

Request for Qualifications:

2024 Northwest Indiana Regional Development Authority (RDA) Owner's Representative for Gary Blight Elimination Program

Due Date: 05/06/2024

All proposals must be submitted electronically via email to: ajakubin@rda.in.gov. Responses submitted only by hard copy or mail will not be accepted.

Issue Date: 04/23/2024

Section 1: Proposal Instructions

- 1. Communications Regarding this Project.
 - a. All questions or requests for clarification must be submitted via email to: ajakubin@rda.in.gov until 04/29/2024
 - b. Any response made by the Northwest Indiana Regional Development Authority (RDA) will be provided via email as an Addendum
 - c. Offerors are strictly prohibited from contacting any other RDA employees, any third-party representatives of the RDA, or the City of Gary on any matter having to do with this RFQ. This may result in disqualification.

2. RFQ Schedule.

- a. The following is the anticipated schedule for the RFQ Process:

| | |
|--|------------|
| Issue RFQ: | 04/23/2024 |
| Last Day to Submit Questions: | 04/29/2024 |
| Written Responses to Questions: | 05/01/2024 |
| Due Date for Qualification Submittals: | 05/06/2024 |
| Offeror is Selected: | 05/13/2024 |

3. Preventing Unfair Advantage.

- a. Fairness and transparency in the procurement process requires that Offerors competing for a specific project do not derive a competitive advantage from having provided services related to the project/contract/work assignment in question.
- b. The Offeror shall disclose active contracts with clients and communities in Lake County in the State of Indiana.
- c. Title VI Solicitation Notice: The RDA, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all Offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.
- d. All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, et seq, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part- time workers.
- e. The Offeror has full responsibility to monitor compliance with the referenced statute or regulation. The Offeror must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

4. RFQ Submissions

- a. While each proposal will be considered objectively, the RDA assumes no obligation to accept or to take action on any proposal. The RDA assumes no liability for any costs incurred in preparing or submitting any proposals.
- b. All proposals must be submitted electronically via email to: ajakubin@rda.in.gov by 4:00 pm CDT on 05/06/2024. Responses submitted by hard copy or mail will not be accepted.
- c. Late proposals will not be accepted.

5. Required Proposal Contents

- a. All brochures and supplemental documentation shall be included with the proposal.
- b. Offerors are required to submit the following information in their proposal:
 - i. Letter of Transmittal. The Offeror shall provide a transmittal letter with authorizing signature for the proposal. The letter must briefly summarize the vendor's ability and willingness to perform the services required by the RFQ.
 - ii. Company Profile and Background. Provide the following information:
 1. Location – The street address of the Offeror's company headquarters.
 2. Company's Primary Business. State the Offeror's primary business, the number of years in the Offeror's industry, and the number of employees assigned to these related activities.
 3. State the legal make-up of your company. Sole proprietorship, partnership, corporation, etc. Also, state MBE/DBE status and/or statements of Diversity Equity and Inclusion commitment.
 4. Please list any Lawsuits that you are currently engaged in. Please provide any and all suits (include, but not limited to Federal, State, Local or other Municipalities and Governmental agencies).
 - iii. Key Personnel Information. Provide the name, title, mailing address, telephone number and e-mail address of the persons who will function as the RDA's primary contact and back-up contact person. Provide brief resumes/qualifications of personnel who will be primarily involved in this project. Include any certifications earned, special training taken, and memberships in professional groups.
 - iv. Subconsultants. Please provide company profile, background, and resumes/qualifications for any subconsultants. Also, state MBE/DBE status and/or statements of Diversity Equity and Inclusion commitment and expected percentage of overall contract fee including subconsultants. The RDA expects Offerors to endeavor to include meaningful contributions from MBE/DBE firms in support of the project or otherwise staff with a Diverse Representation for this RFQ effort.
 - v. Similar Project Examples. Including summary sheets, images, location, dates, costs, and contact information.
 - vi. References. Provide a list of three references.

