

ADDENDUM 3



Request for Proposals

Mobile Audiometric Testing Services

12:00 Noon, Friday, February 16, 2018

in

Purchasing Department, City Hall Building

101 North Main Street, Suite 324 Winston-Salem, NC 27101

January 19, 2018

Please acknowledge receipt of this Addendum and include with your proposal.

Company

Authorized Signature

Date

Complete Proposal Document Revision

The Revised Proposal document follows and **MUST** be used for this service.

Question period and Proposal due date has been extended.



Request for Proposals

Mobile Audiometric Testing Services

PROPOSALS WILL BE RECEIVED UNTIL

12:00 Noon, Friday, February 16, 2018

in

**Purchasing Department, City Hall Building
101 North Main Street, Suite 324 Winston-Salem, NC 27101**

ADVERTISEMENT FOR PROPOSALS

Sealed proposals endorsed **Mobile Audiometric Testing Services** for the City of Winston-Salem will be received by the City/County Purchasing Department in Suite 324, City Hall Building, 101 North Main Street, Winston-Salem, NC **until 12:00 Noon, Friday, February 16, 2018**. Instructions for submitting proposals and/or receiving the complete RFP document specifications may be obtained during regular office hours at the same location, or by contacting Jerry Bates via email jerryjb@cityofws.org (Email is preferred) or phone 336-747-6939. The City reserves the right to reject any or all proposals.

Jerry Bates
Purchasing Director

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Notice to Proposers

It is the policy of the City that an employee, officer, or agent of City may not participate in any manner in the bidding, awarding, or administering of contracts in which they, or a member of their immediate family, their business partner, or any organization in which they serve as an officer, director, trustee, or employee, has a financial interest.

The successful proposer must comply with all provisions of the Americans with Disabilities Act (ADA), the Equal Employment Opportunity Act (EEOA), and all rules and regulations promulgated thereunder. By submitting a proposal, the successful proposer agrees to indemnify the City from and against all claims, suits, damages, costs, losses, and expenses in any manner arising out of, or connected with, the failure of the Company, its subcontractors, agents, successors, assigns, officers, or employees to comply with the provisions of the ADA, EEOA, or the rules and regulations promulgated thereunder.

All bids must be firm and not subject to increase, unless specified within the provisions of this Request for Proposals (RFP) and mutually agreed upon by the City and the proposer.

No special inducements will be considered that are not a part of the original bidding document.

The City reserves the right to hold proposals open for a period of sixty days (60) days after due date before making awards.

City's Rights and Options

The City, at its sole discretion, reserves the following rights:

- To supplement, amend, substitute or otherwise modify this RFP at any time
- To cancel this RFP with or without the substitution of another RFP
- Issuance of this RFP does not guarantee a contract will be awarded to any proposer
- To take any action affecting this RFP, this RFP process, or the services subject to this RFP that would be in the best interests of the City
- To issue additional requests for information
- To require one or more service providers to supplement, clarify, or provide additional information in order for the City to evaluate the responses submitted
- To negotiate a contract with a service provider based on the information provided in response to this RFP

Public Records

Any material submitted in response to this RFP will become a "public record" once the proposer's document(s) is opened and the proposer is determined to be a participant in the solicitation process and shall be subject to public disclosure consistent with Chapter 132, North Carolina General Statutes. Proposals submitted under this section shall not be subject to public inspection until a contract is awarded N.C.G.S 143-129.8(d).

Trade Secrets/Confidentiality

Proposers must claim any material which qualifies as "trade secret" information under N.C.G.S. 66152(3) in their response to this RFP and must state the reasons why such exclusion from public disclosure is necessary and legal.

To properly designate material as trade secret under these circumstances, each Proposer must take the following precautions: (a) any trade secrets submitted by a Proposer should be submitted in a separate, sealed envelope marked "Trade Secret - Confidential and Proprietary Information - Do Not Disclose Except for the Purpose of Evaluating this Proposal," and (b) the same trade secret/confidentiality designation should be stamped on each page of the trade secret materials contained in the envelope.

Do not attempt to designate your entire proposal as a trade secret, and do not attempt to designate pricing information as a trade secret. Doing so may result in your bid being disqualified.

In submitting a proposal, each Proposer agrees that the City may reveal any trade secret materials contained in such response to all City staff and City officials involved in the selection process, and to any outside consultant or

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other third parties who assist City in the selection process. Furthermore, each Proposer agrees to indemnify and hold harmless the City and each of its officers, employees, and agents from all costs, damages, and expenses incurred in connection with disclosing any material, which the Proposer has designated as a trade secret.

The City reserves the right to make all final determination(s) of the applicability of North Carolina General Statutes § 132-1.2, Confidential Information.

Familiarity with Laws and Ordinances

The submission of a proposal on the services requested herein shall be considered as a representation that the Proposer is familiar with all federal, state, and local laws, ordinances, rules, and regulations which affect those engaged or employed in the provision of such services, or which in any way affects the conduct of the provision of such services; and no plea of misunderstanding will be considered on account of ignorance thereof. If the Proposer discovers any provisions in the RFP documents that are contrary to or inconsistent with any law, ordinance, or regulation, it shall be reported to the City in writing without delay.

The Proposer agrees that in carrying out this contract, compliance will be maintained with all applicable federal, state, and local laws, specifically including, without limitations, the Occupational Safety and Health Act of 1970 and Section 1324A, the Immigration Reform and Control Act.

The Proposer certifies that the proposal is made in good faith and without collusion with any person making a proposal or with any officer or employee of the City.

The undersigned further agrees, in connection with the performance of this contract, not to discriminate against any employee or applicant for employment because of race, religion, color, gender, age, handicap, political affiliation, or national origin.

The City reserves the right to hold proposals open for a period of sixty days (60) days after due date before making awards.

Proposals are to be signed by an officer of the company authorized to bind the submitter to its provisions. Failure to manually sign the appropriate proposal form will disqualify the proposer and the proposal will not be considered.

