

PROFESSIONAL SERVICES AGREEMENT

INDIANA ECONOMIC DEVELOPMENT CORPORATION and 39 DEGREES NORTH, LLC

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into, effective as of December 1, 2014, by and between the **INDIANA ECONOMIC DEVELOPMENT CORPORATION** (the "IEDC") and **39 Degrees North, LLC**, an Indiana limited liability company whose principal place of business is 908 N. Walnut Street, Bloomington, Indiana (the "Contractor").

In consideration of the mutual undertakings and covenants set forth herein, the parties hereby agree as follows:

1. PURPOSE OF AGREEMENT

The purpose of this Agreement is for Contractor to provide those geographic information system services set forth in Exhibit A, the **Project Description**, attached hereto and made a part hereof.

2. TERM

(A) This Agreement shall commence on December 1, 2014 and shall remain in effect through June 30, 2016 or unless earlier terminated in accordance with the provisions of this Agreement (the "Expiration Date"). All work and/or services under this Agreement must be completed by the Expiration Date. In no event shall payments be made for work done or services performed after the Expiration Date.

(B) This Agreement does not have an option for renewal. The Contractor may request in writing that the Expiration Date be extended, provided that the Contractor provides a written justification for the extension at least seven (7) days in advance of the Expiration Date, and the amount of the funds to be paid does not exceed the amount of the original agreement. The IEDC may approve such requests in writing but will not extend the Expiration Date beyond December 31, 2016. Approval of the extension is subject to the sole discretion of the IEDC. If the Expiration Date is extended, all other provisions of this Agreement shall remain in full force and effect.

(C) Any provisions which, by their nature, are intended to apply after termination of this Agreement shall survive termination of the Agreement, including but not limited to provisions for payment of amounts owed for work performed under the Agreement, disclaimer of warranty, limitation of liability, and intellectual property clauses.

3. CONSIDERATION

(A) All services performed by the Contractor under this Agreement must be authorized by the IEDC and consistent with the description set forth in Exhibit A.

(B) Subject to the following conditions, total remuneration under this Agreement shall not exceed **SEVENTY THOUSAND EIGHT HUNDRED FIFTY SIX and 00/100 Dollars (\$70,856)** (the "Agreement Amount").

(1) The parties recognize that Contractor has previously been paid for services rendered during the period from December 1, 2014 to June 30, 2015 in the amount of \$25,316.

(2) As a result, during the period from July 1, 2015 to June 30, 2016 (both dates inclusive), Contractor shall be paid on an hourly basis at a rate of \$60 per hour. Contractor shall invoice the IEDC not more than once a month stating the number of hours services were rendered during the month.

(C) All work and/or services provided by the Contractor under this Agreement must be performed to the IEDC's reasonable satisfaction, which satisfaction shall be determined at the discretion

of the IEDC, and in accordance with all applicable federal, state, local laws, ordinances, rules, and regulations. The IEDC shall not be required to pay for work found to be unsatisfactory, inconsistent with this Agreement, or performed in violation of federal, state, or local laws.

4. PAYMENTS

(A) The Contractor shall submit monthly invoices for payment in connection with its services provided hereunder. Such invoices shall be in compliance with the requirements of this Paragraph. The Contractor shall submit with the invoice, its monthly progress report summarizing the Contractor's work under this Agreement to date, the requirements of which are further described at Exhibit A.

(B) All payment obligations shall be made in arrears in accordance with Indiana law and state fiscal policies and procedures, and as required by Indiana Code § 4-13-2-14.8. Notwithstanding any other law, rule, or custom, a person or company whom has a contract with the State of Indiana or submits invoices to the state for payment shall authorize, in writing, the direct deposit by electronic funds transfer of all payments by the state to the person or company. The written authorization must designate a financial institution and an account number to which all payments are to be credited. Any exception to this requirement must be approved by the IEDC and the State of Indiana. For forms and additional information, see the Auditor of State's website at www.in.gov/auditor/forms.

(C) No travel and other expenditures made by the Contractor will be reimbursed by the IEDC.

5. CONFIDENTIALITY OF INFORMATION

(A) The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected data. Therefore, the Contractor promises and assures that data, material, and information disclosed to the Contractor by the IEDC for the purpose of this Agreement, and specifically identified as confidential information will not be disclosed to others or discussed with other parties without the prior written consent of the IEDC.

(B) The parties acknowledge that the services to be performed by the Contractor for the IEDC under this Agreement may require or allow access to data, materials, and information containing Social Security numbers or other personal information maintained by the IEDC in its computer system or other record. In addition to the covenant made above in this Section, and pursuant to 10 IAC 5-3-1(4), the Contractor and the IEDC agree to comply with the provisions of Indiana Code § 4-1-10 and Indiana Code § 4-1-11. If any Social Security number(s) or personal information (as defined in Indiana Code § 4-1-11-3) is/are disclosed by the Contractor, the Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system, in addition to any other claims and expenses for which it is liable under the terms of this Agreement.

