

**EXECUTIVE DOCUMENT SUMMARY**

State Form 41221 (R10/4-06)



Instructions for completing the EDS and the Contract process.

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

1. EDS Number: A229-8-SEF-17-9492	2. Date prepared: 12/20/2017
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**3. CONTRACTS & LEASES**

<input type="checkbox"/> Professional/Personal Services	<input type="checkbox"/> Contract for procured Services
<input checked="" type="checkbox"/> Grant	<input type="checkbox"/> Maintenance
<input type="checkbox"/> Lease	<input type="checkbox"/> License Agreement
<input type="checkbox"/> Attorney	<input type="checkbox"/> Amendment# _____
<input type="checkbox"/> MOU	<input type="checkbox"/> Renewal # _____
<input type="checkbox"/> QPA	<input type="checkbox"/> Other _____

**FISCAL INFORMATION**

4. Account Number: 45770-17200.572100	5. Account Name: TRAINING 2000
6. Total amount this action: \$1,000,000.00	7. New contract total: 1,000,000.00
8. Revenue generated this action: \$0.00	9. Revenue generated total contract: \$0.00
10. New total amount for each fiscal year:	
Year 2018	\$1,000,000.00
Year _____	\$ _____
Year _____	\$ _____
Year _____	\$ _____

**TIME PERIOD COVERED IN THIS EDS**

11. From (month, day, year): 11/23/2016	12. To (month, day, year): 12/31/2018
13. Method of source selection: <input checked="" type="checkbox"/> Negotiated	
<input type="checkbox"/> Bid/Quotation <input type="checkbox"/> Emergency <input type="checkbox"/> Special Procurement	
<input type="checkbox"/> RFP# _____ <input type="checkbox"/> Other (specify) _____	

35. Will the attached document involve data processing or telecommunications system  Yes: IOT or Delegate has signed off on contract

36. Statutory Authority (Cite applicable Indiana or Federal Codes):  
5-28-7

37. Description of work and justification for spending money. (Please give a brief description of the scope of work included in this agreement.)  
Project 419011. The IEDC will provide funds to Carrier Corporation a Skills Enhancement Training Grant for the training of a minimum of 900 current Indiana resident employees on training applications. Carrier Corporation has met program requirements and awarded after assessment of the application.

38. Justification of vendor selection and determination of price reasonableness:  
The Skills Enhancement Fund (SEF) provides assistance for new and expanding Indiana businesses to enhance the training and workforce skills of their Indiana employees. Businesses receiving these funds must commit to remain in operation in Indiana for 5 years following training or repay monies paid under this program. The program will benefit Indiana by upgrading and maintaining a knowledgeable and skilled workforce, and enhance individual growth and opportunity for Indiana employees.

39. If this contract is submitted late, please explain why: (Required if more than 30 days late.)  
These incentives were offered as a pre-commit back in November, 2016. Carrier Corporation has already begun their training, therefore please allow for backdating.

40. Agency fiscal officer or representative approval Matthew R. Kimmick <small>Matthew R. Kimmick, Director Indiana Economic Development Corporation, Inc. www.investment@iedc.in.gov, c-115 Date: 2017.12.22 13:06:34 -0500</small>	41. Date Approved	42. Budget agency approval <i>AC</i>	43. Date Approved 12/22/17
44. Attorney General's Office approval	45. Date Approved	46. Agency representative receiving from AG	47. Date Approved

**AGENCY INFORMATION**

14. Name of agency: Economic Development Corp	15. Requisition Number: 000006931
16. Address: IN Economic Development Corp Central Office 1 N CAPITOL AVE STE 700 INDIANAPOLIS, IN 46204-2040	

**AGENCY CONTACT INFORMATION**

17. Name: Dale Cotterman	18. Telephone #: 317/232-8822
19. E-mail address: dcotterman@iedc.in.gov	

**COURIER INFORMATION**

20. Name: Jackie Addison	21. Telephone #: 317-234-8741
22. E-mail address: jacaddison@iedc.in.gov	

**VENDOR INFORMATION**

23. Vendor ID # 0000050603	25. Telephone #: 317-240-5177
24. Name: CARRIER CORPORATION	
26. Address: 7310 W MORRIS STREET INDIANAPOLIS, IN 46231	
27. E-mail address: chad.pulley@carrier.utc.com	
28. Is the vendor registered with the Secretary of State? (Out of State Corporations, must be registered) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
29. Primary Vendor: M/WBE/IN-Vetera Minority: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Women: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IN-Veteran <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	30. Primary Vendor Percentages 100.0 %
31. Sub Vendor: M/WBE/IN-Veteran Minority: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Women: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IN-Veteran <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	32. If yes, list the %: Minority: _____ % Women: _____ % IN-Veteran _____ %
33. Is there Renewal Language in <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	34. Is there a "Termination for Convenience" clause in the document? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No



## **INDIANA ECONOMIC DEVELOPMENT CORPORATION SKILLS ENHANCEMENT FUND (SEF) GRANT AGREEMENT**

(REV: 09/14)

This Agreement (the "Agreement") is between the **INDIANA ECONOMIC DEVELOPMENT CORPORATION** (the "IEDC") and **CARRIER CORPORATION** (the "Grantee"). The parties to the Agreement, in consideration of the mutual covenants, obligations, and stipulations set forth herein, witness and agree as follows:

### **1. PURPOSE OF AGREEMENT:**

To fulfill the purposes provided in Indiana Code § 5-28-1-1 and Indiana Code § 5-28-7, and in accordance with the terms and conditions contained herein, the IEDC has awarded a grant under the State of Indiana's Training 2000 Program and Fund, Skills Enhancement Fund Allocation ("SEF Fund") of up to the Maximum Grant Amount. The grant funds shall be used exclusively in accordance with the provisions of the Agreement and Indiana Code § 5-28-7, which establishes the SEF Fund, as well as any rules adopted thereunder, and no other purpose. Capitalized terms used herein and not otherwise defined shall have the meaning given to them in Exhibit A, which is attached hereto and incorporated by reference.

