

1 **BILL NO. S-12-08-12**

2 **SPECIAL ORDINANCE NO. S-_____**

3 **AN ORDINANCE** approving the awarding of RFP
4 **#3433-CONSULTING SERVICES FOR THE CITY**
5 **OF FORT WAYNE TO PERFORM A**
6 **COMPREHENSIVE AVAILABILITY AND**
7 **UTILIZATION STUDY OF LOCAL AND SMALL**
8 **BUSINESS - PHASE I** by the City of Fort Wayne,
Indiana, by and through its Department of
Purchasing and **MASON TILLMAN**
ASSOCIATES, LTD.

9 **NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL**
10 **OF THE CITY OF FORT WAYNE, INDIANA;**

11 **SECTION 1.** That RFP #3433-CONSULTING SERVICES FOR THE
12 **CITY OF FORT WAYNE TO PERFORM A COMPREHENSIVE**
13 **AVAILABILITY AND UTILIZATION STUDY OF LOCAL AND SMALL**
14 **BUSINESS - PHASE I** between the City of Fort Wayne, by and through its
15 Department of Purchasing and **MASON TILLMAN ASSOCIATES, LTD**
16 respectfully for:

17
18 the study shall determine if there is an imbalance between the
19 number of small, Minority, Woman, Veteran, Disabled owned
20 business that are ready, willing, and able to perform on City
21 contracts vs the number of those same types of businesses
actually participating in contracts with the City:

22 involving a total cost of FORTY-THREE THOUSAND, EIGHT HUNDRED
23 FORTY-NINE AND 00/100 DOLLARS - (\$43,849.00) - (Total cost
24 \$143,849.00) all as more particularly set forth in said RFP #3433-
25 CONSULTING SERVICES FOR THE CITY OF FORT WAYNE TO
26 PERFORM A COMPREHENSIVE AVAILABILITY AND UTILIZATION STUDY

1 OF LOCAL AND SMALL BUSINESS - PHASE I which is on file in the Office of
2 the Department of Purchasing, and is by reference incorporated herein, made
3 a part hereof, and is hereby in all things ratified, confirmed and approved.
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5 **SECTION 2.** That this Ordinance shall be in full force and effect
6 from and after its passage and any and all necessary approval by the Mayor.
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10 _____
Council Member

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13 APPROVED AS TO FORM AND LEGALITY
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16 _____
Carol Helton, City Attorney
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SECTION II

SCOPE OF SERVICES

2.0 Purpose

The City of Fort Wayne, Indiana has issued this Request for Proposal for the purpose of obtaining responsive proposals from qualified providers to conduct a comprehensive Availability and Utilization Study of its procurement practices to enhance vendor opportunity, create a welcoming atmosphere for small business, drive economic development through job creation, and stimulate the entrepreneurial spirit within the region.

Fort Wayne was incorporated in 1840 and is the second largest City in Indiana. In 2011 the City plans to spend over \$4 million for supplies, \$23 million for services, and at least \$50 million in public works construction projects. According to 2008 census data, more than 50 percent of the established businesses in Allen County are businesses of 10 or fewer employees, and the small-business sector continues to be the economic engine within our economy.

One of the City of Fort Wayne's overarching goals, inherent in every decision, is the commitment to make Fort Wayne a place of pride and opportunity for all. With its significant buying power, the City recognizes that it can have a positive impact on the creation and support of small business through its own purchasing practices.

These challenging economic times and the ongoing transformation of our global economy have continued to foster entrepreneurship and the startup of new businesses at record rates. It has been demonstrated that increased awareness and responsive policies can, in fact, nurture enhanced vendor opportunities. These enhanced opportunities can in turn yield benefits to the City, to taxpayers and to our economy as new jobs are created and business investment occurs.

To be responsive to this changing landscape, underscore competitiveness and cost-effectiveness as key criteria in City procurement practices and highlight the City's firm resolve to good stewardship of every taxpayer dollar, even as it pursues the advancement of opportunity, the City seeks to take stock of its procurement practices and to make sure they are as inclusive, competitive and responsive as possible.

