



# 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-15-032	2. Date prepared: 7/8/2015
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### 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 type="checkbox"/> Amendment#
<input type="checkbox"/> MOU	<input type="checkbox"/> Renewal #
<input type="checkbox"/> QPA	<input type="checkbox"/> Other

### FISCAL INFORMATION

4. Account Number: 12090-10400.531013	5. Account Name: ADMINISTRATION
6. Total amount this action: \$290,000.00	7. New contract total: 290,000.00
8. Revenue generated this action: \$0.00	9. Revenue generated total contract: \$0.00
10. New total amount for each fiscal year:	
Year 2016	\$290,000.00
Year	\$
Year	\$
Year	\$

### TIME PERIOD COVERED IN THIS EDS

11. From (month, day, year): 7/1/2015	12. To ( month, day, year ): 6/30/2016
13. Method of source selection:	
<input type="checkbox"/> Bid/Quotation	<input checked="" type="checkbox"/> Negotiated
<input type="checkbox"/> Emergency	<input type="checkbox"/> Special Procurement
<input type="checkbox"/> RFP#	<input type="checkbox"/> Other (specify)

35. Will the attached document involve data processing or telecommunications system  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 and technology development services associated with the IEDC's core operating systems: Microsoft Dynamic SRM, Microsoft Sharepoint, the Project Information Management System(PIMS) and the IEDC Transparency Portal. The new enhancements shall include updates to existing online applications, design of automating other IEDC origrans that are currently paper based, updates to Transparency Portal and upgrade to CRM 2015 and automation of CRM reports.

38. Justification of vendor selection and determination of price reasonableness:  
The fee charge shall be based upon the scope of work as defined in this agreement. Types of professional service will be performed per the agreement: Project Manager & Architecture Leadership, Business Analyst and Developer. Services will be billed on a monthly basis for the actual work performed.

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

40. Agency fiscal officer or representative: Digitally signed by Mark Pishon Name: Mark Pishon, o=IEDC ou=Chief Financial Officer, email=mpishon@iedc.in.gov	41. Date Approved	42. Budget agency approval <i>AC</i>	43. Date Approved 9/17/15
44. Attorney General's Office approval: Date: 2015.08.28 10:33:53 -04	45. Date Approved	46. Agency representative receiving from AG	47. Date Approved

### AGENCY INFORMATION

14. Name of agency: Economic Development Corp	15. Requisition Number: 0000065502
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 # 0000001658	
24. Name: CROWE HORWATH LLP	25. Telephone #: 317-569-8989
26. Address: SUITE 300 3815 RIVER CROSSING PARKWAY INDIANAPOLIS, IN 46240	
27. E-mail address: mindy.herman@crowehorwath.com	
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 Women: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IN-Veteran <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	30. Primary Vendor Percentages 100.0 %
31. Sub Vendor: M/WBE/IN-Veteran Minority: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Women: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IN-Veteran <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	32. If yes, list the %: Minority: _____ % Women: _____ % 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



## PROFESSIONAL SERVICES AGREEMENT

### INDIANA ECONOMIC DEVELOPMENT CORPORATION and CROWE HORWATH LLP

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into, effective as of July 1, 2015, by and between the **INDIANA ECONOMIC DEVELOPMENT CORPORATION** (the "IEDC") and **CROWE HORWATH LLP** (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 to the IEDC technology, process and organizational consulting services as set forth in Exhibit A, the **Project Description** and Exhibit B, the **Project Budget**, attached hereto and made a part hereof.

#### 2. TERM

(A) This Agreement shall commence on **July 1, 2015** 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 may be renewed under the same terms and conditions, subject to the approval of the parties, including 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 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. For the services provided hereunder, the Contractor shall be compensated in accordance with the Project Budget, as more particularly described at Exhibit B. Total remuneration under this Agreement shall not exceed **Two hundred and ninety thousand and 00/100 Dollars (\$290,000.00)** (the "Agreement Amount").

(B) 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 billed on a time and material basis as detailed in Exhibit B and shall otherwise be in compliance with the requirements of this Paragraph.

