



EXECUTIVE DOCUMENT SUMMARY

State Form 41221 (R10/4-06)

Received

Instructions for completing the EDS and the Contract process.

SEP 14 2015

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

AGENCY INFORMATION

14. Name of agency: Ofc of Management & Budget
15. Requisition Number: 0000000116
16. Address: Office of Management & Budget, STATE HOUSE, 200 W WASHINGTON ST RM 212, INDIANAPOLIS, IN 46204

AGENCY CONTACT INFORMATION

17. Name: Micah Vincent
18. Telephone #: 317/234-2285
19. E-mail address: mvincent@gov.in.gov

COURIER INFORMATION

20. Name: Joe Habig
21. Telephone #: 317-232-5611
22. E-mail address: JoHabig@sba.in.gov

VENDOR INFORMATION

23 Vendor ID #: 0000329050
24. Name: MARTIN ARRINGTON DESAI & MEYERS PC
25. Telephone #: 248-645-5370
26. Address: 30200 TELEGRAPH RD STE 444, BINGHAM FARMS, MI 48234

27. E-mail address: Lalexander@madmcpa.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

1. EDS Number: D6-16-2024
2. Date prepared: 9/1/2015

3. CONTRACTS & LEASES

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

FISCAL INFORMATION

4. Account Number: 15174-10000
5. Account Name: Distressed Unit Appeals Board
6. Total amount this action: \$650,000.00
7. New contract total: 650,000.00
8. Revenue generated this action: \$0.00
9. Revenue generated total contract: \$0.00

10. New total amount for each fiscal year:
Year 2016 \$650,000.00
Year \$
Year \$
Year \$

TIME PERIOD COVERED IN THIS EDS

11. From (month, day, year): 8/11/2015
12. To (month, day, year): 8/10/2016

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

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): IC 6-1.1-20.3

37. Description of work and justification for spending money. (Please give a brief description of the scope of work included in this agreement.)
Contractor shall act in consultation with the Gary Community School Corporation ("Corporation") and other elected officials, as set forth by IC 6-1-1-20.3 and under the direction and control of the Indiana Office of Management and Budget ("OMB") and the Distressed Unit Appeals Board ("DUAB") to provide an initial assessment of the financial status of the corporation. Contractor shall develop an operating plan to place the Corporation in a financial position to provide the essential educational services required and to assure fiscal accountability.

38. Justification of vendor selection and determination of price reasonableness: Per IC 6-1.1-20.3-6.9, the board selected 3 qualified firms

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

40. Agency fiscal officer or representative appro: Joseph M Habig
41. Date Approved: 9-11-15
42. Budget agency approval: Joseph M Habig
43. Date Approved: 9-14-15

44. Attorney General's Office approval: Mmm
45. Date Approved: 9/14/2015
46. Agency representative receiving from AG
47. Date Approved



PROFESSIONAL SERVICES CONTRACT

EDS # # D6-16-2024

This Contract ("this Contract"), entered into by and between the Indiana Office of Management and Budget ("OMB"), on behalf of the Distressed Unit Appeals Board ("DUAB") (the "State") and Martin, Arrington, Desai & Meyers, P.C. a Michigan professional corporation (the "Contractor"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Duties of Contractor.

The Contractor shall provide the following services relative to this Contract are more particularly described and set out in **Attachment "A"**:

2. Consideration.

Total remuneration under this contract, for professional services, reasonable and necessary travel expenses along with other approved expenses related to and arising from the performance of the duties herein shall not exceed Six Hundred and Fifty Thousand Dollars (\$650,000.00)-and shall be paid monthly based on time and travel and related approved expenses actually incurred while working toward achieving bench marks and requirements set forth within **Attachment "A"**. The hourly rate for services shall not exceed Two Hundred and Fifty (\$250.00) per hour.

3. Term.

This Contract shall be effective for a period of twelve (12) months. It shall commence on August 11, 2015 and shall remain in effect through August 10, 2016.