While focused on small business, and the definition thereof is broadly presented, this study shall determine if there is an imbalance between the number of small, including minority and woman owned businesses, veteran businesses and disabled businesses that are ready, willing, and able to perform construction, professional services, and goods and services contracts and the numbers of these same business types that are actually participating in contracts with the City. For the purpose of this study, the City of Fort Wayne has defined small businesses as those independently owned and operated businesses, which are not dominant in their local field of operation and which have annualized gross receipts not exceeding \$ 5 million for two (2) of the preceding three (3) years and has been in its specific field of operation fifteen (15) years or less. Minority owned businesses are those that are at least 51 percent owned and controlled by one or more citizens or lawful permanent residents of the United States who are either African American, Hispanic American, Asian American, or Native American. A woman owned business is one that is at least 51 percent owned and controlled by one or more citizens or lawful permanent residents of the United States who are non-minority

females. A veteran owned business is one that is at least 51 percent owned and controlled by one or more citizens or lawful permanent residents of the United States who are veterans of the United States Military. A disabled owned business is one that is at least 51 percent owned and controlled by one or more citizens or lawful permanent residents of the United States who are disabled as defined by the American Disability Act.

2.1 Background

The City of Fort Wayne, Indiana seeks to maximize their utilization of small, minority, woman owned, veteran and disabled businesses in its procurements.

This RFP is being issued for the purpose of obtaining proposals from qualified bidders to conduct a study of two phases: an Availability Study and a Utilization Study.

These studies shall determine if there is a gap between the number of small, minority and woman owned businesses, veteran owned businesses and disabled owned businesses that are ready, willing, and able to perform construction, professional services, and provide goods, and the number of these same business types that are actually participating in these same contractual agreements with the City of Fort Wayne, Indiana.

The study shall be broken into two phases. The performance of Phase II will be driven by the findings of the data analysis in Phase I.

2.2 Phase I

In Phase I, the successful contractor shall determine the availability and capacity of ready, willing and able businesses including a subcategory of small, minority, woman, veteran and disabled businesses to participate in the City's contracts. This assessment shall consider capacity as a component of being "able". While analyzing availability, the successful contractor shall precisely define its measure of availability and explain how such availability was calculated. The proposer should be ready to define the relevant geographic market for assessing availability of small, minority, woman, veteran and disabled businesses that might participate in contracts issued by the City of Fort Wayne, Indiana. The City considers ready, willing and able to perform businesses as those which are capable of providing the required work or goods, and available to perform when solicited. The successful contractor shall ascertain whether a statistically significant gap exists between the availability of ready, willing and able small, minority, woman, veteran and disabled owned businesses and the utilization of such firms in the City's respective contracts (whether as prime contractors, subcontractors or suppliers). If the analysis reveals an underutilization of small, minority and woman owned businesses, veteran owned businesses and disabled owned businesses that are ready, willing and able to participate in the City's contracts, the successful contractor shall undertake Phase II and research and analyze the reasons for such underutilization. Any statistical gap finding must be well documented by quantitative data. The criteria and measures used to determine availability must be defined.

Additionally, City requests alternative proposal which would look at (in addition to the above) race and gender make-up of employees of firms hired by the City, along with a utilization analysis of the same. Please propose an additional fee for this analysis.

2.3 Phase II

Phase II shall determine the reasons for underutilization findings in the data analysis. This research should consist of public hearings, surveys distributed to vendors and personal interviews with community leaders, professional organizations, contractors or minority contracting program coordinators. If evidence of discrimination exists, the successful contractor shall assess the extent to which the effects of discrimination can be addressed through race and gender neutral means and whether narrowly tailored, race and gender specific remedies would be effective. The successful contractor will also assess: (a) the extent to which other barriers unrelated to race or gender may be adversely affecting contract participation by minority, women, veteran and disabled owned businesses (i.e., availability of commercial credit); and (b) race and gender neutral policies and programs that have been previously used by the City to address those identified neutral barriers. Where appropriate, the successful contractor will make recommendations for alternative policy and program directions based on legally defensible best practices.