### **2. TERM OF AGREEMENT:**

The Agreement will be effective as of the Commencement Date through the end of the Reporting Period (the "Term of the Agreement").

### **3. DESCRIPTION OF THE PROJECT:**

For the Grantee to be eligible to earn the Maximum Grant Amount, the Grantee will satisfy its obligations as reflected in the following representations, which the IEDC has relied upon:

- A. The Grantee will complete the Project at the Project Location.
- B. The Grantee will develop and implement the training programs for the Project as described in Exhibit A.
- C. The Grantee represents that the number of permanent, Full-Time Employees (as defined in Indiana Code § 6-3.1-13-4) from whom Indiana state income tax withholdings are retained by the State of Indiana, employed as of the Commencement Date at the Project Location, is least the Base Employment Number, as defined on Exhibit A.
- D. If applicable, the Project will result in the creation of New Employees (as defined in Indiana Code § 6-3.1-13-6) at the Project Location as described in the Fiscal Impact Requirements.
- E. The Project will result in the training of Full-Time Employees at the Project Location as described in the Fiscal Impact Requirements.
- F. The Project is anticipated to involve at least the Capital Investment Amount.

### **4. USE OF GRANT FUNDS BY GRANTEE:**

Grant funds received by the Grantee pursuant to the Agreement shall be used only to reimburse the Grantee for eligible training expenditures for the approved Project and permissible under Indiana Code § 5-28-7-2. The Grantee may use funds from other public sources to finance the training activities eligible for reimbursement under the Agreement as long as the Grantee receives no more than one-hundred percent (100%) of the training costs from all sources.

## 5. PAYMENT OF GRANT FUNDS BY THE IEDC:

The payment of this grant by the IEDC to the Grantee shall be made in accordance with the following schedule and conditions:

- A. Reimbursement Rate: The reimbursement rate is fifty percent (50%) of the eligible training costs, up to the Maximum Grant Amount.
- B. Travel Expenses. Eligible training expenses may include travel, which must not exceed thirty percent (30%) of the Maximum Grant Amount without prior written approval by the IEDC. To be reimbursed, travel expenses must be reasonable, as determined by the IEDC. The IEDC may apply State Travel Policies and Guidelines in the State's most current Financial Management Circular, as amended.
- C. Trainee Wages. Eligible training expenses may include actual wages paid to trainees who are Full-Time Employees at the Project Location for their time while attending a training session. These expenses may not exceed fifty percent (50%) of the Maximum Grant Amount without prior written approval by the IEDC.
- D. Claims for Reimbursement. Claims must be submitted in the form and manner provided by the IEDC. The Grantee may submit up to eight (8) claims for training expenses occurring between the Commencement Date and the Training Deadline. Sixty (60) days after the Training Deadline, the IEDC will not have any further obligation for payment for training expenses for which the Grantee has not submitted a claim. The Grantee may, before the Training Deadline, make a written request for an additional thirty (30) days to submit a final claim and all final paperwork. It is solely within the IEDC's discretion whether to grant the request.
- E. Fiscal Impact Requirements. In order for a claim to be reimbursed, the Grantee must show that the scheduled progress has occurred towards completion of the Project and the Fiscal Impact Requirements ("Requirements"). If these Requirements are in the process of being met, the IEDC may, at its discretion, delay full reimbursement until the Requirements are fully satisfied. Should Grantee fail to meet the Requirements by the Training Deadline, the grant funds will be deobligated by the IEDC and the Grantee may not make any additional claims for reimbursement, even if the Grantee's performance, after the Training Deadline and before the end of the Reporting Period, meets the Requirements. The Grantee's obligation to report until the end of the Reporting Period shall remain unchanged.
- F. Grantee Account Information. The Grantee agrees to comply with requests for information for the purpose of processing payment in accordance with State fiscal policies and procedures, including those required by Indiana Code § 4-13-2-14.8. Payments will be made by electronic funds transfer to the financial institution designated in writing by the Grantee, unless a specific waiver has been obtained from the State Auditor's Office. The written authorization for the electronic funds transfer must designate a financial institution and an account number to which all payments are to be credited.
- G. Payment Process: After the IEDC approves the claim for reimbursement, the IEDC will submit the claim to the State Auditor's Office for payment, in accordance with State fiscal policies and procedures.
- H. Retention of Final Distribution Amount: Payment of the Final Distribution Amount is subject to the Monitoring Review, as detailed in Paragraph 6 below.

## **6. MONITORING REVIEW**

- A. The IEDC may periodically carry out a monitoring review, including an evaluation of activities, as deemed appropriate by the IEDC (the "Monitoring Review"). The Grantee shall effectively ensure the cooperation of its employees in the Monitoring Review and shall produce all documentation reasonably requested by the IEDC. The Grantee will take all actions necessary to correct or cure any issues identified by the IEDC during the Monitoring Review.

