling our positions. We shall discard irrelevant educational requirements and unnecessary physical requirements. We shall retain only job-related questions on our employment application.

We shall keep affirmative action information on each applicant, but separate from his or her application. We shall keep records on our hiring decisions to evaluate the success of our affirmative action measures. We shall decide placement, duties, benefits, wages, training prospects, promotions, layoffs and terminations without regard to race, sex, religion, color, national origin, ancestry, disability, sexual orientation, gender identity, veteran status or housing status. **Grievance Procedure**

If an employee feels he or she has been discriminated against on the basis of race, sex, religion, color, national origin, ancestry, disability, sexual orientation, gender identity, veteran status or housing status, he or she may bring the complaint to his or her immediate supervisor. If the complaint is not resolved readily at that level, he or she may submit it to _____ (personnel officer, corporate president, other) who will make a final decision on its validity. This grievance process does not preclude his or her complaining to local, state or federal civil rights agencies. We will not retaliate against an employee or applicant for voicing a grievance or for filing a complaint with the appropriate agency.

Our current workforce breakdown is shown on the attached form.

Corporate President

Date

AFFIRMATIVE ACTION PLAN CHECKLIST

NOTE: This is **not** an Affirmative Action Plan

Effective Date: _____

Contractor: Plan MUST Include:	Yes	No	Comments:
Policy statement of equal employment opportunity	<input type="checkbox"/>	<input type="checkbox"/>	
Covers: Applicants for employment	<input type="checkbox"/>	<input type="checkbox"/>	
Employees	<input type="checkbox"/>	<input type="checkbox"/>	
On basis of: Race	<input type="checkbox"/>	<input type="checkbox"/>	
Religion	<input type="checkbox"/>	<input type="checkbox"/>	
Color	<input type="checkbox"/>	<input type="checkbox"/>	
Sex	<input type="checkbox"/>	<input type="checkbox"/>	
National Origin	<input type="checkbox"/>	<input type="checkbox"/>	
Ancestry	<input type="checkbox"/>	<input type="checkbox"/>	
Disability	<input type="checkbox"/>	<input type="checkbox"/>	
Sexual Orientation	<input type="checkbox"/>	<input type="checkbox"/>	
Gender Identity	<input type="checkbox"/>	<input type="checkbox"/>	
Veteran Status	<input type="checkbox"/>	<input type="checkbox"/>	
Housing Status	<input type="checkbox"/>	<input type="checkbox"/>	
Designates a person responsible for implementation of the Plan	<input type="checkbox"/>	<input type="checkbox"/>	
Provides for communication of the policy:			
Within the Organization	<input type="checkbox"/>	<input type="checkbox"/>	
Outside the Organization (e.g., recruitment sources, unions)	<input type="checkbox"/>	<input type="checkbox"/>	
Applies to all terms and conditions of employment (e.g., hiring, placement, promotion, duties, wages, benefits, use of facilities, layoff, discipline, termination)	<input type="checkbox"/>	<input type="checkbox"/>	
Provision for: Recruitment from minority groups	<input type="checkbox"/>	<input type="checkbox"/>	
Provision for: Equal access to training programs	<input type="checkbox"/>	<input type="checkbox"/>	
Grievance Procedure	<input type="checkbox"/>	<input type="checkbox"/>	
Prohibits retaliation for filing grievances	<input type="checkbox"/>	<input type="checkbox"/>	
Workforce Breakdown (figures up to date within 6 months)	<input type="checkbox"/>	<input type="checkbox"/>	

STATE OF _____)
) SS:
COUNTY OF _____)

AFFIDAVIT REGARDING E-VERIFY

The undersigned, being duly sworn, hereby affirms and says that:

1. The undersigned is the _____ of _____.
(Job title) (Company name)

2. The company named herein that employs the undersigned has contracted with or is seeking to contract with the City of Bloomington to provide services.

3. The undersigned hereby states that, to the best of his/her knowledge and belief, the company named herein does not knowingly employ an "unauthorized alien," as defined at 8 United States Code 1324a(h)(3).

4. The undersigned hereby states that, to the best of his/her knowledge and belief, the company named herein is enrolled in and participates in the E-verify program.