6. Criteria.

- a. Each submitted proposal will be evaluated based on the following criteria. After receipt and review of the written proposal, the RDA may elect to have the proposal presented in person or clarifications submitted in writing.
- b. Offerors shall not assume that any information shared with the RDA prior to this RFQ will be considered in the evaluation process of this RFQ. The evaluation team may or may not have prior knowledge of any discussions and processes. Evaluation will be completed on the information submitted in response to the RFQ only.

| Evaluation Criteria for Goods and Services | | |
|--|---|-----------------|
| Item | Description | Points Possible |
| 1 | Qualification and Capability of Firm and Subconsultants | 45% |
| 2 | Key Personnel | 10% |
| 3 | Similar Projects and Past Performance | 15% |
| 4 | Capacity/Availability to Complete Work | 15% |
| 5 | References | 5% |
| 6 | MBE/DBE Commitment | 10% |
| Total Points | | 100% |

7. Purpose and Need/Project Description.

- a. Project Purpose: SEA434-2023 provided up to \$12 million of funding for the demolition of qualified properties within the existing Transit Development District (TDD) at the Gary Metro Rail Station. The demolitions are expected to occur during 2024 and 2025.
- b. This project will be led by RDA leadership with the assistance of a set of existing consultants. The RDA is requesting qualifications for technical services to supplement existing team expertise.
- c. The RDA is established as a separate body corporate and politic under Indiana Code 37-7.5 et seq.

8. Requested Expertise.

The RDA is requesting responses from firms or teams qualified in the following disciplines to assist the RDA with:

- i. Procurement of demolition services
All demolitions will be publicly bid by the State of Indiana with an expectation of minority and/or women business enterprise involvement.
- ii. Contract administration
Each selected demolition contractor will contract with the RDA. The selected Owner’s Rep will assist the RDA with negotiations with each demolition contractor, ensure that the terms of the contract are met, and review contractors’ work prior to payment.
- iii. Property management
The Owner’s Rep will be responsible for ensuring the property is appropriately prepared for demolition, secured during demolition, and cleared after

demolition. This includes working with the City of Gary and the RDA for any required approvals, permits, and public notices.

iv. Demolition oversight

The Owner's Rep will review the demolition plan for each building to ensure the demolition plan is safe and adheres to best practices. This includes coordination with the City of Gary and local utilities to ensure utilities have been properly terminated. The Owner's Rep will have oversight over the demolition contractor to ensure contractual terms are met.

v. Environmental oversight

The Owner's Rep will review the demolition and waste disposal plan for each building to ensure the plans adhere to best environmental practices. The Owner's Rep will have oversight over the demolition contractor to ensure contractual terms are met.

vi. Site clearance

Upon completion of the demolition, the Owner's Rep will clear the property ensuring that all contract terms have been met prior to payment of the demolition contractor.

9. Content and Form of Proposal.

a. The following are the required submittal contents, together with the potential points available for each content category:

i. QUALIFICATION AND CAPABILITY OF FIRM

1. Offeror and each of its proposed sub-consultants for this engagement shall provide a narrative of prior experience within the past five (5) years. Include a description of the work performed, identify the percentage of the total project completed by you (and each sub-consultant) and any special practices that were implemented to assist your clients to achieve their goals.

ii. KEY PERSONNEL FOR THIS PROJECT

1. Provide a graphic and narrative description of the organizational structure for the provision of services to the areas of expertise, specifically outlining each individual's professional qualifications and experience and availability for the proposed projects; their reputation and professional integrity and competence; and their experience in similar project types. The overall project manager and other individuals who will be assigned to coordinate the activities of the respective firms and key project staff members must be identified. Provide the professional qualifications and experience (a resume may be sufficient) within the past five (5) years for all individuals identified for engagement and a narrative description of specific similar project experience and competence.

iii. SIMILAR PROJECTS AND PAST PERFORMANCE

1. Provide a list of similar project examples, including summary sheets, images, location, dates, costs, and contact information. The summary

sheets shall be tailored to the expertise(s) Offerors are submitting on as part of this RFQ.

iv. CAPACITY/AVAILABILITY TO COMPLETE WORK

1. Provide a summary/chart of staff to complete work and percentage of time available to complete work.

v. REFERENCES

1. Provide the name, address, and telephone number of at least three (3) clients that are familiar with the quality of work performed by you of a similar nature.

vi. MBE/DBE COMMITMENT

1. State MBE/DBE status and/or statements of Diversity Equity and Inclusion commitment and expected percentage of overall contract fee including subconsultants. The RDA expects Offerors to endeavor to include meaningful contributions from MBE/DBE firms in support of the project or otherwise staff with a Diverse Representation for this RFQ effort.

