

**Office of Rick Amato  
DeKalb County State's Attorney**

DeKalb County Courthouse  
133 W. State Street  
Sycamore, Illinois 60178



General Offices:  
Tel: (815) 895-7164  
Fax: (815) 895-7101

**REQUEST FOR PROPOSAL (RFP)  
FOR THE FORENSIC AUDIT OF  
THE CITY OF DEKALB'S TAX INCREMENT FINANCING (TIF)  
DISTRICTS FOR THE TIME PERIOD OF  
JANUARY 1, 2009 TO DECEMBER 31, 2018**

**Issued: February 6, 2019**

**Proposals must be delivered to:**  
The Office of the State's Attorney  
133 W. State Street  
Sycamore, Illinois 60178

Please submit one (1) original Proposal, two (2) copies of the original Proposal either by mail or hand delivery in response to this RFP. Proposals are to be submitted in a sealed envelope bearing the name of the firm as well as the title of this RFP no later than the date and time specified herein. Proposals received after said date and time will not be considered and no time extensions will be permitted.

**Proposals are due no later than March 6, 2019 at 3:00 P.M. CST**

*There is no obligation on the part of the County of DeKalb, City of DeKalb, or DeKalb County State's Attorney's Office to reimburse those submitting proposals for the costs of preparing their response to this RFP.*

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## **INTRODUCTION**

The DeKalb County States Attorney's Office (SAO) is soliciting proposals from qualified and experienced firms employing certified public accountants to perform a forensic audit on all accounting records, financial processes and financial reporting for the Tax Increment Financing Program (TIF Program) of the City of DeKalb. This project will necessitate demonstrable expertise in the performance of full audits covering the many aspects of TIF funding, spending, allocating, expensing, reporting, certifying and disbursement. It will be necessary for the chosen auditor to be familiar with the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4.1 *et seq.*), including the proper implementation, usage and monitoring of TIF funds under the coverage of said Act and other Illinois/Federal Law.

**Proposals are due no later than March 6, 2019 at 3:00 P.M. CST** and should be sent to the office of the DeKalb County States Attorney, c/o David Berault, Chief of Civil Bureau, DeKalb County Courthouse, 133 W. State Street, Sycamore, IL 60178.

Proposals will thereafter be opened and publicly read aloud in the Jury Assembly Room located on the first floor of the DeKalb County Courthouse.

The DeKalb County States Attorney's Office is not responsible for the delay of delivery by the bidders' choice of courier. All proposals delivered after 3:00 p.m., on the above-mentioned date, will be returned to the responder unopened. The timetable for this process is included in this material and labeled as "Schedule".

Proposals will be reviewed by the office of the DeKalb County States Attorney. The Office of the States Attorney of DeKalb County will inform the DeKalb City Council on Monday, March 25, 2019 of its selection. A contract will be executed by the DeKalb County States Attorney no later than March of 2019. Said contract must incorporate either directly, or by reference, the "TERMS AND CONDITIONS VENDOR MUST INCORPORATE INTO FINAL CONTRACT DOCUMENTS", which are provided below.

The successful forensic auditing firm will conduct its field audit in the second-floor conference room at the DeKalb City Hall, 200 South Fourth Street. The City of DeKalb's finance staff under the direct supervision of the DeKalb City Manager will promptly provide any and all pertinent records requested by the forensic auditing team for so long a period as may be required to satisfactorily complete the field audit. The forensic auditing firm will be tasked with taking direction solely from The DeKalb County States Attorney's Office. Other than the taking of necessary interviews, the firm shall not directly interact with City of DeKalb officials, attorneys, agents in regard to any associated audit matters without the express agreement of the DeKalb County States Attorney's Office.

All questions regarding the RFP process may be submitted until the Proposer Inquiry Deadline outlined herein. Such inquires must be in writing to: David Berault, Chief of the Civil Bureau, DeKalb County States Attorney, at [dberault@dekalbcounty.org](mailto:dberault@dekalbcounty.org). The response

to any inquiry shall be posted online so as to be available to all prospective auditing firms as an addendum to this RFP by the date listed in the following schedule.