4. Access to Records. 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 Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Contractor shall provide necessary copies up to a cost to the Contractor of Five Hundred Dollars (\$500.00). Additional copies, if required, shall be paid for/reimbursed by the State at an agreed upon price per copy.

5. Assignment; Successors. The Contractor binds its successors and assignees to all the terms and conditions of this Contract. The Contractor shall not assign or subcontract the whole or any part of this Contract without the State's prior written consent. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the State, provided that the Contractor gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

6. Assignment of Antitrust Claims.

As part of the consideration for the award of this Contract, the Contractor assigns to the State all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

7. **Audits.** The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC §5-11-1, *et seq.*, and audit guidelines specified by the State.

The State considers the Contractor to be a "Contractor" under 2 C.F.R. 200.330 for purposes of this Contract. However, if required by applicable provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements), Contractor shall arrange for a financial and compliance audit, which complies with 2 C.F.R. 200.500 *et seq.*

8. **Authority to Bind Contractor.** The signatory for the Contractor represents that he/she has been duly authorized to execute this Contract on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed, and accepted by the State.

9. Changes in Work.

The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the State. The Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

10. Compliance with Laws.

A. The Contractor shall 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 rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract 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 as set forth in IC §4-2-6, *et seq.*, IC §4-2-7, *et seq.* and the regulations promulgated thereunder. **If the Contractor has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Contract, the Contractor shall ensure compliance with the disclosure requirements in IC 4-2-6-10.5 prior to the execution of this contract.** 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 Inspector General's website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State of Indiana may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.

D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.

E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the State 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. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC §5-17-5.

F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.

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

H. As required by IC §5-22-3-7:

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

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

(i) IC §24-4.7 [Telephone Solicitation Of Consumers];

(ii) IC §24-5-12 [Telephone Solicitations]; or

- (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];
in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
 - (B) the Contractor will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.
- (2) 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, except for de minimis and nonsystematic violations,
 - (A) has not violated the terms of IC §24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
 - (B) will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

11. Condition of Payment. All services provided by the Contractor under this Contract must be performed to the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The State shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of and federal, state or local statute, ordinance, rule or regulation.

12. Confidentiality of State Information. The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. For the purposes of clarity and for this agreement, "State Information:" includes and incorporates information of political subdivisions and municipal subdivisions, including specifically the Gary Community School Corporation, including, but not limited to all personally identifiable information and information protected by state or federal law. Any documents marked as confidential or otherwise disclosed in writing to Contractor to be confidential information shall also be treated as confidential. The Contractor covenants that confidential State Information, data, material, and information gathered, based upon or disclosed to the Contractor for the purpose of this Contract will not be disclosed to or discussed with third parties without the prior written consent of the State.

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

Should contractor be required by an Order of a court of competent jurisdiction or administrative order to disclose what are deemed to be confidential records or information pursuant to this agreement the contractor shall immediately notify the Gary Community School Corporation

("the Corporation") which may proceed to protect the confidentiality of such records on behalf of contractor and the Corporation. Should the Corporation not make such effort, the records will be disclosed pursuant to the Order with notice of the same to be provided to the State.

13. Continuity of Services.

A. The Contractor recognizes that the service(s) to be performed under this Contract are vital to the State and must be continued without interruption and that, upon Contract expiration, a successor, either the State or another contractor, may continue them. The Contractor agrees to:

1. Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

B. The Contractor shall, upon the State's written notice:

1. Furnish phase-in, phase-out services for up to sixty (60) days after this Contract expires; and
2. Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the State's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this Contract are maintained at the required level of proficiency.

C. The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations).

14. Debarment and Suspension.

A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or 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 Contract 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 State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to

terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

15. Default by State. If the State, 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 Contract and institute measures to collect monies due up to and including the date of termination.

16. Disputes.

A. Should any disputes arise with respect to this Contract, the Contractor and the State 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 Contract that are not affected by the dispute.

