# EXECUTIVE DOCUMENT SUMMARY

State Form 41221 (R10/4-06)

Instructions for completing the EDS and the Contract process.

1. Please read the guidelines on the back of this form.
2. Please type all information.
3. Check all boxes that apply.
4. For amendments / renewals, attach original contract.
5. Attach additional pages if necessary.

| 1. EDS Number: | 2. Date prepared: |
|---|---|
| A249-6-060183 | 6/28/2006 |

## 3. CONTRACTS & LEASES

___ Professional/Personal Services
___ Grant
___ Lease
___ Attorney
___ MOU
X QPA
___ Contract for procured Services
___ Maintenance
___ License Agreement
X Amendment# 1
___ Renewal #
___ Other

## FISCAL INFORMATION

| 4. Account Number: | 5. Account Name: |
|---|---|
| 4000 108070 | Operating |
| 6. Total amount this action: $5,000.00 | 7. New contract total: $5,000.00 |
| 8. Revenue generated this action: $0.01 | 9. Revenue generated total contract: $0.01 |

10. New total amount for each fiscal year :
Year 2006 $ 5,000.00 Year ___ $ ___
Year ___ $ ___ Year ___ $ ___

## TIME PERIOD COVERED IN THIS EDS

| 11. From (month, day, year): | 12. To ( month, day, year ): |
|---|---|
| 7/1/2006 | 6/30/2007 |

13. Method of source selection:
X Bid/Quotation ___ Emergency ___ Negotiated ___ Special Produrement
___ RFP# ___ ___ Other *(specify)* ___

## AGENCY INFORMATION

| 14. Name of agency: | 15. Requisition Number: |
|---|---|
| Indiana Dept of Transportation | 525RQ06958 |

16. Address: Dept. of Transportation
Accounting & Control Divison
100 N SENATE AVE RM N725
INDIANAPOLIS, IN 46204

## AGENCY CONTACT INFORMATION

| 17. Name: | 18. Telephone #: |
|---|---|
| Diana Poturaiski | 232-5556 |

19. E-mail address: dpoturaiski@indot.state.in.us

## COURIER INFORMATION

| 20. Name: | 21. Telephone #: |
|---|---|
| Betty Unger | 232-5401 |

22. E-mail address: bunger@indot.state.in.us

## VENDOR INFORMATION

23 Vendor ID # 0000054452

| 24. Name: | 25. Telephone #: |
|---|---|
| REPUBLIC SERVICES OF IND INC | 317-917-7302 |

26. Address: 266 SOUTH FRANKLIN STREET
P O BOX 336
GREENFIELD, IN 46140

27. E-mail address: saxej@repsrv.com

28. Is the vendor registered with the Secretary of State? (Out of State Corporations, must be registered) X Yes ___ No

29. Primary Vendor: M/WBE
Minority: ___ Yes X No
Women: ___ Yes X No

30. If yes, list the %:
Minority: ___ %
Women: ___ %

31 Sub Vendor:M/WBE
Minority: ___ Yes X No
Women: ___ Yes X No

32. If yes, list the %:
Minority: ___ %
Women: ___ %

33. Is there Renewal Language in the document? X Yes ___ No

34. Is there a "Termination for Convenience" clause in the document? X Yes ___ No

35. Will the attached document involve data processing or telecommunications systems(s)? ___ Yes: IOT or Delegate has signed off on contract

36. Statutory Authority *(Cite applicable Indiana or Federal Codes)*:
105 IAC 12

37. Description of work and justification for spending money. *(Please give a brief description of the scope of work included in this agreement.)*
Establish Landfill Facility QPA Agreement for Material Management and Indianapolis Subdistrict Units to dispose of general roadside trash, construction rubble, and clean fill.

