

## AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement For Professional Services (this “Agreement”) is entered into on \_\_\_\_\_, 2022 (the “Effective Date”), by and between the City of South Bend, acting by and through its Department of Innovation and Technology (the “City”), and \_\_\_\_\_ (the “Provider”) (each a “Party” and collectively the “Parties”).

For and in consideration of the mutual covenants and promises contained herein, the Parties agree as follows:

1. Services. The Provider will provide to the City the professional services (the “Services”) set forth in the Provider’s proposal attached hereto as Exhibit A (the “Proposal”), which Proposal is incorporated herein. In the event of any conflict between the terms of this Agreement and the terms of the Proposal, the terms of this Agreement will prevail. The Provider certifies that it has sufficient experience and expertise to complete the Services and will shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. Nothing in this Agreement shall preclude the Provider from performing work for other entities or individuals. However, the Provider agrees not to engage in any activity that is detrimental to the City’s business interests or interferes with the Provider’s provision of the Services. The Provider understands and agrees that it shall not commence any additional work or change the scope of the Services provided unless authorized in writing by the City. No claim for additional compensation shall be made by Provider in the absence of prior written approval of the Parties.

2. Compensation. In exchange for the Provider’s performance of the Services, and subject to the terms and conditions of this Agreement, the City will pay the Provider a total sum not to exceed Fifteen Thousand Dollars (\$15,000.00) (the “Contract Amount”). As set forth in Exhibit A, a portion of the Contract Amount may be payable upon execution of the Agreement for compensation of administrative and personnel costs involved in performing the Services, provided that such costs are documented in an invoice by the Provider. The City will pay the remaining Contract Amount in installments upon invoicing by the Provider (each a “Contract Installment”), said invoicing to occur no less frequently than quarterly and no more frequently than monthly. The City will not be required to pay any Contract Installment if the City is not reasonably satisfied with the Provider’s performance under this Agreement or any default or breach of this Agreement by the Provider exists, as the City may determine in its sole discretion. The sum of all Contract Installments will not exceed the Contract Amount, and the Provider will not incur or seek reimbursement for any expenses in excess of the Contract Amount.

3. Term; Termination. Unless earlier terminated in accordance with its terms, this Agreement will commence on the Effective Date and end upon the Provider’s satisfaction of all its obligations hereunder, including but not limited to the satisfactory return of all technology products provided, and the City’s final payment therefor. Notwithstanding the foregoing, effective immediately upon delivery of a written termination notice to the Provider, the City may terminate this Agreement, in whole or in part, for any reason, if the City determines that such termination is in the best interest of the City. In addition, in accordance with Ind. Code 6-1.1-18-4, payments are subject to annual appropriation by the City. If the City makes a written determination that funds

are not appropriated or are otherwise unavailable to support the continuation of this Agreement, it shall be cancelled. A determination by the City that funds are not appropriated or are otherwise unavailable to support the continuation of performance shall be final and conclusive. The City will not be required to pay any Contract Installment or be otherwise liable for any cost associated with the Provider's performance of any Services after the effective date of termination.

4. Remedies for Breach of Contract. Failure to complete the Services in accordance with this Agreement will be considered a material breach. In the event of such breach, the City may suspend all payments to the Provider and may pursue any and all remedies available at law or in equity. The Provider shall repay to the City any portion of the Contract Amount expended for matters not within the scope of the Services.

5. Point of Contact. The City employee identified in Section 9 below will serve as the City's principal point of contact for purposes of this Agreement.

6. Relationship. The Provider shall at all times be an independent contractor for the performance of the Services rather than an employee of the City, and no act or omission to act by the Provider shall in any way bind or obligate the City. This Agreement is strictly for the benefit of the Parties and not for any third party or person. This Agreement was negotiated by the Parties at arm's length and each of the parties hereto has reviewed the Agreement after the opportunity to consult with independent legal counsel. Neither party shall maintain that the language in the Agreement shall be construed against any signatory hereto. The City and the Provider hereby renounce the existence of any form of agency relationship, joint venture, or partnership between the Provider and the City and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the City and the Provider. Provider is solely responsible for compliance with federal, state and local laws and regulations relating to taxes and social security payments that may be required to be made in connection with the compensation provided under this Agreement. The City, however, may file informational returns with the United States Internal Revenue Service or similar state agency regarding payment made to Provider in accordance with this Agreement under conditions imposed by federal, state or local laws applicable to such payment. The City shall provide IRS Form 1099, if applicable.