6. USE OF THE IEDC NAME

The IEDC has not granted any rights to use its name, trademark, intellectual property, or logos. The Contractor agrees that it will not use the name or intellectual property, including but not limited to IEDC trademarks or logos, in any manner, including commercial advertising or as a business reference without the prior written consent of the IEDC. For any purposes outside those contemplated by this Agreement, and for which the IEDC's participation will be referenced, the IEDC shall have the right of review and approval of the use, disclosure, and the finished product prior to its publication. All such requests shall be made in writing and delivered to the IEDC for approval at its sole discretion.

7. GOVERNING LAW

- (A) This Agreement shall be construed in accordance with, and governed by, the laws of the State of Indiana without regard to principles of choice of law, and suit, if any, must be brought in the State of Indiana. The venue for any court action shall be the circuit or superior court of Marion County, Indiana or the United States District Court for the Southern District of Indiana. The Contractor hereby consents to the personal jurisdiction of Indiana state and federal courts.
- (B) If any section, paragraph, term, condition, or provision of this Agreement is found, by a court of competent jurisdiction, to be invalid or unenforceable, or if any paragraph, term, condition, or provision is found to violate or contravene the laws of the State of Indiana, then the section, paragraph, term, condition, or provision so found will be deemed severed from this Agreement, but all other sections, paragraphs, terms, conditions, and provisions will remain in full force and effect.
- (C) The Contractor understands that this Agreement is a public record subject to request pursuant to Indiana Code § 5-14-3 and its exemptions. Use by the public of the information contained in this Agreement shall not be considered an act of the IEDC or the State.

8. TERMINATION & FUNDING CANCELLATION

- (A) This Agreement may be terminated, in whole or in part, by the IEDC whenever, for any reason, with or without cause, the IEDC determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Contractor of a termination notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. The IEDC will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided, but in no case shall total payment made to the Contractor exceed the original Agreement price or shall any price increase be allowed on individual line items if canceled in whole or in part prior to the original termination date.
- (B) When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Agreement, the Agreement shall be cancelled. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

9. PROGRESS REPORTS

The Contractor shall submit written progress reports to the IEDC upon request and as provided in Exhibit A. The progress reports shall serve the purpose of assuring the IEDC that work is progressing in a timely manner, and that completion can be reasonably assured on the scheduled date.

10. ACCESS TO RECORDS & AUDITS

- (A) The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Agreement. The Contractor shall make such materials available at his/her respective office at all reasonable times during the Agreement period, and for three (3) years from the date of final payment under the Agreement, for inspection by the IEDC or by any other authorized representative of state government. Copies thereof shall be furnished at no cost to the IEDC if requested.

- (B) The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Agreement. Any such audit shall be conducted in accordance with Indiana Code § 5-11-1 *et seq.* and any audit guidelines specified by the IEDC.

11. THE CONTRACTOR'S SERVICES

- (A) The Contractor recognizes that the services to be performed under this Agreement are vital to the IEDC and must be continued without interruption and that, upon the expiration of the Agreement, a successor, either the IEDC or another contractor, may continue them. The Contractor agrees to use its best efforts and cooperation to effect an orderly and efficient transition to a successor to provide the services contemplated hereby. This Agreement shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written modification thereof.
- (B) The Contractor shall not commence any additional services or change the scope of services unless and until authorized in writing by the IEDC. No claim for additional compensation or any material change to the Budget shall be made. This Agreement may only be amended, supplemented or modified by a written document executed in the same manner as this Agreement.
- (C) The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. The Contractor represents that it has or shall obtain at its own expense all personnel, materials, and equipment required to perform the services under this Agreement. All of the work performed hereunder shall be performed by the Contractor or under its supervision. The Contractor warrants that all personnel assigned to perform the services or other consultants or subcontractors engaged by the Contractor to perform the services are fully qualified and authorized to perform such services under the state and local laws. If the IEDC becomes dissatisfied with the work product of, or the working relationship with, any individuals assigned to work under this Agreement, the IEDC may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.
- (D) The IEDC shall, at all reasonable times, have the right to inspect the work, services or performance of the Contractor. The Contractor shall furnish all reasonable aid and assistance required by the IEDC for proper examination of the work or services. Such inspection shall not relieve the Contractor of any obligation to perform said services in accordance with the law or this Agreement.