Signature

Printed name

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____ and acknowledged the execution of the foregoing this _____ day of _____, 2016.

Notary Public

Printed name

My Commission Expires: _____

County of Residence: _____

AGREEMENT
BETWEEN
CITY OF BLOOMINGTON
AND
CONTRACTOR

FOR

PROJECT NAME

THIS AGREEMENT, executed by and between the City of Bloomington, Indiana, Public Works Department through the Board of Public Works (hereinafter CITY), and _____, (hereinafter CONTRACTOR);

WITNESSETH THAT:

WHEREAS, CITY desires to retain CONTRACTOR'S services for **SCOPE OF WORK** (more particularly described in Attachment A, "Scope of Work"; and

WHEREAS, CONTRACTOR is capable of performing work as per his/her Quote on the Quote Summary sheet; and

WHEREAS, in accordance with Indiana Code 5-16-13 *et seq.*, incorporated herein by reference, Contractor is a Tier 1 or General Contractor for this project; and

WHEREAS, CONTRACTOR was determined to be the lowest responsible and responsive Bidder for said project.

NOW, THEREFORE, in consideration of the mutual promises hereinafter enumerated, the parties agree as follows:

ARTICLE 1. **TERM**

1.01 This Agreement shall be in effect upon execution of this Agreement by all parties. In accordance with Indiana Code 5-16-13 *et seq.*, incorporated herein by reference, CONTRACTOR is a Tier 1 contractor or general contractor for this project.

1.02 This Agreement shall terminate on December 31, 2018, unless the Agreement is renewed under Section 1.03 of this Agreement.

1.03 Renewal The CONTRACTOR may give written notice to the CITY on or before December 31, 2018 of its desire to renew this Agreement for an additional two-year term. In the event that the CONTRACTOR provides the CITY with notice of its desire, the CITY and the CONTRACTOR may agree to a two-year renewal of this Agreement ("First Renewal"), which, if agreed upon, would extend the term of this Agreement to December 31, 2020. If a First Renewal is executed, the CONTRACTOR may give written notice to the CITY on or before December 31, 2020 of its desire to renew this Agreement for an additional two-year term. In the event that the CONTRACTOR provides the CITY with notice of its desire, the CITY and the CONTRACTOR may agree to an additional two-year renewal of this Agreement ("Second Renewal"), which, if agreed upon, would extend the term of this Agreement to December 31, 2022.

ARTICLE 2. SERVICES

2.01 CONTRACTOR shall complete all work required under this Agreement on or before _____, unless the parties mutually agree to a later completion date. Substantial Completion shall mean completion of all work.

2.02 It is hereby understood by both parties that time is of the essence in this Agreement. Failure of CONTRACTOR to complete all work as herein provided will result in monetary damages to CITY. It is hereby agreed that CITY will be damaged for every day the work has not been performed in the manner herein provided, and that the measure of those damages shall be determined by reference to Section 13.00 of the General Conditions for Each Day of Overrun in Contract Time. CONTRACTOR agrees to pay CITY said damages or, in the alternative, CITY, in its sole discretion, may withhold monies otherwise due CONTRACTOR. It is expressly understood by the parties hereto that these damages relate to the time of performance and do not limit CITY's other remedies under this Agreement, or as provided by applicable law, for other damages.

2.03 CONTRACTOR agrees that no charges or claims for damages shall be made by him for any delays or hindrances, from any cause whatsoever during the progress of any portion of the services specified in the Agreement. Such delays or hindrances, if any, may be compensated for by an extension of time for a reasonable period as may be mutually agreed upon between the parties, it being understood, however, that permitting CONTRACTOR to proceed to complete any service, or any part of the services / project, after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of CITY of any of its rights herein.

ARTICLE 3. COMPENSATION

3.01 CONTRACTOR shall provide services as specified in Attachment A, "Scope of Work", attached hereto and incorporated into this Agreement. CONTRACTOR shall be paid _____ per cubic yard for Leaf and Yard Waste Composting Services ("Rate"). CONTRACTOR shall hold the Rate open for any and all departments of the CITY, including, but not limited to, the City of Bloomington Street Department and the City of Bloomington Sanitation Department.