Ethics Policy Code of Conduct

The City has establish guidelines for ethical standards of conduct for City representatives and to provide guidance in determining what conduct is appropriate in particular cases. City representatives should maintain high standards of personal integrity, truthfulness, honesty, and fairness in carrying out public duties; avoid any improprieties in their roles as public servants including the appearance of impropriety; and never use their position or power for improper personal gain. In establishing an ethics policy, the City desires to protect the public against decisions that are affected by undue influence, conflicts of interest, or any other violation of these policies as well as promote and strengthen the confidence of the public in their governing body. For a complete review of the City Policy click the following link.

<http://wshome.cityofws.org/Portals/1/pdf/HR/Ethics%20Policy%20Revised%20May%2019%202014-Whistleblower%20revision.pdf>

Stimulation of the Local Economy

In an effort to stimulate the local economy, foster development and promote efficiency in the provision of city services and the completion of various city projects, the City of Winston-Salem has undertaken an initiative to strongly encourage all parties contracting with the City of Winston-Salem to evaluate their internal operations and hiring practices and, where appropriate, to initiate efforts to stimulate the local economy by hiring applicants and contractors from the Winston-Salem/Forsyth County Area and by utilizing minority and women contractors and service providers. Such efforts to stimulate the local economy may be accomplished by posting job vacancies with the North Carolina Employment Security Commission, the Piedmont Triad Regional Council of Governments, and the Winston-Salem Urban League; and utilizing the State of North Carolina Office for Historically Underutilized Business database

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(<https://www.ips.state.nc.us/IPS/vendor/SearchVendor.aspx?hobtain>) or other local resources such as the City of Winston-Salem M/WBE Program to identify Winston-Salem/Forsyth County based contractors and subcontractors. Stimulation of the local economy requires a collaborative effort of both the public and private sector. The city is committed to taking reasonable steps to achieve said goal.

E-Verify Compliance

Per N.C.G.S. 143-133.3 “E-VERIFY. CONTRACTOR shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the CONTRACTOR utilizes a subcontractor, the CONTRACTOR shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.”

Iran Divestment Act; Provider hereby certifies that it is not on the North Carolina State Treasurer’s list of persons engaging in business activities in Iran, prepared pursuant to NCGS 147-86.58, nor will Provider utilize on this agreement any subcontractor on such list. This list, along with additional information about the Iran Divestment Act, is available on the Treasurer’s Office site: <https://www.nctreasurer.com/inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx>.

Insurance

The bidder(s) will be required to show proof of insurance as outlined in the Insurance Provisions of Contract Specifications contained herein. The City of Winston-Salem MUST be named as additional insured on the certificate of insurance supplied to the City.

GENERAL INSURANCE REQUIREMENTS

- A. The Contractor shall, during the continuance of all work under the Contract, provide the following:
 1. Workers' Compensation Insurance as required by the North Carolina General Statutes.
 2. Commercial General Liability to protect the Contractor against any and all injuries to third parties, including personal injury and property, and special and consequential damages, resulting from any negligent action, omission or operation by the Contractor or in connection with the services described herein. The insurance shall also include, coverage for explosion, collapse, and underground hazards, where required. This insurance shall provide bodily injury and property damage limits of not less than \$1,000,000 for each occurrence, respectively, and shall provide at least \$5,000 in Medical Expenses (Med Pay) coverage.
 3. Maintain Owned, non-owned, and hired Automobile Liability insurance, including property damage insurance, covering all owned, non-owned, borrowed, leased, or rented vehicles operated by the Contractor in furtherance of these services. In addition, all mobile equipment used by the Contractor in connection with the contract work, will be insured under either a standard Automobile Liability policy, or a Commercial General Liability policy. This insurance shall provide bodily injury and property damages limits of not less than \$1,000,000 combined single limit/each accident.
 4. If this Agreement is for a design, engineering or consulting Service, maintain Professional Liability insurance of at least \$1,000,000.00 per incident.
- B. The Contractor will provide an original, signed Certificate of Insurance, evidencing such insurance and such endorsements as prescribed herein, and shall submit the certificate with its executed contract. The City of Winston-Salem shall be named as an additional insured in the Automobile and General Liability policies and it shall be stated on the Insurance Certificate with the provision that this coverage is primary to all other coverage the City of Winston-Salem may possess.
- C. The Contractor will secure and maintain all insurance policies of its subcontractors which shall be made available to the City of Winston-Salem on demand. Compliance by the Contractor and all subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor and all subcontractors of their liabilities and obligations under this heading or under any other section or provisions of the Contract.
- D. The Contractor will provide on demand certificate copies of all insurance coverage on behalf of the Contract within ten days of demand by the City of Winston-Salem. These certified copies shall be sent to the City of Winston-Salem from the Contractor's insurance agent or representative.

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- E. The Contractor shall furnish the City of Winston-Salem thirty days written notice of any changes or cancellation of the policy. The failure of the contractor to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished to the Risk Manager, City of Winston-Salem.
- F. Insurance coverage required in these specifications shall be in force throughout the Contract Term. Should the Contractor fail to provide acceptable evidence of current insurance within seven days of written notice at any time during the Contract Term, the City of Winston-Salem shall have the absolute right to terminate the Contract without any further obligation to the Contractor, and the Contractor shall be liable to the City of Winston-Salem for the entire additional cost of procuring the uncompleted portion of the contract at time of termination.
- G. Contractual and other Liability insurance provided under this Contract shall not contain a supervision inspection or engineering services exclusion that would preclude the City of Winston-Salem from supervising and/or inspecting the project as to the end result. The Contractor shall assume all on-the-job responsibilities as to the control of persons directly employed by it and of the subcontractors and any persons employed by the subcontractor.
- H. Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the City of Winston-Salem. The Contractor shall be as fully responsible to the City of Winston-Salem for the acts and omissions of the subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.
- I. Precaution shall be exercised at all times for the protection of persons, (including employees) and property. All existing structures, utilities, roads, services, trees and shrubbery shall be protected against damage or interruption of service at all times by the Contractor during the term of the Contract, and the Contractor shall be held responsible for any damage to property occurring by reason of its operation on the property.