C. If the parties are unable to resolve a contract dispute between them after good faith attempts to do so, a dissatisfied party shall submit the dispute to the Commissioner of the Indiana Department of Administration for resolution. The dissatisfied party shall give written notice to the Commissioner and the other party. The notice shall include (1) a description of the disputed issues, (2) the efforts made to resolve the dispute, and (3) a proposed resolution. The Commissioner shall promptly issue a Notice setting out documents and materials to be submitted to the Commissioner in order to resolve the dispute; the Notice may also afford the parties the opportunity to make presentations and enter into further negotiations. Within 30 business days of the conclusion of the final presentations, the Commissioner shall issue a written decision and furnish it to both parties. The Commissioner's decision shall be the final and conclusive administrative decision unless either party serves on the Commissioner and the other party, within ten business days after receipt of the Commissioner's decision, a written request for reconsideration and modification of the written decision. If the Commissioner does not modify the written decision within 30 business days, either party may take such other action helpful to resolving the dispute, including submitting the dispute to an Indiana court of competent jurisdiction. If the parties accept the Commissioner's decision, it may be memorialized as a written Amendment to this Contract if appropriate.

D. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the Contractor of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for the Contractor to terminate this Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

E. With the written approval of the Commissioner of the Indiana Department of Administration, the parties may agree to forego the process described in subdivision C. relating to submission of the dispute to the Commissioner.

F. This paragraph shall not be construed to abrogate provisions of Ind. Code 4-6-2-11 in situations where dispute resolution efforts lead to a compromise of claims in favor of the State as described in that statute. In particular, releases or settlement agreements involving releases of legal claims or potential legal claims of the state should be processed consistent with Ind. Code 4-6-2-11, which requires approval of the Governor and Attorney General.

17. 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 State 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 Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

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

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

such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

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

18. Employment Eligibility Verification.

As required by IC §22-5-1.7, the Contractor swears or affirms under the penalties of perjury that the Contractor does not knowingly employ an unauthorized alien. The Contractor further agrees that:

A. The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC §22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.

B. The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

C. The Contractor shall require his/her/its subcontractors, who perform work under this Contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The State may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

19. Employment Option. Deleted by Agreement of the Parties

20. Force Majeure. In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

21. Funding Cancellation.

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 Contract, this Contract shall be canceled. A determination by the Director of State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

22. Governing Law.

This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

23. HIPAA Compliance. If this Contract involves services, activities or products subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Contractor covenants that it will appropriately safeguard Protected Health Information (defined in 45 CFR 160.103), and agrees that it is subject to, and shall comply with, the provisions of 45 CFR 164 Subpart E regarding use and disclosure of Protected Health Information.

24. Indemnification. Deleted by Agreement of the Parties

25. Independent Contractor; Workers' Compensation Insurance.

The Contractor is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership or joint venture agreement between the parties. 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. The Contractor shall provide all necessary unemployment and workers' compensation insurance for the Contractor's employees, and shall provide the State with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.

26. Information Technology Enterprise Architecture Requirements.

If the Contractor provides any information technology related products or services to the State, the Contractor shall comply with all IOT standards, policies and guidelines, which are online at <http://iot.in.gov/architecture/>. The Contractor specifically agrees that all hardware, software and services provided to or purchased by the State 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 IC §4-13.1-3. Any deviation from these architecture requirements must be approved in writing by IOT in advance. The State may terminate this Contract for default if the Contractor fails to cure a breach of this provision within a reasonable time.

27. Insurance.

A. The Contractor and their subcontractors (if any) shall secure and keep in force during the term of this Contract the following insurance coverages (if applicable) covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract:

1. Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence unless additional coverage is required by the State. The State is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Contract.
2. Automobile liability for owned, non-owned and hired autos with minimum liability limits of \$700,000 per person and \$5,000,000 per occurrence. The State is to be named as an additional insured on a primary, non-contributory basis.
3. Errors and Omissions liability with minimum liability limits of \$1,000,000 per claim and in the aggregate. Coverage for the benefit of the State shall continue for a period of two (2) years after the date of service provided under this Contract.
3. Fiduciary Liability is required if the Contractor is responsible for the management and oversight of various employee benefit plans and programs such as pensions, profit-sharing and savings, among others. These contractors face potential claims for mismanagement brought by plan members. Limits should be no less than \$700,000 per cause of action and \$5,000,000 per occurrence
4. The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance prior to the commencement of this Contract and proof of workers' compensation coverage meeting all statutory requirements of IC §22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana.