12. OWNERSHIP OF DOCUMENTS AND MATERIALS

- (A) Upon the expiration or termination of this Agreement, the Contractor, at the IEDC's request, will transfer to the IEDC all the materials in Contractor's possession prepared for the IEDC or provided to the Contractor by the IEDC for the services rendered under this Agreement.
- (B) All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the Contractor prior to execution of this Agreement, but specifically developed under this Agreement shall be considered "work for hire," and the Contractor shall transfer any ownership claim to the IEDC, and all such materials will be the property of the IEDC. The Contractor agrees to execute any and all documents necessary to assign and transfer to the IEDC all intellectual property and other rights in materials and information created for the IEDC pursuant to this Agreement.
- (C) Use of these materials, other than related to Agreement performance by the Contractor, without the prior written consent of the IEDC, is prohibited. The Contractor shall take such action as is necessary under law to preserve the IEDC's rights in and to the work product or intellectual property while such property is within the control and/or custody of the Contractor.

During the performance of this Agreement, the Contractor shall be responsible for any loss of or damage to these materials developed for or supplied by the IEDC and used to develop or assist in the services provided while the materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall provide the IEDC full, immediate, and unrestricted access to the work product during the term of this Agreement.

13. COMPLIANCE WITH LAWS

- (A) The Contractor agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of regulations thereunder after execution of this Agreement shall be reviewed by the IEDC and the Contractor to determine whether the provisions of this Agreement require formal modification.
- (B) The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State of Indiana, as set forth in Indiana Code § 4-2-6, Indiana Code § 4-2-7, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the website of the Indiana Inspector General at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the IEDC may, in its sole discretion, terminate this Agreement immediately upon notice to Contractor. In addition, the Contractor may be subject to penalties under Indiana Code § 4-2-6, Indiana Code § 4-2-7, Indiana Code § 35-44-1-3 and under any other applicable laws.
- (C) The Contractor certifies by entering into this Agreement that neither it nor its principal(s) is presently in arrears in payment of its taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana or the IEDC. Further, the Contractor agrees that any payments in arrears and currently due to the State of Indiana or to the IEDC may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Agreement suspended until the Contractor is current in its payments and has submitted proof of such payment to the IEDC.
- (D) The Contractor warrants that it has no current or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana, or pending, and agrees that it will immediately notify the IEDC of any such actions. During the term of such actions, the Contractor agrees that the IEDC may delay, withhold, or deny work under any supplement, amendment, change order, or other contractual device issued pursuant to this Agreement.
- (E) If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the IEDC or the State of Indiana or its agencies, and the IEDC decides to delay, withhold, or deny work to Contractor, Contractor may request that it be allowed to continue, or receive work, without delay.
- (F) Any payments that the IEDC may delay, withhold, deny, or apply under this Section shall not be subject to penalty or interest under Indiana Code § 5-17-5.
- (G) The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations applicable in connection with the services provided under this Agreement. Failure to do so is a material breach of the Agreement and grounds for immediate termination of this Agreement and denial of further work with the IEDC. The IEDC shall not be required to reimburse the Contractor for any

services performed when Contractor or its employees or subcontractors were not or are not in compliance with such applicable standards, laws, rules or regulations. If licensure, certification or accreditation expires or is revoked, Contractor shall notify the IEDC immediately, and the IEDC, at its option, may immediately terminate this Agreement.

(H) The Contractor affirms that, if it is an entity described in Title 23 of the Indiana Code, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

14. COMPLIANCE WITH TELEPHONE SOLICITATIONS ACT

As required by Indiana Code § 5-22-3-7:

(A) The Contractor and any principals of the Contractor certify that:

(1) The Contractor, except for de minimis and nonsystematic violations, has not violated the terms of:

(a) Indiana Code § 24-4.7 [Telephone Solicitation of Consumers],

(b) Indiana Code § 24-5-12 [Telephone Solicitations], or

(c) Indiana Code § 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if Indiana Code § 24-4.7 is preempted by federal law; and

(2) The Contractor will not violate the terms of Indiana Code § 24-4.7 for the duration of the Agreement, even if Indiana Code § 24-4.7 is preempted by federal law.

(B) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor:

(1) Except for de minimis and nonsystematic violations, has not violated the terms of Indiana Code § 24-4.7 in the previous three hundred sixty-five (365) days, even if Indiana Code § 24-4.7 is preempted by federal law; and

(2) Will not violate the terms of Indiana Code § 24-4.7 for the duration of the Agreement, even if Indiana Code § 24-4.7 is preempted by federal law.

15. CONFLICT OF INTEREST

(A) As used in this Paragraph:

(1) "Immediate Family" means the spouse and the unemancipated children of an individual.

(2) "Interested Party" means:

(a) The individual executing this Agreement;

(b) An individual who, combined with his immediate family, has an equity interest of one percent (1%) or more of the Contractor, if the Contractor is not an individual; or

(c) Any member of the Immediate Family of an individual specified under subdivision (1) or (2).

(3) "Commission" means the State Ethics Commission.