3.02 Upon the submittal of approved claims, CITY shall compensate CONTRACTOR in a lump sum not to exceed _____. CITY may withhold payment, in whole or in part, to the extent necessary to protect itself from a loss on account of any of the following:

Defective work.

Evidence indicating the probable filing of claims by other parties against CONTRACTOR which may adversely affect CITY.

Failure of CONTRACTOR to make payments due to subcontractors, material suppliers or employees.

Damage to CITY or a third party.

3.03 The submission of any request for payment shall be deemed a waiver and release by CONTRACTOR of all liens and claims with respect to the work and period to which such payment request pertains except as specifically reserved and noted on such request.

3.04 CONTRACTOR shall maintain proper account records for the scope of all services of this Agreement and provide an accounting for all charges and expenditures as may be necessary for audit purposes. All such records shall be subject to inspection and examination by CITY's representatives at reasonable business hours.

3.05 For projects utilizing federal funding the CONTRACTOR shall submit time sheets (WH-347) for his own and all subcontracted employees, to City Engineer or his representative for approval and review, including review for compliance with Davis Bacon requirements, if federal funds are used.

3.06 **Engineer** The City Engineer shall act as the CITY's representative and assume all duties and responsibilities and have all the rights and authority assigned to the Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 4. RETAINAGE

For contracts in excess of \$100,000, the CITY requires that retainage be held set out below.

4.01 Escrow Agent The retainage amount withheld shall be placed in an escrow account. First Financial Bank, Bloomington, Indiana, shall serve as the escrow agent.

4.02 Retainage Amount The escrow agent, CITY, and CONTRACTOR shall enter into a written escrow agreement. Under that agreement, the CITY shall withhold five percent (5%) of the dollar value of all work satisfactorily completed until the Contract work is substantially complete. The escrow agent shall invest all escrowed principal in obligations selected by the escrow agent. The escrow agent shall be compensated for the agent's services by a reasonable fee, agreed upon by the parties, that is comparable with fees charged for the handling of escrow accounts of similar size and duration. The fee shall be paid from the escrow income. The escrow agent's fee may be determined by specifying an amount of interest the escrow agent will pay on the escrowed amount, with any additional earned interest serving as the escrow agent's fee. The escrow agreement may include other terms and conditions as deemed necessary by the parties.

4.03 Payment of Escrow Amount The escrow agent shall hold the escrowed principal and income until receipt of the notice from the CITY and CONTRACTOR that the Contract work has been substantially completed to the reasonable satisfaction of the CITY, at which time the CITY shall pay to the CONTRACTOR the balance to be paid under this Contract and execute such documents as are necessary to authorize the escrow agent to pay to the CONTRACTOR the funds in the escrow account, including both specifying the part of the escrowed principal to be released from the escrow and the person to whom that portion is to be released. After receipt of the notice, the escrow agent shall remit the designated part of the escrowed principal and the escrowed income, minus the escrow agent's fees, to the person specified in the notice. However, nothing in this section shall prohibit CITY from requiring the escrow agent to withhold amounts necessary to complete minor items of the Contract, following substantial completion of the Contract in accordance with the provisions of paragraph 4.04.

4.04 Withholding Funds for Completion of Contract If, upon substantial completion of the Contract, there still remains minor Contract work that needs to be completed, or minor Contract work that needs to be performed to the satisfaction of the CITY, CITY may direct the escrow agent to retain in the escrow account, and withhold from payment to the CONTRACTOR, an amount equal to two hundred percent (200%) of the value of said work. The value of said work shall be determined by the architect/engineer. The escrow agent shall release the funds withheld under this section after receipt of notice from the CITY that all work on the Contract has been satisfactorily completed. In the event that said work is not completed by the CONTRACTOR, but by CITY or another party under contract with the CITY, said funds shall be released to the CITY.