- (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](http://www.in.gov/auditor/forms).
- (C) No travel and other expenditures made by the Contractor will be reimbursed by the IEDC, unless permitted by the IEDC in advance in writing. Any pre-approved 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 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 IEDC acknowledges that the Contractor may also disclose confidential information to the IEDC (the "Contractor Confidential Information"), which may include, without limitation, methodologies, code, algorithms, software code, or processes. The Contractor shall mark such Confidential Information as "Confidential" or "Proprietary" or similar markings, and the IEDC agrees to treat such information as confidential and not to disclose such information to the extent permitted by law. The Contractor Confidential Information shall at all times remain the property of Contractor.
- (C) 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 provide prompt notice to the IEDC and 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.
- (D) The obligations of confidentiality shall not apply to: (a) information which was already known to the receiving party prior to disclosure to the receiving party by the disclosing party; (b) information ascertainable or obtainable from public or published information; (c) information received from a third party not known by the receiving party to be employed by or affiliated with the disclosing party or under an obligation to the disclosing party to keep such information confidential; and (d) information which is or becomes known to the public other than through a breach 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. Notwithstanding anything in the foregoing to the contrary, IEDC agrees and grants Contractor the right to use IEDC as a reference, upon advance consent, and to represent to other potential or existing Contractor clients that Contractor is performing services on behalf of IEDC. Contractor will not otherwise disclose any IEDC Confidential Information.

**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 progress reports to the IEDC upon request. The report shall be oral, unless the IEDC, upon receipt of the oral report, should deem it necessary to have it in written form. The progress reports shall serve the purpose of assuring the IEDC that work is progressing in a reasonably timely manner and that completion can be reasonably anticipated to occur on or about 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; provided that such representative is not a private company which offers competing services. 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 reasonable efforts and cooperation to effect an orderly and efficient transition to a successor to provide the services contemplated hereby.
- (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 professional and technical guidelines and standards consistent in the industry. 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.
- (E) Notwithstanding anything herein to the contrary, the Contractor acknowledges and agrees that the IEDC shall have the right in its sole discretion to seek bids from, and enter into agreements with parties other than the Contractor to provide consulting services to the IEDC.

## **12. OWNERSHIP OF DOCUMENTS AND MATERIALS**

- (A) Upon payment to the Contractor by the State of the fees associated with the pro-rata completion of a particular statement of work or upon termination, at the IEDC's request, Contractor will transfer to the IEDC all the materials in the Contractor's possession specifically and exclusively prepared for the IEDC or provided to the Contractor by the IEDC for that project.
- (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 upon such payment associated with that work, the Contractor shall transfer any ownership claim to the IEDC, and all such materials will be the property of the IEDC subject to the reservation of rights and non-exclusive license set forth later in this section. 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) Except as otherwise provided herein, 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.
- (D) The Contractor hereby reserves the following rights in and to documents, deliverables, works and materials conceived, made or created by the Contractor, either solely or jointly with IEDC, in the course of the Contractor's performance of work or services under this Agreement and IEDC hereby grants to the Contractor a non-exclusive, perpetual, paid-up, irrevocable license to use portions of such documents, deliverables, works and materials (including, but not limited to, reproduction thereof) in the performance of services or work for others, to modify portions of such inventions and works, and to reproduce and distribute portions of such inventions, works, and such modifications thereof in materials delivered to others in the performance of Services or other work for them.
- (E) The IEDC acknowledges that the Contractor has developed and licensed the product and/or sold the services that originate from and are similar to the products and services resulting from this Agreement and prior agreements to other Contractor clients, and the Contractor will continue to license and develop such similar products and/or sell such services to other Contractor clients on a continuing basis, and no transfer of intellectual property ownership from the Contractor to the IEDC in the products or services or any underlying intellectual property is intended hereby. Therefore, notwithstanding anything to the contrary in this Agreement and for avoidance of doubt, the IEDC acknowledges and agrees that nothing in this Agreement is intended to prohibit or otherwise constrain the Contractor from continuing to license or modify similar products and/or sell similar services to other Contractor clients so long as no IEDC Confidential Information is incorporated into any such products or services.

## **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 *et seq.*, Indiana Code § 4-2-7 *et seq.*, 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 the 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 the Contractor, the 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 and not retained or used by IEDC to the extent the 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, the 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. 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.

