



CITY OF BUFFALO

Request for Proposals



To lease space to the City of Buffalo for:
City Towing and Storage Uses
("Buffalo Impound")

DATE ISSUED: April 18, 2019

Question submission deadline: April 25, 2019 by 4:00p.m.

VIA EMAIL TO: khelfer@city-buffalo.com

Answers will be returned via email no later than: May 2, 2019

Pre-Proposal Conference: May 9, 2019 at 11:00 a.m.

PROPOSAL SUBMISSION DATE: May 23, 2019 at 11:00 a.m.

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SECTION 1- INTRODUCTION

The City of Buffalo (“City”) is seeking to lease a 5 to 7 acre parking lot with ancillary on-site an approximately 2,500 square foot office building within the City of Buffalo City limits. Such site to be used for the Buffalo City Towing and Storage (“Buffalo Impound”) facility.

SECTION 2- BACKGROUND

The Buffalo Impound is a public facility that is currently located at 166 Dart Street in Buffalo, New York. The property contains a parking lot and a one story office building. It serves as, among other things, the parking location of vehicles that have been towed due to violations, and has a small office for processing corresponding paperwork.

SECTION 3- INSTRUCTIONS TO OFFERORS

3.1 *General Invitation*

The City invites all interested parties to submit a lease proposal or proposals for the leasing needs described herein. For purposes of this RFP, the City’s designee shall be Commissioner Kevin Helfer.

The Buffalo Parking Department will receive all proposals in person or via mail by no later than **May 23, 2019 at 11:00 a.m. EST**. All proposals shall be sealed, clearly labeled on the front of the package and delivered to:

**City of Buffalo Parking Department
Attention: Kevin Helfer
Commissioner of Parking
65 Niagara Square
Room 111, City Hall
Buffalo, NY 14202**

The outside of each sealed envelope or package should be labeled:

Proposal Enclosed
Lease for Buffalo Impound
Proposals Due: May 23, 2019 at 11:00 a.m.
Submitted by: _____

The received time of proposals will be determined by the clock or as hand marked at the above noted location.

NO CONSIDERATION WILL BE GIVEN TO PROPOSALS RECEIVED AFTER THE STATED DATE AND TIME.

Proposals are solicited in accordance with the terms, conditions and instructions as set forth in this RFP. Submission of proposals via telephone, facsimile, e-mail or any other method not specifically provided for herein is prohibited. Proposals must be completed in accordance with the requirements of this RFP. No amendments or changes to proposals will be accepted after the stated deadline. No proposals will be accepted after the stated deadline. The City reserves the right to reject any or all proposals.

Any material misrepresentation made by an Offeror may void its proposal and eliminate the proposal from further consideration. Any proposal that is based upon violation of federal, state or local law, or deemed to be non-responsive will be eliminated from consideration.

The City shall not be responsible for any expenses or charges incurred by an Offeror in preparing or submitting a proposal, or in their providing any additional information considered necessary by the City in the evaluation of their proposal.

3.2 Schedule

Listed below is the anticipated schedule for all actions related to this RFP. In the event that there is any change or deviation from this schedule, such change will be posted on the City's website at www.city-buffalo.com/bids.

<u>EVENT</u>	<u>DATE</u>
Issuance of RFP	April 18, 2019
Written Questions from Offerors due by 4:00 PM	April 25, 2019
Responses to Questions posted on City website	May 2, 2019
Pre-Proposal Conference at 11:00 AM	May 9, 2019
Proposals Due by 11:00 AM	May 23, 2019
Target Award Date:	TBD

3.3 Pre-Proposal Conference

Offerors interested in providing these services are strongly advised to attend a **pre-proposal conference** to be held on May 9, 2019, at 65 Niagara Square Room 1901 City Hall, Buffalo, NY at 11:00 AM. The conference is intended to provide clarification of these specifications, where needed, and to respond to all technical inquiries. Representatives may not appear on behalf of more than one company.

3.4 RFP Review, Additional Information and Questions

Each Offeror is responsible for carefully examining all RFP documents and thoroughly familiarizing themselves with each of the City's requirements prior to the submission of a proposal to ensure that responses are in compliance with the RFP.

Each Offeror is responsible for conducting its own investigations and any examinations

necessary to ascertain conditions and requirements affecting the requirements of this RFP. Failure to perform such investigations and examinations shall not relieve the Offeror from its obligation to comply, in every detail, with all of the provisions and requirements contained in the RFP.

Questions regarding the RFP shall be directed to the City's designee only. Any impermissible contact with any other City officer or employee regarding the RFP during the procurement period or any other restricted period set forth by the City designee shall result in the rejection of any such Offeror's proposal. Offerors shall communicate in writing only. No other communications with the City's designee regarding the RFP are permitted during the procurement period.

All questions, requests for clarification or additional information must be sent by email to **City's designee** Commissioner Kevin Helfer: khelfer@city-buffalo.com and must be received no later than 4:00 PM on **April 25, 2019**. The subject line must identify the RFP by title. Offerors shall not communicate with the City's designee via any other method or outside of the time period set forth herein.

The answers to questions received via email and the summary of the pre-proposal conference will be posted on the City's website at www.buffalony.gov. No other representatives of the City are to be contacted regarding this RFP. The City accepts no responsibility for, and the Offeror agrees not to rely upon, any verbal or written statements or representations from any other person, whether or not employed by the City.

Offerors are solely responsible for ensuring the City has a current address, e-mail address and telephone number on file for the Offeror. It is the responsibility of all Offerors to check the City of Buffalo website for any updates.

The City may, in its sole discretion, also elect to provide both the question(s) and the written answer(s) to known potential Offerors via e-mail. Offerors are solely responsible for ensuring that the City has accurate contact information, including e-mail address for the receipt of such correspondence. The City does not assume any responsibility for undelivered e-mails or for the receipt of any communication sent to any Offeror.

3.5 Addendums and Modifications

The City reserves the right, in its sole discretion, to amend this RFP at any time prior to the deadline for submission of proposals. In the event that it becomes necessary to revise or expand upon any part of this RFP, all addendums, amendments, and interpretations to this RFP will be made in writing and posted on the City's website at www.buffalony.gov. The City may also endeavor to notify all Offerors to whom the RFP has been issued.

All addendums shall be incorporated as part of the RFP documents as though they were originally set forth herein. The City does not assume any responsibility for the receipt of any addendum sent to any Offeror.