(B) The IEDC may cancel this Agreement without recourse by the Contractor if such cancellation is consistent with an opinion of the Commission or if any Interested Party is (1) an employee of the State or the IEDC; (2) a State officer or special State appointee of the IEDC under Indiana Code § 4-2-6; or (3) a public servant of the IEDC under Indiana Code § 35-44-1.

(C) The Contractor has an affirmative obligation under this Agreement to disclose to the IEDC when an interested party is or becomes an employee, officer or special state appointee of the State of Indiana. The obligation under this Paragraph extends only to those facts that the Contractor knows or reasonably could know.

16. DRUG-FREE WORKPLACE CERTIFICATION

- (A) The Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace during the term of this Agreement. The Contractor will give written notice to the IEDC within ten (10) days after receiving actual notice that the Contractor or an employee of the Contractor in the State of Indiana has been convicted of a criminal drug violation occurring in the Contractor's workplace.
- (B) It is further expressly agreed that a false certification, a violation of the certification or the failure of the Contractor to, in good faith, comply with the terms of this Section shall constitute a material breach of this Agreement and shall entitle the IEDC to impose, or may otherwise result in, sanctions against the Contractor including, but not limited to, suspension of Agreement payments, the termination of this Agreement and/or the debarment of the Contractor from doing further business with the IEDC and the State of Indiana for up to three (3) years.
- (C) In addition to the provisions of above paragraphs, if the total Agreement amount set forth in the Agreement is in excess of Twenty-Five Thousand Dollars (\$25,000.00), the Contractor hereby further agrees that this Agreement is expressly subject to the terms, conditions and representations of the following Certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration is requiring the inclusion of this certification in all contracts with and contracts from the State of Indiana in excess of \$25,000.00. No award of a contract shall be made, and no grant, purchase order, or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this certification has been fully executed by the Contractor and made part of the contract or agreement as part of the contract documents.

The Contractor certifies and agrees that it will provide a drug-free workplace by:

- (1) Publishing and providing to all of its employees a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and
- (2) Establishing a drug-free awareness program to inform employees about:
 - (a) The dangers of drug abuse in the workplace;
 - (b) The Contractor's policy of maintaining a drug-free workplace;
 - (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (d) The penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace.
- (3) Notifying all employees in the statement required by subparagraph (A) above that, as a condition of continued employment, the employee will:
 - (a) Abide by the terms of the statement; and
 - (b) Notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; and
- (4) Notifying in writing the IEDC within ten (10) days after receiving notice from an employee under subparagraph 3(b) above, or otherwise receiving actual notice of such conviction; and
- (5) Within thirty (30) days after receiving notice under subparagraph 3(b) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace:

- (a) Take appropriate personnel action against the employee, up to and including termination; or
 - (b) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purpose by a Federal, State or local health, law enforcement, or other appropriate agency; and
- (6) Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs 1 through 5 above.

17. NONDISCRIMINATION

Pursuant to Indiana Code § 22-9-1-10 and the Civil Rights Act of 1964, the Age Discrimination in Employment Act and the Americans with Disabilities Act, the Contractor and its subcontractors, if any, shall not discriminate against any employee or applicant for employment relating to this Agreement with respect to the hire, tenure, terms, conditions, or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's race, color, religion, sex, age disability, national origin or ancestry or status as a veteran, or any other characteristic protected by federal, state, or local law. Breach of this covenant may be regarded as a material breach of the Agreement. Acceptance of this Agreement also signifies compliance with applicable federal and state laws and regulations prohibiting the aforementioned discrimination in the provision of services.

18. NOTICE TO PARTIES

Whenever any notice, statement, or other communication is required under this Agreement, it shall be sent to the following address, unless otherwise specifically advised:

- (A) Notices to the IEDC shall be sent to:
INDIANA ECONOMIC DEVELOPMENT CORPORATION
Attn: General Counsel
One North Capitol Avenue, Suite 700
Indianapolis, IN 46204-2288

- (B) Notices to the Contractor shall be sent to:
Mr Chris Walls, Managing Partner
39° North, LLC
809 N. Walnut Street
Bloomington, IN 47401
chris@39dn.com

Notice from the IEDC to the Contractor may be provided via electronic mail to the Contractor's electronic mail address or via certified, registered, or first-class U.S. mail at the option of the IEDC. Notice shall be deemed delivered upon dispatch. Any change in contact information must be provided in writing by the Contractor to the IEDC. Notices, statements, or other communications from the Contractor to the IEDC shall be deemed delivered when received.