#### **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 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.

#### **17. 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:  
 CROWE HORWATH LLP  
 Attn: Mindy Herman  
 3815 River Crossing Parkway, Suite 300  
 Post Office Box 40977  
 Indianapolis, IN 46240-0977

Notice from the IEDC to the Contractor may be provided via certified mail with return receipt requested. Notice shall be deemed delivered upon receipt. 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.

#### **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 **Mindy Herman** (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 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.

#### **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 claims and suits for loss or damage to tangible property, including the loss of use thereof, and physical 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 a wrongful 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 the Contractor.

#### **20. 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.

## **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, 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.

## **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 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) 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 only to the extent that such non-compete agreement applies to IEDC. 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.

## **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 to the IEDC prior to the commencement of work under this Agreement. In addition, the Contractor shall be responsible for providing all necessary unemployment and workers' compensation insurance for the

Contractor's employees and shall be responsible for reporting and paying all applicable employment taxes.

**24. 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.

**25. INFORMATION TECHNOLOGY ACCESSIBILITY STANDARDS AND ACCEPTANCE TESTING**

(A) 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.

(B) Upon delivery by the Contractor of an information technology solution deliverable ("IT Deliverable") to the IEDC, the IEDC shall have sixty (60) days from the date of receipt of the Deliverable to evaluate, review and test such IT Deliverable ("Test Period") in accordance with the specifications and test criteria agreed upon in writing by the parties. In the event that the IEDC believes that an IT Deliverable does not conform to such specifications or the test criteria, then the IEDC shall notify the Contractor in writing within the Test Period setting forth the reason or reasons why the IEDC believes that such IT Deliverable does not conform. The IEDC shall identify all non-conformities within a single written notice of rejection. The IEDC may reject an IT Deliverable only for its failure materially to conform to such specifications or test criteria. If the Contractor has not received a written notice of rejection of an IT Deliverable within the Test Period, then such Deliverable shall be deemed to be accepted by the IEDC. If the IEDC delivers to the Contractor written notice of rejection of a Deliverable within the Test Period, then the Contractor shall have thirty (30) days from the date of receipt of a written notice of rejection either (i) to correct the non-conformities that the IEDC identifies in the written notice or (ii) to develop a plan mutually agreeable to the IEDC and the Contractor to correct the non-conformities that the IEDC identified in the written notice within a period of time agreed to by the parties in the plan, but in no event will this period of time be less than thirty (30) days. Upon correction, the Contractor will resubmit the corrected IT Deliverable to the IEDC for evaluation, review, and testing and the procedure set forth above shall be repeated. Such procedure shall continue until the Date of Acceptance, which shall be the expiration of the Test Period.

**26. DEFAULT BY IEDC**

If the IEDC, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Agreement and institute the appropriate measures to collect monies due up to and including the date of termination.

**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.

## **29. LIMITATION OF LIABILITY**

- (A) Except where it is determined that the Contractor acted with intentional misconduct, the Contractor's liability to the IEDC hereunder for damages, regardless of the legal theory of the claim (including without limitation negligence), shall not exceed two times the fees actually paid to the Contractor under this Agreement, and such claim for payment of two times such fees paid shall be the IEDC's exclusive remedy for any damages. The Contractor's option to repair or replace a nonconforming or noncompliant deliverable or service shall be the IEDC's exclusive remedy against the Contractor with respect to such deliverable or service.
- (B) In no event shall the Contractor be liable to the IEDC for any lost profits or for any special, indirect, exemplary, punitive, incidental, or consequential damages whatsoever, even if the Contractor know about the possibility of such damages. The Contractor is expressly not liable

for the IEDC's data integrity or for any damages that may occur to the IEDC's data, business, or business relationships due to malfunctioning or unavailable third party software or hardware.

- (C) The limitation of liability in subsection 30(a) may be modified in an executed statement of work with respect to a breach by the Contractor of obligations with respect to confidentiality where such modification specifically references subsection 44(a) and sets forth the modified limit of liability.
- (D) The limitations of liability contained in this contract shall apply to the fullest extent permitted by law and shall survive termination of this contract.