If the IEDC elects to conduct an on-site Monitoring Review of the Project and its related training program, the IEDC may withhold up to the Final Distribution Amount until the Monitoring Review is completed. The IEDC may elect, in whole or in part, to disburse funds before the Monitoring Review has been completed.

## **7. DUTIES AND RESPONSIBILITIES OF GRANTEE:**

- A. In addition to the Fiscal Impact Requirements, the Grantee agrees to: (1) maintain operations at the Project Location from at least the Commencement Date until the end of the Reporting Period, and (2) employ at least the Base Employment Number between the Training Deadline and the end of the Reporting Period.
- B. The Grantee has made certain representations to the IEDC regarding the Project in the course of negotiating the Grantee's Agreement. The Grantee represents and warrants that all representations, statements, and all other matters provided to the IEDC were true and complete in all materials respects at the time they were provided.
- C. The Grantee will submit an annual report not later than the 45th day following the close of each reporting year, in the form and medium provided by the IEDC. The annual report, which shall be certified as true and correct by an authorized Grantee representative, shall contain the information listed in the annual report form provided by the IEDC, including but not limited to:
- (1.) The number of Full-Time Employees at the Project Location employed as of the end of the reporting year;
  - (2.) The average wage of the Full-Time Employees at the Project Location employed at any point during the reporting year, reported on an hourly basis (whether paid hourly or not, e.g. a salaried employee);
  - (3.) The aggregate actual W-2 payroll (box 1) of the Full-Time Employees at the Project Location employed at any point during the reporting year;
  - (4.) The amount of Capital Investment made at the Project Location during the reporting year;
  - (5.) The number of Full-Time Employees trained for the Project and the amount spent during the reporting year;
  - (6.) To substantiate the foregoing, a project employment sheet with the Full-Time Employees at the Project Location listed by last four (4) digits of Social Security number or other unique identifier, state of residence, hire date, termination date (if applicable), average wage, and required payroll information; and
  - (7.) Any other information required by the IEDC to perform its duties under Indiana Code § 5-28-7, so long as the Grantee is given notice of such requirements and reasonable time to prepare such information.

The foregoing information is submitted pursuant to Indiana Code § 6–8.1–7–1 for purposes of determining the Grantee’s Indiana state tax liability, and the IEDC shall treat the above information as confidential, financial information pursuant to Indiana Code § 5–14–3, unless the IEDC determines that it is prohibited from doing so by law or judicial order.

- D. If the Grantee has engaged a Professional Employer Organization (“PEO”), as defined by Indiana Code § 27-16-2-13, either the Grantee or the PEO must submit to the IEDC the information required in the annual report in order for any employees of the PEO to be treated as employees of the Grantee as provided by Indiana Code § 27-16-3-4. The Grantee represents that it has entered into agreements with the PEO necessary to effectuate these reporting provisions.

## 8. **NONCOMPLIANCE:**

- A. Noncompliance – Employment and/or Investment: Pursuant to Indiana Code § 5–28–6–6(3), in the event that the IEDC determines that the actual employment or investment may not be compliant with the Grantee’s commitments, the following procedures will apply. The IEDC will provide written notice to the Grantee Contract Administrator providing an opportunity to explain the noncompliance at a closed-door hearing, held either in person at the IEDC’s central office or held telephonically, at a mutually convenient time. The Grantee may submit a written response prior to the scheduled hearing, which shall act as a waiver of the hearing unless the response states otherwise. Failure to attend, in the absence of exceptional circumstances preventing attendance, shall be considered a waiver of any right under Indiana Code § 5–28–6–6.

At any time, the Grantee may waive, in writing, any right to a hearing or other further proceeding under Indiana Code § 5–28–6–6. In the event of a default under Paragraph 9D or Paragraph 18, the Grantee hereby waives any right to a hearing under Indiana Code § 5–28–6–6.

Should the IEDC make a final determination of noncompliance, the IEDC may impose an assessment on the Grantee in an amount that may not exceed the sum of any previously allowed grant funds, together with interest and penalties required or permitted by law. The Grantee agrees that aforementioned guidelines are reasonable, fair, and consistent with Indiana Code § 5–28–6–6.

- B. Noncompliance – Other Types: In the event that the Grantee otherwise fails to comply with the terms of the Agreement, the IEDC may determine that a default has occurred. The IEDC will provide notice of the default to the Grantee Contract Administrator and allow an opportunity for the Grantee to explain. Should the IEDC find that the explanation is not satisfactory, the IEDC may make an assessment requiring the Grantee to repay claimed incentives, interest and penalties (if any), or the IEDC may seek any other type of remedy.
- C. Waiver and/or Modification of Noncompliance: Pursuant to Indiana Code § 5-28-28-8, and at the sole discretion of the IEDC, the IEDC may waive or modify the recapture of incentives awarded under the Agreement to the Grantee if the IEDC determines that the Grantee failed to satisfy the requirements for receiving the grant funds because of circumstances beyond the Grantee’s control, including:
  - (1.) natural disaster;
  - (2.) unforeseen industry trends;
  - (3.) lack of available labor force;
  - (4.) loss of a major supplier or market; or
  - (5.) a circumstance beyond the Grantee’s control, as determined by the IEDC.