38. Justification of vendor selection and determination of price reasonableness:
Overall low responsive bidder.

39. If this contract is submitted late, please explain why: *(Required if more than 30 days late.)*

| 40. Agency fiscal officer or representative approval | 41. Date Approved | 42. Budget agency approval | 43. Date Approved |
|---|---|---|---|
| | | | |
| 44. Attorney General's Office approval | 45. Date Approved | 46. Agency representative receiving from AG | 47. Date Approved |
| | | | |

5488-001

**DEPARTMENT OF TRANSPORTATION - PROCUREMENT SECTION**
**AWARD RECOMMENDATION**

| | |
|---|---|
| Buyer: **Betty Unger** | Estimated Amount: $ **5,000.00** |
| Date: **5/3/2006** | Does the recommendation exceed the |
| RQ / Invitation #: **525RQ069582 (06-0098)** | estimate by more than 10%? Yes ☐ No ☒ |

## Procurement Method Used:

☒ Bid: ☐ Special Procurement: ☐ Contract Renewal: ☐ PEN Products
☐ State-Use ☐ Request for Proposal ☐ Other: _____

### Approvals and/or Attachments:

| | |
|---|---|
| ☐ **DOA trade-in approval** | ☐ **Contract (original signatures) with attachments** |
| ☒ **Legal advertisement** | ☐ **Contract (copy) with attachments & all applicable amendments (copy), if renewing** |
| ☒ **Secretary of State Registration** | ☒ **Copy of Bid Package (include Telephone & Direct Deposit language)** |
| ☒ **Dept of Revenue** | ☒ **Drug-free certification (>$25,000)** |
| ☒ **Dept of Workforce Development** | ☐ **Recycled Product(s) – PURCHASES ONLY (in Excel file)** |
| ☒ **PDF bid tabulation** [redacted] | ☐ **MBE / WBE file (in Excel file)** |
| ☒ **QPA price comparison** | ☐ **Contract lease info. (in Excel file)** |
| ☒ **EDS form** | ☐ **Preferences (in Excel file)** |

**Recommend award to:** . **Republic Services of Indiana, LP**

**. Upon considering mileage as part of the evaluation criteria, low bid submitted by Republic Services of Indiana, LP meets specifications. Bid is recommended for award.**

| | |
|---|---|
| Approved by Department of Administration<br>Refer to Signed Contract dated 5-15-06 | Approved by State Budget Agency<br>[signature] 5/19/2006 |
| Approved as for Form and Legality:<br>DeAnna L Brown for Stephen Carter<br>Attorney General of Indiana / Date: 5/24/06 | Recommended by / Date: Betty Unger 5-3-06<br>Approved by / Date: [signature] 5 ... |

REVISED 4/2006

**QUANTITY PURCHASE AWARD**
**INDIANA DEPARTMENT OF TRANSPORTATION**
State Form 46671 (R )
Approved by State Board of Accounts,

| Formal number | Pages |
|---|---|
| **06-0098** | 1 of 10 |

| Quantity Purchase Agreement (QPA) number |
|---|
| **060183** |

| Effective date | Expiration date | Renewal option |
|---|---|---|
| 7/01/06 | 6/30/07 | two ( 2 ) year(s) |

| MBE | MBE Sub | WBE | WBE Sub |
|---|---|---|---|
| NO% | NO% | NO% | NO% |

| Recycled Prod. | | |
|---|---|---|
| NO | | |

**Name & address of vendor**
**REPUBLIC SERVICES OF IN, LP**
**832 Langsdale Ave**
**Indianapolis, IN 46202**

**Federal ID #** 651012411

**Contact person** James Saxe
**E-mail address** saxej@repsrv.com

**Telephone No.** 317 / 917-7302
**FAX number** 317 / 917-7303

**Payment address of vendor**
**Republic Services of Indiana, LP**
**PO Box 9001824**
**Louisville, KY 40290**

In accordance with your bid, submitted in response to the above referenced formal number, the Vendor agrees that the Indiana Department of Transportation has the option to purchase the items listed below under the terms of this agreement.

The prices shown here shall be in effect from the date of the award and remain in effect, for all orders issued on or before the stated expiration date, until the stated expiration date

The quantity listed herein is an estimate of the requirements. The Indiana Department of Transportation, may order substantially more or substantially less pursuant to the terms of this agreement. This agreement does not grant vendor exclusive rights as sole vendor of these items to the Indiana Department of Transportation.