**SCHEDULE**

The DeKalb County State’s Attorney anticipates the following schedule:

RFP Issued & Posted:	February 6, 2019	
Proposer Inquiry Deadline:	February 13, 2019	
Response to Inquiries to be Posted online:	February 20, 2019	
Proposal Due Date & Time:	March 6, 2019	3:00 p.m.
Opening of RFP Responses:	March 6, 2019	3:00 p.m.
Evaluation and Approval of Proposal(s) by the DeKalb County State’s Attorney	March, 2019	
Contract Awarding:	March, 2019	
City Council Notification:	March 25, 2019	6:00 p.m.
Forensic Auditing Services to Begin:	March 26, 2019	

*The SAO reserves the right to reject any or all proposals submitted. The SAO also reserves the right to cancel this RFP and/or re-advertise and re-solicit the requirements at any time if deems necessary. The SAO will make the final selection for all services*

## **CONTRACT TERM**

The subject Forensic Auditing Services shall commence upon the issuance of notice by the DeKalb County State's Attorney and shall remain in effect until such time as the Services are completed and resulting findings and reports are accepted by the SAO. It is contemplated that the term shall not exceed a one (1) year period. However, the Office of the DeKalb County States Attorney reserves the right to terminate the agreement at any time if circumstances warrant.

## **SCOPE OF SERVICES**

The successful firm will provide a forensic audit and analysis of all City of DeKalb TIF records for fiscal years 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, and 2018. The City of Dekalb will be providing payment for the subject services, however all direction and guidance on the auditing process will be solely provided by the DeKalb County State's Attorney's Office, so as to ensure the accuracy of results.

An evaluation of the past and present practices of the City of DeKalb for the above listed years must be completed within which it is analyzed whether the usage of TIF funds as contemplated by the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4.1 *et seq.*), (hereinafter "TIF Act") and generally accepted accounting standards, has been in compliance with the laws of the State of Illinois. Such evaluation, and resulting auditing reports, shall include all aspects of the TIF Program, such as: project evaluation, awards, financing, earmarking, administrative costs<sup>1</sup>, prior auditing, reporting to the Joint Review Board, Certification to the Comptroller of the State of Illinois, surplus declaration and internal monitoring and shall identify areas of error, fraud and misconduct if existent and recommend solutions, improvements and best practices.

An evaluation of the City of DeKalb's system of internal controls as required by generally accepted auditing standards, and the preparation of a detailed management letter with recommendations for improvement in internal controls, accounting systems and procedures is also required. This letter should be issued separate from the financial report(s).

An exit conference is required to be held with the DeKalb County States Attorney prior to the issuance of the final audit reports. After issuance, a representative of the audit firm must be available to present the reports to the DeKalb City Manager, and to the DeKalb Council at the next public DeKalb City Council Meeting following the issuance of the final audit reports.

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<sup>1</sup> *i.e. Did funds transferred from the subject TIF Funds to the City of DeKalb for annual administrative costs comply with 65 ILCS 5/11-74.4-3(q)(1.5), which states "After July 1, 1999, annual administrative costs shall not include general overhead or administrative costs of the municipality that would still have been incurred by the municipality if the municipality had not designated a redevelopment project area or approved a redevelopment plan"?*

## DESCRIPTION OF GOVERNMENT

The City of DeKalb is located 60 miles west of Chicago, 29 miles northwest of Aurora and 40 miles southeast of Rockford. DeKalb offers ready access to the I-88 and I-39 tollways. The City of DeKalb operates under the Council-Manager form of government. The day to day operations of the City are managed by the City Manager. The manager is hired by the City Council, which consists of the Mayor at large and 7 aldermen elected on a ward basis. The council sets policy for the City, adopts ordinances and resolutions, and approves the annual budget. The City of DeKalb currently operates two primary TIF districts, one of which is finishing its timeline. The City Council is also in the process of creating a TIF 3 during this audit process.

As of July 1, 2017, the U.S. Census placed the City of DeKalb's population at 43,193.