In Witness Whereof, the 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.

**CROWE HORWATH LLP**

*Mindy R. Herman*

\_\_\_\_\_  
MINDY R. HERMAN, PRINCIPAL

Date: \_\_\_\_\_ 08/06/15 \_\_\_\_\_

**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: 2015.08.11 13:28:38 -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. PROJECT DESCRIPTION**

The contractor will conduct the following services in accordance with the following Project Description:

### **The IEDC's Responsibilities**

The IEDC shall designate a senior representative from its management responsible for performing management's role ("Management Representative"). The IEDC's Management Representative shall determine the scope of the services to be performed and shall be responsible for reviewing, supervising, and approving our performance of our services. The Management Representative shall be knowledgeable in all laws, regulations, and industry practices applicable to the services and any work product. The Management Representative shall determine and approve the risk, scope, and frequency of services to be performed, and the Management Representative shall coordinate, review, and approve Crowe's performance of services. The Management Representative shall be responsible for evaluating the services and work product, including the results of the services, and for reporting any issues or deficiencies to the appropriate level of the IEDC's management. The IEDC shall be solely responsible for determining when, whether, and how any recommendations made by Crowe are to be implemented.

The IEDC represents that all information provided to Crowe is accurate and complete in all respects, contains no omissions, and will be updated on a prompt and continuous basis. The IEDC has determined that Crowe's provision of the services described herein shall not violate any statute or regulation. The IEDC shall ensure that it has all rights and authority to permit Crowe to access or use any systems or third-party products during performance of services. For any third-party software applications, or related hardware, used by the IEDC and to which Crowe must have access for purposes of providing the services, the IEDC represents and warrants that it has obtained any necessary licenses for Crowe to perform the services.

Our services and work product are intended for the benefit and use of the IEDC. This engagement will not be planned or conducted in contemplation of reliance by any other party or with respect to any specific transaction and is not intended to benefit or influence any other party. Therefore, items of possible interest to a third party may not be specifically addressed or matters may exist that could be assessed differently by a third party. The working papers for this engagement are the property of Crowe and constitute confidential information.

### **Engagement Scope and Approach**

The purpose of this engagement is to provide consulting and technology development services associated with the IEDC's core operating systems: Microsoft Dynamics CRM, Microsoft SharePoint, the Project Information Management System (PIMS) and the IEDC Transparency Portal. The contractor and the IEDC have defined system enhancements and configurations that would address needed functionality by the IEDC for additional programs and capabilities specific to the Microsoft Dynamics CRM, Microsoft SharePoint, PIMS and Transparency Portal systems. Enhancements include updates to existing online applications, design of automating other IEDC programs that are currently paper based, updates to Transparency Portal, , , infrastructure updates including: upgrade to CRM 2015 within IOT's shared services environment, new IOT servers for PIMS, SharePoint 2013 upgrade within IOT's environment and the automation of CRM reports. The Contractor will work with the IEDC and make available the appropriate

resource(s) for each IEDC core operating system (CRM, Intranet, Extranet and Transparency Portal) for system support and maintenance.

In addition, the IEDC elects to make additional enhancements through application configuration or custom development to meet specific operational and business needs of the IEDC's core operating systems. Additional configurations and customizations are required and will be implemented to support the IEDC's business initiatives. The Contractor will work with the IEDC to review and assess these types of enhancements to the core systems as well as determine the best implementation approach in meeting newly identified needs.

Included in the consulting services that Crowe provides to IEDC, IEDC may request Crowe to extract information from IEDC's source system into a Jobs Realization Report to provide to the IEDC Policy Committee. Crowe has provided services related to the systems in which the information resides. Crowe understands the IEDC data model, definition of the data elements and follows a documented process to generate the report. The Jobs Realization report work is under a consulting agreement, there is not a standard by which to compare this number with other entities and is used by IEDC as a comparison from prior years.

#### Timeline

The engagement will run through June 30th, 2016.

#### Acceptance of Formal Deliverables

All formal engagement deliverables will be reviewed and approved first by the Management Representative. If approved, the IEDC Executive Leadership team will review the deliverable. After a review period for each deliverable the IEDC Executive Leadership team and the Crowe engagement team will be asked to sign each deliverable acknowledging its acceptance.