B. The Contractor's insurance coverage must meet the following additional requirements:

1. The insurer must have a certificate of authority or other appropriate authorization to operate in the state in which the policy was issued.
2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
3. The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set

forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.

4. The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.
 5. The Contractor waives and agrees to require their insurer to waive their rights of subrogation against the State of Indiana.
- C. Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the State before the commencement of this Contract.

28. Key Person(s).

A. If both parties have designated that certain individual(s) are essential to the services offered, the parties agree that should such individual(s) leave their employment with the Contractor during the term of this Contract for whatever reason, the State shall have the right to terminate this Contract upon thirty (30) days' prior written notice.

B. In the event that the Contractor is an individual, that individual shall be considered a key person and, as such, essential to this Contract. Substitution of another for the Contractor shall not be permitted without express written consent of the State.

Nothing in sections A and B, above shall be construed to prevent the Contractor from using the services of others to perform tasks ancillary to those tasks which directly require the expertise of the key person. Examples of such ancillary tasks include secretarial, clerical, and common labor duties. The Contractor shall, at all times, remain responsible for the performance of all necessary tasks, whether performed by a key person or others.

Key person(s) to this Contract are:

Contractor:

Jack Martin, CPA
Martin, Arrington, Desai & Meyers, P.C.
30200 Telegraph Rd., Ste. 444
Bingham Farms, Michigan 48025
(248) 645-5370

29. Licensing Standards. The Contractor, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules, or regulations governing services to be provided by the Contractor pursuant to this Contract. The State will not pay the Contractor for any services performed when the Contractor,

its employees or subcontractors are not in compliance with such applicable standards, laws, rules, or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification, or accreditation, the Contractor shall notify the State immediately and the State, at its option, may immediately terminate this Contract.

30. Merger & Modification. This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented, or amended, except by written agreement signed by all necessary parties.

31. Minority and Women's Business Enterprises Compliance. Award of this Contract was based, in part, on the MBE/WBE participation plan. The following certified MBE or WBE subcontractors will be participating in this Contract:

| MBE/WBE UTILIZATION | PHONE | COMPANY NAME | SCOPE OF PRODUCTS and/or SERVICES |
|------------------------|-------|--------------|-----------------------------------|
| | | DATE PERCENT | |

Not applicable.

32. Nondiscrimination.

Pursuant to the Indiana Civil Rights Law, specifically including IC §22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract 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's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Contract, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

The State is a recipient of federal funds, and therefore, where applicable, Contractor and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

33. Notice to Parties. Whenever any notice, statement or other communication is required under this Contract, it shall be sent by first class mail or via an established courier / delivery service to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to: **(Include contact name and/or title, name of agency & address)**

Micah Vincent
Director of the Office of Management and Budget
200 West Washington Street, Room 212
Indianapolis, IN 46204

B. Notices to the Contractor shall be sent to: **(Include contact name and/or title, name of vendor & address)**

Jack Martin, CPA
Martin, Arrington, Desai & Meyers, P.C.
30200 Telegraph Rd., Ste. 444
Bingham Farms, Michigan 48025
(248) 645-5370

As required by IC §4-13-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the Indiana Auditor of State.

34. Order of Precedence; Incorporation by Reference.

Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) this Contract, (2) attachments prepared by the State, (3) Proposals submitted by Contractor. All attachments, and all documents referred to in this paragraph, are hereby incorporated fully by reference.