Contract

Any contract resulting from this proposal shall have an initial term of three (3) years from the date of a fully executed contract. The contract may be extended for as many as three (3) additional twelve (12) month periods, for a total of six years, provided that both parties are in agreement and funds are made available for this purpose.

The successful Proposer(s) for this service will be required to execute the City's "Independent Contractor Agreement," a sample copy of which is attached to this document. The Business may not begin work and a Purchase Order **WILL NOT** be issued until the individual doing business with or for the City has fully executed the contract document and the insurance requirements have been approved by the City.

The City of Winston-Salem reserves the right to cancel the contract without prejudice or cause by providing a thirty (30) day written notice.

IMPORTANT: Winston-Salem City Code (Chapter 2, Article 1, Sec. 2-3) provides that the City may disqualify any business from bidding on contracts of the City if a business fails to perform satisfactorily on past or current projects.

Workforce Demographics

The successful proposer may be asked to complete Exhibit "A" form (included in this document) and submit to the City. This exhibit, which identifies the workforce demographics for the business location providing the product or services to the City, is for information only to reflect generally the company's efforts to achieve diversity in the workplace in compliance with the applicable equal employment opportunity laws; however, this information is not dispositive of such and may not be used as the basis for awarding or rejecting a bid contract.

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SECTION I - INSTRUCTIONS TO PROPOSERS

INTRODUCTION:

This entire set of documents constitutes the RFP. The proposer must return the RFP with all information necessary to properly analyze the proposer's response in full, in the same numerical order in which it was issued. Proposer's notes, exceptions, and comments may be rendered on an attachment, provided the same format of this RFP text is followed.

RFP Response Submission

All proposals shall be returned in a sealed container or envelope containing one original proposal (please mark document as original) showing original signatures and seals and two (2) copies of the complete proposal marked Mobile Audiometric Testing Services. Proposals must be submitted to the City/County Purchasing Department in Suite 324, City Hall Building, 101 North Main Street, Winston-Salem, NC, no later than **12:00 Noon, Friday, February 16, 2018. Late proposals will not be considered.**

The City will not be obligated for the expenses of any provider arising out of preparation and/or submittal of responses to this RFP. Any and all proposals to this RFP are to be prepared at the cost and expense of the respondents, with the express understanding that there may be no claims whatsoever for the reimbursement of any costs, damages, or expenses relating to this procurement from the City or any other party for any reason (including the cancellation of this RFP).

Proposals must be made in the official name of the individual, firm, or corporation under which the business is conducted (showing official business address) and must be signed in ink by a person duly authorized to legally bind the business entity submitting the proposal.

All proposals should be complete and carefully worded and must convey all of the information requested by the City. If errors or exceptions are found in the proposal, or if the proposal fails to conform to the requirements of the RFP, the City will be the sole judge as to whether that variance is significant enough to reject the proposal.

Proposals should be prepared simply and economically. All data, materials, and documentation shall be available in a clear, concise form. The City reserves the right to reproduce proposals for internal use in the evaluation process.

Proposers are expressly forbidden from contacting any other city employee or city of Winston-Salem elected official regarding this Request for Proposals. Any such outside contact may result in disqualification from the request for proposal process.

The City reserves the right to hold proposals open for a period of sixty days (60) days after due date before making awards.

Proposer Questions and Inquiries

Proposer Questions and Inquiries relative to this RFP must be submitted **in writing only** by **12:00 Noon, Wednesday, February 7, 2018**, to Jerry Bates, City/County Purchasing Director, 101 North Main Street, Winston-Salem, NC 27101 or e-mail: jerryjb@cityofws.org (**Email is preferred**), Fax: (336) 727-2443. The City will provide written responses to all inquiries received by this date, and responses will be made available to all recipients of this RFP. Any oral responses made by any representative of the City may not be relied upon. Any supplements or amendments to this RFP will be in writing and furnished to potential bidders.

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SECTION 2 - SCOPE OF WORK/TECHNICAL SPECIFICATIONS

2.1 SCOPE

Introduction

The City of Winston-Salem is soliciting information from prospective vendor partners for mobile audiometric testing, as part of its hearing conservation program. The vendor shall be required to provide a mobile testing unit, professionals trained in conducting audiogram tests, software by which to record and analyze audiometric data, the ability to transfer said data to the City of Winston-Salem in a reusable MS Excel or MS Access format upon request, as well as the capability to identify work-related standard threshold shifts (STS), pursuant to 29 CFR 19.10. These services shall be required for approximately 800 City employees. We would like to schedule testing for these employees in the fall of 2018, preferably in September or October, at a location or locations convenient to City employees.

Proposals may include information regarding the totality of the vendor's offered services. However, the RFP will be primarily based on the vendor's services offered in regards to audiometric testing. All data obtained by the vendor through the testing process shall be the property of the City, and shall be protected by the vendor through the utilization of cyber security best practices.

Additional Requirements

Vendor Profile: Responding vendors shall provide a company profile that will assist the City in accessing the vendor's qualifications, expertise, and competence.

Mobile Testing Unit: Responding vendors shall provide information regarding their mobile testing unit(s). Required information shall include the amount of space required for the unit, any criteria pertaining to where the unit must be set up during testing, the number of employees who can be tested in the unit at any given time, as well as the number of employees who can be tested per hour, day, and week.

Experience: Responding vendors shall provide a list of customers, preferably public entities, with whom they are currently doing business, or have done business with in the past.

Software: Information pertaining to software used for audiometric testing and the identification of standard threshold shifts.

Testing Data: The vendor shall be required to provide the City with a hard copy of testing data for all employees, to be kept at Employee Medical.

OSHA Compliance: Responding vendors shall provide a statement which explains how they plan to maintain compliance with OSHA rules and regulations for hearing conservation programs.