Any information supplied by the City relative to this RFP must be considered in preparing

proposals. All other contacts that an Offeror may have had before or after receipt of this RFP with any individuals, employees, subcontractors, consultants or representatives of the City and any information that may have been read in any news media or seen or heard in any communication regarding this RFP should be disregarded in preparing responses.

3.6 Proposal Format

Offerors are advised to adhere to the submittal requirements of the RFP. Failure to comply with the instructions of the RFP may cause a proposal to be rejected. Submission of a proposal in response to this RFP constitutes acceptance of all requirements outlined in the RFP.

One (1) original and four (4) hard copies, along with one (1) digital copy (CD or Flash Drive) must be provided. Proposals must be prepared on 8-1/2" x 11" paper using a font no smaller than 11-point with one-inch margins, printed double-sided, and bound on the long side. Each page of the submission must be numbered in a manner so that it can be uniquely identified. Legibility, clarity and completeness are required.

The proposal shall also contain a statement that the proposal, including without limitation all proposed lease rental dollar figure charges/prices contained therein, shall remain firm and irrevocable for a period of ninety (90) days following the City's receipt of such proposal. The proposal shall also contain a statement as to each category of additional rents that would be included as lease charges such as, without limitation, utilities, property taxes, insurance, maintenance, and repairs, together with estimates of those charges if practicable.

3.7 Cover Letter

Each Offeror or their authorized representative shall prepare and sign a cover letter. Submission of the letter shall constitute a representation by the Offeror that it is willing and able to deliver the leased space and to perform the services described in this RFP and in their proposal.

The cover letter must explain the Offeror's understanding of the City's intent, objectives, and how Offeror proposes to achieve those leased space and Buffalo Impound use objectives. It must also discuss the Offeror's proposed plan for delivering the leased space and implementing the described services, including but not limited to whether the proposed leased space is ready for the Buffalo Impound use without any modifications necessary to the proposed leased space, whether the proposed leased space needs some improvements/modifications in order to meet the Buffalo Impound use specifications, and or whether the proposed leased space will require a full improvement build-out in order to meet the Buffalo Impound use specifications. In addition, the proposal should contain any proposed approach to project development, project management, strategies, and any additional factors that may be beneficial to the City in achieving its' goals.

3.8 Company Profile

Each Offeror is required to prepare and submit a brief description/history of the Offeror's firm, company, or corporation, which must include:

1. Name, mailing address, email address, telephone number and fax number of the primary contact person for the firm;
2. List the principals with at least 20% ownership interest in the company;
3. A brief description of the firm, including the number of years in business, major business lines, major markets served, company history, relevant operating segments, primary vision and strategy, number of employees, office locations and any Joint Venture Partners;
 - a. Workforce: Offerors should describe any programs or actions they undertake to attract, recruit, train, retain and promote minority and female employees, partners and associates and current representation of minorities and women;
 - b. Community Involvement: Offerors should describe any programs or initiatives they sponsor or support that further the development of minority or women-owned business enterprises; and
 - c. Offeror Policies: Offerors should describe any procurement policies or practices they have adopted that provide M/WBE suppliers or services business opportunities.
4. A copy of any resolution or some other form of authority, signed by a Chief Executive Officer, Corporate Secretary, or managing partners, which lists the specific officers who are authorized to execute agreements on behalf of the Offeror;
5. Financial details demonstrating your firm's financial capacity to undertake and complete the project;
6. A summary of the Offeror's qualifications and past experience relevant to the proposed development project; and
7. Each Offeror must provide a list of at least three (3) customers for whom a similar development project was completed; or a statement referencing projects and customers that may demonstrably and credibly inform the City that Offeror is able to successfully undertake the project and deliver the leased space for Buffalo Impound use.

The list must identify your staff members who worked on each project, budget, schedule and project summary. Descriptions should be limited to one page for each project. Experience will not be considered unless complete reference data is provided. At a minimum, the following information must be included for each client reference:

1. Client name, address, contact person name, telephone, and fax number;
2. Description of services provided similar to the services outlined in this RFP;
3. Nature and extent of Offeror's involvement as the prime consultant;

4. Identity of services, if any, subcontracted, and to which other company;
5. Total dollar value of the contract;
6. Contract term (start date and expiration date).

The City may solicit relevant information concerning Offeror's record of past performance from other tenants, previous clients, or any other available sources. Each Offeror must provide a summary of their qualifications and the experience of all team personnel who will be dedicated to satisfying the City's needs and Buffalo Impound lease site objectives sought to be procured as described in this RFP. For each person identified, describe the following information:

1. Title and reporting responsibility;
2. Proposed role in this project, including the functions and tasks for which they will have prime responsibility (also indicate areas of secondary responsibility, if appropriate);
3. Pertinent areas of expertise and past experience;
4. Base location (local facility, as applicable);
5. Curriculum vitae and corporate personnel profiles which describe their overall experience and expertise.

SECTION 4 - SCOPE OF PROPOSAL

4.1 Lease Term/Certain Lease Provisions Expected

The City desires to enter into a 10 (ten) year lease with a 10 (ten) year lease renewal extension option exercisable by the City. City would have the right (but not the obligation) to purchase the leased property for fair market value established by appraisal the end of the ten (10) year lease term extension. City would also have a right of first refusal (includes 90 days for City to decide and 60 days after decision in which to close) to purchase the leased property in the event the Offeror reaches a deal to sell the leased property during the lease term or lease renewal term. The City's end of lease renewal term right to purchase the leased property for fair market value would not be extinguished by a sale of the leased property during the lease term or renewal term. Offeror/landlord would be fully responsible for all repair and maintenance both interior and exterior and all mechanical (including but not limited to HVAC, electrical, plumbing, and all utility laterals) and structural, foundation and roof and all parking areas maintenance and upkeep. City would be responsible for snow plowing, litter pick up, refuse disposal (from Buffalo Impound operations only), building janitorial (but not maintenance and or repair). Offeror/landlord shall be responsible for keeping the Buffalo Impound site up to code. The lease shall be prior and superior to any mortgage or similar or other such title condition at any and all

times and Offeror/landlord shall be expected to provide City with a Leasehold Policy of Title Insurance in amount and form and substance acceptable to the City insuring same and containing only such exceptions as are acceptable to the City in the City's sole discretion. A memorandum of the lease will be filed in the Erie County Clerk's Office to further assure City's leasehold first priority status. Offerors should submit a proposed site that either meets or can be adjusted by Offeror to meet the City's specifications. If the site is not "turn-key" ready for Buffalo Impound use at the time the proposal is submitted, or if the facility has not yet been built, the proposal should also include a build-to-suit tenant improvement plan and budget information, and detailed information about the extent to which the Offeror would need to improve the proposed site to meet the City's Buffalo Impound specifications. The City of Buffalo reserves the right to request additional information from any Offeror. Prevailing wage rules apply to work done to prepare the Buffalo Impound site and for all subsequent landlord repairs and maintenance. Offeror/landlord shall comply with the Living Wage Ordinance of the City of Buffalo at all times during the term of the lease.