- D. Mandatory Repayment – Exit or Closure: Pursuant to Indiana Code § 5–28–6–6(4), the Grantee must repay incentives received in the event of an exit from the State of Indiana or closure of the Project Location prior to the expiration of the Term of the Agreement.
- E. Disclosure: The amount of any repayment, assessment, interest and/or penalty shall be a matter of public record. The IEDC may disclose certain information relating to (i) any reduction or repayment of a grant payment provided under the Agreement as a result of the Grantee's noncompliance; (ii) any waivers or modifications of the Agreement; (iii) information describing any hearings or determinations made pursuant to this paragraph; and (iv) any other incentive information required to be disclosed by law, as determined by the IEDC.

**9. TERMINATION; FUNDING CANCELLATION; EXTENSION:**

- A. The Agreement may be terminated with or without cause by the IEDC before the Training Deadline by sending the Grantee Contract Administrator written notice, as described in Paragraph 17, at least thirty (30) days prior to the date of termination. Upon receipt of this notice from the IEDC to the Grantee, no new or additional liabilities payable from grant funds shall be incurred without the prior written approval of the IEDC. The Grantee shall continue to be responsible and liable for the proper performance of its obligations through the date of termination. In the event of a termination, the IEDC will perform an on-site Monitoring Review of all training program expenditures with respect to the Grantee's proper expenditure of all grant funds and matching funds through the date of termination. Notwithstanding anything set forth in the Agreement to the contrary, a termination shall not alter or affect the Grantee's obligations that extend through the Reporting Period, unless the parties specifically terminate those obligations through a mutually-executed written agreement.
- B. In the event that 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 the Agreement, the Agreement shall be canceled, and the IEDC shall have no further obligation to make payments under the Agreement. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.
- C. By the Training Deadline, the Grantee may request in writing additional time beyond the sixty (60) days described in Paragraph 5 in which to submit a final claim and all final paperwork. The Grantee's request may be approved and acknowledged by a duly authorized representative of the IEDC. It is solely within the IEDC's discretion whether to grant additional time for submission of claims.
- D. The IEDC may terminate the Agreement, and the Grantee shall be obligated to promptly repay any funds received under the Agreement, if any one or more of the following events occur:
  - (1.) The Grantee makes an assignment, conveyance or surrender of the Project facilities for the benefit of creditors;
  - (2.) The Grantee applies to any court for the appointment of a trustee or receiver of any substantial part of the assets of the same or commences any proceedings relating to any of the same under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, or other liquidation law of any jurisdiction; or
  - (3.) Any application is filed or proceedings are commenced as described above against the Grantee and the Grantee indicates its approval, consent or acquiescence, or an order is entered appointing a trustee or receiver or adjudication of any of the

same as a bankrupt or an insolvent or approving the petition in any such proceedings and such proceedings are not dismissed within sixty (60) days after the filling or commencement of such proceedings.

Should any of the aforementioned events occur, the Grantee shall immediately provide written notice to the IEDC. This paragraph shall not be construed to limit the ability of the IEDC or the IDOR to collect, or limit the Grantee's obligation to repay, any grant funds paid under the Agreement, plus any applicable interest and penalties, should any one or more of the aforementioned events occur.

**10. ACCESS TO RECORDS:**

The Grantee agrees that the IEDC may elect to engage in monitoring practices independently of, or in conjunction with other appropriate State agencies or departments at all reasonable times during the Term of the Agreement and for three (3) years following the date of final payment under the Agreement, or until a State or federal audit has been completed and all audit exceptions cleared, whichever is earlier. Upon reasonable notice, the Grantee shall make available to the IEDC, its agents, or other appropriate State agencies or officials all books or records in its possession or control which pertain to the Agreement and the Project, including but not limited to tax returns, records of personnel, and conditions of employment. If any site visit is made on the premises of the Grantee or under the Agreement, the Grantee shall provide reasonable facilities and assistance for the safety and convenience of the IEDC or its representatives in the performance of their duties. All such inspections are to be performed so as not to unreasonably disrupt or interfere with the normal business operations of the Grantee.

**11. SUBSTANTIAL PERFORMANCE:**

The Agreement shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification thereof. The parties to the Agreement agree that all terms and conditions to the Agreement are essential.

**12. STATUTORY AUTHORITY OF GRANTEE:**

As a condition of receiving a grant from the SEF Fund, the Grantee expressly represents and warrants to the IEDC that it is statutorily eligible to receive monies from the SEF Fund under Indiana Code § 5-28-7. The Grantee expressly agrees to promptly repay all monies received under the Agreement should a legal determination of the Grantee's ineligibility be made.

