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:	2. Date prepared:
A293-7-21FUND-16-005	10/7/2016

3. CONTRACTS & LEASES

X Professional/Personal Services
___ Grant
___ Lease
___ Attorney
___ MOU
___ QPA
___ Contract for procured Services
___ Maintenance
___ License Agreement
___ Amendment# ___
___ Renewal # ___
___ Other ___

FISCAL INFORMATION

4. Account Number:	5. Account Name:
43010-52900.531010	IN 21ST CENTURY RESEARC
6. Total amount this action: $100,000.00	7. New contract total: 100,000.00
8. Revenue generated this action: $0.00	9. Revenue generated total contract: $0.00

10. New total amount for each fiscal year :

Year 2017 $100,000.00
Year ___ $ ___
Year ___ $ ___
Year ___ $ ___

TIME PERIOD COVERED IN THIS EDS

11. From (month, day, year):	12. To (month, day, year):
10/1/2016	9/30/2017

13. Method of source selection:
___ Bid/Quotation
___ Emergency
___ RFP# ___
___ Other *(specify)* ___
X Negotiated
___ Special Procurement

AGENCY INFORMATION

14. Name of agency:	15. Requisition Number:
Economic Development Corp	0000006289

16. Address: IN Economic Development Corp
Central Office
1 N CAPITOL AVE STE 700
INDIANAPOLIS, IN 46204-2040

AGENCY CONTACT INFORMATION

17. Name:	18. Telephone #:
Joyce Weidner	317/234-8003

19. E-mail address: joweldner@iedc.in.gov

COURIER INFORMATION

20. Name:	21. Telephone #:
Jackie Addison	(317)234-8741

22. E-mail address: jcaddison@iedc.in.gov

VENDOR INFORMATION

23 Vendor ID # 0000294754

24. Name:	25. Telephone #:
BATTERY INNOVATION CENTER INC	N/A

26. Address:
7970 S ENERGY DR
NEWBERRY, IN 47449

27. E-mail address: david.roberts@bicindiana.com

28. Is the vendor registered with the Secretary of State? (Out of State Corporations, must be registered) X Yes ___ No

29. Primary Vendor: M/WBE/IN-Veteran
Minority: ___ Yes X No
Women: ___ Yes X No
IN-Veteran: ___ Yes X No

30. Primary Vendor Percentages
100.0 %

31. Sub Vendor: M/WBE/IN-Veteran
Minority: ___ Yes X No
Women: ___ Yes X No
IN-Veteran: ___ Yes X No

32. If yes, list the %:
Minority: ___ %
Women: ___ %
IN- Veteran: ___ %

33. Is there Renewal Language in the document? X Yes ___ No

34. Is there a "Termination for Convenience" clause in the document? X Yes ___ No

35. Will the attached document involve data processing or telecommunications systems(s)? ___ Yes: IOT or Delegate has signed off on contract

36. Statutory Authority *(Cite applicable Indiana or Federal Codes)*:
I.C. 5-28-5-12

37. Description of work and justification for spending money. *(Please give a brief description of the scope of work included in this agreement.)*
Consulting Service for the State Innovation, Technology & Industry Partnerships

38. Justification of vendor selection and determination of price reasonableness:
We have worked with this company many times over the years.

39. If this contract is submitted late, please explain why: *(Required if more than 30 days late.)*

40. Agency fiscal officer or representative approval	41. Date Approved	42. Budget agency approval	43. Date Approved
Matthew R Kimmick DN: cn=Matthew R. Kimmick, o=Indiana Economic Development Corporation, ou, email=mkimmick@iedc.in.gov, c=US Date: 2016.10.07 17:29:26 -04'00'		TB	10/20/16
44. Attorney General's Office approval	45. Date Approved	46. Agency representative receiving from AG	47. Date Approved