**F.O.B. DESTINATION unless otherwise stated herein** **NOTICE: No price corrections will be permitted after issuance of this Agreement.**

| Quantity | Unit | ARTICLE and DESCRIPTION | Unit Price |
|---|---|---|---|
| | | **This is a request to establish a Quantity Purchase Award Agreement for:**<br>**Landfill Facility for Materials Management and Indianapolis Subdistrict Units**<br><br>**In accordance with the enclosed Additional Provisions (Appendix A):**<br>**Special Provisions (Appendix B; and Description and Pricing) Appendix C.**<br><br>**Supplemental Catalog: NO**<br>**Delivery Requirements: In accordance with N/A**<br>**Delivery Locations: In accordance with N/A**<br>**Liquidated Damages: In accordance with N/A** | |

**QUANTITY PURCHASE AWARD AGREEMENT ADDITIONAL PROVISIONS (Appendix A)**

**1. Confirming Orders:** Any supplies and/or services to be furnished under this Agreement shall be provided only if a Quantity Purchase Award Release (QPA Release) is issued by the State or if ordered by someone authorized in writing by the State to place verbal emergency orders. There is no limit, minimum or maximum, on the number of QPAs released or verbal emergency orders or the total volume purchased thereby. Verbal emergency orders shall be considered issued when communicated to the Contractor by the authorized location.

**2. Estimated Quantities:** The quantities shown are those which are estimated to be needed and used during the Agreement period. INDOT will not be bound in any way to purchase the quantities shown. INDOT may actually purchase substantially more or less than the amount estimated.

**3. Renewal Option:** The State has the option to extend the length of this Agreement for an additional period of **ONE ( 1 )** successive **ONE ( 1 )** year periods after the expiration of the original term, and subject to the same terms and conditions set forth in this Agreement. The term of the Agreement, including any renewals, may not exceed TWO ( 2 ) year(s).

**4. Access to Records.** The Contractor and its subcontractors, if any, shall maintain all books, document, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.

**5. 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 State's prior written consent. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the State, provided that the Contractor gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one (1) party.

**6. Audits.** The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC §5-11-1, *et. seq.* and audit guidelines specified by the State.

**7. 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 State.

**8. 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. No claim for additional compensation shall be made in the absence of a prior written approval executed by all signatories hereto.

**9. Compliance with Laws.** A. The Contractor shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment of any state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.

B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC §4-2-6 *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 State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6 and 4-2-7.

C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State. The Contractor agrees that any payments currently due to the State may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.

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

E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Transportation (INDOT) following the procedures for disputes outlined herein. A determination by INDOT shall be binding on the parties.

F. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC § 5-17-5.

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

**10. Compliance with Telephone Solicitations Act.** 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 the Contract, 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 the Contract, even if IC 24-4.7 is preempted by federal law.

**11. Condition of Payment.** All services provided by the Contractor under this Contract must be performed by the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The State shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of and federal, state or local statute, ordinance, rule or regulation.

**12. Confidentiality of State 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 the purpose of this Contract, will not be disclosed to or discussed with third parties without the prior written consent of the State.

**13. 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.
"Department" means the Indiana Department of Transportation.
"Commission" means the State Ethics Commission.

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

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

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

**14. 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 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 State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

**15. Default by State.** If the State, sixty (60) days after written notice, fails to correct or cure any material breach of this Contract, then Contractor may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination.

**16. Disputes.**
A. Should any disputes arise with respect to this Contract, Contractor and the State 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 State 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 Transportation. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor and the State 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 ten (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 State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State 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 dispute resolution procedure contained herein.

**17. Drug-Free Workplace Certification.** The Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State 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 this certification may result in sanctions including, but not limited to, suspension of Contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

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

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the State is requiring the inclusion of this certification in all contracts with and grants from the State of Indiana in excess of $25,000.00. No award of a Contract shall be made, and no

Contract, purchase order or agreement, the total amount of which exceeds $25,000.00, shall be valid, unless and until this certification has been fully executed by the Contractor and made a part of this Contract as part of the Contract documents.

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 employees 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;

B. Establishing a drug-free awareness program to inform 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;

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;

D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

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) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring 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.

**18. Employment Option.** If the State determines that it would be in the State's best interest to hire an employee of the Contractor, the Contractor will release the selected employee from any non-compete agreements that may be in effect. This release will be at no cost to the State or the employee.

**19. 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.

**20. Funding Cancellation.** When the Director of the Office of Management and Budget makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

**21. 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.

**22. Indemnification.** The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officers, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. The State shall **not** provide such indemnification to the Contractor.