**13. COMPLIANCE WITH LAWS:**

- A. The Grantee 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. At the request of either party, the enactment of any relevant State or federal statute or the promulgation of regulations thereunder after execution of the Agreement will be reviewed by the IEDC and the Grantee to determine whether the provisions of the Agreement require formal modification.
- B. The Grantee 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 Grantee is not familiar with these ethical requirements, the Grantee 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 Grantee or its agents violate any applicable ethical standards, the IEDC may, in its sole discretion, terminate the Agreement immediately upon notice to the Grantee. In addition, the Grantee 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 Grantee represents and warrants, by entering into the Agreement, that neither it nor any of its principals (as defined in Paragraph 20) is presently in arrears in payment of its taxes, permit fees, or other statutory, regulatory, or judicially required payments to the IEDC or the State. Further, the Grantee agrees that any payments in arrears and currently due to the IEDC or the State may be withheld from payments due to the Grantee until the Grantee is current in its payments and has submitted proof of such payment to the IEDC.
- D. The Grantee represents and warrants that it has no pending, current, or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the IEDC of any such actions, should they arise. During the term of such actions, the Grantee agrees that the IEDC may delay, withhold, or deny payment of claims for grant funds otherwise available under the Agreement or any other tax credits or incentives issued pursuant to the Agreement or any other agreement with the State or any of its agencies or departments.
- E. If a legitimate dispute exists as to the Grantee's liability or guilt in any action initiated by the IEDC, the State, or its agencies, and the IEDC decides to delay, withhold, or deny funding or credits to the Grantee, the Grantee may request that funding be continued.
- F. The Grantee represents and warrants that the Grantee and its subgrantees, if any, shall obtain and maintain all required permits, licenses, and approvals, as well as comply with all health, safety, and environmental statutes, rules, and regulations. Failure to do so is a material breach of the Agreement and is grounds for immediate delay, withholding, or denial of payment of claims for grant funds under the Agreement.
- G. The Grantee hereby represents and warrants that it is properly registered and in good standing with the Indiana Secretary of State (the "SOS"). If the Grantee is or engages a PEO pursuant to Indiana Code § 27-16-2-13, the Grantee represents and warrants for and on behalf of the PEO that the PEO is properly registered and in good standing with the Indiana Department of Insurance. The Grantee represents and warrants that it has also, if required, registered with the Indiana Department of Workforce Development (the "DWD") and has no outstanding workforce issues with the DWD. The Grantee further represents and warrants that if required, it has properly registered with the IDOR and has no outstanding issues with IDOR. The Grantee also represents and warrants that there are no outstanding enforcement actions against it by any agency of the State. The below-named signatory hereby warrants that he/she is authorized to make such affirmations to the IEDC on behalf of the Grantee and, if applicable, the PEO.
- H. The Grantee agrees that the IEDC may confirm, at any time, that no past due liabilities exist to the IEDC or to the State. If any such liabilities are discovered, the Grantee agrees that the IEDC or the State may bar the Grantee from contracting with the IEDC or the State in the future, cancel existing contracts, withhold payments to offset such obligations, and/or withhold further payments or purchases until the Grantee becomes current in its payments on its liability to the IEDC or to the State, and has submitted proof of such payment to the IEDC or to the State, or proof that such liability is not actually owed or past due.
- I. Any payments that the IEDC may delay, withhold, deny, or apply under the Agreement shall not be subject to penalty or interest under Indiana Code § 5-17-5.

#### **14. COMPLIANCE WITH TELEPHONE SOLICITATIONS ACT:**

As required by Indiana Code § 5-22-3-7:

- A. The Grantee and any principals of the Grantee certify that:
  - (1.) The Grantee, 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 Grantee will not violate the terms of Indiana Code § 24–4.7 for the duration of the Agreement, even if Indiana Code § 24–4.7 is preempted by federal law.

B. The Grantee and any principals of the Grantee certify that an affiliate or principal of the Grantee and any agent acting on behalf of the Grantee or on behalf of an affiliate or principal of the Grantee:

(1.) Except for de minimis and nonsystematic violations, has not violated the terms of Indiana Code § 24–4.7 in the previous three hundred sixty-five (365) days, even if Indiana Code § 24–4.7 is preempted by federal law; and

(2.) Will not violate the terms of Indiana Code § 24–4.7 for the duration of the Agreement, even if Indiana Code § 24–4.7 is preempted by federal law.

#### **15. DRUG-FREE WORKPLACE CERTIFICATION:**

The Company hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace at the workplaces included in the Project Location. The Company’s commitment to maintaining a drug-free workplace is evidenced by its policy, the “Carrier Indianapolis Substance Abuse Policy”, which is attached in full as Exhibit B, which the parties hereby deem to constitute substantial compliance with the requirements set forth in Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to requirements of the IDOA, Grantee shall give written notice to the IEDC within ten (10) days after receiving actual notice that an employee at the Project Location has been convicted of a criminal drug violation occurring in the workplace. It shall not constitute a breach of this Agreement for the Company to (a) impose stricter policies than those contained in the Carrier Indianapolis Substance Abuse Policy, or (b) make non-material changes to the Carrier Indianapolis Substance Abuse Policy.

#### **16. NONDISCRIMINATION:**

Pursuant to Indiana Code § 22–9–1–10, the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Grantee and its subgrantees shall not discriminate against any employee or applicant for employment related to the Agreement with respect to the hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, sex, age, disability, national origin, ancestry, or status as a veteran. Breach of this covenant may be regarded as a material breach of the Agreement. Acceptance of the 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 or written communication (“Notice”) is required under the 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  
Attention: General Counsel  
One North Capitol, Suite 700  
Indianapolis, IN 46204-2288

(2.) Notices to the IDOR shall be sent to:

INDIANA DEPARTMENT OF REVENUE  
Office of the Commissioner  
100 N. Senate Ave., IGC-North, Room N248  
Indianapolis, IN 46204

(3.) Notices to the Company shall be sent to the Company Contract Administrator (as defined in Exhibit A). It is the responsibility of the Company to keep all contact information properly updated using the IEDC's online system.