98556-000

PROFESSIONAL SERVICES AGREEMENT

This **PROFESSIONAL SERVICES AGREEMENT** (this "**Agreement**") is made and entered into, by and between the **INDIANA ECONOMIC DEVELOPMENT CORPORATION** (the "**IEDC**") and the **BATTERY INNOVATION CENTER, INC.** (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 the Contractor to provide consulting services to the IEDC. The Contractor's Principal (as defined in Paragraph 18) shall serve as the IEDC's Senior Advisor for Innovation, Technology, and Industry Partnerships and shall perform such duties in accordance with **Exhibit A**, which is attached hereto and made a part hereof. The IEDC shall provide on-site working space, internet access, access to printing, and other similar agreed upon materials to the Contractor's Principal for performance of this Agreement, as needed. The parties agree that the Contractor's Principal will not perform any legal functions for the IEDC. Notwithstanding anything herein to the contrary, the Contractor acknowledges and agrees that the IEDC shall have the right in its sole discretion to enter into such similar agreements with parties other than the Contractor to provide such services to the IEDC.

2. TERM.

(A) This Agreement shall commence on **October 1, 2016** and shall remain in effect through **September 30, 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 may be renewed under the same terms and conditions, subject to the approval of the parties and the State Budget Director. The term of the renewed Agreement may not be longer than the term of the original Agreement. All renewals and extensions must be in writing and signed by all parties.

(C) Any provisions which, by their nature, are intended to apply after termination of this Agreement shall survive termination of this Agreement, including provisions for payment of amounts owed for work performed under this 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) The Contractor shall be compensated as follows:

1) An amount not to exceed $80,000.00 for its services provided herein, which shall be disbursed to the Contractor in monthly installments of approximately $6,666.67.

2) The Contractor shall be reimbursed for pre-approved reasonable out-of-pocket expenses incurred in connection with this Agreement, such as travel, telephone usage, postage, and printing. Reimbursement for these pre-approved reasonable out-of-pocket expenses shall not exceed $20,000.00 during the term of this Agreement.

Total remuneration under this Agreement shall not exceed **$100,000.00**.

(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 include line item details describing the services performed, reimbursement items shall also include any receipts and supporting documentation to substantiate such expenses in accordance with the IEDC's regular accounting and expense reimbursement policies and shall otherwise be in compliance with the requirements of this Paragraph 4. The Contractor shall submit invoices to the IEDC at processing@iedc.in.gov.

(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) Allowable expenditures made by the Contractor for travel will be reimbursed at the current rate paid by the IEDC and in accordance with the State Travel Policies and Guidelines as specified in the current Financial Management Circular, available at *http://www.in.gov/idoa/2459.htm*. All expenses must be approved by the IEDC in writing in advance. Out-of-state travel requests must be reviewed by the IEDC for availability of funds and for appropriateness per Financial Management Circular guidelines.

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 Paragraph 5, 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.

(C) The Contractor agrees not use or provide unauthorized third parties, misappropriate or disclose any confidential or proprietary information of persons or organizations seeking assistance or that has obtained assistance from the IEDC and/or any other confidential or proprietary information of the IEDC. Further, the Contractor agrees that such prohibited uses include (i) making an investment in any persons or organizations that is seeking assistance or who has obtained assistance from the IEDC or (ii) seeking or obtaining employment with any persons or organizations that is seeking assistance or who has obtained assistance from the IEDC. The Contractor also agrees to return to the IEDC, or in the case of electronic files, delete all review materials, and any copies of the review materials provided by the IEDC. The return of review materials will be at the IEDC's request.

(D) The IEDC understands that the Contractor may provide services to other clients in the normal course of its business and, as such, the parties agree that the Contractor is, subject to the provisions of this Paragraph 5, permitted to continue providing such services under its agreements with other clients.

(E) The Contractor may enter into new agreements with a private party which does or intends to do business with the State of Indiana ("**Consulting Clients**"), and that the Contractor may receive compensation from Consulting Clients that is in addition to the compensation called for under this Agreement. The Contractor shall disclose to the IEDC General Counsel the existence of such agreements as well as the terms thereof in a manner proscribed by the IEDC General Counsel, prior to the Contractor's acceptance thereof so as to ensure there is no conflict or appearance of conflict.