**23. 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.

**24. Information Technology Enterprise Architecture Requirements.** If the Contractor provides any information technology related products or services to the State, the Contractor shall comply with all Indiana Office of Technology (IOT) standards, policies and guidelines, which are online at http://iot.in.gov/architecture/. The Contractor specifically agrees that all hardware, software and services provided to or purchased by the State must be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted under Section 508 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 794d) and IC § 4-13.1-3. Any deviation from these architecture requirements must be approved in writing by IOT in advance. The State may terminate this Contract for default if the Contractor fails to cure a breach of this provision within a reasonable time.

**25. Insurance.**

A. The Contractor shall secure and keep in force during the term of this Contract, the following insurance coverages, covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from this Contract:

1. Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits of $700,000 per person and $5,000,000 per occurrence unless additional coverage is required by the State.
2. Automobile liability with minimum liability limits of $700,000 per person and $5,000,000 per occurrence.
3. The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance prior to the commencement of this Contract and proof of Workers compensation coverage meeting all statutory requirements of IC § 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State if any of the services provided under this Contract involve work outside of Indiana.

B. The Contractor's insurance coverage must meet the following additional requirements:

1. The insurer may have a certificate of authority issued by the Indiana Department of Insurance.
2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
3. The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.

4. The insurance required in this Contract, through a policy of endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.

Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the State before the commencement of this Contract.

**26. 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 State shall not be required to pay the Contractor for any services performed when 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 State immediately and the State, at its option, may immediately terminate this Contract.

**27. Merger & 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.

**28. Minority and Women's Business Enterprise Compliance.** The Contractor agrees to comply fully with the provisions of 25 IAC 5 and any participation plan that may have been submitted to the State.

The following MBE's and WBE's listed on the Minority and Women's Business Enterprises Division directory of certified firms will be participating in this Contract.

| | |
|---|---|
| MBE/WBE | Not Applicable |
| Company Name | |
| Phone | |
| Scope of Products and/or Services | |
| Amount | |

| | |
|---|---|
| MBE/WBE | Not Applicable |
| Company Name | |
| Phone | |
| Scope of Products and/or Services | |
| Amount | |

**29. Nondiscrimination.** Pursuant to IC § 22-9-1-10 and the Civil Rights Act of 1964, the Contractor and its subcontractors shall not discriminate against any employee or applicant for employment in the performance of this Contract. 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 this Contract. The Contractor's execution of this Contract 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.

The Contractor understands that the State is a recipient of federal funds. Pursuant to that understanding, the Contractor and its subcontractor, if any, agree that if the Contractor employs fifty (50) or more employees and does at least $50,000.00 worth of business with the State and is not exempt, the Contractor will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The Contractor shall comply with Section 202 of Executive Order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of this Contract.

**30. Order of Precedence; Incorporation by Reference.** Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) this Contract, (2) attachments prepared by the State, (3) State's Invitation for Bid/RFP # 06-0098, (4) Contractor's response to the State's Invitation for Bid/RFP #06-0098, and (5) attachments prepared by the Contractor. All attachments, and all documents referred to in this paragraph are hereby incorporated fully by reference.

**31. Ownership of Documents and Materials.** All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the Contractor prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the Contractor transfers any ownership claim to the State and all such materials will be the property of the State. Use of these materials, other than related to Contract performance by the Contractor, without the prior written consent of the State, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to these materials developed for or supplied by the State and used to develop or assist in the services provided herein while the materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. Full, immediate, and unrestricted access to the work product of the Contractor during the term of this Contract shall be available to the State.

**32. Payments.** All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by IC § IC 4-13-2-14.8, by electronic funds transfer to the financial institution designed by the Contractor in writing unless a specific waive has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are subject of this Contract except as permitted by IC § 4-13-2-20.

**33. Penalties/Interest/Attorney's Fees.** The State 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 required by Indiana law, in part, 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 State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

**34. Registration with the Secretary of State.** The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports with the Indiana Secretary of State.

**35. 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 provision of this Contract.

**36. 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.

**37. Taxes.** The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Contractor as a result of this Contract.

**38. Termination for Convenience.** This Contract may be terminated, in whole or in part, by the State whenever, for any reason, the State determines that such termination is in the best interest. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which termination of performance becomes effective. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided but in no case shall total payment made the Contractor exceed the original Contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date.