- B. Notice from the IEDC to the Grantee may be provided via electronic mail to the Grantee's electronic mail address specified at Exhibit A, or via certified or registered mail at the option of the IEDC. Notice shall be deemed delivered upon dispatch.
- C. As required by Indiana Code § 4-13-2-14.8 and detailed in Paragraph 5E, payments to the Grantee shall be made via electronic funds transfer in accordance with the instructions filed by the Grantee with the Indiana State Auditor's Office, unless an exception to such requirement is approved by the IEDC and the State. Payments shall be deemed delivered upon transmission pursuant to the written instructions of the Grantee.

**18. SUCCESSION AND ASSIGNMENT:**

- A. The Agreement binds the Grantee's successors and assignees to all terms and conditions herein. The Grantee shall not assign, subgrant, or subcontract the whole or any part of the Project or the Agreement without the prior written approval of the IEDC.
- B. In the event of any reorganization, transfer of assets, consolidation, merger, or dissolution, the Grantee must notify the IEDC in writing within thirty (30) days following the reorganization, transfer of assets, consolidation, merger, or dissolution. Provided, however, that there shall be no duty to notify the IEDC about any reorganization, transfer of assets, consolidation or merger if it is between the Company and any affiliate (meaning its parent company, subsidiaries, and/or entities under common ownership with the Company), so long as there is no material change to the operations taking place at the Project Location, and so long as the affiliate agrees to maintain the fiscal impact requirements outlined in Exhibit A of this Agreement. The Grantee may not, through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities, or any other voluntary action, seek to avoid the observance or performance of its obligations to the IEDC under the Agreement.

**19. INDEMNIFICATION:**

The Grantee agrees to indemnify, defend, and hold harmless the IEDC and the State and their respective agents, officers, employees, and representatives from all claims and suits arising from or relating to the Agreement. The Grantee shall bear all costs, including court costs, attorney's fees, and other expenses caused by any act or omission of the Grantee and/or its contractors or invitees, if any. The IEDC shall not provide any indemnification to the Grantee or its employees, contractors, agents, or invitees/licensees.

**20. DEBARMENT AND SUSPENSION:**

The Grantee certifies, by entering into the Agreement, that neither it nor any of its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into the Agreement by any federal agency or department, the IEDC, or any agency or political subdivision of the State. The term "principal" for purposes of the Agreement 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 Grantee.

**21. PENALTIES; INTEREST; ATTORNEY'S FEES:**

The IEDC 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 required by Indiana law, including Indiana Code § 5-17-5, Indiana Code § 34-54-8, and Indiana Code § 34-13-1. In the event of legal action or proceedings of any kind, including without limitation enforcement of payment terms, the recapture of grant funds, or for an assessment, whether brought by either party, the IEDC shall be entitled to reasonable attorney's fees, court costs, and other related reasonable expenses, plus interest pursuant to Indiana Code § 34-51-4-9.

**22. MISCELLANEOUS:**

- A. The headings in the Agreement are intended solely for reference and will be given no effect in the construction or interpretation of the Agreement.
- B. The Agreement, including any attached Exhibits, supersedes all prior oral and written proposals and communications, if any, and sets forth the entire Agreement of the parties with respect to the subject matter hereof. The Agreement may not be altered or amended except in writing, signed by authorized representatives of the IEDC and the Grantee.
- C. The Agreement 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. The venue for any court action shall be the circuit or superior court of Marion County, Indiana or the United States District Court of the Southern District of Indiana. The Grantee hereby consents to the personal jurisdiction of said courts.
- D. No waiver of any default, failure to perform, condition, provision, or breach of the Agreement will be deemed to imply or constitute a waiver of any other like default, failure to perform, condition, provision, or breach of the Agreement.
- E. If any paragraph, term, condition, or provision of the 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 paragraph, term, condition, or provision so found will be deemed severed from the Agreement, but all other paragraphs, terms, conditions, and provisions will remain in full force and effect.
- F. The parties to the Agreement, in the performance thereof, will be acting 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 any other party for any purposes whatsoever. No party will assume any liability for any injury (including death) to any persons, or any damage to any property arising out of the acts or omissions of the agents, employees, or subagents of any other party.
- G. The Grantee shall be responsible for providing all legally required unemployment and workers' compensation insurance for its employees.
- H. Unless otherwise terminated or modified as expressly permitted hereunder, the Agreement will remain in force during the Term of the Agreement. Notwithstanding anything contained herein to the contrary, provisions of the Agreement which by their nature contemplate rights and obligations of the parties to be enjoyed or performed after the expiration or termination of the Agreement will survive until their purposes are fulfilled.

- I. The Agreement may be executed through an original or through a facsimile copy, and in duplicate 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.
- J. The Grantee understands that the Agreement is a public record as defined by the Access to Public Records Act, and once fully executed, will be posted in accordance with the Access to Public Records Act (Indiana Code § 5-14-3-1, et seq.) on the IEDC's transparency portal. Use by the public of the information contained in the Agreement shall not be considered an act of the IEDC or the State of Indiana.
- K. If "the Grantee" refers to more than one entity, each entity shall be jointly and severally responsible to satisfy the obligations under the Agreement. In the event of a default, all entities are jointly and severally liable for the repayment obligations in the Agreement, irrespective of which entity caused the default and irrespective of which entity actually received or expended the grant funds.