35. Ownership of Documents and Materials.

A. All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the "Materials") not developed or licensed by the Contractor prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the Contractor hereby transfers and assigns any ownership claims to the State so that all Materials will be the property of the State. If ownership interest in the Materials cannot be assigned to the State, the Contractor grants the State a non-exclusive, non-cancelable, perpetual, worldwide royalty-free license to use the Materials and to use, modify, copy and create derivative works of the Materials.

B. Use of the Materials, other than related to contract performance by the Contractor, without the prior written consent of the State, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to the Materials developed for or supplied by the State 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 State full, immediate, and unrestricted access to the Materials and to Contractor's work product during the term of this Contract.

36. Payments.

A. All payments shall be made 35 days in arrears in conformance with State fiscal policies and procedures and, as required by IC §4-13-2-14.8, the direct deposit by electronic funds transfer to the financial institution designated by the Contractor in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC §4-13-2-20.

B. The State Budget Agency and the Contractor acknowledge that Contractor is being paid in advance for the maintenance of equipment and / or software. Pursuant to IC §4-13-2-20(b)(14), Contractor agrees that if it fails to perform the maintenance required under this Contract, upon receipt of written notice from the State, it shall promptly refund the consideration paid, pro-rated through the date of non-performance.

37. Penalties/Interest/Attorney's Fees. The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC §5-17-5, IC §34-54-8, IC §34-13-1 and IC § 34-52-2-3.

Notwithstanding the provisions contained in IC §5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

38. Progress Reports.

The Contractor shall submit progress reports to the State on a monthly basis. The report shall be oral, unless the State, 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 State that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

39. Public Record.

The Contractor acknowledges that the State will not treat this Contract as containing confidential information, and will post this Contract on its website as required by Executive Order 05-07. Use by the public of the information contained in this Contract shall not be considered an act of the State.

40. Renewal Option.

This Contract may be renewed under the same terms and conditions, subject to the approval of the Commissioner of the Department of Administration and the State Budget Director in compliance with IC §5-22-17-4 and upon the appropriation by the State of Indiana of additional

funds.. The term of the renewed contract may not be longer than the term of the original contract.

41. Severability. The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

42. Substantial Performance. This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

43. Taxes. The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Contractor as a result of this Contract.

44. Termination for Convenience.

This Contract may be terminated, in whole or in part, by the State, which shall include and is not limited to the Indiana Department of Administration and the State Budget Agency whenever, for any reason, the State 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 State 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 contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date. For the purposes of this paragraph, the parties stipulate and agree that the Indiana Department of Administration shall be deemed to be a party to this agreement with authority to terminate the same for convenience when such termination is determined by the Commissioner of IDOA to be in the best interests of the State.

45. Termination for Default.

A. With the provision of thirty (30) days' notice to the Contractor, the State may terminate this Contract in whole or in part if the Contractor fails to:

1. Correct or cure any breach of this Contract; the time to correct or cure the breach may be extended beyond thirty (30) days if the State determines progress is being made and the extension is agreed to by the parties;
2. Deliver the supplies or perform the services within the time specified in this Contract or any extension;
3. Make progress so as to endanger performance of this Contract; or
4. Perform any of the other provisions of this Contract.

B. If the State terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and

the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

C. The State shall pay the contract price for completed supplies delivered and services accepted. The Contractor and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

D. The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

46. Travel. Expenditures made by the Contractor for travel will be reimbursed at the current rate paid by the State and in accordance with the State Travel Policies and Procedures as specified in the current Financial Management Circular. Out-of-state travel requests must be reviewed by the State for availability of funds and for appropriateness per Circular guidelines. Maximum travel expenses shall not exceed Forty Thousand Dollars (\$40,000.00) absent an amendment of this agreement.

47. Indiana Veteran's Business Enterprise Compliance. Award of this Contract was based, in part, on the Indiana Veteran's Business Enterprise ("IVBE") participation plan. The following IVBE subcontractors will be participating in this Contract:

| VBE | PHONE | COMPANY NAME | SCOPE OF PRODUCTS and/or SERVICES |
|-----|-------------|--------------|-----------------------------------|
| | UTILIZATION | DATE | PERCENT |

Deleted by agreement of the parties.