**39. Termination for Default.**
A) With the provision of thirty (30) days notice to the Contractor, the State 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 State terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

C) The State shall pay the Contract price for completed supplies delivered and services accepted. The Contractor and the State 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 State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

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

**40. Travel**. No expenses for travel will be reimbursed unless specifically permitted under the scope of services or consideration provisions. Expenditures made by the Contractor for travel will be reimbursed at the current rate paid by the State and in accordance with the State Travel Policies and Procedures as specified in the current Financial Management Circular. Out-of-state travel requests must be reviewed by the State for availability of funds and for appropriateness per Circular guidelines.

**41. 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.

**42. 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 State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and Contractor shall grant such request.

**43. State Boilerplate Affirmation Clause.** I swear or affirm under the penalties of perjury that I have not altered, modified or changed the State's Boilerplate contract clause in any way.

**[The rest of this page is left blank intentionally]**

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

**In Witness Whereof,** Contractor and the State have, through duly authorized representatives, entered into this Contract. The parties, having read and understand the foregoing terms of this Contract, do by their respective signatures dated below hereby agree to the terms thereof.

Company Name: Republic Services of Indiana, LP
Signature:
Printed Name: James Saxe
Title: Sales Manager
Date: 3/30/06

**Indiana Department of Transportation**

Bernard M. Seel, Deputy Commissioner of Finance
FOR: Thomas O. Sharp, Commissioner
Date:

**State Budget Agency**

Charles E. Schalliol, Director
for

Date: 5/19/2006

**Indiana Department of Administration**

Dawna L. Patterson for
Earl A. Goode, Commissioner
Date: 5/19/06

**APPROVED AS TO FORM AND LEGALITY**
**Office of the Attorney General**

Stephen Carter, Attorney General
Date:

Indiana Office of Technology

**NA**
Printed Name:
Title:
Date:

This Quantity Purchase Award Agreement is authorized by IC 8-23-2-6 and IC 5-22-2-4.

This instrument was prepared by Teresa Giller, INDOT Attorney on 5/5/06.

Legal Counsel

**APPENDIX B**

**INDIANA DEPARTMENT OF TRANSPORTATION (INDOT)**
**SPECIAL PROVISIONS FOR LANDFILL SERVICES FOR**

## 1. INTRODUCTION

Request to establish a Quantity Purchase Award (QPA) Agreement for Landfill Services for Office of Materials Management, 120 S shortridge Rd., Indianapolis, IN 46219 and Indianapolis Subdistrict and Units 7105 E Brookville Rd., Indianapolis, IN 46239 for a period of one ( 1 ) year.

INDOT has the option to unilaterally renew the term of this contract for an additional one ( 1 ) year(s) after the expiration of the initial term, under the same terms and conditions as set out herein. INDOT will send notice of such renewal to the Contractor at least thirty (30) days before the contract expiration date. The term of the contract, including any renewals, may not exceed two ( 2 ) year(s).

## 2. EVALUATION OF BIDS

In accordance with 105 IAC 12-2-16, this Agreement shall be awarded by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in this invitation for bid. As part of the evaluation process, consideration for the driving time to the facility shall be based on the following formula.

C=P+(2xDxM)

Where: P= Price quoted per unit
D= Haul distance from the department to the landfill site.
M= Cost per mile as determined by the department
C= Relative cost per unit

The award will be made to the bidder whose relative cost per unit is the lowest. Exact location of the plant being quoted must be provided on the pricing form.

## 3. LITERATURE

INDOT will require that literature be provided for all products offered at the time of bid. Manufacture literature should describe the product and its recommended applications and should largely validate compliance with specifications.

## 4. ORDERING PROCESS AND ACCESS RIGHTS

Upon award of this Agreement by the INDOT Procurement Section, the specified locations, unless otherwise stated, will be authorized to procure the services covered under this Agreement on a day-to-day basis.

The successful contractor shall provide INDOT access to the herein-described landfill facility for the purpose of waste disposal in this Agreement.

## 5. INVOICING

The invoice(s) for products delivered under this Agreement shall be sent to the requesting location. Payments to Contractors will be made to the authorized Contractor after all required documentation and invoices have been supplied to *the requested by and bill to address*.