7. Indemnification of City. The Provider hereby agrees to defend, indemnify, and hold harmless the City, its officials, employees, and agents from any and all claims of any nature which arise from the performance by the Provider under this Agreement and from all costs and attorney fees in connection therewith, excepting for claims arising out of the negligence of the City, its officials, directors, employees, and agents. The obligations of the Provider under this section shall survive the termination of this Agreement.

8. Assignment. The Provider shall not assign or subcontract the whole or any part of this Agreement or its obligations hereunder without the prior written consent of the City.

9. Notices. Any notice required or permitted to be delivered hereunder shall be deemed to be delivered, whether or not actually received, when deposited in the United States Postal Service, postage prepaid, registered or certified mail, return receipt requested, addressed to

the City or the Provider, as the case may be, at the address set forth below.

<u>Provider:</u> XXXXXXXXXX	<u>City:</u> City of South Bend
Address Line 1	Department of Innovation & Technology
Address Line 2	1165 Franklin St., Suite 100
Attn: Partner, Title	South Bend, IN 46601
	Attn: Madi Rogers, Director of Civic Innovation

10. Confidentiality. The Provider acknowledges that information which the City regards as confidential or proprietary in nature (the “Information”), may come to the knowledge of the Provider during the Provider’s performance of services. The Provider shall treat the Information as strictly confidential and agrees that the Provider will not, at any time or in any manner, either directly or indirectly, (i) use, or allowed to be used, any Information for the Provider’s own benefit or the benefit of any director, official, employee, or agent or any third party, or (ii) divulge, disclose, or communicate in any manner any Information to any third party without the written consent of the City. The Provider shall be responsible for maintaining the confidentiality of any Information in its possession, including taking appropriate measures to secure said Information against such uses and dissemination and to inform any person to which he allows to access such information of its confidentiality. Notwithstanding anything to the contrary contained in this Agreement, the Parties will adhere to their respective obligations under the Indiana Access to Public Records Act, and nothing herein will be construed to relieve either Party of such obligations. The confidentiality provisions of this Agreement remain in full force and effect after, and survive the termination of, the Term of this Agreement.

11. Equal Opportunity; Non-Discrimination; Compliance. The Provider shall comply with all applicable laws and regulations in its hiring and employment practices and policies for any activity covered by this Agreement. The Provider shall comply with all state, federal, and municipal laws, regulations, and standards applicable to its activities pursuant to this Agreement including, but not limited to, the requirements imposed by Ind. Code 22-9-1-10 (non-discrimination), the provisions of Ind. Code 5-22-16.5 (disqualification for dealings with the government of Iran), and the provisions of Ind. Code 22-5-1.7 (requiring E-Verify for new employees and prohibiting employment of unauthorized aliens). Each of the foregoing provisions is incorporated herein as if set forth in full, and the Provider certifies that it is in compliance with each such provision and shall remain in compliance through the term of this Agreement.

12. Non-Collusion and Acceptance. The undersigned attests, subject to the penalties of perjury, that she has not directly or indirectly, to the best of her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that she has not received or paid any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face hereof.

13. Drug-Free Workplace. The Provider hereby agrees to make a good faith effort to provide and maintain a drug-free workplace. The Provider will give written notice to the City within ten (10) days after receiving actual notice that the Provider or an employee of the Provider

within the State of Indiana has been convicted of a criminal drug violation occurring in the workplace.

14. Entire Agreement; Amendment; Applicable Law. This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof, and merges and supersedes all prior discussions, agreements, and understanding of any and every nature between them. This Agreement may be amended only by separate writing, signed by authorized representatives of both the Provider and the City. This Agreement will be construed and interpreted according to the laws of the State of Indiana, and any dispute arising out of this Agreement or otherwise concerning the Provider's rendering of the Services will be resolved in the courts located in St. Joseph County, Indiana, unless the Parties mutually agree to a different method of dispute resolution.

15. No Waiver. No failure or delay on the part of either Party in exercising any right under this Agreement will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will have effect unless given in a written document signed by the Party waiving such right. No waiver of any right will be deemed a waiver of any other right hereunder.

16. Severability. All provisions of this Agreement shall be considered as separate terms and conditions, and in the event any one shall be held illegal, invalid or unenforceable, all the other provisions hereof shall remain in full force and effect as if the illegal, invalid, or unenforceable provision were not a part hereof, unless the provision held illegal, invalid or unenforceable is a material provision of this Agreement, in which case the Provider and the City agree to amend this Agreement with replacement provisions containing mutually acceptable terms and conditions.

