PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (hereinafter referred to as “Agreement”), entered into by and between the City of Indianapolis, by and through its Office of the Mayor (hereinafter collectively referred to as “City”), and Third Street Partners LLC (hereinafter referred to as “Contractor”), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

SECTION I. INTERPRETATION AND INTENT

1.01 The “Agreement”, as referred to herein, shall mean this Agreement executed by City and Contractor, and shall include these Terms and Conditions, Attachments A and B attached hereto, and any written supplemental agreement or modification entered into between City and Contractor after the date of this Agreement.

1.02 This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, written or verbal, between City and Contractor. No statements, promises or agreements whatsoever, in writing or verbal, in conflict with the terms of the Agreement have been made by City or Contractor which in any way modify, vary, alter, enlarge or invalidate any of the provisions and obligations herein stated. This Agreement may be amended and modified only in writing signed by both City and Contractor.

1.03 In resolving conflicts, errors, discrepancies and disputes concerning the scope of the work or services to be performed by Contractor or other rights or obligations of City or Contractor the document or provision thereof expressing the greater quantity, quality or scope of service or imposing the greater obligation upon Contractor or the City, as the case may be, shall govern.

1.04 Any interpretation applied to this Agreement, by the parties hereto, by an arbitrator, court of law, or by any other third party, shall not be made against City or Contractor solely by virtue of City or Contractor or their respective representatives having drafted all or any portion of this Agreement.

1.05 This Agreement shall include, and incorporate by reference, any provision, covenant or condition required or provided by law or by regulation of any state or federal regulatory or funding agency. Upon request, City shall advise whether there are any laws or regulations regarding this type of contract that would be incorporated into this Agreement.

1.06 This Agreement shall be construed under and governed by the laws of the State of Indiana.

SECTION II. DUTIES OF CONTRACTOR

2.01 The Contractor shall provide the services set forth in Attachment A, attached hereto and made a part thereof.

SECTION III. TERM

3.01 This Agreement shall commence upon execution by all parties and signatories required by law and shall terminate on December 31, 2011 unless earlier terminated in accordance with this
Agreement, provided, certain obligations set forth herein shall survive any such termination and shall continue to be binding on City and Contractor.

3.02 This Agreement may be renewed beyond the expiration date for like or lesser terms by agreement of the parties. Agreement for renewal shall be by written notice sent by either party and written acceptance by the other. All other terms and conditions of this Agreement shall remain the same as set forth herein, and may be amended only by written instrument signed by both City and Contractor and attached hereto as an Amendment.

SECTION IV. COMPENSATION

4.01 Contractor shall be compensated in accordance with Attachment B, attached hereto and made a part thereof.

4.02 Contractor shall submit, upon request, an itemized report, in form mutually acceptable to City and Contractor, for services performed and expenses incurred and amounts due to Contractor for performing the services under this Agreement and shall cooperate with and provide any other necessary information reasonably requested by the City. With respect to revenues generated and/or savings realized as a result of Opportunity Agreements (as defined in Section 5.09.5 of this Agreement) entered into by the City, City shall provide Contractor with a monthly accounting reflecting all revenues received and/or savings realized during the prior month from said Opportunity Agreements and shall pay Contractor no later than thirty (30) days following Contractor’s acceptance thereof. City and Contractor agree to meet promptly upon the request of either party to resolve any disagreements with respect to the monthly accounting.

SECTION V. GENERAL PROVISIONS

5.01 Exclusivity: Offer of Like Terms and Conditions to Preferred Partners. Contractor agrees that it shall exclusively provide services to the City and to Marion County government and shall not provide the same or similar services to any other governmental entity in the United States with the exception of a municipal corporation, political subdivision, governmental unit, state/federal agency, or community advocacy/advisory group specifically identified in writing by the City (hereinafter referred to collectively as “Preferred Partners”). In the event that the City identifies Preferred Partners, Contractor agrees that it shall offer a substantially similar scope of services (as set forth in Attachment A) to any Preferred Partner which wishes to contract with Contractor. Contractor shall have the right to negotiate payment terms with Preferred Partners on a case-by-case basis.