#### Definition of Engagement Completion

This engagement will be concluded when the following processes occur:

- Systems modifications, enhancements, reports and support are delivered by June 30<sup>th</sup>, 2016.

**EXHIBIT B. PROJECT BUDGET**

Based upon the scope of this engagement as defined in this document, the services will be billed on a time and materials basis using the rate table below. Based on the activities as outlined in Exhibit A, the total Agreement Amount for this engagement will not exceed \$290,000.00. Services will be billed on a monthly basis for the actual work performed. Should the scope of the engagement increase beyond this Agreement, the Contractor will notify the IEDC. The IEDC will not be liable for any increases unless prior written approval has been given and modification of this Agreement has occurred.

<b><u>Type of Professional Services Performed</u></b>	<b><u>Blended Hourly Rate</u></b>
Project Manager & Architecture Leadership	\$200
Business Analyst	\$175
Developer	\$165

The IEDC may provide written notice to Crowe to suspend or halt further progress on this engagement. If this occurs, the IEDC agrees to reimburse Crowe for the actual amount of time expended for the activities on this engagement extended at our hourly billing rates plus any expenses incurred.



EXECUTIVE DOCUMENT SUMMARY

State Form 41221 (R10/4-08)

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-15-032
2. Date prepared: 5/7/2016

3. CONTRACTS & LEASES
X Professional/Personal Services
Grant
Lease
Attorney
MOU
QPA
Contract for procured Services
Maintenance
License Agreement
Amendment# 1
Renewal #
Other

FISCAL INFORMATION
4. Account Number: 12090-10400.531013
5. Account Name: ADMINISTRATION
6. Total amount this action: \$0.00
7. New contract total: 290,000.00
8. Revenue generated this action: \$0.00
9. Revenue generated total contract: \$0.00
10. New total amount for each fiscal year:
Year 2016 \$290,000.00
Year \$
Year \$
Year \$

TIME PERIOD COVERED IN THIS EDS
11. From (month, day, year): 5/6/2016
12. To (month, day, year): 6/30/2017
13. Method of source selection:
Bid/Quotation
Emergency
Negotiated
RFP#
Other (specify)

AGENCY INFORMATION
14. Name of agency: Economic Development Corp
15. Requisition Number: 0000005502

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

AGENCY CONTACT INFORMATION
17. Name: Georgla Chang
18. Telephone #: 317/232-8903
19. E-mail address: gchang@iedc.in.gov

COURIER INFORMATION
20. Name: Joyce Weldner
21. Telephone #: 317-234-8003
22. E-mail address: loweldner@iedc.in.gov

VENDOR INFORMATION
23 Vendor ID #: 0000001658
24. Name: CROWE HORWATH LLP
25. Telephone #: 317-569-8989
26. Address: SUITE 300
3815 RIVER CROSSING PARKWAY
INDIANAPOLIS, IN 46240
27. E-mail address: mindy.herman@crowehorwath.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-Vetera
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 \_\_\_ 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 system \_\_\_ 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 and technology development services associated with the IEDC's core operating systems: Microsoft Dynamic SRM, Microsoft Sharepoint, the Project Information Management System(PIMS) and the IEDC Transparency Portal. The new enhancements shall include updates to existing online applications, design of automating other IEDC origins that are currently paper based, updates to Transparency Portal and upgrade to CRM 2015 and automation of CRM reports. The 1st Amendment is to extend the contract period to 6/30/2017; the total remuneration shall remains the same as agreed in the original Agreement.

38. Justification of vendor selection and determination of price reasonableness:
The fee charge shall be based upon the scope of work as defined in this agreement. Types of professional service will be performed per the agreement: Project Manager & Architecture Leadership, Business Analyst and Developer. Services will be billed on a monthly basis for the actual work performed.

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

40. Agency fiscal officer or principal approving officer: [Signature]
41. Date Approved
42. Budget agency approval: AC
43. Date Approved: 5/9/14
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 Crowe Horwath LLP (the "**Contractor**").