19. SUBCONTRACTS, ASSIGNMENT & KEY PERSONS

- (A) The Contractor shall not assign or subcontract the whole or any part of this Agreement without the prior written consent of the IEDC. The Contractor agrees to bind all subcontractors, successors and assignees to all the terms and conditions of this Agreement. The Contractor shall specifically require each subcontractor, if any, who has access to the IEDC's confidential information in the course of performing any services to be bound by the confidentiality provisions in Paragraph 5 of this Agreement and, at the IEDC's discretion, to execute a non-disclosure agreement that is satisfactory to the IEDC.

- (B) This Agreement will be performed under the direction of Jim Stout (the "Key Person"). In the event the Key Person is unable or unwilling to continue providing the services under this

Agreement, the IEDC may suspend or terminate this Agreement. Nothing in this Paragraph shall be construed to prevent the Contractor from using the services of others to perform its duties as defined in Paragraph 1 of this Agreement, as well as any services ancillary to those duties, including secretarial, clerical, and common labor duties. The Contractor shall, at all times, remain responsible for the performance of all necessary duties, whether performed by the Key Person, employees, subcontractors, or others.

(C) BACKGROUND CHECKS:

The Key Person(s) understand(s) that it may be necessary for the IEDC to conduct an investigation of the Contractor's background, which investigation may be comprehensive. If the IEDC determines it is in the best interest of the IEDC to conduct a background check, the Contractor agrees to, at the IEDC's request, provide any necessary information and authorization to conduct the applicable background check(s). The Contractor agrees that the IEDC may conduct such checks at any time during the term of the Agreement. The Contractor agrees it shall release the IEDC from any liability in connection with conducting the background checks. If the IEDC, in its sole discretion, is dissatisfied with the results of the background check(s), the IEDC may terminate this Agreement.

20. INDEMNIFICATION

The Contractor shall indemnify, defend, and hold harmless the IEDC and the State of Indiana and their respective agents, officers, employees and representatives from all claims and suits for loss or damage to property, including the loss of use thereof, and injuries to or death of persons, including without limitation any officers, agents, employees, and representatives of the Contractor or its subcontractor(s), and from all judgments recovered there from and for expenses in defending any such claims or suits, including court costs, attorneys' fees, and for any other expenses caused by an act or omission of the Contractor and/or subcontractor(s), agents, officers, or employees in connection with performance of this Agreement. The IEDC shall not provide such indemnification to Contractor.

21. DEBARMENT AND SUSPENSION

(A) The 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 entering into this Agreement by any federal agency, branch of government, 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 of supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.

(B) The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Agreement and shall be solely responsible for any recoupment, penalties, or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the IEDC if any subcontractor becomes debarred or suspended, and shall, at the IEDC's request, take all steps required by the IEDC to terminate its contractual relationship with the subcontractor for work to be performed under this Agreement.

22. ATTORNEYS' FEES & INTEREST

The IEDC will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, attorneys' fees, court costs, or litigation expenses, except as required by Indiana law, in part, Indiana Code § 5-17-5, Indiana Code § 34-54-8, and Indiana Code § 34-13-1. Notwithstanding the provisions contained in Indiana Code § 5-17-5, the parties stipulate and agree that any liability resulting from the IEDC's failure to make prompt

payment shall be based solely on the amount of funding originating from the State of Indiana and shall not be based on funding from federal or other sources.

23. MISCELLANEOUS

- (A) No right conferred on either party under this Agreement shall be deemed waived and no breach of this Agreement excused, unless such waiver or excuse is in writing and signed by the party claimed to have waived such right. Neither the IEDC's review, approval, or acceptance of, nor payment for the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and the Contractor shall be and remain liable to the IEDC in accordance with applicable law for all damages to the IEDC caused by the Contractor's negligent performance of any of the services furnished under this Agreement.
- (B) This Agreement constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Agreement will be valid provisions of this Agreement. This Agreement may not be modified, supplemented, or amended, in any manner, except by written agreement signed by all necessary parties.
- (C) This Agreement may be executed through an original or through a facsimile copy, and in duplicates or through counterparts, each of which shall be deemed to be an original, and all of which shall constitute but one and the same Agreement.
- (D) Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property arising out of the acts or omissions of the agents, employees or subcontractors of the other party.
- (E) Nothing in this Agreement shall be construed to confer any rights or remedies on any third party not a signatory to this Agreement, including, but not limited to, the employees or subcontractors of the Contractor.
- (F) The IEDC is exempt from state, federal, and local taxes. The IEDC will not be responsible for any taxes levied on the Contractor as a result of this Agreement.

24. INSURANCE

The Contractor shall secure and keep in force during the term of this Agreement the insurance coverage required by law and as would be reasonable to cover claims of any nature which may arise out of or result from this Agreement. The Contractor shall furnish a certificate of insurance and all endorsements to the IEDC prior to the commencement of work under this Agreement.