10. Selection Process.

- a. The Offeror(s) whose proposal is/are found to be the "Most Advantageous" to the RDA will be offered the opportunity to negotiate with the intent to enter into an Agreement with the RDA. The scope, terms and conditions of that Agreement shall be in substantial conformance with the terms, conditions and specifications described in this RFQ and in the contract, (Attachment A).
- b. The Offeror should be prepared to begin contract negotiations upon submitting a proposal. If the Offeror is not able to begin contract negotiations, the RDA may disqualify that Offeror.
- c. The RDA reserves the right to negotiate the Agreement to include any portion or portions of the services covered by this RFQ. The RDA reserves the right to reject any and all proposals in total or by components.
- d. The RDA reserves the right to make one total award, one award for each section, multiple awards, or a combination of awards, and to exercise its judgment concerning the selection of one or more proposals, the terms of any resultant agreement(s), and the determination of which, if any, proposal(s) is Most Advantageous to the RDA, as a result of this RFQ process.
- e. Any false statement(s) made by the Offeror will void the submittal and eliminate the Offeror from further consideration. Verbal responses to inquiries shall not be binding; only a written addendum to this RFQ will modify its specifications and terms.
- f. Notwithstanding any other provision of this RFQ and in addition to any other rights reserved by the RDA herein, the RDA reserves to itself the following rights:
 - i. The right to modify or amend any provision of this RFQ, including, without limitation, the provisions of the Agreement.
 - ii. The right to reject in whole or in part any or all submittals for any reason.

- iii. The right to cancel its award to any firm(s) at any time before an agreement with such firm(s) has been fully executed and delivered, and RDA reserves the right to cancel its award to an Offeror without any liability.
- g. The specific terms of the engagement for professional services will be governed by the terms of a final negotiated agreement. In the event of a conflict between the provisions of the final agreement and any provision of the RFQ, the provisions of the final agreement shall control.

11. Pricing Structure and Schedule.

- a. Hourly rates shall be provided for each staff position working on the project.
- b. Overall fee shall be negotiated upon selection. Fees shall not be accepted at time of RFQ submission.

Section 2: Process and Contracting Instructions

A. Question/Inquiry Process

All questions/inquiries regarding this RFQ must be submitted via e-mail to ajakubin@rda.IN.gov, **Questions/Inquiries must be received by 4:00 p.m. Central Time on the date specified in Section 1a of this document.**

Inquiries are not to be directed to any staff or board member of the RDA who is not the Designated RDA Employee. Such action may disqualify Respondent from further consideration for a contract resulting from this RFQ.

If it becomes necessary to revise any part of this RFQ, or if additional information is necessary for a clearer interpretation of provisions of this RFQ prior to the due date for proposals, an addendum will be posted on the RDA website. If such addenda issuance is necessary, the RDA may extend the due date and time of proposals to accommodate such additional information requirements, if required.

B. Modification or Withdrawal of Offers

Modification to, or withdrawal of, a proposal received by the RDA after the exact hour and date specified for receipt of proposals will not be considered.

C. Taxes

Proposals should not include any tax embedded in the fees, as the RDA is tax exempt.

D. Compliance Certification

Responses to this RFQ serve as a representation that Respondent has no current or outstanding criminal, civil, or enforcement actions initiated by any government entity or agency, and Respondent agrees that it will immediately notify that RDA of any such actions. The Respondent also certifies that neither it nor its principals are presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the state or federal government. The Respondent agrees that the RDA may confirm, at any time, that no such liabilities exist, and, if such liabilities are discovered, that the RDA may bar the Respondent from contracting with the RDA, cancel existing contracts, withhold payments to

set off such obligations, and withhold further payments or purchases until the entity is current in its payments on its liabilities.

E. Equal Opportunity Commitment

Pursuant to IC 36-7.5-2-8, it has been determined that there is a goal for minority and woman business enterprises subcontracting opportunities on a contract awarded under this RFQ.

Therefore, Respondent should attempt to meet the contract goals of 15% for Minority Business Enterprises and 5% for Woman Business Enterprises participation.

Failure to meet these requirements will affect the evaluation of Respondent's proposal.

F. Americans with Disabilities Act

The Respondent specifically agrees to comply with the provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.* and 47 U.S.C. 225).