4.2 The City as self-Insured

The City is self-insured and reserves the right to continue to be self-insured. No responsive proposal shall contain a requirement that City provide insurance.

SECTION 5 – FACILITY REQUIREMENTS and QUALIFICATIONS

The Offeror must either already have the existing facility or commit to build the Buffalo Impound. Specific requirements include:

A. Parking Area

- a. 4 to 6 acres of gated (main entrance to gated site should be electronically operable), lit, and paved surface parking lot with a drainage system.
- b. Dedicated parking for staff, City-owned vehicles, and visitors. This should be outside of the gated area. Preferably no less than 20 spaces. There should be at least 2 or 3 electrical outlets available for City-owned vehicles to charge mounted equipment overnight.
- c. If the outdoor storage facility will be constructed, it should meet all City standards; for further information please visit the following website:
<https://www.buffalony.gov/DocumentCenter/View/1785/Buffalo-Green-Code---Unified-Development-Ordinance-PDF?bidId>
- d. Special consideration will be provided to the Offeror who can offer at least a portion of parking area in a covered, secured space. However this is not a requirement and no Offeror will be penalized for not providing that.

B. Office Building

- a. Dispatch area (approximately 12ft x 12ft)

- b. Customer waiting area (approximately 15ft x 20ft) (see section C for more details)
- c. Customer service area (approximately 12ft x 20ft)
- d. Meter Repair Shop/Meter Storage Area (approximately 2,000 sq/ft)
- e. Four offices (approximately 12ft x 12ft each office)
- f. Break room (approximately 12ft x 12ft) with room for vending machines
- g. One male bathroom
- h. One female bathroom
- i. Customer parking for 30 cars
- j. The entire office area should be wired for electricity, telephone, and internet connectivity.

C. Customer Waiting Area – Please note that the Customer Waiting Area should be adjacent to the Customer Service Area and should be secured. This could mean a floor-to-ceiling gate, plexi-glass, etc. Your proposal should explain what barriers exist in the current space or what would be built were your team the chosen Offeror. Please see Exhibit A for photos of our current security setup as well as a sample office layout.

D. Furnishing – The Offeror is not required to provide any furnishings, however if Offeror would like to include them with Offeror’s proposal, please outline what is being offered in terms of basic dimensions and quantity. Please also include information about what warranty exists on the furnishings, in the event of inoperability and or malfunction or damage.

E. Property Qualifications

- a. An existing facility is not required to follow the exact dimensions mentioned in Sections A, B, and C. However it must have the required space as well as the amenities that have been listed.
- b. If the property does not already meet the requirements, the Offeror is required to build/construct the tenant improvement in accordance with the specifications set forth in Sections A, B and C.
- c. The Offeror must show the ability to complete and undertake the construction, and provide a time frame.
- d. Outline any and all environmental issues or potential environmental issues, including but not limited to toxic, explosive, or hazardous substances, within the building or buried beneath the surface of the site whether or not under any building(s) and whether or not the adverse impact came from off-site or could have come from off-site. The Offeror is responsible for remediation if necessary.

F. Financial Qualifications

- a. If built-to-suit, the Offeror must show the financial ability to fund the construction of the tenant improvement.

- b. The Offeror must show the financial ability to fund the daily maintenance and operational needs associated with being a long term landlord of the Buffalo Impound property.
- c. The Offeror must also propose a detailed lease rental payment schedule.
- d. The Offeror shall set forth in detail any additional rent payable by the City as tenant including but not limited to pro rata share of taxes, insurance, common area maintenance costs, other maintenance costs, and or utilities.

G. Approach to Development Issues

Offeror is responsible for performing any soil test borings and soil investigations for the purpose of determining, to City's satisfaction, the suitability of the site for Buffalo Impound use, and the presence or absence of hazardous substances as such term is used in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, (C.E.R.C.L.A) 42 U.S.C.§ 9601 *et seq.*; The Hazardous Materials Transportation Act, as amended, 49 U.S.C. §1801 *et seq.*; The Resource Conservation and Recovery Act, as amended , 42 U.S.C § 6901 *et seq.*; Articles 15 and 27 of the New York State Environmental Conservation Law or any other federal, state, or local law, regulation, rule, ordinance, by-law, policy guidance, procedure, interpretation, decision, order, or directive, whether existing as of the date hereof, previously enforced or subsequently enacted

SECTION 6 - EVALUATION AND SELECTION PROCESS

6.1 Evaluating Proposals

The evaluation criteria that the City will utilize will be based upon the Offeror demonstrating their proven knowledge, understanding and experience with similar projects and the Offeror's ability to meet the City's specified needs for Buffalo Impound use.

Representatives of the City's Parking Department and their designees shall oversee the RFP process and project, and have produced and released this RFP and will evaluate all responsive proposals. The City reserves the right, at the time of the evaluation of any proposals, to request any additional information that it deems necessary in order to make a decision on any proposal.

6.2 Basis of Selection

The process for selecting a winning proposal for this RFP will be an open and fair solicitation process. While total costs will be considered in the award of this RFP, cost is not the only factor to be considered. The overall lease terms and the procurement of the leased site for the Buffalo Impound use sought herein are not subject to NYS competitive bidding requirements. Therefore, the lowest cost proposal received may not necessarily be selected. The City intends to award a

lease/contract to the Offeror(s) whose proposal it deems to be in the best interests of the taxpayers. The City is under no obligation to award any lease/contract in whole or in part, and it reserves the right in its sole discretion to cancel this RFP at any time before or after submission deadline/closing, without providing any reason or reasons for such cancellation. If only one proposal is received, the City reserves the right to reject it.