## SPECIFICATIONS

### I. General Requirement of Respondent's Firm

- A. The firm must have, and present for verification, an active license or registration with the Illinois Department of Financial and Professional Regulation (IDFPR).
- B. Ideally, the firm's lead auditor shall be certified by either the National Association of Certified Fraud Examiners (ASFE) as a Certified Fraud Examiner or the American Institute of Certified Public Accountants (AICPA) as Certified in Financial Forensics (CFF). The firm must have the qualifications necessary to conduct the forensic audit in accordance with auditing standards generally accepted in the United States of America, including, but not limited to, the standards for financial audits set forth in the General Accounting Office's (GAO) *Government Auditing Standards* (as amended), the provisions of the federal Single Audit Act Amendments of 1996 (as amended) and U.S. Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.

Details of the standards to be utilized should be provided with responses.

- C. The firm shall have a minimum of 3 years of experience in forensic audits.
- D. The firm shall have experience providing professional services (audit, consulting, etc.) to local governments with a population of at least 20,000 persons. The firm must have trained staff who are experienced in working with governmental entities. It is strongly preferred that the firm has experience working with municipal finances in general, and TIF financial records in particular. Please provide a listing of the applicable continuing

professional education provided by your firm to assure adequate training in the areas referred to above.

- E. The firm's audit team should be of sufficient size to conduct the audit in a timely and efficient manner and complete the engagement prior to the deadline specified within the RFP.
- F. Describe your firm's quality control procedures that ensure compliance with professional standards and federal and state auditing requirements.
- G. The firm must provide a description of its approach to the unique management as described herein.
- H. A listing of governmental clients of similar size and complexity for whom forensic auditing services have been performed within the last three years shall be included with the proposal. In addition, please provide sample audit(s) and financial report(s) from any of these entities which are the most similar to the City of DeKalb.
- I. The firm must submit three references. References should be governmental with a contact name, title and telephone number.
- J. An estimated time schedule of fieldwork shall be included in the proposal.
- K. The firm must provide the results of the most recent peer review of your firm.
- L. The firm may not be presently, or previously, engaged in financial and/or auditing functions with the City of DeKalb or County of DeKalb.

## II. Information on Proposing Firm

It is required that the following list of items be provided by the proposing firm:

- A. Provide a description of the firm's practice, including:
  - 1. size of firm;
  - 2. list of major clients;
  - 3. membership in professional organizations;
  - 4. experience with TIF laws, consultation and practices;
  - 5. longevity of practice, and;
  - 6. list of municipal clients.
- B. Divulge any and all business, investment, or family relationship with DeKalb County or City of DeKalb officials.

- C. Describe your audit philosophy and approach and how it differs from other firms.
- D. The proposer must identify the key personnel that will be committed to this project. All such personnel are required to be committed to the subject forensic audit project and not have conflicting or competing priorities.
- E. All Responders shall disclose the names and contact information of their lobbyists, agents and representatives who are or will be having contact with the City of DeKalb, or its employees, in relation to the project and shall update such disclosure with any changes that may occur.
- F. Detail (In percentages) the amount of time to be put in on the audit by the following categories:

Partner/Manager	_____ %
Certified Fraud Examiner	_____ %
In-charge Accountants	_____ %
Staff Accountants	_____ %

III. Request for Proposal Fee Schedule

- A. The fee quotation should be listed on the Fee Schedule form that has been included as Exhibit A. The Office of the States Attorney is requesting the fees to be quoted as a fixed fee, which will include all expenses.
- B. Should Respondents seek to provide an itemized accounting of fees, then Respondents are asked to provide a “not to exceed” maximum fee for auditing each of the subject years as well as providing the final audit reports necessitated.
- C. The States Attorney is also requesting the hourly rate for management advisory services on any matters outside the scope of the audit agreement that may arise during the term of the proposal.

