

**Arlington High School
Student Achievement Scorecard
2015-16**

Indicator	Current State	Target
Days Out of School (OSS)	No 2014-15 data provided	Reduce by 20%
ISTEP+ Overall ELA	45.1%	50.6%
ISTEP+ Overall Math	56.3%	60.7%
English ECA (First Time Testers)	46.9%	52.2%
Algebra I ECA (First Time Testers)	31.9%	38.7%
Graduation Rate	43.5%	60%
Scholarship Dollars	TBD	TBD

PROFESSIONAL SERVICES/CONSULTING AGREEMENT

This Professional Services/Consulting Agreement (“Agreement”) is made and entered into as of March 1, 2015 (“Effective Date”) by the Board of School Commissioners of the City of Indianapolis, 120 East Walnut Street, Indianapolis, Indiana 46204 (“Board” or “Client”), and Mass Insight Education and Research Institute, Inc., 18 Tremont Street – Suite 1010, Boston, Massachusetts 02108 (“Consultant”).

In consideration of the mutual promises herein contained and intending to be legally bound hereby, the Board, and the Consultant agree as follows:

1. **Engagement and Scope of Work.** The Client engages Consultant to perform, and Consultant agrees to perform, the services (“Services”) described in Exhibit A Scope of Work attached hereto and incorporated by reference into this Agreement. Consultant will perform the Services in a diligent, efficient, competent and skillful manner.

Consultant and the Client may mutually agree to modify the Services from time to time during the term of this Agreement, in which case the applicable Attachment will be so updated.

2. **Term of Agreement.** This Agreement becomes effective on March 15, 2015, and expires on June 30, 2018, unless otherwise terminated pursuant to Paragraph 12, below. The Client and Consultant may, by mutual agreement, extend the term of this Agreement for additional periods.

3. **Fees, Payment Schedule, and Terms.**

Upon receipt of an invoice in a form agreed to by the parties, the Client will pay to Consultant for Services rendered under this Agreement, the total sum \$2,150,000 (Two Million One Hundred and Fifty Thousand Dollars), to be invoiced as follows: \$200,000 within 30 days of contract signature, then quarterly payments of \$150,000 each by June 30, 2015, September 30, 2015, December 31, 2015, March 31, 2016, June 30, 2016, September 30, 2016, December 31, 2016, March 30, 2017, June 30, 2017, September 30, 2017, December 31, 2017,

March 30, 2018 and the balance of \$150,000 after the Client has received all agreed-upon deliverables.

- A. Consultant will deliver invoices to the Client at the following address:

Paul Carpenter-Wilson
Interim Chief Financial Officer
Indianapolis Public Schools
120 East Walnut Street
Indianapolis, Indiana 46204

- B. The Client will pay each invoice no later than 30 days following the receipt of the invoices. Payments will be in the form of a check payable in US dollars to:

Mass Insight Education
18 Tremont Street, Suite 1010
Boston, MA 02108 Tax ID#: 04-3369687
Attn: Deb Abbott (dabbott@massinsight.com)

4. **Independent Contractor.** The parties agree that Consultant's relationship to the Client shall be that of an independent contractor and not as an agent, employee, partner, or joint venture and that the employees or agents of Consultant shall not be deemed or construed to be employees of the Client for any purposes whatsoever. Consultant represents and warrants that it is an independent contractor and shall neither hold itself out as, nor claim to be, an officer or employee of the Client, and further shall not make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Client.
5. **Disclosure of Relationships.** Consultant certifies and warrants that to the knowledge of the Consultant's executive officers, this Agreement and the Services provided hereunder will not be performed under the direct or indirect administrative control of or be reviewed or approved or paid for by any member of the Client, or any administrator, educator, agent or employee of the Client who stands in the relation of dependent to Consultant, including Consultant's employees (as defined by IC 35-44-1-3) or who is otherwise related to any executive officer of the Consultant by blood or by marriage, except as disclosed on Exhibit B, attached and made part hereof. Upon identification of a violation by Consultant, or notice by the Client to Consultant, of any violation of this provision or failure to disclose the

relationship and a failure by the Consultant to cure such violation or failure within 30 days after such notice, the Client may immediately terminate this Agreement; provided, however that Client will pay all compensation earned through the date of termination.

6. **Confidentiality.** Either party to this Agreement may, in the course of fulfilling its obligations hereunder, need to disclose information to the other party that is proprietary or confidential (such disclosing party, the “Disclosing Party”). The party receiving such information (“Receiving Party”) (whether it is the Client or Consultant that receives the confidential information) agrees to keep such information confidential and will not disclose such information to any third party. Such information may be oral, written, or documentary. Any such information deemed confidential must be identified as such when such information is shared. This paragraph does not include as “confidential” any information that (a) is already known to the Receiving Party as evidenced by prior documentation, or (b) is or becomes publicly known through no wrongful act of the Receiving Party, or (c) is rightfully received by the Receiving Party from a third party without restriction and without breach of this Agreement or any other Agreement, or (d) is approved for release by written authorization of the Disclosing Party.
7. **Intellectual Property Rights.** The Client agrees that the work product defined in the Scope of Work, attached hereto as Exhibit A, will be based on intellectual property owned by the Consultant. The parties agree that each of Consultant and the Client shall co-own any work product or other intellectual property developed by the Consultant or the Client in the conduct of the Services (the “Co-owned Work Product”). Additionally, each of the Consultant and the Client grants to the other party a non-exclusive, perpetual license, without payment of any fee and without any restriction, in any Co-owned Work Product. Each of the Consultant and the Client shall have full rights to sell, assign, license and to otherwise transfer the Co-owned Work Product. However, this license does not apply to any confidential information or to any information protected from disclosure under applicable law or regulation, and neither party may use or disclose such information unless compelled by law to do so. This provision shall survive any termination of this Agreement.
8. **Non-solicitation of Customers and Employees.** During the term of this Agreement and for one year after termination of this Agreement, Client will

