

ADDENDUM

This Addendum is entered into by and between the **INDIANA ECONOMIC DEVELOPMENT CORPORATION** (the “**IEDC**”) and the entity designated as “Contractor” below.

The purpose of this Addendum is to modify, delete, or amend certain terms and conditions set forth in the attached Form Contract prepared by the Contractor (the “**Form Contract**”). This Addendum and the Form Contract are incorporated into each other and, when read together, shall constitute one integrated document (this “**Agreement**”). Any inconsistency, conflict, or ambiguity between this Addendum and the Form Contract shall be resolved by giving precedence and effect to this Addendum.

Contractor Name:

VERMILION CONSULTING, LLC

Contractor Address:

10 Tetilla Road
Santa Fe, NM 87508

Title of Form Contract:

Vermilion Consulting - Re: Engagement of Services

1. FORM CONTRACT/DUTIES OF CONTRACTOR.

The Contractor shall provide the targeted employment area (“**TEA**”) consulting services described in the Form Contract and **Exhibit A** to this Agreement, which is attached hereto and made a part hereof.

2. TERM.

(A) This Agreement shall commence on **June 24, 2016** and shall remain in effect through **June 23, 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 the Form Contract and **Exhibit A**.
- (B) The Contractor shall provide TEA consulting services at an hourly rate not to exceed \$250.00 per hour, which shall be broken down into 0.25 hour increments.
- (C) The IEDC shall reimburse the Contractor for pre-approved reasonable out-of-pocket expenses (such as those items set forth in the Form Contract) associated with the work incurred in connection with this Agreement. Furthermore, all travel costs must also be pre-approved by the IEDC and consistent with Paragraph 4(C) of this Agreement.
- (D) Total remuneration under this Agreement, including the Contractor's reasonable out-of-pocket and travel expenses shall not exceed **\$5,000.00**.
- (E) 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.

By mutual agreement of the parties, the following terms and conditions are deleted from the Form Contract:

- (A) Any provision requiring the IEDC to provide indemnity.
- (B) Any provision providing that this Agreement be construed in accordance with laws other than those of the State of Indiana.
- (C) Any provision providing that suit be brought in any state other than Indiana.
- (D) Any provision providing for resolution of contract disputes.
- (E) Any provision requiring the IEDC to pay penalties, liquidated damages, interest or attorney's fees.
- (F) Any provision requiring payment of consideration in advance unless authorized by an exception listed in Indiana Code § 4-13-2-20.
- (G) Any provision requiring payment in less than thirty-five (35) days.
- (H) Any provision giving the Form Contract precedence over this Addendum.

4. PAYMENTS.

- (A) The Contractor shall submit monthly invoices for payment in connection with its services provided hereunder. Such invoices shall include a line item breakdown of the services performed, the time spent on the services performed, and cost of each service, including detailed time entries, and shall otherwise be in compliance with the requirements of this Paragraph 4. Furthermore, the IEDC Vice President of Policy & Strategic Initiatives may request additional invoicing details or documents, as

necessary. 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) [Deleted by mutual agreement of the parties.]

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 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 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.

- (A) The Contractor shall provide monthly report status updates to the IEDC by telephone or email, as directed by the IEDC Vice President of Policy & Strategic Initiatives or his designee. The monthly report status updates shall provide an overview to the IEDC of the services being performed, progress, and any additional details as directed by the IEDC.

(B) The Contractor shall submit quarterly written progress reports to the IEDC, commencing **September 1, 2016**. The quarterly written progress reports shall serve the purpose of assuring the IEDC that work is progressing in a timely manner, and that completion can be reasonably assured on the scheduled date, if applicable. The Contractor shall submit quarterly written 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.

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:
VERMILION CONSULTING, LLC
Attn: Kimberly Attebury
10 Tetilla Road
Santa Fe, NM 87508
kim@consultvermilion.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 **Kimberly Atteberry** (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: [Deleted by mutual agreement of the parties.]

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) [Deleted by mutual agreement of the parties.]

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.

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 subcontractors of the Contractor.

(F) [Deleted by mutual agreement of the parties.]

(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. Upon request, the Contractor shall furnish a certificate of insurance and all endorsements to the IEDC.

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.

[Deleted by mutual agreement of the parties.]

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 and (2) the Form Contract and the Contractor's **Exhibit A**.