The Utilization study requested by this RFP will be used in evaluating and making recommendations for improving current EBE/MWBE(Emerging Business Enterprises/Minority-Women owned Business Enterprises), veteran and disabled program(s) for the City. The results and recommendations will serve as a reference document in the creation of directives, standards and practices. For this reason, the City require that the successful contractor provide for the City, a clear, organized, and succinct executive summary of the study, which may be easily referenced and used

2.4 Scope of Work

- 1) Conduct a detailed analysis of relevant court cases and rulings emphasizing methodological requirements;
- 2) Identify the categories of contracts for goods, services and construction typically awarded by the City, the numbers of contracts and dollar amounts spent in each category for a relevant time period ;
- 3) Define the relevant geographic market for assessing the availability of small, minority and woman-owned businesses that might participate in the City's contracts;
- 4) Determine the availability of small, minority, woman, veteran, and disabled owned businesses, ready, willing and able to perform (by ethnic group, gender, and capacity) in the relevant market area for each category of goods, services and construction procured by the City at the prime and subcontractor level. In analyzing availability, the successful contractor shall precisely define its measure of availability- and provide firms used to calculate availability.
- 5) Analyze the contracting and procurement data of the City for a relevant period and calculate the share of contracts awarded to small, minority, woman, veteran, disabled and non-minority-owned businesses as either prime or subcontractors. Study shall consider total awards, payments, and annual trends.
- 6) Devise a utilization model and using such model, identify any discrepancy existing between the City's utilization of small, minority, woman, veteran and disabled

owned businesses and their availability in the overall relevant market area. The utilization model will be created by using appropriate statistical methodology, and will be a model consistent with the standards established by *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 109 S.Ct. 706, 102 LEd.2d 854 (1989) and the subsequent cases applying *Croson*. If a disproportionate utilization pattern is found to exist, the relevance and significance of such utilization will be documented and explained through statistical analyses, comparing the utilization of small, minority and woman, veteran and disabled owned businesses in the City's contracts with the availability of such firms in the relevant market area, categorized by industry, race, ethnicity and gender.

Should work completed in Phase I reveal a utilization pattern that shows a statistically significant underutilization of small, minority and women, veteran and disabled owned businesses, the contractor shall, in Phase II:

- 8) Conduct a detailed, in-depth review of the City's purchasing and contracting policies and procedures to determine whether any of the City's policies and procedures or practices discriminate or have a discriminatory effect based upon race/ethnicity, or gender in the awarding of contracts or subcontracts;
- 9) Determine and evaluate the extent to which any identified underutilization has likely been caused in part by unlawful race or gender discrimination. This will entail identifying, collecting and evaluating any and all relevant statistical, historical, sociological and anecdotal evidence. It will also require documenting and analyzing factors or variables that may have impeded the formation, growth, availability, or utilization of small, minority, woman, veteran and disabled owned businesses, and that may have been directly affected by the effects of past discrimination or by ongoing discriminatory practices against minority, woman, veteran and disabled owned businesses within the City's relevant market. This analysis shall determine if discrimination in the public or private sector has had an adverse effect on the ability of minority, woman, veteran and disabled owned businesses to compete successfully in the City's contracting and procurement process.
- 10) Perform an analysis to determine the extent to which identified disparities may be attributable to various factors including race, gender, and other factors that appear to be neutral (such as length of time in business and size);
- 11) Perform an analysis to gauge whether a gap is present in racial, gender or small start-up access to commercial credit in the Marketplace.
- 12) If discrimination is identified, determine to what extent each respective race or gender has been subjected to discrimination;
- 13) Identify and evaluate the effectiveness of any race/gender neutral initiatives that have been used by the City in eliminating discrimination and/or increasing minority woman, veteran and disabled owned business participation in public contracting. Determine also the availability of race/gender neutral alternatives open to the City and assess the potential effectiveness of such programs in eliminating the effects of any identified discrimination against minority, woman, veteran and disabled owned businesses; and