*If a Respondent believes that a portion of its proposal submitted to the SAO contains either trade secrets or proprietary property, a statement should be included in the submission, which describes and supports their claim. The trade secrets or proprietary property must be specifically identified as the information considered confidential. Trade secrets or proprietary property are exempt from inspection and copying under the Illinois Freedom of Information Act (5 ILCS 140/7(1)(g)) when such disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business. However, the SAO does*

*not represent, warrant or guarantee that any information designated as trade secrets or proprietary property will in fact be so deemed by any Court, and all Respondents assume the risk that any and all information contained in a proposal may not be exempt from disclosure under the Illinois Freedom of Information Act. Entire submissions may not be submitted and labeled as proprietary or trade secrets.*

## **SELECTION CRITERIA AND AWARD**

For the purpose of this RFP, a Responsible Respondent is a firm who has the capability in all respects to perform fully the contract requirements, and the experience, personnel, integrity, reliability, facilities capacity, equipment, acceptable past performance and credit, which will assure good faith performance. A Responsive Respondent is a firm who has submitted a proposal that conforms in all material respects to the requirements set forth in this RFP.

The DeKalb County State's Attorney intends to award this project to the most responsive and responsible Responder that is in compliance with all specifications, terms and conditions contained herein and is also reasonable in their overall price proposal. The SAO shall also take into consideration the qualifications, ability of personnel, workload of the firm, past record and experience, willingness to meet time requirements, proposed approach to the project, qualities of the services provided, their suitability to the requirements of the SAO and other related factors. Intangible factors, such as the Responders reputation and past performance in performing such projects, will also be weighed. Responder shall have specific experience supplying the necessary services on a satisfactory basis to other government bodies. The criteria are not listed in any particular order.

An interview of Responders may be conducted during the final selection process. Such interviews may be called for with those Responders that have submitted proposals considered most probable for selection and award of the project. Such interviews would be necessitated for the purpose of clarification or to ensure that there is full understanding of the project requirements. Responders shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revision may be permitted after submission and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offers.

**EXHIBIT A**  
**FEE SCHEDULE**

Date of Proposal \_\_\_\_\_

Contact Name \_\_\_\_\_

Contact Phone # \_\_\_\_\_

Firm Name \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Authorized Signature \_\_\_\_\_  
& Title

<b>Forensic Audit by Fiscal Year</b>	<b>Fee</b>
<b>FY2009</b>	
<b>FY2010</b>	
<b>FY2011</b>	
<b>FY2012</b>	
<b>FY2013</b>	
<b>FY2014</b>	
<b>FY2015</b>	
<b>FY2016</b>	
<b>FY2017</b>	
<b>FY2018</b>	

## TERMS AND CONDITIONS VENDOR MUST INCORPORATE INTO FINAL CONTRACT DOCUMENTS

1. **Payment Terms.** All reasonable auditing fees will be paid by the City of DeKalb and not by the DeKalb County State's Attorney's Office or DeKalb County itself. It is expressly understood and agreed to by vender that the payment for the subject auditing services shall not be provided by the DeKalb County State's Attorney's Office or DeKalb County, nor shall the DeKalb County State's Attorney's Office or DeKalb County be responsible for reimbursement of such costs and/or fees, by means of lien, claim, legal action, or otherwise.

All invoices shall be forwarded to the DeKalb County State's Attorney's Office at the location herein. Thereafter, all approved expenditures will be provided to the City Manager for the City of DeKalb for processing and payment. Payment shall be made in accordance with the Illinois Local Government Prompt Payment Act, as amended (50 ILCS 505/1 *et seq.*).

It is the expectation of the DeKalb County State's Attorney's Office that the City of DeKalb will sign the contract as the payment guarantor.

2. **Compliance with State and Federal Laws.** Vendor agrees to comply with all applicable federal, state and local laws and regulatory requirements and to secure such licenses as may be required for its employees and to conduct business in the state, municipality, county and location applicable. Such obligation includes, but is not limited to, environmental laws, civil rights laws, prevailing wage and labor laws.
3. **Non-Discrimination.** Vendor, its officers, employees, and agents agree not to commit unlawful discrimination and agree to comply with all applicable provisions of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, and all other applicable rules and regulations.
4. **Certification of Non-Violation.** Vendor certifies that Vendor, its parent companies, subsidiaries, and affiliates are not barred from entering into this Agreement as a result of a violation of either 720 ILCS 5/33E-3 or 5/33E-4 (bid rigging or bid rotating) or as a result of a violation of 820 ILCS 130/1 *et seq.* (the Illinois Prevailing Wage Act). Vendor further certifies by signing the Contract documents that it, its parent companies, subsidiaries, and affiliates have not been convicted of, or are not barred for attempting to rig bids, price-fixing (or attempting to fix prices) as defined in the Sherman Anti-Trust Act and Clayton Act. 15 U.S.C. § 1 *et seq.*; and has not been convicted of, or barred for bribery or attempting to bribe an