The City's evaluation process will be structured to secure a highly skilled, diligent, responsive and experienced Offeror(s) who will be effective in providing the most beneficially functional leased site for Buffalo Impound use that the City requires. The primary objective of the evaluation process is to select an individual(s), partnership(s) and/or firm(s) that:

- Clearly demonstrates a thorough understanding of the scope of the City's needs in connection with the Buffalo Impound and the specific landlord responsibilities entailed on a sustained basis;
- Possess adequate resources to handle the project and to handle quickly, diligently and effectively any and all extenuating circumstances that may arise;
- Assign highly skilled, experienced, diligent, responsive, and professional personnel to perform the required duties;
- Are competitive in the disciplines necessary to successfully deliver a highly functional auto impound facility to the City

All proposals will be evaluated upon, but not limited to, the following criteria:

Weight Factors

- 35%** Proposed product and Buffalo Impound site solution, including technical specifications, rent amounts, other financial terms and the financial and managerial capacity of the Offeror/landlord over a long term landlord stewardship.
- 25%** The Offeror's experience and qualifications, demonstrated ability to fulfill the requirements of the proposal, references, and other factors which the City considers relevant.
- 20%** Proposed staff qualifications and support services
- 20%** The review of proposals will also include an analysis of each Offeror's minority and women workforce development, policies and community involvement. Each Offeror must provide demonstrative evidence of how it meets these factors. The weight given to each of those two factors is as follows:
 - 15% Minority workforce development, community involvement and policies.
 - 5% Women workforce development, community involvement and policies

TOTAL = 100%

6.3 *Lease/Contract Award/Executory Clause to be included in any lease*

The City intends to award the project/lease/contract to the Offeror whose proposal offers the best overall value. However, the City is under no obligation to award any lease/contract, in whole or in part, and it reserves the right in its sole discretion to cancel this RFP process with or without cause at any time before or after any milestone date in the schedule set forth in this RFP and has no express or implied obligation to provide reasons for such cancellation.

The successful Offeror(s), if any, will be awarded a ten (10) year lease, with the City having the unilateral right, but not the obligation, to extend the lease for ten (10) additional years.

The contract/lease with the successful Offeror(s) (if any) shall include the terms of this RFP together with those terms of the Offeror's proposal which are not inconsistent with this RFP, and or which have been or which will otherwise specifically be accepted by the City of Buffalo.

Notwithstanding the foregoing and further notwithstanding anything in this RFP which could be construed to the contrary, any lease awarded pursuant to this RFP shall contain a provision to the effect as follows: It is understood and agreed that the City of Buffalo is a municipal corporation under the laws of the State of New York. The lease to be entered into, if any, shall be deemed to be executory only to the extent of moneys appropriated and available for the purposes stated in such lease and, provided that the City delivers to the Offeror/landlord at least one hundred eighty (180) days prior written notice, City shall have the unilateral right to terminate the lease, effective upon the date set forth in such notice. In the event City delivers such termination notice pursuant to the terms set forth in this paragraph, both City and Offeror/landlord shall be released from all liability arising under the lease from and after the termination effective date. Neither the full faith and credit nor the taxing powers of the City are going to be pledged to the payment of any amount due or to become due under the lease. It is understood that neither the lease nor any representation by any public employee or officer creates any legal or moral obligation to appropriate or make moneys available for the purpose of the lease.

6.4 *City's Reservations of Rights*

Upon submission of a proposal in response to this RFP, each Offeror acknowledges and consents to the following conditions relative to the submission and review and consideration of its proposal:

1. All costs incurred by the Offeror in connection with responding to this RFP and for participating in this procurement process shall be borne solely by the Offeror.
2. The City reserves the right, in its sole discretion, to reject for any reason or no reason any and or all responses or components thereof and to eliminate any and or all Offerors responding to this RFP from further consideration for this procurement.
3. The City reserves the right, in its sole discretion, to reject any Offeror that submits incomplete responses to this RFP, or a proposal that is not responsive to the requirements of this RFP.

4. The City reserves the right, without prior notice, to supplement, amend, or otherwise modify this RFP, or otherwise request additional information.
5. All proposals in response to this RFP shall become the property of the City and will not be returned.
6. All proposals in response to this RFP, and any and all portions thereof, shall constitute public records, except as specifically exempted, subject to public disclosure, in accordance with NYS Freedom of Information Law.
7. The City may request that Offerors personally attend or send representatives to the City for interviews and a demonstration of Offeror's proffered services.
8. Any and all proposals in response to this RFP that are not received by the City by 11:00 a.m. May 23, 2019 will be rejected.
9. Neither the City, nor its officers, officials nor employees shall be liable for any claims or damages resulting from the solicitation or preparation of any proposals crafted in response to this RFP.
10. The City of Buffalo's name, logo, crest, seal, etc. shall not be used without prior, expressed, written consent of the City of Buffalo which may be given, withheld and or conditioned in the City's sole discretion.

The City reserves that it may, in its sole discretion, exercise the following rights and options with regard to this RFP and the procurement process in order to obtain the most advantageous offer for the City:

1. To waive irregularities and/or minor non-compliance by any Offeror with the requirements of this RFP;
2. To request clarification and/or further information from one or more Offerors, at any time, without becoming obligated to offer the same opportunity to all Offerors;
3. To enter into negotiations with one or more Offerors without being obligated to negotiate with, or offer the same opportunity, to all Offerors;
4. To reject any or all proposals or parts of proposals, to accept part or all of proposals on the basis of considerations other than lowest cost and to create a project of lesser or greater expense and reimbursement than described in this RFP or the Offeror's proposal based on the component prices submitted;
5. To determine that any proposal received in response to this RFP complies or fails to comply with the terms set forth herein;

6. To determine whether any perceived or actual conflict of interest exists that would affect or impair the award of any contract arising from this RFP to an Offeror(s);
7. To waive any technical non-conformance with the terms of this RFP;
8. To change or alter the schedule for any events called for in this RFP;
9. To conduct investigations of any or all of the Offerors, as the City deems necessary or convenient, to clarify the information provided as part of the proposal and to request additional information to support the information included in any proposal;
10. To suspend or terminate the procurement process described in this RFP at any time. If terminated, the City may determine to commence a new procurement process without any obligation to the Offerors;

Offerors are advised to submit a complete offer as their proposal. Any waiver, clarification or negotiation will not be considered an opportunity for Offerors to correct errors contained in their proposals.

SECTION 7 – INDEMNIFICATION/HOLD HARMLESS

In any lease/contract awarded pursuant to the issuance of this RFP, the successful Offeror shall defend, indemnify and save harmless the City, and its officers and employees from all claims, suits, actions, damages, losses, and costs of every name, nature, and description to which the City, may be subjected or put by reason of any injury to the person or property of another, or the property of the City, resulting in any manner from the condition of the leased premises and or the improvements and or landlord's furnishings/fixtures thereon. In addition to and in furtherance of the foregoing indemnity, the insurance coverage described below must include language that states that the insurance carrier will defend the City for any and all claims arising or resulting in any manner from the condition of the leased premises and or the improvements and or landlord's furnishings/fixtures thereon. Furthermore, the whole, or so much of the money to become due under the lease/contract as shall be considered necessary by the City, may be retained by it until all such suits or claims for damages shall have been settled or otherwise disposed of, and evidence to that effect furnished to the satisfaction of the City.