ARTICLE 5. GENERAL PROVISIONS

5.01 CONTRACTOR agrees to indemnify and hold harmless CITY and its officers, agents, officials, and employees for any and all claims, actions, causes of action, judgments and liens arising out of any negligent act or omission by CONTRACTOR or any of its officers, agents, officials, employees, or subcontractors or any defect in materials or workmanship of any supply, materials, mechanism or other product or service which it or any of its officers, agents, officials, employees, or subcontractors has supplied to CITY or has used in connection with this Agreement and regardless of whether or not it is caused in part by a party indemnified herein under. Such indemnity shall include attorney's fees and all costs and other expenses arising there from or incurred in connection therewith and shall not be limited by reason of the enumeration of any insurance coverage required herein.

5.02 Abandonment, Default and Termination

5.02.01 CITY shall have the right to abandon the work contracted for in this Agreement without penalty. If CITY abandons the work described herein, CONTRACTOR shall deliver to CITY all surveys, notes, drawings, specifications and estimates completed or partially completed and these shall become the property of CITY. The earned value of the work performed shall be based upon an estimate of the proportion between the work performed by CONTRACTOR under this

Agreement and the work which CONTRACTOR was obligated to perform under this Agreement. This proportion shall be mutually agreed upon by CITY and CONTRACTOR. The payment made to CONTRACTOR shall be paid as a final payment in full settlement of his services hereunder.

5.02.02 If CONTRACTOR defaults or fails to fulfill in a timely and proper manner the obligations pursuant to this Agreement, CITY may, after seven (7) days' written notice has been delivered to CONTRACTOR, and without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due to CONTRACTOR. In the alternative, CITY, at its option, may terminate this Agreement and take possession of the site and of all materials, equipment, tools and construction equipment and machinery thereon owned by CONTRACTOR, and may finish the project by whatever method it may deem expedient, and if the such action exceeds the unpaid balance of the sum amount, CONTRACTOR or his surety, shall pay the difference to CITY.

5.02.03 Default: If CONTRACTOR breaches this Agreement or fails to perform the work in an acceptable manner, he shall be considered in default. Any one or more of the following will be considered a default:

Failure to begin the work under this Agreement within the time specified.

Failure to perform the work with sufficient supervision, workmen, equipment and materials to insure prompt completion of said work within the time limits allowed.

Unsuitable performance of the work as determined by CITY ENGINEER or his representative.

Neglecting or refusing to remove defective materials or failure to perform anew such work as shall have been rejected.

Discontinuing the prosecution of the work or any part of it.

Inability to finance the work adequately.

If, for any other reason, CONTRACTOR breaches this Agreement or fails to carry on the work in an acceptable manner.

5.02.04 CITY shall send CONTRACTOR a written notice of default. If CONTRACTOR, or his Surety, within a period of ten (10) days after such notice, fails to remedy the default, then CITY shall have full power and authority, without violation of the Contract, to take the prosecution of the work out of the hands of said CONTRACTOR, to appropriate or use any or all materials and equipment on the ground as may be suitable and acceptable, and may, at its option, turn the work over to the Surety, or enter into an agreement with another Contractor for the completion of the Agreement according to the terms and provisions thereof, or CITY may use such other methods as, in its opinion, shall be required for the completion of said Contract in an acceptable manner.

5.02.05 All cost of completing the work under the Contract shall be deducted from the monies due or which may become due to said CONTRACTOR. In case the expenses so incurred by CITY shall be less than the sum which would have been payable under the Contract if it had been completed by said CONTRACTOR, CONTRACTOR shall be entitled to receive the difference. However, in case such expense shall exceed the sum which would have been payable under the Contract, CONTRACTOR and his Surety will be liable and shall pay to CITY the amount of said excess. By taking over the prosecution of the work, CITY does not forfeit the right to recover damages from CONTRACTOR or his Surety for his failure to complete the work in the time specified.

5.02.06 Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of the Agreement by CITY are at any time not forthcoming or are insufficient, through failure of any entity to appropriate the funds or otherwise, then CITY shall have the right to terminate this Agreement without penalty by giving prior 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.

5.02.07 CITY agrees that it will make its best effort to obtain sufficient funds, including but not limited to, including in its budget for each fiscal period during the term hereof a request for sufficient funds to meet its obligations hereunder in full.