officer or employee of a unit of state or local government or school district in the State of Illinois in that officer or employee's official capacity. Nor has Vendor made an admission of guilt of such conduct that is a matter of record, nor has any official, officer, agent, or employee of the company been so convicted.

5. **Conflict of Interest.** Both parties affirm that the DeKalb County State's Attorney and DeKalb County have no direct or indirect pecuniary interest in Vendor or this Agreement, or, if the DeKalb County State's Attorney does have a direct or indirect pecuniary interest in Vendor or this Agreement, that interest, and the procedure followed to effectuate this Agreement has and will comply with the Public Officer Prohibited Activities Act (50 ILCS 105/3). Further, Vendor affirms that it has no present, or prior, financial and/or auditing relationship with the City of DeKalb or DeKalb County, and their officers and elected officials, and has no existing conflict that it would be required to disclose prior to commencing such work.
6. **FOIA.** It is understood and agreed to by Vendor that all contracts entered into by a government body, including the DeKalb County State's Attorney, may be open to public review only subject to the exceptions of disclosure as provided for in the Illinois Freedom of Information Act (5 ILCS 140/1, *et seq.*). As such, Vendor agrees to respond to any requests by the County to provide FOIA responsive documentation within two (2) days of receiving a request from DeKalb County State's Attorney's Office to do so. Any confidentiality clauses in the Master Agreement that are in conflict with this provision (and FOIA) are modified to the extent necessary.
7. **Insurance.** Vendor will obtain and continue in force, during the term of this Agreement, all insurance as set forth below. Each insurance policy shall not be cancelled or changed without thirty (30) days prior written notice, given by the insurance carrier to the DeKalb County State's Attorney at the address set forth herein. Before starting work hereunder, Vendor shall deposit with the DeKalb County State's Attorney certificates evidencing the following insurance it is to provide hereunder: (a) Worker's Compensation and Occupational Disease Disability insurance, in compliance with the laws of the jurisdiction where the work is being performed, (b) Employer's comprehensive general liability insurance for both personal injury and property damage in the minimum amount of \$1,000,000 per occurrence and \$2,000,000 aggregate per project, (c) Minimum umbrella occurrence insurance of \$5,000,000 per occurrence and \$5,000,000 aggregate, (d) Professional liability insurance in the minimum amount of \$1,000,000 per claim.

DeKalb County and the DeKalb County State's Attorney shall be named as Additional Insureds on a Primary and Non-Contributory basis with respect to all liability coverage. Further, all liability and workers' compensation policies must

include a waiver of subrogation in favor of DeKalb County and the DeKalb County State's Attorney. The DeKalb County State's Attorney's failure to demand such certificate of insurance shall not act as a waiver of Vendor's obligation to maintain the insurance required under this Agreement.

The insurance required under this Agreement does not represent that coverage and limits will necessarily be adequate to protect Vendor.