5.02 Independent Contractor. The parties agree that Contractor is an independent contractor as that term is commonly used and is not an employee of the Consolidated City of Indianapolis and of Marion County. As such, Contractor is solely responsible for all taxes and none shall be withheld from the sums paid to Contractor. Contractor acknowledges that it is not insured in any manner by the City for any loss of any kind whatsoever. The Contractor has no authority, express or implied, to bind or obligate the City in any way.

5.03 Subcontracting. The parties agree that Contractor shall not subcontract, assign or delegate any portion of this Agreement or the services to be performed hereunder without prior written approval of City, such approval not to be unreasonably withheld, delayed or conditioned. In the event that City approves of any such subcontracting, assignment or delegation, Contractor shall make every reasonable effort to use minority business enterprises (MBEs), women
business enterprises (WBES) and veteran business enterprises (VBEs) certified by the City’s Division of Equal Opportunity, as dictated by the needs and time constraints of the particular project for which said subcontractors would be used. Contractor shall remain solely responsible for managing, directing and paying the person or persons to whom such responsibilities or obligations are sublet, assigned or delegated. City shall have no obligation whatsoever toward such persons. Contractor shall take sole responsibility for the quality and quantity of any services rendered by such persons. Any consent given in accordance with this provision shall not be construed to relieve Contractor of any responsibility for performing under this Agreement.

5.04 **Necessary Documentation.** Contractor agrees that it will furnish the City, if requested, any and all documentation, certification, authorization, license, permit, or registration required by the laws or rules and regulations of the City of Indianapolis, the County of Marion, other units of local government, the State of Indiana, and the United States. Contractor certifies that it is now in and will maintain its good standing with such governmental agencies and that it is now and will maintain its license, permit, registration, authorization, or certification, as applicable, in force during the term of this Agreement. Failure of the Contractor to comply with this paragraph shall constitute a material breach of this Agreement.

5.05 **Confidentiality of City Information.**

5.05.1 Contractor understands that the information provided to it or obtained from City during the performance of its services is confidential and may not, without prior written consent of the City, such consent not to be unreasonably withheld, delayed or conditioned, be disclosed to a person not in the City’s employ except to employees or agents of Contractor who have a need to know in order to provide the services. Further, Contractor’s work product generated during the performance of this Agreement is confidential to City, however, Contractor can advise clients and/or prospective clients of the type of work being performed for the City. The failure to comply in all material respects with this section shall be considered a material breach of this Agreement. The obligations of this section shall survive the termination of this Agreement and shall be applicable to the full extent permissible under statutes governing access to public records. Confidential information shall not include information, that (“Exclusions from Confidentiality”): (a) was known by Contractor at the time it was received; (b) is, as of the time of its disclosure or thereafter becomes, part of the public domain through a source other than Contractor; (c) is made known to Contractor by a third person who does not impose any obligation of confidence on Contractor with respect to such information; (d) is required to be disclosed pursuant to governmental authority, law, regulation, duly authorized subpoena or court order whereupon Contractor shall provide notice to the City prior to such disclosure; or (e) information that is independently developed by Contractor without references to the confidential information.

5.05.2 Contractor shall not, under any circumstances, release information provided to it by, or on behalf of, the City that is required to be kept confidential by City pursuant to Indiana law except as contemplated by this section, clause (d). Likewise, subject to the Exclusions from Confidentiality, City shall not release information or work product prepared by Contractor for the City to any third parties other than employees of the City.
5.06 **Records; Audit.** Subject to Contractor and City mutually agreeing upon the type of books, records and documents to be maintained by Contractor, Contractor shall maintain books, records, documents and other evidence directly pertinent to performance of services under this Agreement. Contractor shall make such materials available at its offices at all reasonable times during the Agreement period and for three (3) years from the date of final payment under this Agreement for inspection by the City or any other authorized representative of the City of Indianapolis, Marion County, Indiana. Copies thereof, if requested, shall be furnished at no cost to the City.

5.07 **Ownership of Documents and Materials.**

5.07.1 Full, immediate, and unrestricted access to the work product of the Contractor during the term of this Agreement shall be available to the City. Notwithstanding the foregoing, Contractor shall be entitled to retain a set of its work papers in accordance with professional standards and shall, so long as not using the name of the City or any trademarks or servicemarks of the City, have the right to use the work product with other clients. The City shall not provide the work product in any manner competitive to Contractor.