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 Addendum, entitled Consideration, is modified by mutual agreement of the parties.
- (B) Paragraph 4 of the Addendum, entitled Payments, is modified by mutual agreement of the parties.
- (C) Paragraph 5 of the Addendum, entitled Confidentiality of Information, is modified by mutual agreement of the parties.
- (D) Paragraph 9 of the Addendum, entitled Progress Reports, is modified by mutual agreement of the parties.
- (E) Paragraph 18 of the Addendum, entitled Subcontracts, Assignment & Key Persons, is modified by mutual agreement of the parties.
- (F) Paragraph 21 of the Addendum, entitled Attorneys' Fees & Interest, is modified by mutual agreement of the parties.
- (G) Paragraph 22 of the Addendum, entitled Miscellaneous, is modified by mutual agreement of the parties.
- (H) Paragraph 23 of the Addendum, entitled Insurance, is modified by mutual agreement of the parties.
- (I) Paragraph 25 of the Addendum, entitled Information Technology Accessibility Standards, is deleted by mutual agreement of the parties.

29. 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.

Signatures Appear on the Following Page

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.

VERMILION CONSULTING LLC

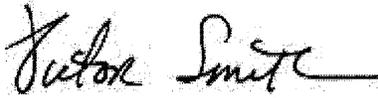


KIMBERLY ATTEBERRY, PRESIDENT

Date: 24 June 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.go
v, c=US

Date: 2016.06.27 10:33:15
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EXHIBIT A

In accordance with the Form Contract and the Addendum, the Contractor shall provide the following consulting services:

1. Dataset Preparation. The Contractor shall calculate dataset from publically-available BLS/LAUS 2015 unemployment data “shared” down to the block group level with publically-available ACS 2014 data. The Contractor must provide to the IEDC the dataset prior to commencing TEA validation services for the IEDC.
2. TEA Validation. Indiana applicants shall calculate their own TEAs. The Contractor shall then provide validation services for the TEAs to the IEDC.



VERMILION
CONSULTING

24 March 2016

Indiana Economic Development Corporation
1 North Capitol Avenue, Suite 700
Indianapolis, Indiana 46204

Re: Engagement of Services

Thank you for asking Vermilion Consulting, LLC, ("Vermilion" or the "Company") to provide EB-5 consulting services (the "Project"). This Letter of Agreement ("Agreement") confirms and sets forth the terms and conditions of your ("Client") engagement of Vermilion to provide the advisory representation described below (the "Services") in connection with the Project. All Services provided by Vermilion shall be subject to this Agreement unless otherwise agreed in writing:

1. Services.

Provide Targeted Employment Area (TEA) consulting services.

Unless otherwise agreed, all services shall be performed under the direction of Kim Atteberry. Vermilion agrees to perform services with reasonable skill and care, and will exercise its own independent judgment as to the means and methods of performing services hereunder.

Client understands and agrees that Vermilion's services are not exclusive to Client, and that Vermilion, its members and affiliates may engage in providing similar services to other parties. We are accepting this engagement on the understanding that our representation of you will not preclude us from accepting any other engagement from any existing or new client provided that (i) such engagement is not substantially related to the subject matter of any services we are providing to you and (ii) in accepting such other engagement we would not impair the confidentiality of proprietary, sensitive or otherwise confidential communications you have made to us.

2. Compensation. Services will be provided at an hourly rate of \$250.00, broken down into 0.25 hour increments, and billed on a monthly basis.

In addition to the fees described above, Client agrees to reimburse Vermilion for its reasonable out-of-pocket expenses (which shall be charged at cost) incurred in connection with this engagement, including but not limited to data (e.g. RIMS II multipliers), travel, lodging, duplicating, research, messenger, and long distance telephone charges. *Vermilion will not incur any such expenses without first consulting with the Client.*

Client agrees to pay invoices which will be due upon receipt, and payable within thirty (30) days thereof. Any amount not paid when due shall accrue interest at the rate of 8% per annum.

3. Term. Vermilion's engagement shall commence upon your acceptance of this Agreement, and may be terminated by either Vermilion or Client for any reason, upon written notice, provided however, that no termination shall effect the obligation of Client to pay any fees and reimbursement of out-of-pocket expenses that have accrued prior to the date of such termination.

4. Client Obligations. In order for Vermilion to perform the Services, Vermilion's personnel must have access to certain books, records and reports of the Company and to have discussions with the Client's personnel. Client agrees to cooperate with Vermilion and to make all relevant information available. To the extent Vermilion does not receive the Client's cooperation or access to Company information, Vermilion's ability to provide Services above will be limited.

Vermilion shall be entitled to rely upon the accuracy and validity of the data and information provided by Client. Vermilion shall not have any obligation to verify or update information data provided by Client.

Client understands that the Services to be rendered may include review and assessment of projections and other forward looking statements, and that numerous factors can affect the actual results of Client's operations, which may materially and adversely differ from those projections and other forward looking statements. Accordingly, Vermilion shall not be responsible for the results of Client's operations.

5. Work Product. The work product, or all documents and other deliverables prepared by Vermilion are prepared solely for the use and benefit of Client in connection with the Project, and may not be reproduced, transferred to or relied upon by third parties without Vermilion's prior written consent. Vermilion shall retain ownership of the means, methodologies, thought process, analysis, software, and other intellectual property that it has developed or used in connection with this engagement.