not, without the prior written consent of Consultant, either directly or indirectly, on the Client's own behalf or in the service or on behalf of others, solicit or attempt to solicit, divert or hire away any person employed by Consultant.

9. **Compliance.** In the performance of the Services hereunder, Consultant will comply with all applicable federal, state and local laws, regulations and guidelines. Consultant will also comply with Board's polices when on Board's premises.
10. **No Restrictions.** Consultant represents and warrants that the terms of this Agreement are not inconsistent with any other contractual or legal obligations that Consultant may have or with the policies of any institution or company with which Consultant is associated.
11. **Indemnification.** Each party agrees to defend, indemnify and hold harmless the other from and against any and all claims, losses, liabilities or expenses (including, without limitation, reasonable attorneys' fees) (collectively, "Losses") which may arise, in whole or in part, out of a breach by that party of its obligations under this Agreement. Consultant hereby agrees to protect, indemnify, defend and hold harmless the Client and its members, officers, agents, and employees from Losses on account of every liability, injury, death, or tangible property damage directly attributable to any negligent or intentional act or omission on the part of Consultant in the performance of the Services. If the liability under this provision is for negligence only and not gross negligence or an intentional act or omission, then the Consultant's liability is capped at two (2) times the amount of fees paid to it under this Agreement, including any extensions. The Board will protect, indemnify, defend and hold harmless Consultant and its members, officers, agents, and employees, its successors and assigns, from and against any and all Losses incurred in connection with, arising from, or incident to the organization, financing and/or operation of the Board's business.
12. **Termination.**
 - A. Either party may terminate this Agreement prior to the expiration date set forth in Paragraph 2, above, by giving the other party a 30 day notice in writing, which notice will specify the date upon which termination becomes effective. In the event either party gives such notice, this Agreement will terminate upon the date specified, and the parties hereto will be released from any and all liability hereunder

except such liability as, by the terms hereof, may be accrued prior to, or may extend beyond, such termination.

- B. Upon the termination of this Agreement, Consultant will immediately cease any activities related to the Services, and will deliver promptly to the Client all property of the Client in its possession or under its control, including, without limitation, the documents or property containing the work product produced in connection with performing the Services, and copies thereof. The Client will pay all compensation earned through the date of termination pursuant to this Agreement promptly following receipt of such property.
13. **Assignment.** Except as otherwise provided herein, neither party shall assign this Agreement or its rights or duties hereunder without the express written consent of the other party.
14. **Criminal History.** Consultant hereby agrees to:
- A. obtain and submit to Client for review an expanded criminal history (as defined by House Enrolled Act 1462) for each of its employees, agents or subcontractors who is likely to have direct, ongoing contact with Client students in connection with performing school-based contracted services and;
 - B. advise Client, in writing, of Consultant's criteria for screening employees who will perform work for Client.

An expanded criminal history provided to the Client must be no more than three months old and must be obtained before the person begins to perform any work for Client. Any information obtained from an expanded criminal history will be used in accordance with IC 10-13-3-29.

Consultant and all employees, agents or subcontractors of Consultant that have contracts to provide services to Client are required by law to notify the Board if, during the course of that contract, Consultant, subcontractor or an employee is convicted in Indiana or in any other jurisdiction of any of the following offenses; murder; aggravated battery; kidnapping; criminal confinement; a sex offense under IC 35-42-4; car jacking; arson; incest; neglect of a dependent; child selling; contributing to the delinquency of a minor; an offense involving a weapon under IC 35-47 or IC 35-47.5; and offense relating to controlled substances under IC 35-48-4; and offense

relating to material or a performance that is harmful to minors or obscene under IC 35-49-3; and offense relating to operating a motor vehicle while intoxicated under IC 9-30-5; an offense that is substantially equivalent to any of the offenses listed in this subsection in which the judgment of the conviction was entered under the law of any other jurisdiction; or an attempt to commit one of the foregoing crimes.

Consultant or Consultant's employees, agents, subcontractors are responsible for all costs associated with obtaining the criminal histories.