48. Waiver of Rights. No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Contractor's negligent performance of any of the services furnished under this Contract.

49. Work Standards. The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

50. State Boilerplate Affirmation Clause. I swear or affirm under the penalties of perjury that I have not altered, modified, changed or deleted the State's Boilerplate contract clauses (as

contained in the 2015 OAG/ IDOA *Professional Services Contract Manual*) in any way except for the following clauses which are named below:

- 19. Employment Option.** Deleted by Agreement of the parties
 - 24. Indemnification.** Deleted by Agreement of the parties.
 - 31. Minority and Women's Business Enterprises Compliance.** Deleted by Agreement of the parties
 - 47. Indiana Veteran's Business Enterprise Compliance.** Deleted by Agreement of the parties
-

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or 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 Contract other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Contract, the Contractor attests to compliance with the disclosure requirements in IC 4-2-6-10.5.**

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

Martin, Arrington, Desai & Meyers, P.C. Indiana Office of Management and Budget

By: *Jakie Martin*
Name and Title, Printed
JAKIE MARTIN
Date: AUGUST 31, 2015

By: *JML*, General Counsel, Justin McAdam
Name and Title, Printed
Date: 9/11/15

Approved by:
Indiana Department of Administration

By: *Tina Fry* (for)
Jessica Robertson, Commissioner
Date: 9/14/15

Approved by:
State Budget Agency

By: *Joseph M. Bailey* (for)
Brian E. Bailey, Director
Date: 9-14-2015

APPROVED as to Form and Legality:
Office of the Attorney General

Gregory P. Zoeller (for)
Gregory P. Zoeller, Attorney General
Date: 9/14/2015

Approved by:
Indiana Office of Technology

By: **Not Required**

Attachment "A"

Pursuant to IC 6-1.1-20.3 the Distressed Unit Appeals Board ("DUAB") is authorized to conduct a public hearing to review the budget, tax levies and related issues for the Gary Community School Corporation ("the Corporation"). After reviewing the pertinent and required information DUAB sought proposals from qualified entities to select a financial specialist to pursue such duties and recommend three (3) persons/entities to pursue the same. These steps have been completed and the firm of Martin, Arrington, Desai & Meyers, P.C. a Michigan professional corporation ("Contractor") to conduct required and necessary functions to assist DUAB and the Corporation.

Contractor shall act as the financial specialist to the Gary Community School Corporation in consultation with the governing body of the Corporation and other elected officials, as set forth by IC 6-1-1-20.3 and under the direction and control of the Indiana Office of Management and Budget ("OMB") and DUAB to collect, review, analyze the books and records of the Corporation, including but not limited to accounts receivable, accounts payable, budget, tax levies, assessed valuations, debt service requirements, and other financial information to provide an initial assessment of the financial status of the corporation. Contractor shall perform all services and activities to identify and develop an operating plan for the Corporation with the objective of placing the Corporation in a financial position to provide the essential educational services required and to assure fiscal accountability of the Corporation.

Monthly progress reports and findings shall be presented to OMB and DUAB which identify the financial condition of the Corporation, accompanied by an invoice for services rendered. Such monthly/quarterly reports shall be submitted by the 15th day of each calendar month and shall include proposed and planned next steps, activities and plans to go forward.

Contractor and DUAB shall meet or communicate at least monthly to identify and discuss recommended and proposed courses of action to pursue as data and information is collected. The deliverables or duties required by this contract may be amended from time to time by agreement of the parties.

Contractor shall follow and report as required herein regarding the tasks set forth and identified below.