Proposed Fee Structure

Fee Quotes Should be submitted in a separate envelope. The City desires the most effective combination of price, performance, and quality possible within the constraints of its budget. **All price quotes must be firm and valid for 60 days following the proposal due date during the proposal evaluation process and the successful proposal remain fixed throughout the initial three year contract period.** Proposers should review the requirements of this RFP and address all services in this fee schedule that might reasonably be expected to support the project. Pricing must be inclusive of all expenses, including travel related expenses for recurring services. **Include a total cost to provide services, based on the consultant's fee schedule and the scope of work as outlined in this RFP for the initial three year term AND fees for each possible annual extension.** Indicate how the City will be invoiced for services. Proposers should endeavor to provide a comprehensive, fee schedule, as the City will not include compensation in the contract for items not addressed.

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2.2 SELECTION CRITERIA

Proposals will be evaluated using the evaluation criteria listed in this document; however, no Proposal will be considered for an award should a firm fail to meet the following requirements for this service:

- Ability to provide needed audiometric testing, and to identify standard threshold shifts (STS) so as to enable the City of Winston-Salem to identify, monitor, and assist any individuals who are at risk for job-related hearing loss.
- The vendor's ability to schedule audiometric testing for the fall of 2018, preferably in September or October.
- The capability to upload existing City audiometric testing data, in an Excel CSV format, to the vendor's software, for use in the identification of standard threshold shifts.

Below is a description of the evaluation criteria that will be used to evaluate the proposals. To be deemed responsive, it is important for the firm's proposal to contain appropriate detail to demonstrate satisfaction of each criterion and compliance with the performance provisions outlined in this RFP. The proposal will be the primary source of information used in the evaluation process. Proposal must contain information specifically related to the proposed services requested in this RFP. Failure of any firm to submit information requested may result in the elimination of the proposal from further evaluation.

Each proposal will be evaluated and scored based on the firm's ability to meet the performance requirements of this RFP. The recommendation of award will be submitted by the City's Risk Management Division and presented to the City Manager for contract approval.

This RFP is not to be construed as a guarantee that an agreement will be awarded. The City expressly reserves the right to reject all proposals received and to negotiate the final terms of any proposal. Furthermore, the City expressly reserves the right to reject any and all proposals, for any reason, and to waive any of the terms, conditions, and provisions contained in the RFP. Such waiver will be at the discretion of the City, to the advantage of the City, and in the City's interest.

Evaluation criteria is as follows:

- M/WBE Commitment – Proposer's efforts to comply with all the terms and conditions of the City of Winston-Salem's Minority and Women Business Enterprise (M/WBE) Program through award of subcontracts to minority and women-owned business enterprises and utilization of minority and women-owned business enterprise suppliers to the fullest extent consistent with the efficient performance of this contract.
- Local Business (Distance from City) - Proposer's business location/distance from the City of Winston-Salem.
- Price value of the audiometric testing program.
- The number of employees who can be tested in the mobile testing unit at any one time, and the amount of time it will take to test all City employees.
- Can the mobile testing unit be moved, daily or more often, depending on the location of the employees that need to be tested? If so, what are the requirements for where the mobile testing unit can be parked?
- Any requirements the vendor has regarding employee scheduling. Does the vendor schedule groups of employees in 30 minute time slots, or do they utilize some other method?
- The reasonableness of the vendor's cancellation terms, in the event of inclement weather or any other unforeseen occurrence which necessitates cancellation.
- Reference list of governmental clients.
- Firm's years of existence.

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The following “Weighted Scale” will be used to evaluate each proposal

Evaluation Criteria	Weight
MWBE Commitment	20.00
Distance from City of Winston-Salem	20.00
Price Value	20.00
Number of employees who can be tested in the mobile testing unit at any one time, and the amount of time it will take to test all City employees.	10.00
Can the mobile testing unit be moved, daily or more often, depending on the location of the employees that need to be tested? If so, what are the requirements for where the mobile testing unit can be parked?	10.00
Requirements the vendor has regarding employee scheduling. Does the vendor schedule employees in 30 minute time slots, or do they utilize some other method?	5.00
Reasonableness of vendor's cancellation terms, in the event of inclement weather or any other unforeseen circumstance which necessitates cancellation.	5.00
Reference list of governmental clients	5.00
Firm's years of existence	5.00

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SPECIAL INSTRUCTIONS FOR PROPOSALS ESTIMATED TO COST LESS THAN \$100,000 REGARDING COMPLIANCE WITH THE CITY OF WINSTON-SALEM'S AND/OR CITY/COUNTY UTILITY COMMISSION'S MINORITY AND WOMEN BUSINESS ENTERPRISE (M/WBE) PROGRAM

Policy

It is the policy of the City of Winston-Salem and/or the City/County Utility Commission (an agency of the City of Winston-Salem), that minority and women owned business enterprises shall have an equal opportunity to participate in the performance of contracts financed in whole or in part with City and/or Commission funds.

Obligation of Proposers

Proposers agree to use their best efforts to comply with all the terms and conditions of the City of Winston-Salem's and/or City/County Utility Commission's Minority and Women Business Enterprise (M/WBE) Program, as the same may be amended from time to time, through the award of subcontracts to minority and women owned business enterprises and utilization of minority and women owned business enterprise suppliers to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority and women business" shall mean a company that is 51% or more owned and controlled by minority group members or women.

A **10%** goal for participation by minority and women-owned businesses has been established for this service. A proposer may meet this goal through the participation of M/WBE sub-consultants and/or through his/her own performance on the project if the proposer is a certified minority/woman-owned firm. If it is the normal practice of the proposer to perform all elements of this type of service with its own workforce and without the use of sub-consultants, the proposer must certify, by the submission of Affidavit B, that if they do employ any sub-consultants during the contract, they will be subject to the M/WBE goal established for this request for letters of interest. The utilization of M/WBE firms accounts for 20% of the evaluation and scoring, and will not be allocated to proposals in which an Affidavit B is submitted. A proposer may meet the 10% goal through the participation of M/WBE sub consultants and/or through their own performance on the project if the proposer is a certified minority and/or woman owned firm.