SECTION 8 - INSURANCE COVERAGE REQUIREMENTS

The City of Buffalo requires that Offeror/landlord under the lease carry at least the following insurance coverage: Landlord shall provide comprehensive general liability insurance as will protect landlord and the City from any and all claims, demands or actions for damage to property and or for personal injuries, including death, which may arise from the condition of the leased premises and or the improvements and or landlord's furnishings/fixtures thereon in the amount of not less than two million (\$2,000,000) per occurrence; and property damage insurance coverage of not less two hundred thousand (\$200,000). Landlord shall also provide evidence of full replacement value property damage insurance coverage. Landlord's insurance carriers must be admitted in New York State.

Minimum Scope and Limits of Insurance for Landlord's Maintenance and Repair Crew or Contractors

8.1 *Worker's Compensation Insurance and Disability Insurance:*

With respect to all operations the landlord performs or causes to be performed, the performing entity shall carry Worker's Compensation Insurance and Disability Insurance in accordance with the requirements of the laws of the State of New York. Evidence of Worker's Compensation Insurance and Disability Insurance must be provided to the City on the New York State approved form. The Acord form is not acceptable. Each certificate of insurance evidencing such coverages shall be submitted by the performing entity and must name the City of Buffalo as certificate holder.

8.2 *Commercial General Liability:*

With respect to all operations the landlord performs or causes to be performed, the performing entity shall carry Commercial General Liability insurance providing for a total limit of not less than one million dollars (\$1,000,000) per occurrence for each job site or location for all damages arising out of bodily injury, personal injury, property damage, products/completed operations, and contractual liability coverage for the written indemnification to be provided to the City prior to accessing the Buffalo Impound site. Each annual aggregate limit shall not be less than two million dollars (\$2,000,000). A certificate of insurance evidencing such coverage shall be submitted by the performing entity and must name the City of Buffalo as additional insured and certificate holder under said policy of insurance. The City shall also be named as additional insured and certificate holder under the performing entity's excess and umbrella policies.

8.3 *Automobile Liability:*

With respect to any owned, non-owned, or hired vehicles, the performing entity shall carry Automobile Liability insurance providing at least one million dollars (\$1,000,000) per accident for bodily injury and property damage. A certificate of insurance evidencing such coverage shall be submitted by the performing entity and must name the City of Buffalo as additional insured and certificate holder under said policy of insurance.

8.4 *Professional Liability:*

When and where applicable and for services, with respect to any damage caused by an error, omission or any negligent acts of the performing entity, the performing entity shall carry Professional Liability insurance providing at least two million dollars (\$2,000,000) per claim for any wrongful act. The certificate of insurance evidencing such coverage shall be submitted by the performing entity and must name the City of Buffalo as certificate holder under said policy of insurance.

8.5 "Tail" Coverage:

If any of the required liability insurance is on a "claims made" basis, "tail" coverage will be required at the completion of the work for a duration of 24 months, or the maximum time period reasonably available in the marketplace. The performing entity shall furnish certification of "tail" coverage as described or continuous "claims made" liability coverage for 24 months following work completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided its retroactive date is on or before the date of the pertinent work. If continuous "claims made" coverage is used, the performing entity shall be required to keep the coverage in effect for a duration of not less than 24 months from the end of the work.

8.6 Acceptability of Insurers:

All insurance policies shall be written by insurance companies admitted in New York and licensed to do business in the State of New York or otherwise acceptable to the City's Corporation Counsel in his sole discretion.

8.7 Subcontractors:

The Offeror/landlord shall require subcontractors to provide the same "minimum scope and limits of insurance" as required herein, with the exception of Errors and Omissions/Professional Liability Insurance unless Errors and Omissions /Professional Liability insurance is applicable to the work performed by the subcontractor. All Certificates of Insurance shall be provided to Corporation Counsel's office as required herein and are subject to approval as to form by the Corporation Counsel and are subject to approval as to sufficiency by the City Comptroller.

8.8 Aggregate Limits:

Any aggregate limits must be declared to and approved by the City. It is agreed that the Offeror/landlord shall notify the City when fifty percent (50%) of the aggregate limits are eroded during the contract term. If the aggregate limit is eroded for the full limit, the Offeror/landlord shall agree to reinstate or purchase additional limits to meet the minimum limit requirements stated herein. The premium shall be paid for by the Offeror/landlord. Deductibles and Self-Insured Retentions: Any deductible or self-insured retentions must be declared to and approved by the City. All deductibles or self-insured retentions are the sole responsibility of the Offeror/landlord to pay and/or to indemnify.

8.9 Notice of Cancellation or Nonrenewal:

Each insurance policy required shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in coverage or in limits except upon 30 days prior written notice.

8.10 Waiver of Governmental Immunity:

Unless requested otherwise by the City, the Offeror/landlord and his insurer shall waive governmental immunity as a defense and shall not use the defense of governmental immunity in the adjustment of claims or in the defense of any suit brought against the City.

8.11 Additional Insured:

The liability insurance coverage, except for Workers Compensation and Disability Insurance, required for the performance of the Offeror's/landlord's obligations under the lease shall include the City of Buffalo as additional insured and certificate holder but only with respect to the Offeror's/landlord's activities to be performed under the lease. Coverage shall be primary and non-contributory with any other insurance.

8.12 Certificate of Insurance:

As evidence of the required insurance coverage, the Offeror/landlord shall furnish Certificate(s) of Insurance to the City of Buffalo prior to the award of the lease. The Certificate(s) will specify all parties who are endorsed on the policy as Additional Insureds (or Loss Payees). The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. Renewals of expiring certificates shall be filed thirty (30) days prior to expiration. The City reserves the right to require complete, certified copies of all required policies at any time.

All insurance documents required should be mailed to:

City of Buffalo Parking Department
Attn: Davis Hough
65 Niagara Square, Room 111
Buffalo, NY 14202

SECTION 9 – GENERAL REQUIREMENTS

9.1 Non-Discrimination

The successful Offeror(s) shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, sex, national origin, affection preference, disability, age, marital status or status with regard to public assistance or as a disabled veteran or veteran of the Vietnam era. Such prohibition against discrimination shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

The successful Offeror(s) shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City, setting forth this nondiscrimination clause. In addition, the Offeror(s) shall, in all solicitations or advertisements for employees placed by or on behalf of the Offeror(s), state that all qualified applicants will receive consideration for employment without regard to race, creed, religion, ancestry, sex, national origin, affectional preference, disability, age, marital status or status with regard to public assistance or status as disabled veteran or veteran of the Vietnam era, and comply in all other aspects with the requirements the Buffalo City Code and Ordinances.