(F) Notwithstanding the foregoing, and in addition to (and not in lieu of) any ethical requirements that apply to persons who have a business relationship with the State of

Indiana and any disclosure and reporting requirements that apply to persons who are engaged in executive branch lobbying activities, the parties agree that the Contractor shall be excluded from internal discussions or deliberations at the IEDC pertaining to a Consulting Client, whether such discussions are held at a managerial or an executive level at the IEDC. The Contractor understands and agrees that its personnel, if any, are under an affirmative obligation to recuse themselves prior to any discussions or deliberations.

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 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 deem 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 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, this 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 at least quarterly, commencing **January 1, 2017**, and upon further request of the IEDC. The progress reports shall detail the progress and/or accomplishment of duties and objectives set forth 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 any scheduled dates as agreed to by the parties. The Contractor shall submit progress reports to the IEDC at reports@iedc.in.gov.

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 this Agreement period, and for three (3) years from the date of final payment under this 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 or by any other authorized representative of state government 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 this 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 & 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 § 35-44.1-1-4 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 Paragraph 13 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 this 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 this 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 this Agreement, even if Indiana Code § 24-4.7 is preempted by federal law.

15. DRUG-FREE WORKPLACE CERTIFICATION.

As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. 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 workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Agreement and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Agreement is in excess of $25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

(A) Publishing and providing to all of its employees, if applicable, a statement notifying them 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;

(B) Establishing a drug-free awareness program to inform its employees, if applicable, of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

(C) Notifying all employees, if applicable, in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) 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;

(D) Notifying the State in writing within ten (10) days after receiving notice from an employee, if applicable, under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

(E) Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee, if applicable, who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

(F) Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

16. 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 this 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.

17. NOTICE TO PARTIES.

(A) Whenever any notice, statement, or other communication ("**notice**") is required under this Agreement, it shall be sent to the following address, unless otherwise advised in writing:

(1) 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
reports@iedc.in.gov

(2) Notices to the Contractor shall be sent to:

BATTERY INNOVATION CENTER, INC.
Attn: David Roberts, President
7970 S. Energy Drive
Newberry, IN 47449
david.roberts@bicindiana.com

(B) Any change in the Contractor's contact information must be provided in writing by the Contractor to the IEDC in accordance with this Paragraph 17.

(C) Notice shall be provided via electronic mail to the Contractor's electronic mail address and via certified, registered, or first-class U.S. mail at the option of the IEDC. Notice shall be deemed delivered upon dispatch.

18. 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) KEY PERSON(S):

(1) This Agreement will be performed under the direction of **David Roberts** (the "**Principal**"). In the event the Principal is unable or unwilling to continue providing the services under this Agreement, the IEDC may suspend or terminate this Agreement.

(2) Nothing in this Paragraph 18 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 Principal, 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 this 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.

19. 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 third party 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.

20. DEBARMENT & 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.

21. 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, Indiana Code § 34-13-1, and Indiana Code § 34-52-2-3. 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.

22. 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 electronically, 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, the employees or sub-contractors of the Contractor.

(F) If the IEDC determines that it would be in the IEDC's best interest to hire an employee of the Contractor, the Contractor will release the selected employee from any non-compete agreements that may be in effect. This release will be at no cost to the IEDC or to the employee.

(G) 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.

(H) This Agreement was reviewed and/or revised by legal counsel for the IEDC and the Contractor, and no presumption or rule that ambiguity shall be construed against the party drafting the document shall apply to the interpretation or enforcement of this Agreement.

23. 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 upon request.

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 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.

25. 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.

26. DISPUTES.

(A) Should any disputes arise with respect to this Agreement, the Contractor and the IEDC agree to act immediately to resolve such disputes. Neither party shall be required to submit to binding arbitration for the resolution of 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.

27. ORDER OF PRECEDENCE; INCORPORATION BY REFERENCE.

Any inconsistency or ambiguity in this Agreement shall be resolved by giving precedence in the following order: (1) this Agreement; (2) exhibits/attachments prepared by the IEDC; and (3) exhibits/attachments prepared by the Contractor.

28. AGREEMENT MODIFICATIONS.

Only the following paragraphs of this Agreement were added, deleted, or modified during construction and/or negotiation of this Agreement.

(A) Paragraph 3 of the Agreement, entitled Consideration, is modified by the mutual agreement of the parties.

(B) Paragraph 4 of the Agreement, entitled Payments, is modified by the mutual agreement of the parties.