8. **Background Checks/Security.** Vendor shall exercise general and overall control of its officers, employees and/or agents. Vendor agrees that no one shall be assigned to perform work at the City of DeKalb or DeKalb County's facilities on behalf of Vendor, Vendor's consultants, subcontractors and their respective officers, employees, agents and assigns unless Vendor has completed a criminal background investigation for each individual to be performing work at the site. In the event that the individual's criminal background investigation reveals that the individual has a conviction record that has not been sealed, expunged or impounded under Section 5.2 of the Criminal Identification Act (20 ILCS 2630/0.01 et seq.), Vendor agrees that the individual shall not be assigned to perform work on or at such facilities absent prior written consent from the DeKalb County State's Attorney and the City Manager for the City of DeKalb. The DeKalb County State's Attorney, at any time, for any reason and in his sole discretion, may require Vendor and/or Vendor's consultants, and/or subcontractors to remove any individual from performing any further work under this Agreement.
9. **Notice.** Any notice required or permitted to be given pursuant to this Agreement shall be duly given if sent by fax, certified mail, or hand delivery and received, in the case of notice to the DeKalb County SAO, to: DeKalb County State's Attorney, 133 West State Street, Sycamore, IL 60178, fax (815) 895-7101. And, in the case of Vendor, to: \_\_\_\_\_.
10. **Choice of Law and Venue.** This Agreement shall be construed in accordance with the law and Constitution of the State of Illinois and if any provision is invalid for any reason such invalidations shall not render invalid other provisions which can be given effect without the invalid provision. The parties agree that the venue for any legal proceedings between them shall be the Circuit Court of DeKalb County, Twenty-Third Judicial Circuit, State of Illinois. Any mandatory arbitration (binding or otherwise) or mediation clause in the Master Agreement is hereby stricken.
11. **Severability.** If any part, term, or provision of the Agreement is held to be illegal or unenforceable, the validity and enforceability of the remaining parts, terms, and provisions of this Agreement shall not be affected, and each party's rights shall be

construed and enforced as if the Agreement did not contain the illegal or unenforceable part, term, or provision.

12. **Waiver of Terms.** The DeKalb County State's Attorney and/or Vendor's waiver of any term, condition, or covenant or breach of any term, condition, or covenant, shall not constitute a waiver of any other term, condition, or covenant, or the breach thereof.
13. **Liability Limitation Clauses.** To the extent that the Master Agreement contains a limitation of liability clause, such clause is stricken in its entirety.
14. **Remedies/Payment of Attorney's Fees.** In any action with respect to this Agreement, the Parties are free to pursue any legal remedies at law or in equity. The prevailing party by 75% or more of damages sought, in any action brought pursuant to this Agreement, shall be entitled to reasonable attorneys' fees and court costs arising out of any action or claim to enforce the provisions of this Agreement.
15. **Indemnification.** Vendor shall indemnify, hold harmless and defend with counsel of the DeKalb County State's Attorney own choosing, the DeKalb County State's Attorney, DeKalb County, its officials, officers, employees, including their past, present, and future board members, elected officials and agents from and against all liability, third party claims, suits, causes of action, demands, proceedings, set-offs, liens, attachments, debts, expenses, judgments, or other liabilities including costs, reasonable fees and expense of defense, arising from any loss, damage, injury, death, or loss or damage to property, of whatsoever kind or nature as well as for any breach of any covenant in the Agreement or ancillary documents and any breach by Vendor of any representations or warranties made within the contract documents (collectively, the "Claims"), to the extent such Claims result from the performance of this contract by Vendor or those Claims are due to any act or omission, neglect, willful acts, errors, omissions or misconduct of Vendor in its performance under this Agreement.

Nothing contained herein shall be construed as prohibiting the DeKalb County State's Attorney and DeKalb County from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against them. DeKalb County State's Attorney and DeKalb County's participation in their defense shall not remove Vendor's duty to indemnify, defend, and hold the DeKalb County State's Attorney and DeKalb County harmless, as set forth above.

*Vendor expressly acknowledges and agrees that should payment for its services not be reimbursed by the City of DeKalb, it waives and releases the County of DeKalb and*

*the DeKalb County State's Attorney's Office from any and all liability, suits, claims, causes of action, demands, third party claims, proceedings, set-offs, liens, debts, attachments, expenses, judgments, or other liabilities by reason of such failure to make payment and instead shall seek such payment from the City of DeKalb exclusively.*

The DeKalb County State's Attorney and DeKalb County do not waive their defenses or immunities under the Local Government and Governmental Employees Tort Immunity Act (745 ILCS 10/1 *et seq.*), or other such immunity statute, by reason of indemnification or insurance. Indemnification shall survive the termination of the Agreement.