5.03 Successors and Assigns

5.03.01 Both parties agree that for the purpose of this Agreement, CONTRACTOR shall be an Independent Contractor and not an employee of CITY.

5.03.02 No portion of this Agreement shall be sublet, assigned, transferred or otherwise disposed of by CONTRACTOR except with the written consent of CITY being first obtained. Consent to sublet, assign, transfer, or otherwise dispose of any portion of this Agreement shall not be construed to relieve CONTRACTOR of any responsibility of the fulfillment of this Agreement.

5.04 Extent of Agreement: Integration

5.04.01 This Agreement consists of the following parts, each of which is as fully a part of this Agreement as if set out herein:

1. This Agreement and its Attachments.
2. All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto.
3. All Addenda to the Bid Documents.
4. The Invitation to Bidders.
5. The Instructions to Bidders.
6. The Special Conditions.
7. All plans as provided for the work that is to be completed.
8. The Supplementary Conditions.
9. The General Conditions.
10. The Specifications.
11. The current Indiana Department of Transportation Standard Specifications and the latest addenda.
12. CONTRACTOR'S submittals.
13. The Performance and Payment Bonds.
14. The Escrow Agreement.
15. Request for Taxpayer Identification number and certification: Substitute W-9.

5.04.02 In resolving conflicts, errors, discrepancies and disputes concerning the Scope of Work to be performed by CONTRACTOR, and other rights and obligations of CITY and CONTRACTOR, the document expressing the greater quantity, quality or other scope of work in question, or imposing the greater obligation upon CONTRACTOR and affording the greater right or remedy to CITY shall govern; otherwise the documents shall be given precedence in the order as enumerated above.

5.05 Insurance

5.05.01 CONTRACTOR shall, as a prerequisite to this Agreement, purchase and thereafter maintain such insurance as will protect him 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 any SUBCONTRACTORS or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

<u>Coverage</u>	<u>Limits</u>
A. Worker's Compensation & Disability	Statutory Requirements
B. Employer's Liability Bodily Injury by Accident	\$100,000 each accident
Bodily Injury by Disease	\$500,000 policy limit
Bodily Injury by Disease	\$100,000 each employee

C.	Commercial General Liability (Occurrence Basis) Bodily Injury, personal injury, property damage, contractual liability, products-completed operations, General Aggregate Limit (other than Products/Completed Operations)	\$1,000,000 per occurrence and \$2,000,000 in the aggregate
	Products/Completed Operation	\$1,000,000
	Personal & Advertising Injury Limit	\$1,000,000
	Each Occurrence Limit	\$1,000,000
	Fire Damage (any one fire)	\$50,000
D.	Comprehensive Auto Liability (single limit, owned, hired and non-owned)	\$1,000,000 each accident
	Bodily injury and property damage	
E.	Umbrella Excess Liability	\$5,000,000 each occurrence and aggregate
	The Deductible on the Umbrella Liability shall not be more than	\$10,000

5.05.02 CONTRACTOR’S comprehensive general liability insurance shall also provide coverage for the following:

- Premises and operations;
- Contractual liability insurance as applicable to any hold-harmless agreements;
- Completed operations and products; which also must be maintained for a minimum period of two (2) years after final payment and CONTRACTOR shall continue to provide evidence of such coverage to CITY on an annual basis during the aforementioned period;
- Broad form property damage - including completed operations;
- Fellow employee claims under Personal Injury; and
- Independent Contractors.

5.05.03 With the prior written approval of CITY, CONTRACTOR may substitute different types or amounts of coverage for those specified as long as the total amount of required protection is not reduced.

5.05.04 Certificates of Insurance showing such coverage then in force (but not less than the amount shown above) shall be on file with CITY prior to commencement of work. These Certificates shall contain a provision that coverage afforded under the policies will not be canceled or non-renewed until at least sixty (60) days’ prior written notice has been received by CITY. The CITY shall be named as an additional insured on the Commercial General Liability, Automobile Liability, and Umbrella Excess Liability policies. The CONTRACTOR shall agree to a waiver of subrogation on its Worker’s Compensation policy.