9.2 Americans with Disabilities Act Compliance Provisions

Any Offeror(s) awarded a contract pursuant to an RFP are required to abide by the regulations of the Americans with Disabilities Act of 1990 (ADA) which prohibits discrimination against individuals with disabilities. The Offeror will not discriminate against any employee or applicant for employment because of their disability and will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, discharge, compensation and fringe benefits, classification, referral and training. The ADA also requires vendors associated with the City of Buffalo to provide qualified applicants and employees with disabilities with reasonable accommodation that do not impose undue hardship. Offeror(s) also agree to post in a conspicuous place, accessible to employees and applicants, notices of their policy on non-discrimination.

In the event of the Offeror's noncompliance with the non-discrimination clauses of the contract, the contract may be canceled, terminated, or suspended, in whole or in part, and the Offeror may be declared ineligible by the Buffalo Common Council from any further participation in City contracts in addition to other remedies as provided by law.

9.3 Executive Order 16-04

The City encourages the selection of individuals, firms and businesses that are active in the recruitment, training and retention of women, blacks, Hispanics and all other minority groups. The inclusion of specific selection criteria for those individuals, firms and businesses desiring to provide professional services to the City, that also considers the firm's recruitment, training and retention of women, blacks, Hispanics and all other minority groups, supports and encourages these practices.

Pursuant to Executive Order 16-04, issued in accordance with the laws of the State of New York and Article 2, Sections 2-3 and Article 4, Section 4-1 of the Charter of the City of Buffalo, all City departments are required to incorporate into their Requests for Proposals (RFPs) or Requests for Qualifications (RFQs) for professional services, including but not limited to, legal, architectural, accounting and engineering services, the following:

1. A minimum of fifteen percent (15%) of the total score of the professional services response to a RFP or RFQ issued by the City of Buffalo is to be based on the Offeror's minority workforce development, community involvement and Offeror policies;

2. A minimum of five percent (5%) of the total score of the professional services response to a RFP or RFQ issued by the City of Buffalo is to be based on the Offeror's women workforce development, community involvement and Offeror policies.
3. The factors to be considered include, but are not limited to, the following:
 - a. Workforce: Offerors should describe any programs or actions they undertake to attract, recruit, train, retain and promote minority and female employees, partners and associates and current representation of minorities and women.
 - b. Community Involvement: Offerors should describe any programs or initiatives they sponsor or support that further the development of minority or women-owned business enterprises in the City of Buffalo.
 - c. Offeror Policies: Offerors should describe any procurement policies or practices they have adopted that provide M/WBE suppliers or services business opportunities.

9.4 Applicable Law

The laws of the State of New York shall govern all interpretations of the lease, and the appropriate venue and jurisdiction for any litigation which may arise hereunder will be in those courts located within the County of Erie, State of New York, regardless of the place of business, residence or incorporation of the Offeror. Each party agrees that all claims and matters shall be heard and determined in any such court and each party waives any right to object to such filing on venue, forum non-convenient or similar grounds. No such actions shall be commenced or maintained against the City unless the Offeror/landlord contractor shall, not less than sixty (60) days before the commencement or filing of such action(s), submit to the City via certified mail to the address for notices contained herein, an informal complaint specifically detailing each and every perceived allegation or grievance and that the City shall be afforded a reasonable amount of time within which to resolve any such claims.

9.5 Conflict and Priority

In the event that a conflict is found between provisions in any completed lease arising from this Request for Proposals, the successful Offeror's Proposal or the City's Request for Proposals, the provisions in the following rank order shall take precedence: 1) completed lease; 2) Request for Proposals; and 3) Offeror's Proposal.

9.6 Ownership of Materials

All finished or unfinished documents, data, studies, surveys, maps, models, photographs, videos, reports or other materials resulting from any lease arising from this RFP shall constitute the property of the City. The City may use, extend, or enlarge any document produced under the contract without the consent, permission of, or further compensation to the Offeror.

9.7 Offeror's/Landlord's Responsibility

All sub-contractors will be subject to prior approval by the City. Prior to lease execution, the successful Offeror(s) will be required to furnish the corporate or company name and the names of the officers and principals of all sub-contractors. Notwithstanding any such approval by the City, the successful Offeror(s) shall itself be solely responsible for the performance of all work set forth in any lease resulting from this RFP and for compliance with the price and other terms provided in the lease. The successful Offeror(s) shall cause the appropriate provisions of its proposal and the lease to be inserted in all subcontracts.

The City's consent to or prior approval of any subcontract or subcontractor proposed by an Offeror shall not create or purport to create any obligation of the City to any such subcontractor, or any form of contractual relationship or relationship of privity between the City and the subcontractor. Any Offeror who obtains such approval or consent of the City shall be required to insert a clause so providing in all subcontracts.

9.8 Disclaimer

This RFP and the process it describes are proprietary to the City and are for the sole and exclusive benefit of the City. This RFP is not binding on the City. No other party, including any Offeror to this RFP or further Offerors to any RFP that may be issued by the City, is intended to be granted any rights hereunder. Any response to this RFP, including written documents and verbal communication, with the exception of materials marked as trade secrets or confidential, may be subject to public disclosure by the City, or any authorized agent of the City. Any materials submitted or ideas elicited in response to this RFP shall be the sole and absolute property of the City with the City having title thereto and unrestricted use thereof.

9.9 Publicity

All publicity (including, but not limited to, news releases, news conferences, and commercial advertising) relating to this RFP and/or the services or products sought by this RFP and/or any contract awarded pursuant to this RFP shall require the prior written approval of the City.

9.10 Offerors Restricted

No proposal shall be accepted from or lease awarded to any City employee or official, or any firm in which a City employee or official has a direct or indirect financial interest. No Offeror may be the prime contractor or prime Offeror for more than one proposal submitted pursuant to this RFP. Entities that are legally related to each other or to a common entity may not submit separate proposals as prime contractors or prime Offerors. Any proposal may be rejected that, in the City's sole judgment, does not comply with these conditions. Nothing contained in this RFP is intended to preclude a proposal by a system integrator that proposes to perform the substantive work proposed through sub-contractors.