**23. AUTHORITY TO COMMIT TO AGREEMENT:**

Notwithstanding anything in the Agreement to the contrary, the signatory for the Grantee represents that he/she has been duly authorized to execute contracts on behalf of the Grantee and has obtained all necessary or applicable approvals to make the Agreement fully binding upon the Grantee when his/her signature is affixed. The Agreement is not subject to further acceptance by the Grantee once accepted by the IEDC.

**24. NOTICE OF SEVERE WORKFORCE REDUCTIONS:**

During the Term of the Agreement, the Grantee will provide the IEDC written notice at least sixty (60) days in advance of any reductions in workforce that will result in a loss of employment for fifty percent (50%) or more of the employees at the Project Location.

**25. DISLOCATED WORKER PROGRAM:**

As required by law, the Grantee agrees to consider qualified dislocated workers who reside in Indiana and apply to the Grantee for available employment positions related to the Project. The Grantee is also encouraged to post available job openings and to solicit applications by using IndianaCareerConnect ([www.indianacareerconnect.com](http://www.indianacareerconnect.com)), or such other resources promoted by the IEDC Dislocated Worker Program. The Grantee understands that the provision of grant funds under the Agreement is contingent upon the Grantee's compliance with this provision.


**26. NON-COLLUSION AND ACCEPTANCE:**

The undersigned representative of the Grantee attests, subject to the penalties for perjury, (i) that he/she is the contracting party or that he/she is the duly authorized representative, agent, member, or officer of the Grantee; (ii) that he/she has not, nor has any other member, employee, representative, agent, or officer of the Grantee, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion, or agreement to receive or pay; and (iii) that he/she has not received or paid, any sum of money or other consideration for the execution of the Agreement other than that which appears upon the face of the Agreement.

*(Remainder of page intentionally left blank)*

**IN WITNESS WHEREOF**, the Grantee and the IEDC have, through duly authorized representatives, understood the foregoing terms of this Agreement and do by their respective signatures hereby enter into this Agreement and agree to the terms hereof.

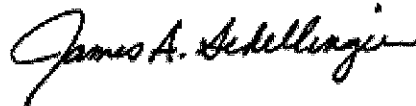
**CARRIER CORPORATION**

  
\_\_\_\_\_  
Signature  
Jim Scheerer VP-Finance/CFO  
\_\_\_\_\_  
Printed Name and Title  
12/10/17  
\_\_\_\_\_  
Date

**INDIANA ECONOMIC DEVELOPMENT CORPORATION**


**JAMES A. SCHELLINGER, Secretary of Commerce**

*(Digital Signature Stamp Below)*



Digitally signed by James A. Schellinger  
DN: cn=James A. Schellinger, o=IEDC, ou=Secretary of Commerce, email=jschellinger@iedc.in.gov, c=US  
Date: 2017.12.20 09:05:27 -05'00'

**STATE BUDGET AGENCY**

  
\_\_\_\_\_  
JASON D. DUDICH, DIRECTOR  
12/22/17  
\_\_\_\_\_  
DATE

**INDIANA ECONOMIC DEVELOPMENT CORPORATION  
SKILLS ENHANCEMENT FUND (SEF)  
GRANT AGREEMENT**

**CARRIER CORPORATION**

**EXHIBIT A**

**1. PROJECT INFORMATION:**

- A. The Project shall consist of the Company, a world leader in high-technology heating, air-conditioning and refrigeration solutions, retaining at least 1069 full time Indiana resident employees at the Project Location in Indianapolis. The Project is also anticipated to result in (1) \$16,000,000 in capital investment at the Project Location; and (2) training for at least 900 employees at the Project Location.
- B. The Capital Investment Amount for the entire Project is anticipated to be **\$16,000,000.00** and the expected New Jobs is anticipated to be **0** by the end of the Reporting Period.
- C. The Project will be located at **Indianapolis, IN** (the "Project Location").
- D. "Grantee Contract Administrator" shall mean:
  - Chad Pulley**
  - Senior Counsel**
  - Carrier Corporation**
  - 7310 W. Morris Street**
  - Indianapolis, IN 46231**
  - chad.pulley@carrier.utc.com**
  - http://www.carrier.com**

**2. SCHEDULE OF TERMS:**

- A. Time Frames:
  - (1.) "Commencement Date" shall mean **November 23, 2016**.
  - (2.) "Training Deadline" shall mean **December 31, 2018**.
  - (3.) "Reporting Period" shall mean the Commencement Date through **December 31, 2023**.
- B. Financials:
  - (1.) "Base Employment Number" shall mean **1069**.
  - (2.) The "Fiscal Impact Requirements" shall mean, by the Training Deadline:
    - (a.) Continuing to employ at least the Base Employment Number,
    - (b.) Making the scheduled progress as provided in Paragraph 5E above,
    - (c.) Employing at least **1069** Full-Time Employees at the Project Location,
    - (d.) Training at least **900** employees.

- (3.) "Final Distribution Amount" shall mean **\$200,000.00**, which is equal to twenty percent (20%) of the Maximum Grant Amount.
- (4.) "Maximum Grant Amount" shall mean **\$1,000,000.00**.