G. Contract Terms/Clauses

A sample contract that the RDA expects to execute with the successful Respondent is provided in the supplemental attachments. This contract contains both mandatory and non-mandatory clauses. Mandatory clauses are listed below and are non-negotiable. Other clauses are highly desirable. It is the RDA's expectation that the final contract will be substantially similar to the sample contract provided.

The mandatory contract terms are as follows:

- Authority to Bind Contractor;
- Boilerplate Affirmation Clause;
- Duties of Contractor, Rate of Pay, and Term of Contract;
- Compliance with Laws;
- Insurance;
- Drug-free Workplace Provision and Certification;
- Employment Eligibility Verification (E-Verify);
- Funding Cancellation;
- Ethics;
- Indemnification;
- Governing Laws;
- Non-discrimination clause;
- Condition of Payment;
- Telephone Privacy;
- Penalties/Interest/Attorney's Fees;
- Termination for Convenience; and
- Non-collusion and Acceptance.

Any or all portions of this RFQ and any or all portions of the Respondent's response may be incorporated as part of the final contract.

PROFESSIONAL SERVICES CONTRACT

This Contract (the "Contract"), entered into the _____ day of _____, by and between the NORTHWEST INDIANA REGIONAL DEVELOPMENT AUTHORITY (the "RDA") and _____ (the "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:

1. Duties of Contractor; Scope of Services. Under this engagement, Contractor will accomplish the tasks as described below, in accordance with accepted professional standards. Contractor's consulting tasks shall include but not be limited to the following:

1. Contractor has been engaged by the RDA to provide consulting services as part of the RDA's Comprehensive Strategic Plan project (the "CSP") of 2024. The contractor will use its best efforts to accomplish the consulting and planning assignments as part of the CSP as directed by the RDA and its Leadership Team.
2. Contractor will accomplish the planning assignments which are part of the RDA's overall project direction and within the schedule as directed by the RDA and its Leadership Team.
3. Contractor will... [to be added based on the RFQ specifics for each particular respondent]

2. Consideration. Contractor will be paid as per the negotiated terms agreed to. Total remuneration under this contract will not exceed \$_____.

3. Term. This Contract shall be effective as of the date of its execution and shall remain in effect through March 31, 2025.

4. Assignment; Successors. The Contractor binds its successors and assignees to all the terms and conditions of this Contract. The Contractor shall not assign or subcontract the whole or any part of this Contract without the RDA's prior written consent.

5. Authority to Bind Contractor. The signatory for the Contractor represents that he/she has been duly authorized to execute this Contract on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed and certifies that this Contract is not subject to further acceptance by the Contractor when accepted by the RDA.

6. Audits and Maintenance of Records. The Contractor acknowledges that may be required to submit to an audit of funds paid through this Contract, and shall make all books, accounting records and other documents available at all reasonable times during the term of this Contract and for a period of three (3) years after final payment of contract funds, for inspection by the RDA or its authorized designee. A reasonable amount of copies shall be furnished to the RDA at no cost.

7. Changes in Work. The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the State. The Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

8. Compliance with Laws.

A. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State of Indiana, as set forth in Indiana Code § 4-206 *et. seq.*, IC §4-2-7, *et. seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <http://www.in.gov/ethics/>. If the Contractor or its agents violate any applicable ethical standards, the RDA may, in its sole discretion, terminate this Agreement immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under Indiana Code §§ 4-2-6-12 and 4-2-7.

B. The Contractor warrants that it has no current or outstanding criminal, civil, or enforcement actions initiated by the State pending, and agrees that it will immediately notify the RDA of any such actions. During the term of such actions, Contractor agrees that the RDA may delay, withhold, or deny work under any supplement, amendment or contractual device issued pursuant to this Agreement.

C. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the RDA. Failure to do so is a material breach and grounds for immediate termination of this Agreement and denial of further payment by the RDA.

D. The Contractor hereby affirms that it is properly registered and owes no outstanding reports with the Indiana Secretary of State.

E. As required by IC 5-22-3-7:

(1) the Contractor and any principals of the Contractor certify that (A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of (i) IC 24-4.7 [Telephone Solicitation Of Consumers], (ii) IC 24-5-12 [Telephone Solicitations], or (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) the Contractor will not violate the terms of IC 24-4.7 for the duration of this Agreement, even if IC 24-4.7 is preempted by federal law.