17. Force Majeure. The Provider shall not be responsible for any failure or delay in the performance of any obligation hereunder, if such failure or delay is due to a cause beyond the Provider's reasonable control, including, but not limited to acts of God, flood, fire, volcano, war, third-party suppliers, labor disputes or governmental acts.

18. Counterparts. This Agreement may be executed in two or more counterparts, which together shall constitute one and the same agreement among the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement for Professional Services to be effective as of the Effective Date stated above.

\_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF SOUTH BEND, INDIANA  
DEPARTMENT OF INNOVATION AND  
TECHNOLOGY**

By: \_\_\_\_\_  
Shawn Delahanty, Director of Services

## **EXHIBIT A: OUTREACH EVENT DEVELOPMENT**

### **Proposal to hire Provider organizations to organize enrollment events**

#### **Background**

The City of South Bend has become aware that many local, state and federal public benefit programs are under-subscribed by South Bend residents. Some of these programs, such as the Utility Assistance Program or Citywide Classroom, are operated by or in partnership with the City, whereas other programs such as the Affordable Connectivity Program or the Low-Income Household Water Assistance Program are operated externally, but eligibility and subscribership is still monitored and tracked by City teams for the betterment of our residents.

The City is interested in hiring local organizations to host events during Fall 2022 to assist residents of South Bend with applying for benefit programs. The City will engage with community service agencies who have established relationships with the residents they serve in an effort to invest in the capacity of local organizations and lean on tried methods of resident engagement.

#### **Scope of services**

The Provider will organize, market and host at minimum one event to assist residents with applying for benefit programs, including the Utility Assistance Program (UAP), Low Income Home Energy/Water Assistance Program (LIHEAP/LIHWAP), and other priority benefit programs as identified by the City. The City will provide training on the programs, enrollment process, best practices for encouraging enrollment, and outreach materials to promote the benefit programs.

Provider shall not discriminate against any person seeking to attend an Outreach Event, nor will it use any portion of the Contract Amount to advance or facilitate its religious activities or the religious activities of any other organization.

These events will be hosted during Fall 2022, with a focus between September 15, 2022 through November 15<sup>th</sup>, 2022. Providers will be incentivized to enroll residents with a referral bonus per enrollment from the date of contract execution through 6 months after, even if events discontinue.

The Provider will:

1. Coordinate with City of South Bend personnel, as indicated by the City in preparing for Outreach Events;
2. Organize event(s) to assist residents to enroll in benefit programs, including logistics such as:
  - a. Time and date;
  - b. Location;
  - c. Staff or volunteers to assist residents;
  - d. Additional vendors;
  - e. Food and entertainment;
3. Market the event to draw residents to attend;
4. Attend Outreach Events for the purpose of signing up City of South Bend residents for designated assistance programs.

The City will:

1. Train the Provider about the priority benefit programs and enrollment processed;
2. Provide recommended language for promotional materials related to benefit programs;
3. Offer City staff or representatives to attend events to assist residents;
4. Track resident referrals that resulted in program enrollment for the priority programs mentioned.

**Payment and timeline**

The fee for this engagement will be calculated per event and per enrollment referral, not to exceed \$15,000. Activities will be recorded by the Provider for each month and invoiced on the Provider’s invoice date.

In anticipation of initial Provider expenses including materials, marketing and branding, an initial payment will be made available upon execution of the contract and invoice from the Provider, based on the rate detailed in Table 1 (“Set-up bonus”). If Provider’s event hosts greater than thirty (30) non-staff attendees, as determined by evidence submitted by Provider of attendance, Provider shall receive an additional payment in the amount described in Table 1.

In addition, the Provider will be incentivized to enroll residents in the priority benefit programs at the amount detailed in Table 1 (“Enrollment bonus”). The number of enrollments will be defined, tracked and calculated by the City and communicated to the Provider on the last Friday of each month, to be included in the Provider’s next regular invoice. The City has final decision-making power to determine the official number of enrolled residents for purposes of the Enrollment bonus.

This engagement is expected to last for a maximum of 6 months or until the total amount of the engagement is reached, whichever is first.

*Table 1. Cost for event development*

<b>Activity</b>	<b>Cost</b>	<b>Notes</b>
Set-up bonus	\$2,000 per event	Paid upon contract execution and submission of invoice
>= 30 nonstaff attendees	\$1,500 per event	Additional bonus for attendance exceeding 30 people
Enrollment bonus	\$20 per referral	From Sept 15, 2022 through March 30, 2023

Please direct any interest to Madi Rogers (mrogers@southbendin.gov | 574-245-6202), Director of Civic Innovation, Department of Innovation and Technology.