5.07.2 Notwithstanding anything to the contrary contained in this Agreement, it is understood and agreed that Contractor and third-party vendors shall retain all of their rights in their respective proprietary information including, without limitation, methodologies and methods of analysis, ideas, concepts, expressions, know how, methods, techniques, skills, knowledge and experience possessed by Contractor and/or third-party vendors prior to, or acquired by Contractor and/or third parties during, the performance of this Agreement and the same shall not be deemed to be "work for hire" and Contractor and/or third-party vendors shall not be restricted in anyway with respect thereto.

5.08 **Insurance.** In light of the nature of this Agreement, i.e., personal and professional services, no insurance shall be required pursuant to agreement by all parties.

5.09 **Termination for Cause or Convenience.**

5.09.1 If Contractor becomes insolvent, or if it refuses or fails to perform the work and services provided by this Agreement, or if it refuses to perform disputed work or services as directed pending resolution of such dispute (unless the dispute is with respect to the legality or ethics thereof, in which case Contractor shall deliver an opinion of legal counsel regarding said legal or ethical concerns to City prior to its refusal to perform disputed work), or if it fails to make payments to subcontractors or consultants employed by it, or if it otherwise violates or fails to perform any term, covenant or provision of this Agreement, then City may, without prejudice to any other right or remedy, terminate this Agreement in whole or in part, in writing, provided that Contractor shall be given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of City’s intent to terminate and the specific reasons therefor, and, in the event Contractor does not cure or correct such breach or default within ten (10) business days after receipt of such notice from the City, then Contractor shall have an opportunity for consultation with City prior to termination. In determining the amount of final payment to be made to Contractor upon such termination for default, if any, no amount shall be allowed for anticipated profit on unperformed services or other work; furthermore, an adjustment shall be
made to the extent of any additional costs incurred or reasonably foreseen by City to be incurred by reason of Contractor’s default.

5.09.2 This Agreement may be terminated in whole or in part in writing by City for the City’s convenience; provided that Contractor is given (1) not less than thirty (30) calendar days written notice (delivered certified mail, return receipt requested) of City’s intent to terminate and (2) an opportunity for consultation with the City prior to termination. If termination for convenience is effected by City, Contractor’s compensation shall be equitably adjusted, including the compensation due under Section 5.09.5 hereof.

5.09.3 Upon receipt of a termination action for default or for the City’s convenience, Contractor shall (1) promptly discontinue all services affected, unless the termination notice directs otherwise, and (2) deliver or otherwise make available to City all data, drawings, specifications, reports, estimates, summaries, and such other information, materials or documents as may have been accumulated by Contractor in performing this Agreement, whether completed or in process.

5.09.4 If, after termination for Contractor’s default, it is determined that Contractor was not in default, the termination shall be deemed to have been effected for the convenience of City. In such event, adjustment of the price provided for in this Agreement shall be made as provided in Paragraph 5.09.2 and the recovery of such price adjustment and other amounts owed to Contractor hereunder shall be Contractor’s sole remedy and recovery.

5.09.5 Notwithstanding the foregoing, City shall continue to pay all amounts required to be paid to Contractor pursuant to Attachment B with respect to revenue or cost saving opportunity agreements executed by the City and third-parties prior to the date this Agreement terminates or expires (hereinafter referred to as “Opportunity Agreements”). Additionally, if City exercises its right to terminate for convenience, the City shall reimburse Contractor for all of its out-of-pocket expenses incurred in performing its duties hereunder with respect to any opportunity previously approved by the City’s Leadership Team but which has not resulted in a fully executed Opportunity Agreement as of the date Contractor received City’s notice of termination. The obligation to pay Contractor pursuant to the terms and conditions of this Agreement shall survive any termination or expiration hereof until all amounts owed hereunder have been paid in full.

5.09.6 Contractor shall have the right to terminate this Agreement upon the failure of City to perform its obligations hereunder, including any failure to make timely payment of amounts due hereunder. Contractor shall be entitled to all remedies at law or in equity upon any breach or default by City hereunder.