25. AUTHORITY TO BIND CONTRACTOR

Notwithstanding anything in the Agreement to the contrary, the signatory for the Contractor represents that he/she has been duly authorized to execute contracts on behalf of the Contractor and has obtained all necessary or applicable approvals from the home office of the Contractor to make this Agreement fully binding upon the Contractor when his/her signature is affixed and is not subject to home office acceptance hereto when accepted by the IEDC.

26. INFORMATION TECHNOLOGY ACCESSIBILITY STANDARDS

If the Contractor provides any information technology-related products or services to the IEDC, the Contractor shall comply with all Indiana Office of Technology (IOT) standards, policies, and guidelines, which are available online at <http://iot.in.gov/architecture/>. The Contractor specifically

agrees that all hardware, software, and services provided to or purchased by the IEDC shall be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted under Section 508 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 794d) and Indiana Code § 4-13.1-3. Any deviation from these architecture requirements must be approved in writing by IOT in advance. The IEDC may terminate this Agreement for default if the Contractor fails to cure a breach of this provision within a reasonable time.

27. DISPUTES

- (A) Should any disputes arise with respect to this Agreement, the Contractor and the IEDC agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
- (B) The Contractor agrees that, the existence of a dispute notwithstanding, it will continue, without delay, to carry out all of its responsibilities under this Agreement that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work or services, without delay, any additional costs incurred by the IEDC 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 IEDC for such costs.
- (C) If a party to the Agreement is not satisfied with the progress toward resolving a dispute, the party must notify, in writing, the other party of the dissatisfaction. Upon written notice, the parties have ten (10) working days, unless the parties mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved within ten (10) working days, the dissatisfied party will submit the dispute in writing according to the following procedure:
- (1) The parties agree to resolve such matters through submission in writing of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail, or otherwise furnish a copy thereof, to the Contractor and the IEDC within ten (10) working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one of the parties concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration or mediation for a determination. If a party is not satisfied with the Commissioner's ultimate decision, the dissatisfied party may submit the dispute to an Indiana court of competent jurisdiction.
 - (2) The IEDC may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the IEDC to the Contractor of one or more invoices not in dispute in accordance with the terms of this Agreement will not be cause for the Contractor to terminate this Agreement, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

28. NON-COLLUSION AND ACCEPTANCE

The undersigned attests, subject to the penalties for perjury, that the undersigned is the properly authorized representative, agent, member, or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent, or officer of the Contractor, directly or indirectly, has entered into or been

offered any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face hereof.

In Witness Whereof, Contractor and the Indiana Economic Development Corporation have, through duly authorized representatives, entered into this Agreement. The parties, having read and understand the foregoing terms of the Agreement, do by their respective signatures dated below hereby agree to the terms thereof.

39 DEGREES NORTH, INC.

Anthony Chris Walls

Chris Walls
Managing Partner

Date: August 26, 2015

INDIANA ECONOMIC DEVELOPMENT CORPORATION

Victor Smith

Digitally signed by Victor P. Smith
DN: cn=Victor P. Smith, o=IEDC, ou=Secretary
of Commerce, email=vsmith@iedc.in.gov, c=US
Date: 2015.08.26 12:07:44 -04'00'

VICTOR P. SMITH, SECRETARY OF COMMERCE

Date: _____

STATE BUDGET AGENCY

Andrew Cummings for

BRIAN E. BAILEY, DIRECTOR

Date: 9/17/15

EXHIBIT A

1. Services

Contractor shall provide the following services:

- Consulting related to Geographic Information Services, and how this technology can add value to IEDC.
- Technical support to IEDC staff related to GIS, database design and management, data research, and work flow.
- Creation of GIS data layers including business development projects, economic development regions, suppliers, producers, and basemap reference.
- Generating maps from the GIS & graphics software to support business development, marketing, and account management.
- Assist with special projects that have a data or spatial component.

Contractor shall be on-site two days per week, as mutually agreed upon by the Contractor and IEDC.



EXECUTIVE DOCUMENT SUMMARY

State Form 41221 (R10/4-06)

Instructions for completing the EDS and the Contract process.

1. Please read the guidelines on the back of this form.
2. Please type all information.
3. Check all boxes that apply.
4. For amendments / renewals, attach original contract.
5. Attach additional pages if necessary.