Firms are highly encouraged to consider any and all possibilities for M/WBE participation. A complete list of State of North Carolina HUB certified MBE's and WBE's is available at <https://www.ips.state.nc.us/vendor/searchvendor.aspx?t=h>. The 10% M/WBE goal may be satisfied by an entity that qualifies as a Minority Business Enterprise under N.C. General Statute 143-128, and that has been certified by the State of North Carolina. During the course of the contract successful consultant will be required to submit **Minority Documentation for Contract Payments, Affidavit F**, with each monthly pay application. Final payment will be withheld until the consultant completes and submits an **Affidavit of Payment to M/WBE Sub Consultants**. The City, however, at its discretion may require additional periodic reports. Final payment will be withheld until it has been determined that the goal percentages for M/WBE participation, previously agreed to by the successful consultant, have been confirmed by the City and/or Commission.

MWBE Documentation -Firms are required to include following documentation with the proposal. **Failure to do so will render your proposal as non-responsive:**

- Identification of Minority Business Participation- must be submitted with your letter of interest if your firm will employ any sub-consultants on this project; or
- Affidavit B - Intent to Perform Contract with Own Workforce, if the proposer intends to perform 100% of the work required for the contract without the use of sub-consultants.

Additional M/WBE Forms – To be utilized by the firm who is awarded the contract with the Owner Affidavit F - Minority Documentation for Contract Payments, M/WBE Replacement Request Form, and the Final Affidavit of Payment to M/WBE Sub-consultants.

Questions or inquires relative to City of Winston-Salem's Minority and Women Business Enterprise (M/WBE) Program must be directed to **Tiesha Hinton, Business Inclusion Manager** at tieshah@cityofws.org or phone 336-734-1262.

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*****MUST BE SUBMITTED WITH PROPOSAL*****

(Unless the prime consultant intends to perform 100% of the work with Own Workforce)

IDENTIFICATION OF MINORITY BUSINESS PARTICIPATION

_____ (Name of Project)

I, _____ (Name of Consultant)

do hereby certify, as _____ (insert title and name of company) that on this project, _____ (insert name of company) will use the following M/WBE firms as consultants. A proposer may meet the 10% goal through the participation of M/WBE sub-consultants and/or through their own performance on the project if the proposer is a certified minority and/or woman-owned firm.

The Proposer shall identify on its proposal the M/WBE businesses to be used on this project **and** pursuant to subsection (f) of this statute provide the total percentage of the proposal that will be performed by the minority businesses. **Failure to list, at a minimum, the minority firm business name and the total percentage of M/WBE firms contracting will render your proposal as non-responsive and will not be considered for award.** If the Proposer has no minority participation, they shall indicate this on the table below by entering the word "None" or the number "0." **Blank forms will not be deemed to represent zero participation.**

Minority Firm Name Phone Number	City-State	Minority Category*	Type of Work	Percent of Project Work

* Minority Categories: Black, African American (B), Hispanic (H), Asian American (AA), American Indian (AI), Female (WF), Socially and Economically Disadvantaged (SE), and Disabled (D).

The total percentage of M/WBE firms contracting will be _____%

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MUST BE SUBMITTED WITH PROPOSAL, IF APPLICABLE

AFFIDAVIT B

INTENT TO PERFORM CONTRACT WITH OWN WORK FORCE

Affidavit _____
(Name of Firm)

I hereby certify it is our intent to perform 100% of the work required for the contract:

(Name of Project)

In making this certification, the Proposer states:

- That the proposer does not customarily subcontract elements of this type project,
- Normally performs, has the capability to perform, and will perform all elements of the work on this project with his/her own current work force, and
- Agrees to provide any additional information or documentation requested by the City of Winston-Salem in support of the above statement.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Proposer to the commitments herein contained.

Date: _____

Name of Officer: _____

Signature _____

Title _____

State of North Carolina, County of _____ subscribes and sworn before me

This _____ day of _____, 20__.

Notary Public _____ My commission expires _____

SEAL

In the event the Proposer does not self-perform 100% of the work, the contract will be subject to the M/WBE goals originally established for this project, as well as, good faith efforts and documentation requirements of this program. The utilization of M/WBE firms accounts for 20% of the evaluation and scoring, and will not be allocated to proposals in which an Affidavit B is submitted. A proposer may meet the 10% goal through the participation of M/WBE sub-consultants and/or through their own performance on the project if the proposer is a certified minority and/or woman-owned firm.

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**THIS DOCUMENT MUST BE SUBMITTED
WITH EACH PAY REQUEST AND FINAL PAYMENT**

AFFIDAVIT "F"

MINORITY DOCUMENTATION FOR CONTRACT PAYMENTS

Prime Consultant: _____
Address & Phone Number: _____
Project Name: _____
Pay Application Number: _____ Period: _____

The following is a list of payments to be made to minority business sub-consultants on this project for the above mentioned period.

Minority Firm Name and Address	Minority Category*	Amount Paid For This Period	Amount Paid To Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

* Minority Categories: Black, African American (B), Hispanic (H), Asian American (AA), American Indian (AI), Female (WF), Socially and Economically Disadvantaged (SE), and Disabled (D).

Date: _____ Approved/Certified by _____

In addition to the list of payments above, I hereby certify that no sub-consultant who was identified and listed on Affidavit A- Minority Participation/Good Faith Efforts Form, has been replaced without approval from the City of Winston-Salem's M/WBE Division.
Note: Additional M/WBE's can be added for new work only. In this case, please notify M/WBE staff.

Name: _____
Title: _____
Signature _____

The above mentioned project is approximately _____ percent complete

ADDENDUM 3

MWBE Replacement Request Form

It is the policy of Winston-Salem and the City/County Utility Commission (an agency of the City of Winston Salem), that minority and women-owned business enterprises shall have an equal opportunity to participate in the performance of contracts financed in whole or in part with the City and/or Commission funds.

In accordance with the "Identification of Minority Participation Form", no sub-consultant who is identified and listed on this form may be replaced with a different sub-consultant unless: A) the sub-consultant's proposal is later determined by the consultant to be non-responsible or non-responsive, or the listed sub-consultant refuses to enter into a contract for the complete performance of the work, or B) With the approval of the City of Winston-Salem's M/WBE Division, good cause has been demonstrated. Prior to substituting a sub-consultant, the Consultant shall identify the substitute sub-consultant and inform the City of Winston-Salem's M/WBE Division of its good faith efforts; including the M/WBE Replacement Request Form.