- 14) Make recommendations for activities to remedy the effects of any discrimination identified, and to reduce or eliminate any other marketplace barriers that adversely affect the contract participation of such minority and woman owned businesses and other activities the City can undertake to improve or modify its contracting and procurement processes to the extent necessary to ensure that all businesses, including minority, woman, veteran and disabled owned businesses have a fair and adequate opportunity to participate in the City's procurement and contracting processes.
- 15) Should the work in Phase I reveal no statistically significant underutilization, the contractor shall still recommend race neutral activities the City can undertake to improve or modify its contracting and procurement processes to the extent necessary to ensure that all businesses have a fair and adequate opportunity to participate in the City's procurement and contracting processes.

2.5 Contractor Responsibilities: Should any independent review of the methodology used to complete this study reveal inadequate or inappropriate methodologies to have been used which are not consistent with current legal renderings, the Contractor agrees to make any necessary modifications and conduct any subsequent work necessary to achieve study adequacy and appropriateness at no additional cost to the City.

2.6 Reporting Requirements

The Contractor is to report to the applicable City's representative the details of the on-going progress of this contract. The Contractor is expected to provide the following:

1. Monthly progress reports
2. A draft final report for Phase I describing in detail the Contractor's methodology and findings for Phase I, and containing all deliverables described in this RFP;
3. A final report for Phase I that meets the foregoing requirements and addresses any deficiencies or concerns raised by the City regarding the draft final report;
4. A draft final report for Phase II describing in detail the Contractor's methodology and findings for Phase II, and containing all deliverables described in this RFP;
5. A final report for Phase II that meets the foregoing requirements and addresses any deficiencies or concerns raised by the City regarding the draft report; and
6. A clear, organized, and succinct executive summary, which may be easily referenced and used. This executive summary should provide adequate and useable detail regarding the contents of the full study.
7. Provide, in an electronic format (.pdf file) acceptable to the City, all data and records developed that will permit future use by the City.

8. The proposer will be expected to give a final presentation once completed, submitted, and accepted. This presentation will summarize the findings and recommendations of the study. This is to be presented to the Availability Study Review Team as well as the elected bodies as may be requested.

The final reports for both Phases shall be: (a) written in clear and concise language using consistent terms; (b) easy to understand; (c) organized in a logical manner; (d) fully illustrated with relevant examples; and (e) consistent with widely accepted methodology.

**** NOTE: Each reporting (draft and final) effort should provide to the Availability Study Review Team 10 bound copies and three electronic copies in ".pdf format.**

2.7 Litigation Support Services: The proposer shall agree to remain available for consultation and expert witness services to the agencies in the event of a legal challenge.

Availability Study Scorecard

Score#	BBC				Total Score	Mason-Tillman				Total Score	MGT of America				Total Score
	Project Methodology, Project Plan	Proposer Experience	Team Make-Up/ Qualification of Staff Assigned to Project			Project Methodology, Project Plan	Proposer Experience	Team Make-Up/ Qualification of Staff Assigned to Project			Project Methodology, Project Plan	Proposer Experience	Team Make-Up/ Qualification of Staff Assigned to Project		
1	19	19	15	53		23	24	18	65						
2	23	23	18	64		25	25	20	70		25	22	20		67
3	25	23	19	67		24	24	20	68		22	24	18		64
4	18	15	18	51		25	25	19	69		20	25	18		63
5	20	15	15	50		25	25	15	65		20	18	18		56
6	25	24	17	66							23	25	18		66
7	20	20	15	55		23	23	20	66		24	23	19		66
8	22	22	17	61		23	22	19	64		22	22	18		62
9	25	23	20	68		25	20	15	60		25	22	17		64
10	25	15	20	60		25	25	20	70		20	15	20		55
11	22	21	20	63		25	22	20	67		24	22	20		66
12	20	20	15	55		20	25	18	63		20	25	20		65
	22	20	17	59		24	24	19	66		22	22	19		63