1. EDS Number: A281-6-ADM-15-033		2. Date prepared: 4/26/2016		
3. CONTRACTS & LEASES				
<input checked="" type="checkbox"/> Professional/Personal Services		<input type="checkbox"/> Contract for procured Services		
<input type="checkbox"/> Grant		<input type="checkbox"/> Maintenance		
<input type="checkbox"/> Lease		<input type="checkbox"/> License Agreement		
<input type="checkbox"/> Attorney		<input checked="" type="checkbox"/> Amendment# <u>1</u>		
<input type="checkbox"/> MOU		<input type="checkbox"/> Renewal # _____		
<input type="checkbox"/> QPA _____		<input type="checkbox"/> Other _____		
FISCAL INFORMATION				
4. Account Number: 12090-10400.531028		5. Account Name: ADMINISTRATION		
6. Total amount this action: \$0.00		7. New contract total: 70,856.00		
8. Revenue generated this action: \$0.00		9. Revenue generated total contract: \$0.00		
10. New total amount for each fiscal year:				
Year	2016	\$70,856.00		
Year	_____	\$ _____		
Year	_____	\$ _____		
Year	_____	\$ _____		
TIME PERIOD COVERED IN THIS EDS				
11. From (month, day, year): 12/1/2014		12. To (month, day, year): 2/28/2017		
13. Method of source selection: <input checked="" type="checkbox"/> Negotiated				
<input type="checkbox"/> Bid/Quotation <input type="checkbox"/> Emergency <input type="checkbox"/> Special Procurement				
<input type="checkbox"/> RFP# _____ <input type="checkbox"/> Other (specify) _____				
14. Name of agency: Economic Development Corp				
15. Requisition Number: 000005613				
16. Address: IN Economic Development Corp Central Office 1 N CAPITOL AVE STE 700 INDIANAPOLIS, IN 46204-2040				
AGENCY CONTACT INFORMATION				
17. Name: Georgia Chang		18. Telephone #: 317/232-8903		
19. E-mail address: gchang@iedc.in.gov				
COURIER INFORMATION				
20. Name: Jackie Addison		21. Telephone #: 317-234-5670		
22. E-mail address: jaddison@iedc.in.gov				
VENDOR INFORMATION				
23. Vendor ID # <u>0000234082</u>				
24. Name: 39 DEGREES NORTH LLC		25. Telephone #: N/A		
26. Address: PO BOX 1937 BLOOMINGTON, IN 47402				
27. E-mail address: <u>chris@39dn.com</u>				
28. Is the vendor registered with the Secretary of State? (Out of State Corporations, must be registered) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
29. Primary Vendor: M/WBE/IN-Vetera Minority: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		30. Primary Vendor Percentages 100.0 %		
Women: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
IN-Veteran <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
31. Sub Vendor: M/WBE/IN-Veteran Minority: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		32. If yes, list the %: Minority: _____ %		
Women: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Women: _____ %		
IN-Veteran <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IN-Veteran _____ %		
33. Is there Renewal Language in <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		34. Is there a "Termination for Convenience" clause in the document? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
35. Will the attached document involve data processing or telecommunications system <input checked="" type="checkbox"/> Yes: IOT or Delegate has signed off on contract				
36. Statutory Authority (Cite applicable Indiana or Federal Codes): 5-28-14				
37. Description of work and justification for spending money. (Please give a brief description of the scope of work included in this agreement.) The Contractor shall provide consulting related to geographic information services, technical support to IEDC staff related to GIS, database design and management, data research, and work flow, creation of GIS data layers including business development projects, economic development regions, suppliers, producers and basemap reference, generating maps from the GIS & graphics software to support BD, Mktg and acct mgmt. The 1st Amendment is to revise the contract term to 1. extend to 2/28/2017, and 2. to perform the above services on as-needed basis. The total remuneration of the agreement shall remain the same.				
38. Justification of vendor selection and determination of price reasonableness: The Contract is specializing with the GIS system/software and providing customization to the customer. The Contractor has worked on-site, spending two days per week in IEDC office to assist with special projects that have a data or spatial component.				
39. If this contract is submitted late, please explain why: (Required if more than 30 days late.) The consulting services started in Dec. 2014. IEDC recognized the Contractor's work has been satisfiable and there's continuous need for its services. This 1st amendment is to extend Contractor's service to Feb 28, 2017 and service on-demand.				
40. Agency fiscal officer or representative approval <i>Matthew S. Howard</i> Director of Procurement & Contract Administration Economic Development Corp 1 N Capitol Ave, Ste 700 Indianapolis, IN 46204-2040 Date: 3/14/2016 10:33:46 AM		41. Date Approved	42. Budget agency approval <i>AC</i>	43. Date Approved <i>5/2/16</i>
44. Attorney General's Office approval		45. Date Approved	46. Agency representative receiving from AG	47. Date Approved



FIRST AMENDMENT

This First Amendment (the "**First Amendment**") to the Professional Services Agreement is made by and between the Indiana Economic Development Corporation (the "**IEDC**") and 39 Degrees North, LLC (the "**Contractor**").

RECITALS

WHEREAS, the IEDC and the Contractor previously entered into that certain Professional Services Agreement, with a commencement date of December 1, 2014, and an expiration date of June 30, 2016 (the "**Original Agreement**");

WHEREAS, the Original Agreement and the First Amendment shall hereinafter be referred to collectively as the "**Agreement**"; and

WHEREAS, the IEDC and the Contractor desire to amend the Agreement to extend the term of the Agreement, so the Contractor may perform the services set forth in the Agreement on an as needed basis to the IEDC.