(2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor: (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) will not violate the terms of IC 24-4.7 for the duration of this Agreement, even if IC 24-4.7 is preempted by federal law.

F. Contract shall conform to the “Contractor Principles of Conduct” as adopted by the RDA subsequent to this agreement.

9. Condition of Payment. All services provided by the Contractor under this Contract must be performed in accordance with all generally accepted professional standards and all applicable federal, state, local laws, ordinances, rules and regulations. The RDA shall not be required to pay for work which fails to comply with professional standards, is inconsistent with this Contract or performed in violation of and federal, state or local statute, ordinance, rule or regulation.

10. Confidentiality of RDA Information. The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material and information gathered, based upon or disclosed to the Contractor for the purpose of this Contract, will not be disclosed to or discussed with third parties without the prior written consent of the RDA.

11. Pre-Existing Works. 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”). The Contractor’s rights to use Pre-Existing Works for services outside of this Agreement shall not be restricted in any way by this Agreement.

12. Conflict of Interest.

A. As used in this section:

“Immediate family” means the spouse and the unemancipated children of an individual. “Interested

party” means:

1. The individual executing this Contract;
2. An individual who has an interest of three percent (3%) or more of Contractor, if Contractor is not an individual; or
3. Any member of the immediate family of an individual specified under subdivision 1 or 2.

“Commission” means the State Ethics Commission.

B. The RDA may cancel this Contract without recourse by Contractor if any interested party is an employee of the RDA or the State of Indiana.

C. The RDA will not exercise its right of cancellation under Section B above if the Contractor gives the RDA an opinion by the Commission indicating that the existence of this contract and the employment by the RDA or the State of Indiana of the interested party does not violate any statute or code relating to ethical conduct of RDA or State employees. The RDA may take action, including cancellation of this Contract consistent with an opinion of the Commission obtained under this section.

D. Contractor has an affirmative obligation under this Contract to disclose to the RDA when an interested party is or becomes an employee of the RDA or the State of Indiana. The obligation under this section extends only to those facts that Contractor knows or reasonably could know.

13. Insurance. Contractor shall maintain primary comprehensive general liability insurance, including bodily injury and property damage coverage in an amount no less than one million dollars (\$1,000,000). The coverage minimum shall apply to specific and aggregate limits. The coverage shall protect against the acts or omissions of the Contractor, its subcontractors, its officials, employees and agents. Evidence of insurance coverage for Contractor shall be provided to the RDA in a submission with this executed Agreement. Contractor shall immediately forward to the RDA any notice of cancellation or non-renewal of coverage that is received from its insurer and shall provide immediate notice of any actual cancellation or non-renewal. Contractor shall not refuse to submit a claim to its insurance carrier or fail to pursue insurance reimbursement in a manner that would reduce the RDA's indemnity rights under this Agreement.

14. Drug-Free Workplace Certification.

The Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. Contractor will give written notice to the RDA within ten (10) days after receiving actual notice that the Contractor or an employee of the Contractor in the State of Indiana has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Contract payments, termination of Contract and/or debarment of Contract opportunities with the RDA and the State of Indiana for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total Contract amount set forth in this Agreement is in excess of \$25,000.00, Contractor hereby further agrees that this Agreement is expressly subject to the terms, conditions and representations of the following Certification:

The Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and
- B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace; and
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; and
- D. Notifying in writing RDA within ten (10) days after receiving notice from an employee under subdivision (C) (2) above, or otherwise receiving actual notice of such conviction; and

E. Within thirty (30) days after receiving notice under subdivision (C) (2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency; and

F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

15. Debarment and Suspension.

A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.

B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the RDA if any subcontractor becomes debarred or suspended, and shall, at the RDA's request, take all steps required by the RDA to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

16. Default by RDA. If the RDA, fifteen (15) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination.

17. Disputes.

A. Should any disputes arise with respect to this Contract, the Contractor and the RDA agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the RDA or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim within ten (10) working days following notification in writing by either party of the existence of a dispute, then the following procedure shall apply.

1. The parties agree to resolve such matters through submission of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor and the RDA within ten (10) working days after presentation of such dispute for action. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the

Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within then (10) working days, the parties may mutually agree to submit the dispute to arbitration or mediation for a determination, or otherwise the dispute may be submitted to an Indiana court of competent jurisdiction.