### RECITALS

WHEREAS, the IEDC and the Contractor previously entered into that certain Professional Services Agreement, with an effective date of July 1, 2015, 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**";

WHEREAS, the IEDC and the Contractor desire to amend the Agreement to extend the term of the Agreement, so the Contractor may continue to perform the services set forth in the Agreement; and

WHEREAS, the parties agree to amend any additional terms to this Agreement as set forth below.

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 May 6, 2016 ("**Effective Date**").

### AMENDMENT

2. Paragraph 2(A) of the Agreement is deleted and replaced in their entirety with the following:

#### 2 TERM

(A) This Agreement shall commence on **July 1, 2015** and shall remain in effect through **June 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.

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

**4. PAYMENTS**

(A) The Contractor shall submit monthly invoices to the IEDC at [processing@iedc.in.gov](mailto:processing@iedc.in.gov) for payment in connection with its services provided hereunder. Such invoices shall be billed on a time and material basis as detailed in **Exhibit B** and shall otherwise be in compliance with the requirements of this Paragraph.

4. Paragraph 13(B) of this Agreement is deleted and replaced in its entirety with the following:

**13. COMPLIANCE WITH LAWS**

(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.

~~5. Paragraph 21 of this Agreement is deleted and replaced in its entirety with the following:~~

**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, and Indiana Code § 34-13-1, and Indiana Code § 34-54-8. 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.

6. Paragraph 27 of this Agreement is deleted and replaced in its entirety with the following:

**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. 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.

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7. ~~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 IEDC's Responsibilities**

The IEDC's designated Management Representative is Matt Kimmick, Vice President & CFO.

**Engagement Scope and Approach**

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~~The purpose of this engagement is to provide consulting and technology development services associated with the IEDC's core operating systems: Microsoft Dynamics CRM, Microsoft SharePoint, the Project Information Management System ("PIMS"), the IEDC Transparency Portal, and ADX Studio. The Contractor and the IEDC have defined system enhancements and configurations that would address needed functionality by the IEDC for additional programs and capabilities specific to Microsoft Dynamics CRM, Microsoft SharePoint, PIMS, the IEDC Transparency Portal, and ADX Studio systems. Enhancements include updates to existing online applications, design of automating other IEDC programs (i.e. Urban Enterprise Zones, Regional Cities Initiative) that are currently paper based, updates to the IEDC's Transparency Portal including logic and branding, begin upgrade to CRM online within Microsoft's cloud environment, and the automation of CRM reports. The Contractor will work with the IEDC and make available resource(s) for each IEDC core operating system (CRM, Intranet, Extranet, ADX Studios and Transparency Portal) for system support and maintenance.~~

**Timeline**

The engagement will run through June 30, 2017.

**Definition of Engagement Completion**

This engagement will be concluded with the following processes occur:

- System modifications, enhancements, reports and support are delivered by June 30, 2017.

8. 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.

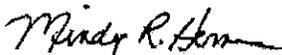
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*Signatures Appear on the Following Page*

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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.

**CROWE HORWATH LLP**



Mindy R. Plerman, Principal

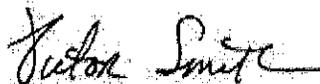
5/5/2016

Date

**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: 2016.05.06 14:31:41

-04'00'

**APPROVED:**

**STATE BUDGET AGENCY**



BRIAN E. BAILEY, DIRECTOR

5/9/16

Date



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-15-032
2. Date prepared: 11/3/2016

3. CONTRACTS & LEASES

X Professional/Personal Services
Grant
Lease
Attorney
MOU
QPA
Contract for procured Services
Maintenance
License Agreement
Amendment# 2
Renewal #
Other

FISCAL INFORMATION

4. Account Number: 12090-10400.531013
5. Account Name: ADMINISTRATION
6. Total amount this action: \$297,000.00
7. New contract total: 587,000.00
8. Revenue generated this action: \$0.00
9. Revenue generated total contract: \$0.00
10. New total amount for each fiscal year:
Year 2016 \$290,000.00
Year 2017 \$297,000.00
Year \$
Year \$

TIME PERIOD COVERED IN THIS EDS

11. From (month, day, year): 5/6/2016
12. To ( month, day, year ): 6/30/2017
13. Method of source selection: X Negotiated
Bid/Quotation Emergency Special Procurement
RFP# Other (specify)