NOW, THEREFORE, in consideration of the above recitals and the mutual promises, obligations and stipulations contained in this First Amendment and the Original Agreement, the parties hereby agree as follows:

EFFECTIVE DATE

1. This First Amendment shall take effect on April 20, 2016 ("**Effective Date**").

AMENDMENT

2. Paragraph 2(A) and Paragraph 2(B) of the Agreement are deleted and replaced in their entirety with the following; however, no changes are made to Paragraph 2(C):

2 TERM

- (A) This Agreement shall commence on December 1, 2014 and shall remain in effect through February 28, 2017 or unless earlier terminated in accordance with the provisions of this Agreement (the "**Expiration Date**"). All work and/or services under this Agreement must be completed by the Expiration Date. In no event shall payments be made for work done or services performed after the Expiration Date.
- (B) This Agreement does not have an option for renewal. The Contractor may request in writing that the Expiration Date be extended, provided that the Contractor provides a written justification for the extension at least seven (7) days in advance of the Expiration Date, and the amount of the funds to be paid does not exceed the amount of the original

agreement. The IEDC may approve such requests in writing but will not extend the Expiration Date beyond April 30, 2017. Approval of the extension is subject to the sole discretion of the IEDC. If the Expiration Date is extended, all other provisions of this Agreement shall remain in full force and effect.

3. Paragraph 3(B) of this Agreement is deleted and replaced in its entirety with the following:

3. CONSIDERATION

(B) Subject to the following conditions, total remuneration under this Agreement shall not exceed \$70,856.00 (the "**Agreed Amount**").

- (1) The parties recognize that the Contractor has previously been paid for services rendered during the period from December 1, 2014 to June 30, 2015 in the amount of \$25,316.00.
- (2) As a result, during the period of July 1, 2015 to February 28, 2017 (both dates inclusive), the Contractor shall be paid on an hourly basis, as needed, at a rate not to exceed \$60.00 per hour. The Contractor shall invoice the IEDC not more than once a month stating the number of hours services were rendered during the month.

4. Paragraph 19(B) of this Agreement is deleted and replaced in its entirety with the following:

19. SUBCONTRACTS, ASSIGNMENT & KEY PERSONS

(B) This Agreement will be performed by an individual(s) identified by the Contractor and agreed to by the IEDC (the "**Key Person**"). In the event the Key Person is unable or unwilling to continue providing the services under this Agreement, the IEDC may suspend or terminate this Agreement. Nothing in this Paragraph shall be construed to prevent the Contractor from using the services of others to perform its duties as defined in Paragraph 1 of this Agreement, as well as any services ancillary to those duties, including secretarial, clerical, and common labor duties. The Contractor shall, at all times, remain responsible for the performance of all necessary duties, whether performed by the Key Person, employees, subcontractors, or others.

5. **Exhibit A.** The Contractor's Project Description, is amended only to the following terms set forth below and all other terms in **Exhibit A** shall remain unaltered.

The Contractor may work onsite at the IEDC or perform work remotely, as reasonably requested and mutually agreed to by the Contractor and the IEDC. The

IEDC shall provide the Contractor with at least two (2) days' notice requesting the Contractor's services and shall provide the Contractor with an estimated required length of time for those services.

6. The parties hereby agree that all other unamended terms and conditions set forth in the Agreement shall remain the same and shall remain in full force and effect following the Effective Date. All benefits, rights, obligations and responsibilities of the parties under the Agreement shall transfer and operate under this First Amendment, and shall be construed and shall function as if the Agreement had remained in effect continuously but with the amendment of the terms contained in this First Amendment.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Contractor and the IEDC have, through their respective duly authorized representatives, entered into this First Amendment as of the Effective Date. The parties, having read and understood the foregoing terms of this First Amendment, do by their respective signatures dated below hereby agree to the terms hereof.

39 DEGREES NORTH, LLC

Anthony Chris Walls

Chris Walls, Managing Partner

April 26, 2016

Date

**APPROVED:
STATE BUDGET AGENCY**

Brian E. Bailey

BRIAN E. BAILEY, DIRECTOR

Date

5/2/16

**INDIANA ECONOMIC DEVELOPMENT
CORPORATION**

Victor P. Smith, Secretary of Commerce

(Digital Signature Stamp Below)

Digitally signed by
Victor P. Smith
DN: cn=Victor P.
Smith, o=Secretary
of Commerce,
ou=IEDC,
email=vsmith@ied
c.in.gov, c=US

Date: 2016.04.26
16:52:31 -04'00'