(C) Paragraph 5 of the Agreement, entitled Confidentiality of Information, is modified by the mutual agreement of the parties.

(D) Paragraph 9 of the Agreement, entitled Progress Reports, is modified by the mutual agreement of the parties.

(E) Paragraph 23 of the Agreement, entitled Insurance, is modified by the mutual agreement of the parties.

29. NON-COLLUSION & 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.

Signatures on Following Page -- Remainder of Page Intentionally Left Blank

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

BATTERY INNOVATION CENTER, INC.

Signature

David Roberts, President

Printed Name and Position/Title

Date: October 7, 2016

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@iedc.in.gov, c=US
Date: 2016.10.07 10:14:17 -04'00'

STATE BUDGET AGENCY

Trevor Butler (for)

Brian E. Bailey
Director

Date: 10/20/16

EXHIBIT A

Duties of Contractor

The Contractor's designated Principal, David Roberts, shall serve as the IEDC's "Senior Advisor for Innovation, Technology, and Industry Partnerships" and shall assist with the oversight of the IEDC's economic strategy, implementation and execution of industry driven innovation partnerships involving the universities, educators, and private sector partners. The Principal shall engage the resources and expertise associated with the Contractor to meet the objectives outlined.

The Battery Innovation Center Institute, Inc. ("**BIC**") is an Indiana non-profit, public private partnership ("**P3**"). The BIC's mission is closely aligned with IEDC's goals for other industry sectors related to the innovation and entrepreneurship mission. The BIC began operations in August 2013 in Westgate Tech Park, with several economic development goals. Among them, BIC was formed to advance STEM-based economic development in Indiana, especially in rural Indiana and around energy-related technical advancements. As such, the BIC was established not only as a State and local resource, but also as a global, industry-wide resource. Over the past three (3) years, the BIC has achieved this mission by bringing together global industry participants, academia, and government stakeholders to grow a sustainable P3 environment.

Duties include:

- Support the IEDC's goal of leveraging industry and university commitments to spearhead and augment nationally recognized industry-driven partnerships to advance Indiana innovation and entrepreneurship, reporting to the IEDC's Executive Vice President and Chief Innovation Officer.

- Enhance regional entrepreneurial culture and investment by drafting a framework and criteria for the IEDC's consideration for industry, academia, educators, and other partners to apply for matching state investment to support industry-driven partnerships.

- Accelerate investments in early-stage, mid-market and high-growth companies via inclusion of private sector investors in current and future partnerships and ensure Indiana-based companies, regardless of size, are represented in existing and new state-supported consortia, research activities, and related partnerships.

- Identify and implement strategies to ensure all state-supported partnerships with universities are completely tied into venture capital resources and other investment programs.

- Work to create commercialization mechanisms and opportunities of intellectual property generated from industry driven partnerships in Indiana, matching up talent and ideas with corresponding investment communities.

- Identify federal opportunities to match state investments in industry-driven partnerships.

- Work with the IEDC marketing and communications team members to highlight successes stemming from current and future industry-driven partnerships – successes that draw new participants to these programs statewide and outside of Indiana, furthering economic development goals of the IEDC.

- Assist with events that involve showcasing Indiana's sector and university partnerships, working closely with the university and educational communities, as directed.

- Make recommendations based on stakeholder feedback to create, augment, and/or implement entrepreneurial competitions in high schools statewide in partnership with educators and industry.

- Assist in benchmarking current and future state supported industry-driven partnerships and make recommendations for incorporation of best practices and sufficient involvement of IEDC personnel and related economic development partners in these efforts.

- Analyze key sector trends that are evolving in advanced manufacturing, life sciences, and information technology that could influence future industry-driven partnerships and share findings with the IEDC's Executive Vice President and Chief Innovation Officer and his designees.

    - Recommend concrete steps to leverage these opportunities in the formation of new industry-driven partnerships in a way that will differentiate Indiana on a global stage, while leveraging related elements of the broader innovation and entrepreneurship initiative.

- Recommend trade shows, conferences and other opportunities to attend, sponsor, and participate in specifically related to the energy storage sector in close coordination with the IEDC business development and marketing team.