REF. NO.:	3433
DEPT:	Mayor's Office
DATE:	8/21/12
ITEM/SERVICE:	Consulting Services
ADVERTISED BID:	Yes
DATES ADVERTISED:	10/5/11 & 10/12/11
DATE OPENED:	11/17/11
SINGLE SOURCE:	No
NO. OF VENDORS NOTIFIED:	11
NO. OF VENDORS RECEIVING BID:	11
NO. OF VENDORS RETURNING BID:	3
NO. OF VENDORS DISQUALIFIED:	0
DATE SENT TO DEPT FOR RECOMM:	11/17/11
DATE RECOMM RECEIVED BACK:	6/29/12
DATE SENT TO LAW DEPT:	8/22/12
INTRODUCTION DATE:	8/28/12
DISCUSSION DATE:	9/4/12
PASSAGE DATE:	9/11/12

COUNCIL DIGEST SHEET

Enclosed with this introduction form is a tab sheet and related material from the vendor(s) who submitted bid(s). Purchasing Department is providing this information to Council as an overview of this award.

RFPs , BIDS, OTHER PROJECTS

Bid/RFP#/Name of Project	Availability and Utilization Study of Local and Small Business
Awarded To	Mason Tillman Associates, LTD.
Amount	Phase 1 \$143,849 (City's portion is \$43,849)
Conflict of interest on file?	X Yes ☐ No
Number of Registrants	
Number of Bidders	3
Required Attachments	RFPs – attach Award Matrix; Bids – attach Tab Sheet

EXTENSIONS

Date Last Bid Out	
# Extensions Granted To Date	

SPECIAL PROCUREMENT

Contract #/ID (State, Federal, Piggyback--Authority)	
Sole Source/ Compatibility Justification	

BID CRITERIA (Take Buy Indiana requirements into consideration.)

Most Responsible, Responsive Lowest	X Yes ☐ No <i>If no, explain below</i>
If not lowest, explain	

COUNCIL DIGEST SHEET

COST COMPARISON

<i>Increase/decrease amount from prior years For annual purchase (if available).</i>	
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DESCRIPTION OF PROJECT / NEED

<i>Identify need for project & describe project; attach supporting documents as necessary.</i>	See Attached Scope of Services for details
	In Summary:
	This study shall determine if there is an imbalance between the number of small, Minority, Woman, Veteran, Disabled owned business that are ready, willing, and able to perform on City contracts vs the number of those same types of businesses
	Actually participating in contracts with the City.

REQUEST FOR PRIOR APPROVAL

<i>Provide justification if prior approval is being requested.</i>	

FUNDING SOURCE

<i>Account Information.</i>	Community Development (OHNS) is contributing \$100,000 Community Development Block Grant (CDBG dollars)
	The balance (\$43,849) will be funded from the General Fund

Council Memo

To: City Council
From: Mayor's Office
Subject: RFP# 3433
Date: August 21, 2012

Title of Ordinance: Consulting Services Contract for City of Fort Wayne to perform a comprehensive Availability and Utilization Study of Local and Small Business.

Awarded To: Mason Tillman Associates, LTD.

Amount of Contract: Phase 1. Not to exceed \$143,849: City share is \$43,849

Evaluation Process: Three firms, Mason Tillman Associates, BBC and MGT, responded to the request for proposal. The responses were reviewed by the Diversity/Advisory Council. The Council then invited all three firms to make a one hour presentation. After the presentations and reference calls, each member voted on the evaluation criteria listed in the RFP except for pricing. Votes were collectively tallied by Purchasing and a recommendation of the firm Mason Tillman was made by the Diversity Council to the Mayor and to Purchasing. Purchasing then entered into negotiations with two of the three firms, Mason Tillman and BBC. Mason Tillman responded most favorably in negotiations and the Purchasing team awarded the project to Mason Tillman pending City Council approval.

Description of Project (Be Specific):

See attached Scope of Services section II

Additional Comments: Community Development OHNS is contributing \$100k Community Development Block Grant (CDBG dollars) towards the project. The balance of the project will be funded by the City general Fund. Phase 2 of the project costs \$90,338. Phase 1 determines availability of small business. Phase 2 determines the reasons for underutilization if it exists.

Deputy Mayor
Mark Becker