Tasks

DIAGNOSTIC PHASE:

- 1 Prepare preliminary engagement work plan.
- 2 Meet or teleconference with State/School Officials to review and finalize engagement contract. Submit initial document request (Org. Chart, Job Descriptions, Most Recent Financial Statements, State Accounting Manual, Prior Studies, Budgets, etc.)
- 3 Transpose preliminary work plan to Microsoft Project Professional 2010 or 2013.
- 4 Discuss Organization Structure and staff interview schedules with Gary Community School Corporation Superintendent (GCSCS), Board Members and State Officials. Prepare meeting schedule with dates and times; Request GCSCS to have her staff schedule meetings. Discuss Public Relations/Communications Support.
- 5 Conduct introductory meeting with GCSCS.
- 6 Conduct introductory meeting with Mayor.
- 7 Conduct School Board Meetings.
- 8 Conduct City Council Meetings.
- 9 Conduct State Legislature Meeting.
- 10 Conduct Union meetings to learn their assessment of situation and potential solutions.
- 11 Meet with community representatives to understand their perspective and possible solutions.
- 12 Conduct initial site visits to schools and other District owned facilities, with particular attention to Food Service, Transportation and Facilities Maintenance. Prepare initial findings and recommendations.
- 13 Prepare interview instrument to be used by MADM Staff.
- 14 Conduct meetings with remaining direct reports to GCSCS and other key staff; Document financial management processes and prepare findings and recommendations.
- 15 Revise/update entire project work plan using Microsoft Project Professional 2010 or 2013, as needed
- 16 Research options, under Indiana Law, if the Gary Community School Corporation continues to have "Going Concern" issues.
- 17 Contact Indiana Association of School Business Officials for staff tutorial/consulting support.
- 18 Meet with Indiana Association of School Business Officials for 2-4 hour tutorial.
- 19 Design and test model to forecast revenues, expenses, cash flow debt service, etc. Based on different operating assumptions.
- 20 Review requested documentation - Prior Studies, Audit Reports, Single Audit Findings, Official Correspondence, Deficit Elimination Reports, Etc.
- 21 Review State Education Policy Directives and Proposed Legislation. Prepare summary memo.
- 22 Perform search for unrecorded liabilities.
- 23 Review payment plans for all delinquent obligations; IRS Pension Contributions, Utilities, Vendors, etc. Schedule status meetings to discuss options.

REVENUE ENHANCEMENT OPPORTUNITIES PHASE:

- 24 - Review and test all fixed asset inventory listings. Compile a listing of assets that would be available for sales, subject to any existing liens (IRS, etc.): Land, Buildings, Equipment, Personal Property, Cell Towers, Etc.) Based on assets available for sale, determine disposal method(s) resulting in greatest return (Auction, Broker, etc.)
- Review status and opportunities related to all Federal Programs: U.S. Dept. of Education Title I, Special Education, Etc.; U.S. Department of Agriculture, School Breakfast and Lunch Programs, U.S. Department of Health and Human Services, CMS Medicaid Program, U.S. Department of Labor, etc.
 - Review status and opportunities related to State, Foundation, Local and other potential grantors and donors.
 - Review Debt Structure and Status of Interfund Borrowing.
 - Prepare Report on Revenue Enhancement Opportunities.

EXPENSE REDUCTION OPPORTUNITIES PHASE:

- 25 - Review all vendor contracts for potential modification or termination.
- Review compensation for each employee to confirm that pay rates are supported by a Collective Bargaining Agreement (CBA) or other appropriate authority; Review W-2's and 1099's.
 - Perform Dependent Audit*
 - Review Health Insurance Plan and other benefits provided by CBA's. Explore alternative plan designs and discuss with Union's GCSCS and State Leadership.*
 - Review Risk Management related to Workers Compensation and other employee paid time off programs.
 - Review GCSCS Organization Structure and Staffing Levels to identify opportunities for cost savings.
 - Prepare report on Expense Reduction Opportunities.

OTHER

26 Project Management Phase:

27 Identify Implementation Support Opportunities and discuss with GCSCS, School Board and State Officials.

28 Deficit Elimination Plan, Contingency Implementation Support