## 6. CANCELLATION OF AGREEMENT DUE TO NON-COMPLIANCE

If INDOT cancels this Agreement due to the Contractor's inability to comply and/or perform the requirements of this Agreement, INDOT reserves the right to deem the Contractor not eligible to submit bids for future purchases of like or similar goods and/or services required by INDOT.

## 7. DUTIES OF CONTRACTOR

The Contractor agrees to accept for disposal trash, dead animals and other non-hazardous debris found upon INDOT rights-of-way and brought to its Facility by INDOT or its authorized subcontractors.

The Contractor agrees to maintain the Facility as required by all applicable federal, state and local laws, rules, ordinances, regulations and policies. Contractor shall provide INDOT, without further notice or request, with a copy of each and every inspection report, notice of violation; it receives from the Indiana Department of Environmental Management or any other federal, state or local agency having jurisdiction over the Facility.

WHEREAS, INDOT needs to dispose of trash, dead animals, and other non-hazardous debris found and collected upon INDOT's rights-of-way; and

WHEREAS, the Contractor certifies that it operates a properly licensed and permitted landfill facility, and is willing to accept such trash, dead animals and other non-hazardous debris.

**APPENDIX C**

**INDIANA DEPARTMENT OF TRANSPORTATION (INDOT)**
**PRICING SHEET FOR LANDFILL SERVICES FOR**
**Office of Materials Management and Indianapolis Subdistrict Units**

## I. GENERAL

The contractor agrees to furnish INDOT space at its facilities for the dumping of trash, dead animals and other non-hazardous debris found upon the State right-of -way. **Minimum load pricing, if applicable, shall be included in bid pricing.**

| ITEM DESCRIPTION | UNIT | PRICE PER CU. YD. |
|---|---|---|
| General Trash/ Rubbish | Cubic Yard | $ 15.00 |
| Clean Fill/ Aggregate/ Rubbish | Cubic Yard | $ 8.33 |
| Construction Rubble | Cubic Yard | $ 11.50 |

## II. LANDFILL FACILITY AND LOCATION

| LANDFILL FACILITY NAME(S) | LANDFILL FACILITY ADDRESS (INCLUDING ZIP CODE) | TELEPHONE NUMBER(S) |
|---|---|---|
| Circle City Recycling | 3617 Southeastern Ave., Indianapolis, IN 46203 | 317-356-5491 |

## III. LANDFILL FACILITY OPERATION DAYS AND HOURS

Indicate below the operating days and hours that INDOT shall have access to the landfill facility for the purpose of waste disposal. Please list holiday(s) the landfill facility is closed below or attach additional sheet.

| LANDFILL OPERATION DAYS | LANDFILL OPERATION HOURS |
|---|---|
| Monday - Friday | 4:00am – 9:00pm |
| Saturday | 4:00am – 12:00pm |
| Sunday | Closed |
| | |

Bid Number: 06-0098

# STATE OF INDIANA
# DRUG-FREE WORKPLACE CERTIFICATION

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Transportation is requiring the inclusion of this certification in all Contracts with and grants from the State of Indiana in excess of $25,000. No award of a contract or grant shall be made, and no contract, purchase order or agreement, the total amount of which exceeds $25,000, shall be valid unless and until this certification has been fully executed by the VENDOR and attached to the contract or agreement as part of the contract documents. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of contract payments, termination of the contract or agreement and/or debarment of contracting opportunities with the State for up to three (3) years.

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

(a) Publishing and providing to all of its employees a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the VENDOR's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about (1) the dangers of drug abuse in the workplace; (2) the VENDOR'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;

(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 employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

(d) Notifying in writing the Indiana Department of Transportation within ten (10) days after receiving notice from an employee under subdivision (c) (2) above, or otherwise receiving actual notice of such conviction;

(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.

THE UNDERSIGNED AFFIRMS, UNDER PENALTIES OF PERJURY, THAT HE OR SHE IS AUTHORIZED TO EXECUTE THIS CERTIFICATION ON BEHALF OF THE DESIGNATED ORGANIZATION.

| | |
|---|---|
| Republic Services of Indiana, LP | [signature] |
| Name of Company | Authorizing Signature |
| 3/30/06 | James Saxe - Sales Manager |
| Date | Printed Name and Title |