9.11 Confidentiality

The Offeror agrees that neither it nor its employees will at any time or in any manner, either directly or indirectly, use any information for their own benefit, or divulge, disclose or

communicate in any manner any information to any third party without the prior written consent of the City, or as may be required by law or the lease. The Offeror will protect the Information and treat it as strictly confidential. The confidentiality provisions shall remain in full force and effect after the termination of any lease formed as a result of this RFP.

9.12 Freedom of Information Law

The City of Buffalo is subject to the provisions of Article 6 Section 89 of New York State Public Officer's Law, entitled the Freedom of Information Law. All proposals, in their entirety, submitted in response to this Request for Proposal shall constitute a record subject to public disclosure pursuant to the Freedom of Information Law. It is the sole responsibility of each Offeror to this Request for Proposal to identify those portions deemed to constitute a "trade secret" or proprietary information of the commercial enterprise. Any such information shall be clearly marked "CONFIDENTIAL". The phrase trade secret is more extensively defined to include a formula, process, device or compilation of information used in one's business which confers a competitive advantage over those in similar businesses who do not know it or use it. The subject of the trade secret must not be of public knowledge or of a general knowledge in the trade or business. A corresponding letter, on company letterhead, must be provided describing the factors and extent to which the disclosure of the "CONFIDENTIAL" information would cause substantial injury to the competitive position of the commercial enterprise. The entire proposal shall not be marked "CONFIDENTIAL". Any portion of the proposal that is not clearly identified as "CONFIDENTIAL" may be disclosed pursuant to the Freedom of Information Law. **THE CITY OF BUFFALO DOES NOT ASSUME ANY RESPONSIBILITY WHATSOEVER TO ANY OFFEROR IN THE DISCLOSURE OF RECORDS PURSUANT TO THE FREEDOM OF INFORMATION LAW, COURT ORDER, OR ANY OTHER METHOD OF DISCLOSURE PROVIDED FOR UNDER THE LAW.**

9.13 Inquiries

Pursuant to Article IX of New York State Finance Law §139-j, no Offeror shall engage in any impermissible contact with the governmental entity during the "restricted period" for this Request for Proposals. Contact shall include any oral, written or electronic communication with the governmental entity under circumstances where a reasonable person would infer that the communication was intended to influence the governmental entity's conduct or decision regarding the governmental procurement. The "restricted period" shall mean the period of time commencing with the earliest written notice, advertisement or solicitation of a request for proposals, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from Offeror intending to result in a procurement contract with the governmental entity and ending with the final contract award and approval by the governmental entity and, where applicable, the State Comptroller. Except as otherwise permitted under State Finance Law §139-j(3), any contact with the governmental entity, other than to discuss current business with the City of Buffalo, or during the question and answer period (via e-mail ONLY) with the person(s) identified below, may result in a Offeror's immediate disqualification.

All inquiries during the question and answer period only should be directed via e-mail only to: **Commissioner Kevin Helfer at khelfer@city-buffalo.com** by no later than April 25, 2019 4:00 pm. The subject line must identify the Request for Proposals by title.

9.14 Conflicts of Interest

Confidentiality and lack of potential conflicts of interest is vital to maintaining the integrity of every contract entered into with the City. Therefore, each Offeror must disclose any perceived, potential or actual conflicts of interests and/or relationships and/or connections. Such relationships may include, but are not limited to, connections to persons and organizations within the City of Buffalo through:

- a. Professional or Political associations
- b. Political donations
- c. Blood or Marriage
- d. Friendships
- e. City of Buffalo employees who currently work for your company, or come to work for your company during the RFP process, and after (should you receive a contract from the City of Buffalo) as employees or consultants
- f. Union Affiliations/Memberships
- g. Board Member

Each Offeror further agrees that no member of the governing body, officer, employee or agent of the City shall have any pecuniary interest or otherwise, direct or indirect, in the any contract arising from this solicitation.

9.15 Statement of Compliance and Conflict of Interest

Your signature below denotes that your organization, company or corporation and /or the officers, directors, employees or agents thereof have reviewed and agreed to comply with State Finance Law §139. No past or present lobbyist, employee, officer or board member of your organization, company or corporation may contact any past or present City of Buffalo employee, union leader, elected official (City or otherwise) in an attempt to influence the award of this RFP.

Additionally, any potential or identified conflicts of interest shall be disclosed. As conflicts are discovered, they must be disclosed in writing, to the designated contact person identified in the RFP, during the entire RFP, award, contract negotiation, ratification and execution process and even after contract award.

Conflict or Potential Conflict:

Signature: _____

Company: _____

Title: _____

Date: _____

9.16 Non-Collusion Certification

If the Offeror is a corporation, the execution of the non-collusive certification in the form of proposal shall be deemed to include the signing to non-collusion as the act and deed of the corporation. An executed copy of the attached non-collusion certificate, must accompany the proposal.

No proposal shall be considered for an award nor will any award be made to an Offeror where the proposal does not include the statement as to non-collusion as set forth in the form of proposal herein, provided however, that if in any case the Offeror cannot make the foregoing certification, the Offeror shall so state and furnish with the proposal a signed statement which sets forth in detail the reasons therefore. In such event, the proposal shall not be considered for award nor shall any award be made unless the City determines that such disclosure was not made for the purpose of restricting competition. In this connection, it should be noted that the fact that an Offeror has published price lists, rates or tariffs covering items being procured or has informed prospective customers of the proposed or pending publication of new or revised price lists for such items, or has sold the same items to other customers at the same price as being proposed, does not constitute, without more, a disclosure to any other Offeror or to any competitor within the meaning of the non-collusive certification included in the form of proposal.

NON-COLLUSION CERTIFICATION

PROJECT NAME: _____

PROPOSALS/BIDS DUE DATE: _____

_____, being duly sworn, deposes and affirms that:
(Name)

I am the, _____, with the _____
(Title) (Company Name)

located at _____ am familiar with the enclosed proposal
(Company Address)

or bid submitted herein to the City of Buffalo, a municipal corporation with offices located at 65 Niagara Square, Buffalo, New York; and

Where pursuant to New York State General Municipal Law §103-d, every bid or proposal hereafter made to a political subdivision of the state or any public department, agency or official thereof where competitive bidding is required by statute, rule, regulation or local law, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the bidder and affirmed by such bidder as true under the penalties of perjury, I hereby affirm that the statements contained herein are true:

(a) By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

- (1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- (2) (Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
- (3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

Dated: _____

Name



City of Buffalo *Living Wage Commission*

APPLICATION FOR CONTRACT WITH THE CITY OF BUFFALO

The City’s Living Wage Ordinance applies to contracts for services in which the City pays – or receives – more than \$50,000 per year, and the contractor employs more than ten people. If you are bidding, responding to an RFP, or otherwise planning to make a contract with the City, you must complete this form, a copy of which will be forwarded to the City’s Living Wage Commission. Your subcontractors need not file a separate Application, but they must pay a living wage. If you win the contract, you and your subcontractors will file quarterly reports with the Living Wage Commission.