6. Confidential Information. Vermilion recognizes and acknowledges that certain information and documentation which may be received in connection with this engagement is proprietary and confidential, including non-public financial and business information and documents furnished by the Client. Vermilion will not disclose, distribute, publish or release to any third party such non-public information or documents now or hereinafter received, or obtained by us in this engagement, except as may be required by law, subpoena, or other processes. Any obligation as to non-disclosure shall cease as to any part of such information to the extent that such information is, or becomes public other than as a result of acts by us.

Notwithstanding the foregoing, in the event that confidential information belonging to the Client is stored electronically on Vermilion's computer systems, Vermilion shall not be liable for any damages resulting from unauthorized access, misuse or alteration of such information by persons not acting on its behalf, provided that Vermilion exercises the same degree of care in protecting the confidentiality of, and in preventing unauthorized access to, the Client's information that it exercises with regard to its own proprietary information. In addition, Vermilion shall not be liable for any

damages relating to the transmission of reports or information to or with Client electronically or by wireless telephone services.

The terms of this Agreement shall supersede any Non-Disclosure Agreement entered into by the parties prior to the date hereof.

7. Indemnification. In the event any judicial or non-judicial action or proceeding is commenced against us by any person or entity relating to this engagement or services provided by us in the course of this engagement, the Client shall defend, indemnify and hold Vermilion its members, officers and employees harmless from any claim, except to the extent the claim arises from any negligent or willful acts or omissions of Vermilion or third parties beyond Client's control.

In the event that, as a result of or in connection with Vermilion's engagement for the Client, Vermilion becomes involved in any legal proceeding or investigation or is required by government regulation, subpoena or other legal process to produce documents, or to make its current or former personnel available as witnesses at deposition or trial, the Client will reimburse Vermilion for the reasonable fees and expenses of its counsel incurred in responding to such a request. Nothing in this paragraph shall affect in any way the Client's obligations pursuant to the indemnification obligation described above.

8. Limitation on Damages. In no event shall Vermilion incur any liability to Client, successors, and assigns, for consequential, special, or punitive damages, including lost profits, data, business or goodwill, or have any liability in excess of the total fees received and retained by Vermilion hereunder.

9. Independent Contractors. It is understood that Vermilion is an independent contractor, and will not hold itself out to the public as an employee, agent, partner or representative of Client. As an independent contractor, Vermilion agrees it is responsible for workers' compensation insurance, disability benefits insurance, any other insurance that may be required by law, and shall be solely responsible for all necessary payroll deductions, taxes, including but not limited to federal, state and local income taxes, social security taxes, unemployment taxes, and workers' compensation coverage.

10. Miscellaneous.

(a) Notices. Any notice required or permitted hereunder shall be in writing and shall be sufficiently given if delivered in person, sent prepaid by overnight courier, express mail, electronic mail, or registered or certified mail or transmitted by facsimile to the address or fax number of Vermilion or Client set forth herein or subsequently delivered to the other. Any such notice shall be effective (a) when delivered in the case of personal delivery, (b) the first business day following timely receipt in the case of delivery by fax, overnight courier or overnight express mail or electronic mail, or (c) the fourth business day following sending in the case of delivery by registered or certified mail or by U.S. Post Office.

(b) Dispute Resolution. Any controversy or claim arising out of or relating to this Agreement or the breach thereof shall be settled by non-binding mediation in accordance with the then current mediation procedures with both parties agreeing to the selection of the mediator. Both parties agree to meet in a good faith effort to attempt to resolve such dispute.

In the event resolution to a dispute is not resolved via mediation, any dispute between Vermilion and Client arising out of this Agreement is resolved by litigation, the prevailing party in any such litigation shall be entitled to recover from the losing party all costs and expenses, including reasonable attorney's fees, incurred by the prevailing party.

(c) Governing Law/Jurisdiction. This Agreement shall be subject to and governed by the laws of the State of New Mexico, and the parties agree to the exclusive jurisdiction of the federal and state courts sitting in Santa Fe, New Mexico for any dispute arising out of this Agreement.

(d) Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements or understandings between the parties hereto. No change, modification or waiver of any terms of this Agreement shall be valid unless in writing and signed by both parties.

(e) Headings, Counterparts. Headings are inserted for convenience only and shall not be considered when interpreting any of the provision or terms hereof. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which, together, shall constitute one and the same instrument.

Please sign and return a copy of this engagement letter signifying your agreement with the terms and provisions herein.

Very truly yours,

VERMILION CONSULTING LLC

By



Kimberly Atteberry, President

ACCEPTED: **Indiana Economic Development Corporation**

By: _____

Title: _____