2. The RDA may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the RDA to the Contractor of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for Contractor to terminate this Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

18. Force Majeure. In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

19. Governing Laws. This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.

20. Independent Contractor. Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party.

The Contractor shall be responsible for providing all necessary unemployment and workers' compensation insurance for the Contractor's employees.

21. Licensing Standards. The Contractor and its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the Contractor pursuant to this Contract. The RDA shall not be required to pay the Contractor any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules or regulations. If licensure, certification or accreditation expires or is revoked, or if disciplinary action is taken against the applicable licensure, certification or accreditation, the Contractor shall notify the RDA immediately and the RDA, at its option, may immediately terminate this Contract.

22. Merger and Modification. This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.

23. Notice to Parties. Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following addresses, unless otherwise specifically advised.

A. Notices to the RDA shall be sent to:

Ms. Sherri Ziller, President and CEO
Northwest Indiana Regional Development Authority 9800
Connecticut Drive
Crown Point, Indiana 46307

B. Notices to the Contractor shall be sent to:

24. Nondiscrimination. Pursuant to I.C. 22-9-1-10 and the Civil Rights Act of 1964, Contractor and its Sub-contractors shall not discriminate against any employee or applicant for employment in the performance of this Agreement. The Contractor shall not discriminate with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin or ancestry. Breach of this covenant may be regarded as a material breach of contract. Acceptance of this Agreement also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.

25. Order of Precedence. Any inconsistency or ambiguity in this Agreement shall be resolved by giving precedence in the following order: (1) This Agreement, (2) Attachments prepared by the RDA, (3) Attachments prepared by Contractor, (4) Invitation to Apply for Contract, and (5) the Contract Application.

26. Penalties/Interest/Attorney's Fees. The RDA will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in party, IC 5-17-5, IC 34-54-8, and IC 34-13-1.

Notwithstanding the provisions contained in IC 5-17-5, any liability resulting from the RDA's failure to make prompt payment shall be based solely on the amount of funding originating from the RDA and shall not be based on funding from federal or other sources.

27. Severability. The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

28. Substantial Performance. This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

29. Termination for Default.

A. With the provision of thirty (30) days notice to the Contractor, the RDA may terminate this Contract in whole or in part if the Contractor fails to:

1. Correct or cure any breach of this Contract;
2. Deliver the supplies or perform the services within the time specified in this Contract or any extension;
3. Make progress so as to endanger performance of this Contract; or
4. Perform any of the other provisions of this Contract.

B. If the RDA terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the RDA considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the RDA for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

C. The RDA shall pay the contract price for completed supplies delivered and services accepted. The Contractor and the RDA shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The RDA may withhold from these amounts any sum the RDA determines to be necessary to protect the RDA against loss because of outstanding liens or claims of former lien holders.

D. The rights and remedies of the RDA in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

30. Waiver of Rights. No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right.

31. Work Standards. The contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the RDA becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the RDA may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

32. Compliance with MBE/WBE and Indiana Business Goals. The contractor shall comply with the participation goals for minority business enterprises/women's business enterprises and Indiana businesses as contained in IC 36-7.5-2-8(b). The contractor shall adhere to RDA adopted policies, procedures and guidelines for implementation of these participation goals.

33. Non-Collusion and Acceptance. The undersigned attests, subject to the penalties of perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor, that the undersigned has not, nor has any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, to the best of undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that the undersigned has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face hereof.

34. E-Verify Utilization. The Contractor confirms compliance with IC 22-5-1.7-3 and in so doing verifies enrollment in the federal E-Verify Program establishing eligibility status of all newly hired employees.

Attached hereto and made a part of this contract as Appendix A, the Contractor has executed the Employment Eligibility Verification statement required by IC 22-5-1.7-3.

35. Certification in No Investment in Iran. As required by IC 5-22-16.5, the Contractor certifies that the Contractor is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14, including termination of this Contract and denial of future state contracts, as well as imposition of a civil penalty.

THIS CONTRACT having been approved by each of the parties and memorialized by the signatures contained hereon.

CONTRACTOR:

**NORTHWEST
INDIANA REGIONAL
DEVELOPMENT
AUTHORITY**

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

Date: _____

Date: _____

Approvals: _____
RDA Legal Counsel

RDA President and CEO

APPROVED AS TO FORM AND LEGALITY

Indiana Attorney General

By: _____

Printed: _____