15. **Supplier Diversity.** Consultant and any subcontractor agree that they will review the Client policy on Minority and Women Business Enterprise for Contractors; attached and made part hereof as Exhibit C and comply with such policy.
16. **Insurance.** Consultant currently maintains primary comprehensive general liability insurance in the amount of \$2 Million, including bodily injury and property damage coverage in an amount no less than \$1 Million. The coverage minimum shall apply to specific and aggregate limits. Evidence of insurance coverage for Consultant shall be promptly provided to Board upon written request by Board. Consultant shall immediately forward to Board (i) evidence of any modifications to the currently maintained insurance coverage, and (ii) any notice of cancellation or nonrenewal of coverage that it receives from its insurer and shall provide immediate notice of any actual cancellation or nonrenewal. Consultant shall not refuse to submit a claim to its insurance carrier or fail to pursue insurance reimbursement in a manner that would reduce Board's indemnity rights under this Agreement.
17. **No Third Party Beneficiaries.** Nothing in this agreement shall be construed to create or extend any rights to any third parties as third party beneficiaries.
18. **Time of the Essence.** The Client and Consultant hereby agree that time is of the essence of this Agreement. Consultant shall commence its activities as soon as practicable upon the execution of this Agreement.
19. **E-Verify Certification.** Consultant certifies that it has enrolled in and is verifying the work eligibility status of all newly hired employees through the E-Verify program for the duration of this and any future contracts for services with the Client, unless and until the E-Verify program no longer

exists. Consultant affirms that it does not knowingly employ or retain in its employ any unauthorized aliens, which includes any persons whose immigration status makes them ineligible to work for Consultant.


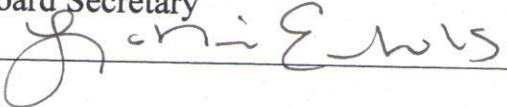
Consultant requires all of its Subcontractors, before performing services under this Contract, in any amount, to provide to Consultant a Certification that, at the time of Certification, (a) Subcontractor does not knowingly employ or contract with any unauthorized aliens, meaning any persons whose immigration status makes them ineligible to work for Subcontractor, and (b) Subcontractor has enrolled in and is participating in the E-Verify program. Consultant certifies that it will keep on file these Subcontractor Certifications referenced for the duration of any contract with Subcontractor to provide services under this or any future contract with the Client. This provision does not apply to Contractors who are self-employed and do not employ any employees or to any Contractor who is not providing services to the Client.

20. **Consultant Not Suspended or Debarred.** By signing this Agreement, Consultant certifies that the Consultant, its principals and/or sub-recipients are not suspended or debarred by the Federal Government, nor is any known suspension or debarment procedure pending. Contractor agrees to notify the Board in writing of any suspension or debarment, or potential suspension or debarment proceeding. Failure to report any suspension or debarment, or any potential suspension or debarment will be sufficient cause to terminate this Agreement and report such termination to Federal authorities. The Consultant representative certifies that he/she has authorization to make such certification and to bind the contractor to all representations herein.
21. **Notices.** Notices shall be in writing and delivered in person or by certified mail, postage prepaid, to the Chief of Financial and Business Services of the Client or to Consultant at the address set out in Paragraph 3 of this Agreement or such address as specified by either party in a Notice under this paragraph. Notice shall be deemed given at the time of personal delivery or three (3) days after the date of mailing if sent by certified mail.
22. **Amendments and Waiver.** This Agreement may be amended by a written agreement signed by both parties. Waiver of any one provision of this Agreement will not be deemed to be a waiver of any other provision.
23. **Severability.** Each provision of this Agreement will be considered separable. If for any reason any provision or provisions hereof are determined to be invalid or contrary to applicable law, such invalidity will

not impair the operation of or affect the remaining provisions of this Agreement so long as it does not materially affect either party.

24. **Governing Law and Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of Indiana, without giving effect to its principles of conflicts of law. Any legal action or proceeding brought to interpret or enforce this Agreement or in any other way arising out of or in relation to this Agreement will be brought exclusively in either the state or federal courts located in Marion County Indiana. The parties hereto irrevocably submit to the exclusive jurisdiction and venue of said courts in any such action or proceeding and hereby waive any and all objections to the personal jurisdiction and venue of said courts.
25. **Attorneys' Fees.** In the event suit is brought to enforce or interpret any provision of this Agreement, the prevailing party will be entitled to recover as an element of the costs of suit, and not as damages, reasonable attorneys' fees to be fixed by the court.
26. **Entire Agreement.** This Agreement, including the Attachments, which are incorporated herein, constitutes the entire agreement between Consultant and the Client with respect to the subject matter hereof and, supersedes all prior oral or written agreements and understandings relating to the subject matter hereof.
27. **Counterparts.** This Agreement may be executed in counterparts and by facsimile signature, each of which will be deemed an original, and all of which will together constitute one and the same instrument.

The parties hereto have executed this Consulting Agreement as of the day and year first above written:

THE BOARD OF SCHOOL COMMISSIONERS OF THE CITY OF INDIANAPOLIS	MASS INSIGHT EDUCATION AND RESEARCH INSTITUTE, INC.
Diane Arnold Board President 	William H. Guenther Chairman, CEO and Founder
LaNier Echols Board Secretary 	

Attachments:

- A. Scope of Work
- B. Disclosure of Relationships form
- C. Supplier Diversity Policy [Note: Please provide a copy for review.]