5.10 Debarment and Suspension.

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

5.10.2 Contractor shall not subcontract with any party which is debarred or suspended or is
otherwise excluded from or ineligible for participation in any Federal assistance
programs by any Federal department or agency, or by any department, agency or
political subdivision of the State of Indiana.

5.10.3 Contractor shall provide immediate written notice to City if, at any time after entering
into this Agreement, Contractor learns that its certification was erroneous when
submitted, or Contractor is debarred, suspended, proposed for debarment, declared
ineligible, voluntarily excluded from or becomes ineligible for participation in any
Federal assistance program. Any such event shall be cause for termination of this
Agreement as provided herein.

5.11 **Indemnification.** Contractor agrees to indemnify, defend, and hold harmless the City and its
officers, agents, officials and employees for any and all third party claims, actions, causes of
action, judgments and liens to the extent they arise out of any negligent or wrongful act or
omission by Contractor or any of its officers, agents, employees or subcontractors. Such
indemnity shall include attorney’s fees and all costs and other expenses arising therefrom or
incurred in connection therewith and shall not be limited by reason of the enumeration of any
insurance coverage required herein. The City shall not provide such indemnification to the
Contractor, provided, however, that the Contractor shall be relieved of its indemnification
obligation to the extent any injury, damage, death or loss is attributable to the acts or omission
of the City.

5.12 **Key Persons.** It is hereby agreed by the parties hereto that the work described in this
Agreement to be performed by Contractor are personal services, highly professional in nature,
and that the identity of the individuals who are to be personally responsible for such work is of
prime importance to City. The parties therefore agree that in the event of the death or
disability of Andrew Thompson, David Jones, or Sean Smith, or, in the event any such
individual transfers his respective ownership rights to any person or entity outside of
Contractor’s firm or otherwise ceases to be employed by Contractor, City may, without penalty
and in its discretion, terminate this Agreement, and make its own new Agreement with any
other party for completion of the work herein described.

5.13 **Notice.** Any notice, invoice, order or other correspondence required to be sent under this
Agreement shall be sent to:

To Contractor: to City:

Third Street Partners LLC Michael Huber, Director of Enterprise Development
Attn: Sean Smith City of Indianapolis - Office of the Mayor
5768 Washington Blvd. 200 E. Washington Street, Suite 2501
Indianapolis, IN 46220 Indianapolis, IN 46204

5.14 **Disputes.** Contractor shall carry on all work required under this Agreement and maintain the
schedule for services during all disputes or disagreements with City. No work shall be
delayed or postponed pending resolution of any disputes or disagreements except as
Contractor and City may otherwise agree in writing. Should the Contractor fail to continue to
perform its responsibilities as regards all non-disputed work without delay, any additional
costs incurred by the City or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against the City for such costs. The City may withhold payments on disputed items pending resolution of the dispute, provided all amounts not subject to dispute shall be timely paid regardless of any pending dispute.

5.15 **Non-discrimination.** Contractor and its subcontractors shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to her or his hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of her or his race, sex, sexual orientation, gender identity, religion, color, national origin, ancestry, age, disability, or United States military service veteran status. Breach of this section shall be regarded as a material breach of this Agreement.

5.16 **Conflict of Interest.** City and Contractor acknowledge that Contractor has or may have business relationships with and contractual obligations to certain third parties that may, in turn, enter into Opportunity Agreements with the City as contemplated by this Agreement. Contractor shall disclose any past business relationship (meaning Contractor has actually performed services for such third party) with such a third party in proposing any opportunity for additional revenues and cost savings to the City. Contractor also shall disclose any present business relationship (being a contractual arrangement which exists between Contractor and such third party) with such a third party and the compensation terms thereof, to the extent permissible by Contractor’s obligations to that third party, in proposing any opportunity for additional revenues and cost savings to the City. In no event shall Contractor be compensated by both the City and a third party with respect to the same Opportunity Agreement, to the extent that Contractor shall waive City’s compensation obligations with respect to that particular Opportunity Agreement. At all times, City reserves the right to decline certain opportunities based upon Contractor’s apparent conflict of interest. In all other respects, Contractor certifies and warrants to City that neither it nor any of its agents, representatives or employees who will participate in the performance of any services required by this Agreement has or will have any conflict of interest, direct or indirect, with City. Breach of this section shall be regarded as a material breach of this Agreement.