In order to meet the terms stated above, an M/WBE Replacement Request Form must be completed. Replacement of an MWBE without written approval from the City of Winston Salem MWBE office is a violation of contract provisions and may result in the Consultant being disqualified from submitting proposals on future City and/or Commission projects.

If a committed MWBE sub-consultant is terminated for a good cause, the Consultant will make a Good Faith Effort to find another M/WBE sub-consultant to substitute for the terminated M/WBE. This Good Faith Effort shall be directed at finding another M/WBE to perform at least the same amount of work under the contract as the M/WBE that was terminated, to the extent needed to meet the contract goal established for the project.

Replacement M/WBE: _____

Amount of Subcontract: _____

Work to be performed: _____

New Committed M/WBE Signature: _____ **Date:** _____

By signing this document, the Consultant, M/WBE, and City of Winston Salem's M/WBE Division acknowledges that the 5 days to respond was given, and concurs with the process of replacing the named M/WBE sub-consultant.

Original M/WBE Signature (where possible) Date

Consultant Signature Date

M/WBE Staff Signature Date

ADDENDUM 3

INSTRUCTIONS FOR SUBMITTAL OF M/WBE REPLACEMENT REQUEST FORM

IN ADDITION TO SUBMITTING THIS FORM, THE CONSULTANT MUST ENSURE THAT THE FOLLOWING STEPS ARE SATISFIED.

1. Prior to starting the replacement process, the consultant is responsible for coordinating with the M/WBE sub-consultant to see if they are willing and able to perform the work as indicated in their contract. If the Consultant notices a reoccurring issue with an M/WBE sub-consultant, the Consultant shall notify the City of Winston Salem M/WBE staff and keep them abreast of the issues.

2. If the M/WBE sub-consultant cannot perform the work or if the Consultant shows good cause for replacement, M/WBE staff will coordinate with the Consultant to begin the M/WBE replacement process. M/WBE staff will coordinate with other City departments as appropriate.

(Examples of good cause include: M/WBE fails or refuses to execute a written contract; M/WBE fails or refuses to perform the work of its subcontract consistent with normal industry standards; M/WBE fails to meet reasonable, nondiscriminatory bond requirements; M/WBE becomes bankrupt, insolvent, or exhibits credit unworthiness; M/WBE is ineligible to work because of suspension and debarment proceedings; M/WBE voluntarily withdraws from the project and provides written notice; M/WBE owner dies or becomes disabled and is unable to complete its work; or other documented good cause that compels termination. Good cause does not exist where the Contractor terminates a committed M/WBE for failure or refusal to perform the work of the subcontract results from bad faith or discriminatory action of the prime consultant.)

3. Before requesting the City of Winston Salem's consent for the proposed termination/replacement of an M/WBE, the Consultant shall give written notice of the proposal, including the reason for termination/replacement, to the M/WBE firm with a copy to the City of Winston Salem M/WBE staff. The M/WBE shall be given **five days** to respond unless the five day requirement needs to be reduced, due to public necessity (e.g. safety).

4. After the notice period has passed, the M/WBE staff will ensure the Consultant has submitted all supporting documentation for the M/WBE replacement. Letters, phone logs, emails or any other correspondence between the Consultant, the M/WBE sub-consultant, and/or City staff will be considered supporting documentation. This documentation must provide valid reason(s) for replacement as well as the opportunity to correct the issue. Consultants cannot replace for convenience or perform the work with its own forces or those of an affiliate.

5. Once the Consultant is given approval by the City of Winston Salem M/WBE staff to replace an M/WBE sub-consultant, M/WBE staff will send notification to the City project manager and the City/County Purchasing Department for informational purposes.

6. Signature lines on form: Ideally, the form should contain the signature of the original M/WBE sub-consultant being replaced. However, if this is not possible (i.e. the M/WBE will not sign), the documentation supporting the decision and acknowledgement of the reasons for replacement of the M/WBE sub-consultant should be attached. The form shall also be signed by the replacement M/WBE to show their participation on the project as the new committed M/WBE.

ADDENDUM 3

**Mobile Audiometric Testing Services
PROPOSAL AUTHORIZATION AND SIGNATURE**

The signature page must be completed and submitted with the proposal: Proposals are to be signed by an officer of the company authorized to bind the submitter to its provisions. Failure to manually sign the appropriate proposal form will disqualify the proposer and the proposal will not be considered.

Firm Name

Authorized Signature (**Notarized**)

Date

Street Address (P.O. Box)

Telephone Number

City, State and Zip Code

Email Address

On this ____ day of _____, 20____ before me _____
(name)

to me personally known, being duly sworn, did execute the foregoing proposal, and did so state that

he/she was properly authorized by _____
(Company name)

to execute the proposal and did so on his/her free act and deed. **SEAL**

Notary Public _____ My commission expires _____

The following information is requested for statistical purposes only. The provision or omission of this information will neither affect nor influence the award of these contracts. Bidder further certifies that:

We () are a Historically Underutilized Business (HUB) certified by State of North Carolina.

We () are a minority business enterprise.

() are not a minority business enterprise.

If yes, please identify in the appropriate box below:

() Black

() Hispanic

() Asian American including Indian Subcontinent and Pacific Islands

() Native American Indian including Eskimos and Aleuts

We () are a woman-owned business concern.

() are not a woman-owned business concern

ADDENDUM 3

THIS IS A SAMPLE DOCUMENT FOR REFERENCE ONLY

Exhibit A

Project/Bid Description: Contract for
Bidder's Company Name: _____
City/State: _____

WORKFORCE DEMOGRAPHICS

Gender		Race/Ethnic Identification					Total
Male	Female	White	African-American	Hispanic	Asian	Native-American	
_____	_____	_____	_____	_____	_____	_____	0
% of Total		_____	_____	_____	_____	_____	_____

Prepared by:

Name of Preparer _____

(Print or Type)

(Signature)

(Title)

Phone Number: _____

Email Address _____

The above demographic data is provided to reflect generally the company's efforts to achieve diversity in the workplace in compliance with the applicable equal employment opportunity laws; however, this information is not dispositive of such and may not be used as the basis for awarding or rejecting a bid contract.