## **SKILLS ENHANCEMENT FUND (SEF) GRANT AGREEMENT**

### **CARRIER CORPORATION**

#### **EXHIBIT B**

##### **Carrier Indianapolis Substance Abuse Policy 2004**

Carrier Corporation is committed to providing a safe work environment and to fostering the well-being and health of its employees. There is no place in our environment for alcohol and drug abuse. Being under the influence of alcohol or other drugs on Company property is strictly prohibited and it is a condition of employment for employees to refrain from reporting to work or working with the presence of drugs or alcohol in their body. Therefore, Carrier Corporation, Indianapolis is implementing a drug-free workplace program. The Company recognizes the dangers of alcohol and drug abuse and will help any employee who requires assistance through the Company's Employee Assistance program ("EAP"). If you have an alcohol or drug problem, we encourage you to seek help immediately from Carrier's EAP by contacting the medical department. All job applicants will undergo testing for the presence of alcohol and drugs as a condition of employment. Each offer of employment shall be conditioned upon the successful completion of a test for alcohol and drugs. Employees who violate this policy will be subject to disciplinary action up to and including discharge. An employee's refusal to cooperate and provide the necessary sample when requested will result in termination of employment.

##### **TESTING**

In order to ensure a safe working environment, job applicants and employees will be subject to alcohol and drug testing as follows: pre-employment (also referred to as "post-offer"), reasonable-suspicion, post serious accident and follow-up drug testing after completing the recommended substance abuse treatment following a positive test.

Post Serious Accident is defined as:

Any work-related injury or illness that requires immediate evaluation and/or treatment outside the capabilities of the on-site medical staff.

Any incident involving a powered industrial vehicle that results in property damage and/or personal injury. Where there is reasonable-suspicion, as provided for within this policy, to believe that an employee is using or has used drugs in violation of this policy.

Reasonable-suspicion drug testing means drug testing based on the belief that an employee is using or has used drugs in violation of Carrier's policy drawn from specific objective facts and reasonable inferences drawn from those facts. Among other things, such facts and inferences may be based upon:

Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of drugs or alcohol;

Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;

Evidence of drug or alcohol use, provided by reliable and credible source;



Evidence that an individual has tampered with a drug or alcohol test during employment with Carrier Corporation, Indianapolis;

Information that an employee has caused, contributed to, or been involved in an accident while at work; or Evidence that an employee has used, possessed, sold, solicited or transferred drugs while working or while on Carrier's premises or while operating Carrier's vehicle, machinery or equipment.

Upon reasonable suspicion that an employee is under the influence of drugs or alcohol, the employee will be immediately suspended without pay pending the results of the test. If the results are negative, the employee will be returned to work and made whole for any losses as a result of the suspension. Employees under the influence of drugs or alcohol who commit major violation of safety rules which may result, or does result, in injury to the employee or other employees may be subject to immediate discharge. If drug testing is conducted based on reasonable-suspicion, the circumstances under which the determination that reasonable suspicion existed will be detailed in writing. This documentation will be given to the employee and appropriate Union representative and will be retained in the employee's personnel file.

#### **POSITIVE TEST**

The presence of alcohol or drugs in the body will result in the following actions:

A mandatory indefinite suspension without pay.

A mandatory referral to the Employee Assistance Program or other approved treatment plan.

In order to continue employment, the employee must sign an agreement to participate in the prescribed *Drug or Alcohol Rehabilitation Program*.

In addition, the employee must sign a "*Last Chance Agreement*" which will not exceed one (1) year and will allow for Random Testing of the employee to verify compliance with the recommendations of the Rehabilitation Program.

The Company must receive written confirmation that the employee is in compliance. Failure to do so will result in termination.

A positive test while under the "*Last Chance Agreement*" is considered "just cause" for termination using the substance abuse guidelines. Refusal to comply will result in immediate discharge.

Employees with eighteen (18) months or less of continuous service will not be afforded the opportunity of a "Last Chance" letter and will face termination for violation of this policy. Employees who are on layoff status for more than ninety (90) days will be subject to a drug screen during their rehiring physicals. Those employees who test positive will be terminated.

#### **TESTING GUIDELINES**

Carrier will afford applicants and employees subject to testing the opportunity, prior to and after being tested, to list all prescription, non-prescription drugs and controlled substances they have used and to explain the circumstances surrounding the use of such drugs and controlled substances. In addition, job applicants and employees have a right to consult with the medical review officer for technical information regarding prescription or nonprescription medication. Failure to establish adequately a legal basis for use of such drugs or controlled substances with respect to which the employee tests positive shall constitute a violation of this policy. Screening for five (5) drug groups and alcohol shall be performed (See Attachment A). This will require urinalysis to screen for the presences of drugs or controlled substance and a Breathalyzer to test for the presence of alcohol. Carrier will pay for initial testing and confirmation testing if the initial test shows positive results. The employee, at his/her option, shall pay for any additional testing. The Drug and Alcohol Screening Consent Form will be completed by the employee and witnessed by medical personnel prior to tests being conducted.

**CONFIDENTIALITY**

Results and consent forms will become part of the employee's medical file. Test results will be communicated to the employee in the presence of his/her union representative. Carrier Corporation, Indianapolis will make every effort to respect the confidentiality of employees for any actions taken. Information relative to investigations, possible employee violations and medical test will be communicated only on a strict "need to know" basis. Requests for EAP will be treated with the same degree of confidentiality as other requests for medical assistance. Release of information to anyone other than Carrier Corporation, laboratories, medical review officers, employee assistance programs and drug rehabilitation programs and their agents will be done only if the employee voluntarily signs a valid consent form.