**NOTICE:** To the extent that the Master Agreement calls for indemnification to be provided to Vendor by the DeKalb County State's Attorney or DeKalb County, such condition is hereby stricken in its entirety. A unit of local government (and its elected officials) such as DeKalb County cannot legally indemnify private third parties as an agreement for a unit of local government to indemnify a third party would constitute an extension of public credit in violation of both section 1(a) and (b) of Article VIII of the Illinois Constitution of 1970. *See* Ill. Atty. Gen. Opinion No. S-589 (May 22, 1973) and subsequent opinions stating the same.

16. **Warranties.** All services to be undertaken by Vendor shall be carried out by competent and properly trained personnel of Vendor to the highest standards and to the satisfaction of the DeKalb County State's Attorney. No warranties implied or explicit may be waived or denied.
17. **Termination.** This Agreement may be terminated by the DeKalb County State's Attorney upon written notice delivered to Vendor at least thirty (30) calendar days prior to the effective date of termination. No additional payments, penalties and/or early termination charges shall be required upon termination of the Agreement other than those reasonable costs that were incurred for services provided prior to such termination notice.
18. **Drug Free Workplace.** Vendor and its consultants, employees, contractors, subcontractors, and agents agree to comply with all provisions of the Substance Abuse Prevention on Public Works Act, 820 ILCS 265/1 *et seq.* and the Illinois Drug Free Workplace Act, 30 ILCS 580/1 *et seq.*
19. **Assignment.** Neither party shall assign, sublet, sell, or transfer its interest in this Agreement without the prior written consent of the other.
20. **Force Majeure.** Neither party will be responsible to the other for damage, loss, injury, or interruption of work if the damage, loss, injury, or interruption of work is

caused solely by conditions that are beyond the reasonable control of the parties, and without the intentional misconduct or negligence, of that party (hereinafter referred to as a “force majeure event”). To the extent not within the control of either party, such force majeure events include: acts of God, acts of any governmental authorities, fire, explosions or other casualties, vandalism, and riots or war. A party claiming a force majeure event shall promptly notify the other party in writing, describing the nature and estimated duration of the claiming party’s inability to perform due to the force majeure event. The cause of such inability to perform will be remedied by the claiming party with all reasonable dispatch.

21. **Counterparts.** The Agreement may be executed in counterparts (including facsimile signatures), each of which shall be deemed to be an original and both of which shall constitute one and the same Agreement.
22. **Entire Agreement.** This Agreement, including the Master Agreement that this Addendum is incorporated into by reference, represents the entire Agreement between the parties and there are no other promises or conditions in any other Agreement whether oral or written. This Agreement supersedes any prior written or oral agreements between the parties and may not be modified except in writing acknowledged and agreed to by both parties.
23. **Independent Contractor Relationship.** It is understood and agreed that Vendor is an independent contractor and is not an employee of, partner of, agent of, or in a joint venture with the DeKalb County State’s Attorney or DeKalb County. Vendor understands and agrees that Vendor is solely responsible for paying all wages, benefits and any other compensation due and owing to Vendor’s officers, employees, and agents for the performance of services set forth in the Agreement. Vendor further understands and agrees that Vendor is solely responsible for making all required payroll deductions and other tax and wage withholdings pursuant to state and federal law for Vendor’s officers, employees and/or agents who perform services as set forth in the Agreement. Vendor also acknowledges its obligation to obtain appropriate insurance coverage for the benefit of Vendor, Vendor’s officers, employees and agents and agrees that the DeKalb County State’s Attorney and DeKalb County are not responsible for providing any insurance coverage for the benefit of Vendor, Vendor’s officers, employees and agents under this Agreement. Vendor hereby agrees to defend, indemnify and waive any right to recover alleged damages, penalties, interest, fees (including attorneys’ fees), and/or costs from the DeKalb County State’s Attorney and/or DeKalb County, its board members, officials, employees, insurers, and agents for any alleged injuries that Vendor its officers, employees and/or agents may sustain while performing services under the Master Agreement.

Nothing contained in this Agreement, nor any act of the DeKalb County State’s Attorney and DeKalb County or Vendor pursuant to this Agreement, shall be deemed

or construed by any of the parties hereto or by third persons, to create any relationship of third-party beneficiary, principal, agent, limited or general partnership, joint venture, or any association or relationship involving the DeKalb County State's Attorney, DeKalb County and Vendor.