5.06 Necessary Documentation CONTRACTOR certifies that it will furnish CITY any and all documentation, certification, authorization, license, permit or registration required by the laws or rules and regulations of the City of Bloomington, the State of Indiana and the United States. CONTRACTOR further certifies that it is now and will maintain in good standing with such governmental agencies and that it will keep its license, permit registration, authorization or certification in force during the term of this Agreement.

5.07 Applicable Laws CONTRACTOR agrees to comply with all federal, state, and local laws, rules and regulations applicable to CONTRACTOR in performing work pursuant to this Agreement, including, but not limited to, discrimination in employment, prevailing wage laws, conflicts of interest, public notice, accounting records and requirements. This Agreement shall be governed by the laws of the United States, and the State of Indiana, and by all Municipal Ordinances and Codes of the City of Bloomington. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

5.08 Non-Discrimination

5.08.01 CONTRACTOR and subcontractors shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to hire, tenure, terms, training, conditions or privileges of employment, because of race, sex, color, religion, national origin, ancestry, disability, sexual orientation, gender identity, veteran status, or housing status. Breach of this covenant may be regarded as a material breach of the Agreement.

5.08.02 CONTRACTOR certifies for itself and all its subcontractors compliance with existing laws of the City of Bloomington, the State of Indiana and the United States regarding:

Prohibition of discrimination in employment practices on the basis of race, sex, color, religion, national origin, ancestry, disability, sexual orientation, gender identity, veteran status, housing status or any other legally protected classification;

The utilization of Minority and Women Business Enterprises. CONTRACTOR further certifies that it:

- a. Has formulated its own Affirmation Action plan for the recruitment, training and employment of minorities and women, including goals and timetable; which has been approved by the City's Contract Compliance Officer.
- b. Encourages the use of small business, minority-owned business and women-owned business in its operations.

5.08.03 FURTHER, PURSUANT TO INDIANA CODE § 5-16-6-1, CONTRACTOR AGREES:

- A) That in the hiring of employees for the performance of work under this Agreement or any sub agreement hereunder, no contractor, or subcontractor, nor any person acting on behalf of such CONTRACTOR or subcontractor, shall by reason of race, sex, color, religion, national origin, ancestry, or any other legally protected classification, discriminate against any citizen of the State of Indiana who is qualified and available to perform the work to which the employment relates.
- B) That no contractor, subcontractor, or any person on their behalf, shall, in any manner, discriminate against or intimidate any employee hired for performance of work under this Agreement on account of race, religion, color, sex, national origin, ancestry or any other legally protected classification.
- C) That there may be deducted from the amount payable to CONTRACTOR, by CITY, under this Agreement, penalty of Five Dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of this Agreement. Any such person discriminated against retains the right to file a discrimination complaint with the appropriate civil rights agency or court.
- D) That this Agreement may be canceled or terminated by CITY and all money due or to become hereunder may be forfeited, for a second or any subsequent violations of the terms or conditions under this section of the Agreement.

5.09 Workmanship and Quality of Materials

5.09.01 CONTRACTOR shall guarantee the work for a period of one (1) year from the date of substantial completion. Failure of any portion of the work within one (1) year due to improper construction, materials of construction, or design may result in a refund to CITY of the purchase price of that portion which failed or may result in the forfeiture of CONTRACTOR's Performance Bond.

5.09.02 OR EQUAL Wherever in any of the Agreement Documents an article, material or equipment is defined by describing a proprietary product, or by using the name of a manufacturer or vender, the term "Or Equal" or the term "The Equivalent" if not inserted, shall be implied, and it is done for the express purpose of establishing a basis of durability and efficiency and not for the purpose of limiting completion. Whenever material or equipment is submitted for approval as being equal to that specified, the submittal shall include sufficient information and data to demonstrate that the material or equipment conforms to the Contract requirements. The decision as to whether or not such material or equipment is equal to that specified shall be made by the ENGINEER. The approval by the ENGINEER of alternate material or equipment as being equivalent to that specified, shall not in any way relieve CONTRACTOR of responsibility for failure of the material or equipment due to faulty design, material, or workmanship, to perform the function required by the Contract Documents. Specifications as determined by other entities within the City of Bloomington such as City Utilities shall only be substituted or changed by their approval which shall be submitted in writing to the ENGINEER.