5.17 **Non-contingent Fees.** Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty City shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

5.18 **Force Majeure.** In the event that either party is unable to perform any of its obligations under this Agreement – or to enjoy any of its benefits – because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as Force Majeure Event), the party who has been so affected shall immediately give notice to the other and shall take commercially reasonable actions to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended except for payment obligations with respect to service already provided. If the period of nonperformance exceeds sixty (60) days from the receipt of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement.
5.19 **Applicable Laws; Forum.** The Contractor agrees to comply with all applicable federal, state and local laws, rules, regulations or ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. This includes the Federal Civil Rights Act of 1964 and, if applicable, the Drug-Free Workplace Act of 1988. The enactment of any state or federal statute or the promulgation of regulations thereunder after execution of this Agreement shall be reviewed by the City and the Contractor to determine whether the provisions of the Agreement require formal modification.

This Agreement shall be construed in accordance with the laws of the State of Indiana, and by all applicable Municipal Ordinance or Codes of the Consolidated City of Indianapolis, County of Marion. Suit, if any, shall be brought in the State of Indiana, County of Marion.

5.20 **Waiver.** Neither the City’s nor Contractor’s delay or inaction in pursuing their respective remedies set forth in this Agreement, or available by law, shall operate as a waiver of any of the City’s or Contractor’s respective rights or remedies under this Agreement.

5.21 **Severability.** If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the provision shall be stricken, and all other provisions of this Agreement which can operate independently of such stricken provisions shall continue in full force and effect.

5.22 **Attorneys’ Fees.** Contractor shall be liable to the City for reasonable attorneys’ fees incurred by City in connection with the collection or attempt to collect, any damages arising from the negligent or wrongful act or omission of Contractor, or from Contractor’s failure to fulfill any provisions or responsibility provided herein.

5.23 **Successors and Assigns.** City and Contractor each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as otherwise provided herein, Contractor shall not assign, sublet or transfer its interest in this Agreement without the written consent of City. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of City.

5.24 **Authority to Bind Contractor.** Notwithstanding anything in this Agreement to the contrary, the signatory for the Contractor represents that he/she has been duly authorized to execute agreements on behalf of the Contractor designated above, has filed proof of such authority with City and has obtained all necessary or applicable approval from the home office of the Contractor to make this Agreement fully binding upon the Contractor when his/her signature is affixed and accepted by the City.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates subscribed below.

CITY OF INDIANAPOLIS, by and through its OFFICE OF THE MAYOR ("City")

By: ___________________________ Date: 7/19/10

Paul Okeson, Chief of Staff

City – Third Street Partners, LLC (2009-11)
THIRD STREET PARTNERS LLC ("Contractor")

By: [Signature] Date: 7/21/09
Printed: ANDREW THOMPSON
Title: Chief Operating Officer

APPROVED FOR EXECUTION ( ):

By: [Signature] Date: 7/23/09
David P. Reynolds, Controller

APPROVED AS TO FORM AND LEGALITY:

By: [Signature] Date: 7/21/09
Drew W. Carlson, Deputy Chief Counsel

APPROVED FOR EXECUTION:

Gregory A. Ballard, Mayor

By: [Signature] Date: 7/22/09
Chris W. Cotterill, Corporation Counsel
ATTACHMENT A - SCOPE OF SERVICES

Contractor shall provide the following services pursuant to the terms and conditions of this Agreement and in connection with the Mayor's Initiative (the "Project"):

A1. STRATEGIC PLAN AND ASSESSMENT

Contractor shall prepare a strategic plan (the "Plan") that shall include:

a. A review of the City's tangible and intangible assets that have the potential to generate higher value (including but not limited to endowments, community partnerships, advertising and sponsorships, volunteer efforts, and in-kind donations);

b. Identification of similar programs and methodologies from public, private, and non-profit organizations that have generated increased value from tangible and intangible assets, and their applicability to the City and Marion County;

c. With the assistance of the City and its legal counsel, identification of existing laws, ordinances, and other legal and regulatory guidelines that impact implementation of new streams of revenue and community partnership opportunities identified in the Plan;

d. Timeline, roles and responsibilities for implementation, including the role of the City's project Leadership Team and community advisory groups to guide the project; and

e. A recommended course of action to pursue all opportunities identified in the Plan.