ADDENDUM 3

THIS IS A SAMPLE CONTRACT FOR REFERENCE ONLY ACTUAL CONTRACT MAY DIFFER

THIS INDEPENDENT CONTRACTOR AGREEMENT (hereinafter, this "Agreement"), entered into this ____ of _____, 20__, by and between the **CITY OF WINSTON-SALEM**, a North Carolina municipal corporation (hereinafter, the "City") and _____ (hereinafter "Contractor").

WHEREAS, the City and Contractor desire to enter into an agreement whereby Contractor shall provide the following service: **Mobile Audiometric Testing Services**.

NOW, THEREFORE, in consideration of the mutual promises and obligations herein set forth, the sufficiency and adequacy of which is hereby acknowledged, the parties, and their respective successors, assigns, executors, administrators and legal representatives, hereby agree as follows:

General Terms. The Contractor shall provide the service set forth hereinabove, in consideration for the estimated payment of no more than _____ **00/100 Dollars** (\$_____) based on the prices submitted in your proposal, which is dated _____ attached hereto and incorporated herein by reference. Should any term of the attached proposal conflict with the terms contained in this agreement, the terms of this agreement shall control and supersede those terms of the Contractor's proposal. The Contractor warrants that it will perform the scope herein in a good and workmanlike manner and that it knows and is familiar with all applicable laws, regulations and standard practices regarding these services and has the expertise necessary to properly perform the obligations undertaken by this agreement. The Contractor, and its employees and subcontractors, shall perform the services herein as Independent Contractors and are not entitled to employee benefits of any kind. This agreement will not be construed in any way to be a joint venture, partnership or employer-employee relationship. The Contractor further understands and agrees that he is responsible for the payment of all state and federal income taxes. In addition, the Contractor shall provide the City a business license and any other licenses or certifications required by federal, state or local law as well as copies of any amendments or renewals thereof. The Contractor shall give the City at least thirty (30) days written notice prior to any cancellation, modification or non-renewal of any license and/or certification required by federal, state or local law. Neither party may assign, transfer or delegate any of the rights or obligations herein without the prior written consent of the other party. This agreement shall be governed by and construed in accordance with the laws of the State of North Carolina and the venue for any litigation arising out of this agreement shall be Forsyth County.

Payment. Contractor shall invoice City no more or less than once every 30 days. The City has the right to request that the Contractor provide reasonable documentation to support an invoice.

Release and Indemnity. The Contractor hereby releases and forever discharges the City, its agents, officers, officials, and employees, from any and all claims, demands, expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury and/or property damage arising out of the performance of the service, except those claims that result from the sole negligence of the City or a City employee acting within the scope of the employment. The Contractor shall indemnify, defend and hold harmless the City, its agents officers, officials, and employees from and against any and all claims, demands expenses, costs and liabilities of any kind or nature, directly or indirectly caused by, arising out of, or related to the intentional, negligent or reckless acts or omissions of the Contractor, and its agents or employees, in the performance of these services.

Insurance. During the performance of the service described herein, the Contractor shall:

- (1) Maintain Commercial General Liability to protect the Contractor, its subcontractors, and the City against any and all injuries to third parties, including personal injury and property, and special and consequential damages, resulting from any action, omission or operation by the Contractor or in connection with the services described herein. The insurance shall also include, coverage for explosion, collapse, and underground hazards, where required. This insurance shall provide bodily injury and property damage limits of not less than \$1,000,000 for each occurrence, respectively. The minimum liability coverage required may be increased depending on the nature of the services provided.
- (2) Maintain Owned, non-owned, and hired Automobile Liability insurance, including property damage insurance, covering all owned, non-owned, borrowed, leased, or rented vehicles operated by the Contractor

ADDENDUM 3

in furtherance of these services. In addition, all mobile equipment used by the Contractor in connection with the contract work, will be insured under either a standard Automobile Liability policy, or a Comprehensive General Liability policy. This insurance shall provide bodily injury and property damages limits of not less than \$1,000,000 combined single limit/aggregate.

(3) Maintain Workers' Compensation insurance as required by North Carolina law.

(4) Provide to the City's Risk Manager, before beginning the service, an original, signed Certificate of Insurance, evidencing such insurance, naming the City as an additional insured and stating that the coverage is primary to any other coverage the City may possess. The Contractor shall furnish the City immediate written notice of any changes or cancellation of the policy. The failure of the Contractor to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished to the City's Risk Manager. Insurance coverage required in these specifications shall be in force throughout the Term. Municipal Exclusions, if any, for General Liability coverage shall be deleted. Should Contractor fail to immediately provide acceptable evidence of current insurance at any time during the Term, the City shall have the absolute right to terminate the Contract without any further obligation to the Contractor, and the Contractor shall be liable to the City for all available remedies – in equity and at law.

(5) The Contractor will secure evidence of all insurance policies of its subcontractors which shall be made available to the City on demand. The Contractor shall require its subcontractors to name the Contractor and the City as additional insured parties on the subcontractor's general and automobile liability insurance policies. The Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors and of persons employed by them as it is for the acts and omissions of persons directly employed by it.

(6) Contractual and other Liability insurance provided under this contract shall not contain a supervision inspection or engineering services exclusion that would preclude the City from supervising and/or inspecting the project as to the end result.

Termination. Unless otherwise agreed upon in writing by the parties, this agreement may be terminated by either party for convenience with no less than ten calendar days' notice. In the event of termination, the Contractor will be paid for all services properly rendered to the date of termination and shall promptly discontinue all services affected (unless a termination notice from the City directs otherwise). In the event of any termination, the Contractor will be paid for all services properly rendered to the date of termination and she shall (i) promptly discontinue all services affected (unless a termination notice from the City directs otherwise); and (ii) deliver to the City all documents, data, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Contractor in performing the services herein. Other than being paid for services properly rendered to the date of termination, Contractor hereby waives any and all other claims for lost profits, lost opportunity, and for any and all other direct, indirect special and consequential damages. In the event that the City terminates this agreement due to the Contractor's poor workmanship, failure to perform the service set out herein or, otherwise, for breach of the agreement, or in the event that the Contractor terminates this agreement for convenience or otherwise, the City may pursue and recover all remedies available at law or in equity, as these remedies are cumulative and do not exclude each other.