5.09.03 CITY shall be the sole judge of the sufficiency of workmanship and quality of materials. Disputes shall be resolved by the Director of Public Works and are not subject to arbitration.

5.10 Safety CONTRACTOR shall be responsible for the safety of employees at all times and shall provide all equipment necessary to insure their safety. CONTRACTOR shall ensure the enforcement of all applicable safety rules, regulations, ordinances and laws, whether federal, state or local. Contractor's Superintendent of Safety shall make daily inspections upon the arrival and leaving of the site at the close of each workday.

5.10.01 CONTRACTOR is required to comply with IOSHA regulations 29 C.F.R 1926, Subpart P, Excavations of all trenches of at least five (5) feet in depth. All cost for trench safety systems shall be the responsibility of the CONTRACTOR and included in the cost of the principal work with which the safety systems are associated. CONTRACTOR shall sign an affidavit, attached as Exhibit #__, affirming that CONTRACTOR shall maintain compliance with IOSHA requirements for excavations of at least five (5) feet in depth.

5.11 Amendments/Changes

5.11.01 Except as provided in Paragraph 5.11.02, this Agreement may be amended only by written instrument signed by both CITY and CONTRACTOR.

5.11.02 Without invalidating the Agreement and without notice to any surety, CITY may, at any time or from time to time, order, in writing, additions, deletions, or revisions in the work. Upon receipt of any such document, CONTRACTOR shall promptly proceed with the work involved, which will be performed under the applicable conditions of the Agreement Documents.

5.11.03 If CONTRACTOR believes that any direction of CITY under paragraph 5.11.02, or any other event or condition, will result in an increase in the Contract time or price, he shall file written notice with CITY no later than twenty (20) calendar days after the occurrence of the event giving rise to the claim and stating the general nature of the claim with supporting data. No claim for any adjustment of the Contract time or price will be valid if not submitted in accordance with this Paragraph.

5.11.04 CONTRACTOR shall carry on the work and adhere to the progress schedule during all disputes or disagreements with CITY. No work shall be delayed or postponed pending resolution of any dispute or disagreement except as CONTRACTOR and CITY may otherwise agree in writing.

5.12 Performance Bond and Payment Bond

5.12.01 For contracts in excess of \$100,000, CONTRACTOR shall provide CITY with a Performance Bond and a Payment Bond in the amount of one hundred percent (100%) of the contract amount.

5.12.02 Failure by CONTRACTOR to perform the work in a timely or satisfactory fashion may result in forfeiture of CONTRACTOR’S Performance Bond.

5.12.03 If the surety on any bond furnished by CONTRACTOR becomes a party to supervision, liquidation, or rehabilitation action pursuant Indiana Code 27-9 et seq. or its right to do business in the State of Indiana is terminated, CONTRACTOR shall, within thirty (30) calendar days thereafter, substitute another bond and surety, both of which must be acceptable to CITY.

5.13 Payment of Subcontractors CONTRACTOR shall pay all subcontractors, laborers, material suppliers and those performing services to CONTRACTOR on the project under this Agreement. CITY may, as a condition precedent to any payment hereunder, require CONTRACTOR to submit satisfactory evidence of payments of any and all claims of subcontractors, laborers, material suppliers, and those furnishing services to CONTRACTOR. Upon receipt of a lawful claim, CITY shall withhold money due to CONTRACTOR in a sufficient amount to pay the subcontractors, laborers, material suppliers, and those furnishing services to CONTRACTOR.

5.14 Written Notice Written notice shall be considered as served when delivered in person or sent by mail to the individual, firm, or corporation, or to the last business address of such known to CONTRACTOR who serves the Notice. Notice shall be sent as follows:

TO CITY:	TO CONTRACTOR:
City of Bloomington Public Works Dept.	
Attn: Adam Wason	
P.O. Box 100	
Bloomington, Indiana 47402	

5.15 Severability and Waiver In the event that any clause or provision of this Agreement is held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any other provision of this Agreement. Failure of either party to insist on strict compliance with any provision of this Agreement shall not constitute waiver of that party’s right to demand later compliance with the same or other provisions of this Agreement.