In accordance with Section 5.16 of this Agreement, Contractor shall disclose to the City's Leadership Team any past or present business relationship with a third party identified in the Plan or associated with a specific opportunity in proposing the Plan or any other specific opportunity to the City.

A2. DEDICATED WEBSITE

Contractor and City shall work together to establish a website or microsite dedicated to the initiative. The website and/or microsite will endeavor to allow the public to submit ideas to guide the Project with a goal of maximizing public participation and transparency as the City implements new revenue- and volunteer-generating initiatives.

A3. PUBLIC COMMUNICATIONS

Contractor shall be responsible for developing public communications related to the Project, including the staging and convening of public forums with identified community advisory groups and the development of content to facilitate citizen participation in the Project. Contractor shall not be required to run advertisements or to otherwise distribute the public communications unless the City agrees in advance to pay for the same.

A4. CITY LEADERSHIP TEAM APPROVAL

Contractor shall not execute specific opportunities identified without the written approval of the City's Leadership Team, which includes participation from the Mayor's Office, Department of Public Safety, Department of Public Works, Departments of Parks and Recreation, and Department of Metropolitan Development. Contractor agrees to provide a written proposal for each opportunity (e-mail...
correspondence is acceptable) including an estimated timeline for implementation ("Proposal"). Leadership Team will confirm receipt of each Proposal within two (2) business days. City's Leadership Team shall approve or disapprove, in writing, each Proposal within a reasonable time of City's receipt. The parties agree that certain factors will affect the time necessary for the City's Leadership Team to approve or disapprove a particular Proposal, including without limitation the complexity of the Proposal, the approvals required at the appropriate department level, and the number and scope of legal issues presented by said Proposal.
ATTACHMENT B - COMPENSATION

Contractor’s services under this Agreement shall be provided at no net cost to the City, meaning the City will pay a portion of the revenue or cost savings generated by Contractor as contemplated hereunder to Contractor in accordance with the terms hereof.

B1. STRATEGIC PLAN AND ASSESSMENT

Contractor shall provide the strategic planning services at no cost to the City, but with the intention of the parties hereto that the City will enter into commercially reasonable opportunities presented by Contractor.

B2. DEDICATED WEBSITE

Contractor shall provide the dedicated website or microsite at no cost to the City (as more particularly provided in Attachment A hereto) although Contractor may recoup a percentage of revenues generated by the website (if applicable) in accordance with Section B3 below.

B3. REVENUE-GENERATING OPPORTUNITIES

Base Fee Pricing. In the event Contractor presents a specific opportunity hereunder and it is approved by the City’s Leadership Team, Contractor shall be paid a fee equal to the greater of (i) the percentage of gross revenue/fees paid to the City as designated below or (ii) the percentage of annual savings realized by the City from any directly resulting Opportunity Agreement (as defined in Section 5.09.5 of this Agreement). Contractor shall be paid the percentage set forth below during each year of the initial term of any such Opportunity Agreement entered into by the City:

<table>
<thead>
<tr>
<th>Year of Opportunity Agreement</th>
<th>Base Fee as Percentage (%) of Revenue/Savings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Years 1 and 2</td>
<td>15%</td>
</tr>
<tr>
<td>Year 3 (and every year thereafter remaining in the initial term of an Opportunity Agreement entered into by City)</td>
<td>10%</td>
</tr>
</tbody>
</table>

B4. TRANSACTION EXPENSES

Transaction expenses incurred by Contractor shall be borne by Contractor out of Contractor's gross compensation for the transaction for which the expenses were incurred, in accordance with Section B3 above. In the event a specific opportunity presented by Contractor and approved by the City’s Leadership Team hereunder does not result in a fully executed Opportunity Agreement due to circumstances entirely outside Contractor’s control, City shall reimburse Contractor for all of its out-of-pocket expenses incurred in performing its duties hereunder with respect to pursuing and presenting that specific opportunity.