Reuse of Documents. All documents, including drawings, specifications, supporting calculations, computer software, etc., prepared by the Contractor pursuant to this agreement are instruments of service with respect to this agreement and Contractor shall provide at least one copy of each to City upon City's request. The reuse of these documents by the City or by others authorized by the City, whether in this project or any other project, entitles the Contractor to no additional compensation. The City reserves the right to require the Contractor to submit copies to the City of any service information and documentation during and after the completion of the service with the Contractor's compensation being limited to the direct printing and copying expense and/or direct expenses to copy and supply computer information on a diskette. The Contractor's indemnity, release and warranty are limited to the use contemplated in this agreement and Contractor shall not be liable to the City or any third party for any claim arising out of the use of the Contractor's documents apart from this agreement.

Notices. Any notice or other communication herein shall be in writing and shall be sent via a method permitting confirmed receipt (such as registered U.S. mail or an overnight courier service such as Federal Express). All notices shall be confirmed by facsimile transmission. All notices shall be deemed given when

ADDENDUM 3

deposited, postage prepaid, in the United States mail or to the overnight courier service, addressed as set forth below, or to such other address as any one party shall advise the other in writing:

If to the City:

Name:

Position:

Address:

If to the Contractor:

Name:

Position: Representative

Address:

Severability. If any provision of this agreement is held to be void, invalid, illegal or unenforceable under any law or regulation, such void, invalid, illegal or unenforceable provision shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the City and the Contractor and this agreement shall be considered as if such void, invalid, illegal or unenforceable provision had never been including herein.

Entire Agreement. This agreement represents the entire understanding and agreement between the parties hereto relating to the services and supersedes any and all prior negotiations, discussions and agreement, whether written or oral, between the parties regarding same. Headings within the agreement are for convenience only and do not define, limit or construe the contents of such sections.

Amendment or Modification. With the exception of a properly executed purchase order(s) which the parties agree shall become a self-executing amendment(s) hereto, this Agreement shall not be modified except by another written document signed and executed by the City and the Contractor.

Waiver. Failure or delay on the part of the city to exercise any right, remedy, power or privilege hereunder shall not operate as a waiver of any current or future default. Further, a waiver of one provision of this agreement is not a waiver of all or future provisions of this agreement.

Safety Rules. Contractor hereby acknowledges that it has reviewed and agrees to abide by the City's "Safety and Environmental Requirements for Contractors" located on the City's website – www.cityofws.org – and whose specific address is:

<http://www.cityofws.org/Home/Departments/FinancialManagementServices/RiskManagement/Articles/EmployeeSafety>

ADA, OSHA and Equal Opportunity. The Contractor shall comply with the applicable provisions of the Americans with Disabilities Act (ADA), the State of North Carolina Occupational/Safety and Health Act (OSHA) and the State and Federal Equal Opportunity Statutes, as well as all rules and regulations promulgated thereunder.

Suspension and Debarment. Contractor hereby certifies that neither it, nor its agents or subcontractors: (1) are presently debarred, suspended, proposed for suspension or debarment from contracting by any Federal or State Department or Agency, or (2) have been declared ineligible or voluntarily excluded from contracting by or with any Federal or State Department or Agency. Any contract entered into with a contractor or subcontractor that has been debarred or suspended, declared ineligible or voluntarily excluded from contracting with or by any Federal or State Department or Agency may be terminated at the sole discretion of the City.

E-Verify Compliance. Per N.C.G.S. 143-133.3 "E-VERIFY. CONTRACTOR shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the CONTRACTOR utilizes a subcontractor, the CONTRACTOR shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

Iran Divestment Act. Contractor hereby certifies that it is not on the North Carolina State Treasurer's list of persons engaging in business activities in Iran, prepared pursuant to NCGS § G.S. 147-86.58, nor will Contractor utilize on this agreement any subcontractor on such list.

Term Extensions. Terms of the bid reserve for the City the right to extend this Contract beyond the initial term of three years for three (3) additional 12 month periods if both parties agree and funds are available for that purpose. A properly executed purchase order shall be evidence of an extension agreed to by the parties and that said purchase order shall become a self-executing amendment to the contract.

ADDENDUM 3

**THIS IS A SAMPLE CONTRACT FOR REFERENCE ONLY
ACTUAL CONTRACT MAY DIFFER**

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized representatives and signed under seal effective as of the date first written above.

CITY OF WINSTON-SALEM

ATTEST:

(SEAL)
Melanie Johnson, City Secretary

(SEAL)
Lee D. Garrity, City Manager

This instrument has been pre-audited in the manner required by the Local Government and Fiscal Control Act.

Approved as to form and legality.

This ____ day of _____, 20__.

This ____ day of _____, 20__.

Lisa Saunders, Chief Financial Officer

Angela Carmon, City Attorney

BUSINESS NAME

If Company has a corporate seal, please affix the seal below. If not, please complete the paragraph below:

I, _____ certify that I am the _____
(Print Name) (Print Position Title)

for the Company and that I am authorized to execute contracts on behalf of the Company, which entity does not have a corporate seal; however, for purposes of the statute of limitations (NCGS § 1-47), by both parties will treat this contract as if a corporate seal has been affixed hereto.

ATTEST:

(SEAL)
Authorized Signature

(SEAL)
Authorized Signature

Print Name / Title (Corp Secretary or Officer)

Print Name / Title

In the event that the person executing this Agreement on behalf of the Company is the only officer of the company or is an individual doing business individually or as a trade name, please have the authorized signature notarized below.

Sworn to or subscribed before me this the ____ day of _____, 20__.

SEAL

Notary Public _____ /_____/_____