5.16 Notice to Proceed CONTRACTOR shall not begin the work pursuant to the “Scope of Work” of this Agreement until it receives an official written Notice to Proceed from the City. Contractor shall start active and continuous work on the Agreement within fifteen (15) calendar days after the date of the Notice to Proceed. In no case shall work begin prior to the date of the Notice to Proceed. If a delayed starting date is indicated in the proposal, the fifteen (15) calendar day limitation will be waived. Work day charges will then begin on a date mutually agreed upon, but not later than the delayed starting date specified. In the event that any Agreement is canceled after an award has been made but prior to the issuing of the Notice to Proceed, no reimbursement will be made for any expenses accrued relative to this contract during that period.

5.17 Steel or Foundry Products

5.17.01 To comply with Indiana Code 5-16-8, affecting all contracts for the construction, reconstruction, alteration, repair, improvement or maintenance of public works, the following provision shall be added: If steel or foundry products are to be utilized or supplied in the performance of any contract or subcontract, only domestic steel or foundry products shall be used. Should CITY feel that the cost of domestic steel or foundry products is unreasonable; CITY will notify CONTRACTOR in writing of this fact.

5.17.02 Domestic Steel products are defined as follows:

“Products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two (2) or more of such operations, from steel made in the United States by open hearth, basic oxygen, electric furnace, Bessemer or other steel making process.”

5.17.03 Domestic Foundry products are defined as follows:

“Products cast from ferrous and nonferrous metals by foundries in the United States.”

5.17.04 The United States is defined to include all territory subject to the jurisdiction of the United States.

5.17.05 CITY may not authorize or make any payment to CONTRACTOR unless CITY is satisfied that CONTRACTOR has fully complied with this provision.

[Remainder of Page Intentionally Left Blank]

5.18 Verification of Employees' Immigration Status

Contractor is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Contractor shall sign an affidavit, attached as an attachment, affirming that Contractor does not knowingly employ an unauthorized alien. "Unauthorized alien" is defined at 8 U.S. Code 1324a(h)(3) as a person who is not a U.S. citizen or U.S. national and is not lawfully admitted for permanent residence or authorized to work in the U.S. under 8 U.S. Code Chapter 12 or by the U.S. Attorney General.

Contractor and any of its subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Contractor or any of its subcontractors learns is an unauthorized alien. If the City obtains information that the Contractor or any of its subcontractors employs or retains an employee who is an unauthorized alien, the City shall notify the Contractor or its subcontractors of the Agreement violation and require that the violation be remedied within thirty (30) calendar days of the date of notice. If the Contractor or any of its subcontractors verify the work eligibility status of the employee in question through the E-Verify program, there is a rebuttable presumption that the Contractor or its subcontractor did not knowingly employ an unauthorized alien. If the Contractor or its subcontractor fails to remedy the violation within the thirty (30) calendar day period, the City shall terminate the Agreement, unless the City determines that terminating the Agreement would be detrimental to the public interest or public property, in which case the City may allow the Agreement to remain in effect until the City procures a new contractor. If the City terminates the Agreement, the Contractor or its subcontractor is liable to the City for actual damages.

Contractor shall require any subcontractors performing work under this Agreement to certify to the Contractor that, at the time of certification, the subcontractor does not knowingly employ or contract with an unauthorized alien and the subcontractor has enrolled in and is participating in the E-Verify program. Contractor shall maintain on file all subcontractors' certifications throughout the term of this Agreement with the City.

IN WITNESS WHEREOF, the parties of this Agreement have hereunto set their hands.

DATE: _____

City of Bloomington
Bloomington Board of Public Works

BY:

BY:

Kyla Cox Deckard, President, Board of Public Works

Contractor Representative

Dana Palazzo, Member, Board of Public Works

Printed Name

Kelly Boatman, Member, Board of Public Works

Title of Contractor Representative

John Hamilton, Mayor of Bloomington

ATTACHMENT 'A'

"SCOPE OF WORK"

PROJECT NAME

This project shall include, but is not limited to the SCOPE OF WORK