You must certify that you will pay at least the hourly wages mandated by the Ordinance. The 2019 hourly rates are \$12.04 with health insurance and \$13.52 without health insurance. There will be an automatic cost-of-living adjustment each January 1.

There are two exceptions to the Ordinance. Professional contracts such as legal, architectural, or engineering services are not covered by the Ordinance. Also, persons employed in construction work covered by prevailing wage laws are exempt from the Ordinance.

The City department responsible for the contract should forward the completed Application for Contract of the employer chosen for the contract to: Living Wage Commission, c/o Cornell University ILR, 617 Main St., Suite 300, Buffalo, NY, 14203, lwcbuffalo@gmail.com.

1. Company Information

Company Name:	
Executive Officer:	
Address:	
City, State, Zip:	
Phone No.:	
Total No. of Employees:	

2. Please describe the specific project or service for which the contract is sought:

3. Contract Information

Dollar Value of Your Bid/Contract:	
Identifying City Contract or Project Number:	
Start and End Dates of Contract:	

4. If you answer "Yes" to any of these, you need not complete parts 5, 6, and 7

A) Are all persons who will work under the contract construction workers covered by federal or state prevailing wage laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No
B) Is this a contract for professional services such as legal, architectural, or engineering?	<input type="checkbox"/> Yes <input type="checkbox"/> No
C) Do you employ less than ten people?	<input type="checkbox"/> Yes <input type="checkbox"/> No
D) Is the total value of the contract less than \$50,000 per year?	<input type="checkbox"/> Yes <input type="checkbox"/> No

5. Please describe the employees who will work on this contract. Attach additional sheets as needed.

Job Title	Duties to be Performed	Hourly Wage	Receives Health Benefits?

6. Subcontractors

Will there be subcontractors?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, please provide name address, and phone for each subcontractor. Attach additional sheets as needed.	

7. Please provide a signature by an official of your company with the legal authority to make binding commitments.

I certify that if awarded a City contract I will fully comply with the Living Wage Ordinance.

Signature: _____

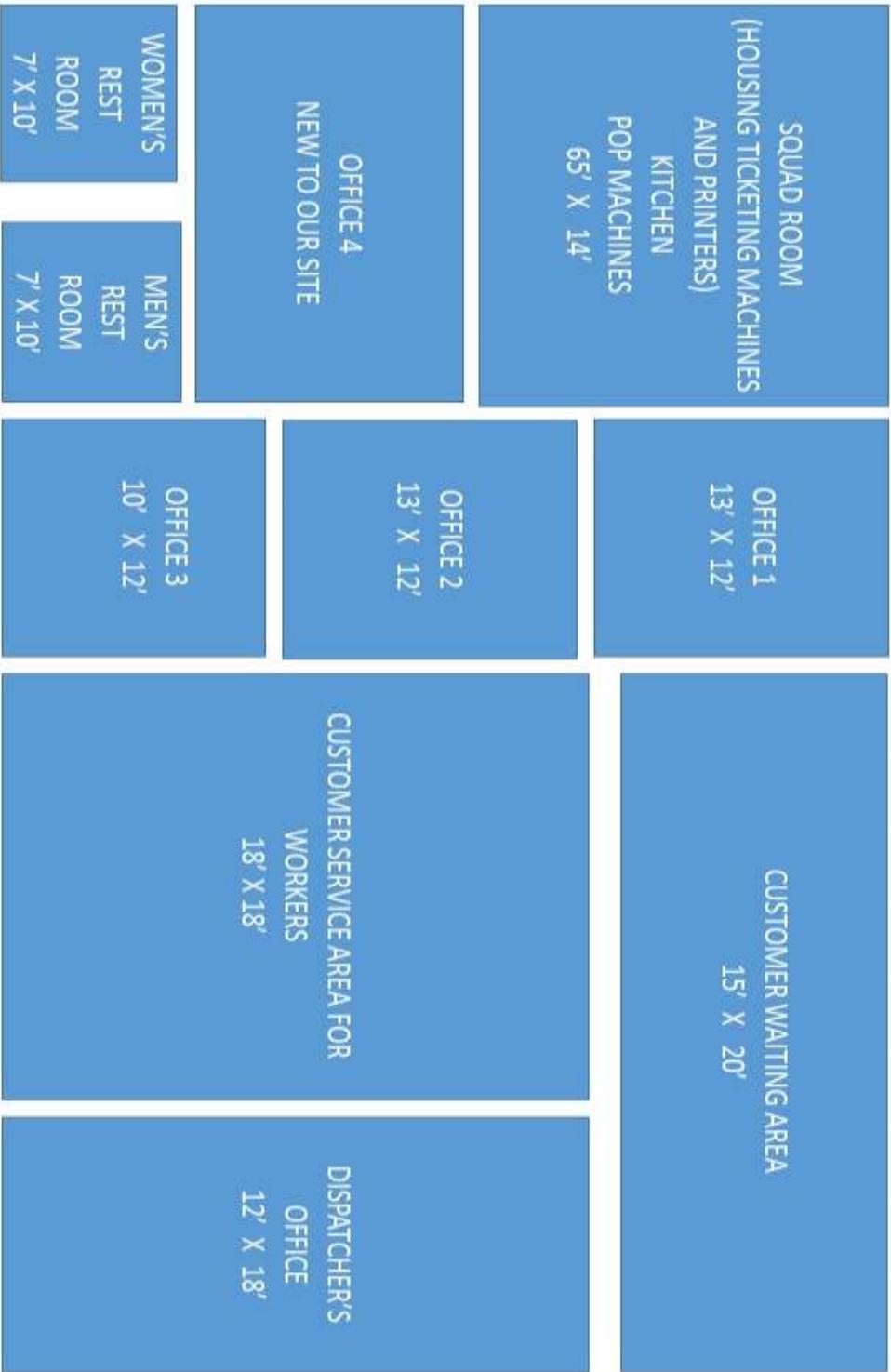
Print: _____

Title: _____

Date: _____

EXHIBIT A

Sample Office Layout



DART IMPOUND OFFICE SPACE

- Photos of Current Security Setup