AGENCY INFORMATION
14. Name of agency: Economic Development Corp
15. Requisition Number: 0000006317

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: Joyce Weidner
21. Telephone #: 317-234-8003

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

VENDOR INFORMATION

23 Vendor ID # 0000001658
24. Name: CROWE HORWATH LLP
25. Telephone #: 317-569-8989

26. Address: SUITE 300
3815 RIVER CROSSING PARKWAY
INDIANAPOLIS, IN 46240

27. E-mail address: mindy.herman@crowehorwath.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): 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 and technology development services associated with the IEDC's core operating systems: Microsoft Dynamic SRM, Microsoft Sharepoint, the Project Information Management System(PIMS) and the IEDC Transparency Portal. The new enhancements shall include updates to existing online applications, design of automating other IEDC origins that are currently paper based, updates to Transparency Portal and upgrade to CRM 2015 and automation of CRM reports. The 1st Amendment is to extend the contract period to 6/30/2017; the total remuneration shall remains the same as agreed in the original Agreement.

38. Justification of vendor selection and determination of price reasonableness:
The fee charge shall be based upon the scope of work as defined in this agreement. Types of professional service will be performed per the agreement: Project Manager & Architecture Leadership, Business Analyst and Developer. Services will be billed on a monthly basis for the actual work performed.

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

40. Agency fiscal officer or representative approval: Matthew R. Krummick
41. Date Approved
42. Budget agency approval: TB
43. Date Approved: 11/9/16
44. Attorney General's Office approval
45. Date Approved
46. Agency representative receiving from AG
47. Date Approved



## SECOND AMENDMENT

This Second Amendment (the “**Second Amendment**”) to the Professional Services Agreement is made by and between the Indiana Economic Development Corporation (the “**IEDC**”) and Crowe Horwath LLP (the “**Contractor**”).

### RECITALS

WHEREAS, the IEDC and the Contractor previously entered into that certain Professional Services Agreement, with an effective date of July 1, 2015, which was subsequently amended with an effective date of May 6, 2016 (collectively, the “**Original Agreement**”);

WHEREAS, the Original Agreement and all subsequent amendments shall hereinafter be referred to collectively as the “**Agreement**”; and

WHEREAS, the IEDC and the Contractor desire to amend the Agreement to adjust the total remuneration, so the Contractor may continue to perform the services set forth in the Agreement.

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

### EFFECTIVE DATE

1. This Second Amendment shall take effect on the last signature hereto (“**Effective Date**”).

### AMENDMENT

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

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### 3 CONSIDERATION

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(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**. For the services provided hereunder, the Contractor shall be compensated in accordance with the Project Budget, as more particularly described at **Exhibit B**. Total remuneration under this Agreement shall not exceed \$587,000.00 (the “**Agreement Amount**”).

3. The first paragraph to Exhibit B, Project Budget, is deleted and replaced in its entirety with the following; however, no further changes are made to Exhibit B.

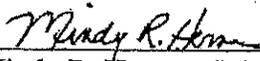
Based upon the scope of this engagement as defined in this document, the services will be billed on a time and materials basis using the rate table below. Based on the activities as outlined in **Exhibit A**, the total Agreement Amount for this engagement will not exceed **\$587,000.00**. Services will be billed on a monthly basis for actual work performed. Should the scope of the engagement increase beyond this Agreement, the Contractor will notify the IEDC. The IEDC will not be liable for any increases unless prior written approval has been given and modification of this Agreement has occurred.

4. 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 Second 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 Second Amendment.

*Signatures Appear on the Following Page*

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

**CROWE HORWATH LLP**

  
\_\_\_\_\_  
Mindy R. Herman, Principal

September 27, 2016  
Date

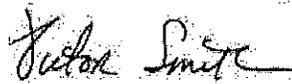
**APPROVED:  
STATE BUDGET AGENCY**

  
\_\_\_\_\_  
BRIAN E. BAILEY, DIRECTOR

11/9/16  
Date

**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.i  
n.gov, c=US  
Date: 2016.09.28  
15:18:25 -04'00'