Amendment #1 to
Professional Services Contract
Between the Office of the State Auditor and
Martin Consulting Group, LLC

This document (hereinafter referred to as "Amendment Number 1") shall serve to amend the original Professional Services Agreement executed August 1, 2017, between Martin Consulting Group, LLC and the Office of the State Auditor.

Martin Consulting Group and the Office of the State Auditor, by entering into this Amendment Number 1, mutually agree that the following provisions shall modify the aforementioned Agreement.

**Contract Period of Performance**

This article is hereby amended so as to renew the Agreement for an additional term to begin July 1, 2018 and continuing through the close of business on June 30, 2019.

**Consideration**

The original article is hereby replaced with the following:

As consideration for the performance of all services listed in the Contractor's Scope of Services of this Agreement, Contractor shall receive compensation based on an hourly rate of eighty-five dollars ($85.00), not to exceed a total amount of forty thousand dollars ($40,000).

All other terms and conditions of the Agreement executed August 1, 2017, shall remain unchanged and in full force and effect.

MISSISSIPPI OFFICE OF STATE AUDITOR

Stacy E. Pickering
State Auditor

Date: 6/6/18

Martin Consulting Group, Inc.

Brian Martin
President

Date: 6/26/18

2018-Martin

**CONTRACTUAL AGREEMENT**

**THIS AGREEMENT** made and entered into this the 1st day of August 2017, by and between the OFFICE OF THE STATE AUDITOR of the State of Mississippi, 501 North West Street, Suite 801, Jackson, Mississippi 39201, hereinafter "OSA", and MARTIN CONSULTING GROUP, LLC, located at 161 Highland Trail, Flora, Mississippi 39071, hereinafter "Contractor" to provide services under the following terms and conditions:

1. **SCOPE OF SERVICES:** Contractor will provide maintenance and training as requested on time entry and invoicing system.

2. **PERIOD OF PERFORMANCE:** The period of performance of services under this Agreement shall begin on August 1, 2017 and shall expire on June 30, 2018.

3. **CONSIDERATION:** As consideration for the performance of this Agreement, Contractor shall receive compensation based on an hourly rate of eighty dollars ($85.00), not to exceed a total amount of twenty-nine thousand, seven hundred and fifty dollars ($29,750.00).

4. **PAYMENT:** OSA agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies", Section 31-7-301, et seq. of the Mississippi Code of 1972, as amended, which generally provides for payment of undisputed amounts within forty-five (45) days of receipt of the invoice. Contractor shall submit invoices electronically to OSA using the processes and procedures identified by the State of Mississippi. Payments by state agencies using the Mississippi Accountability System for Government Information and Collaboration (MAGIC) shall be made and remittance information provided electronically as directed by OSA. These payments shall be deposited into the bank account of the Contractor's choice. Contractor understands and agrees that OSA is exempt from the payment of taxes. All payments shall be in United States currency. No payment, including final payment, shall be construed as acceptance of defective or incomplete work, and the Contractor shall remain responsible and liable for full performance.

5. **AVAILABILITY OF FUNDS:** It is expressly understood and agreed that the obligation of OSA to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at anytime, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to OSA, OSA shall have the right upon ten (10) working days written notice to the contractor, to terminate this agreement without damage, penalty, cost or expenses to OSA of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination. OSA shall have the sole right to determine whether funds are available for the payments or performances due under this Contract.

6. **APPLICABLE LAWS:** The agreement shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws provisions, and venue for resolution of any dispute shall be Jackson, Hinds County, Mississippi. Contractor shall comply with applicable federal, state and local laws and regulations. Contractor expressly agrees that

under no circumstances shall OSA be obligated to pay an attorney's fee, prejudgment interest or the cost of legal action to Contractor. Further, nothing in this Agreement shall affect any statutory rights that OSA may have and such rights cannot be waived or limited by this agreement.

7. **ASSIGNMENT:** Contractor acknowledges that it was selected by OSA to perform the services required hereunder based, in part, upon Contractor's special skills and expertise. Contractor shall not assign, subcontract or otherwise transfer this agreement in whole or in part without the prior written consent of OSA, which the OSA may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations without such consent shall be null and void. No such approval by OSA of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the State in addition to the total fixed price agreed upon in this agreement. Subcontracts shall be subject to the terms and conditions of this agreement and to any conditions of approval that OSA may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.

8. **COMPLIANCE WITH LAWS:** Contractor understands that OSA is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color, sex, age, national origin, disability, or any other consideration made unlawful by federal, State or local laws. All such discrimination is unlawful and Contractor agrees during the term of this agreement that the Contractor will strictly adhere to this policy in its employment practices and provision of services. Contractor shall comply with, and all activities under this agreement shall be subject to, all OSA policies and procedures and all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.

9. **TRANSPARENCY:** In accordance with the Mississippi Accountability and Transparency Act of 2008, §27-104-151, et seq., of the Mississippi Code of 1972, as amended, the American Accountability and Transparency Act of 2009 (P.L. 111-5), where applicable, and §31-7-13 of the Mississippi Code of 1972, as amended, where applicable, a fully executed copy of this agreement shall be posted to the State of Mississippi's accountability website at: https://merlin.state.ms.us.

10. **MISSISSIPPI EMPLOYMENT PROTECTION ACT:** Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq. of the Mississippi Code Annotated (Supp 2008), and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security, where required, to provide a copy of each such verification to the State. Contractor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Contractor understands and agrees that any breach of these warranties may subject Contractor to the following: (a) termination of this Agreement and ineligibility for any state or public

contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Contractor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

11. **INDEPENDENT CONTRACTOR STATUS:** Contractor shall, at all times, be regarded as and shall be legally considered an independent contractor and shall at no time act as an agent for OSA or the State. Nothing contained herein shall be deemed or construed by OSA, the Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint venturers, employer and employee, or any similar such relationship between the OSA and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of OSA or the Contractor hereunder creates or shall be deemed to create a relationship other than the independent relationship of OSA and the Contractor. Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State. Neither the Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the State; and the State shall be at no time legally responsible for any negligence or other wrongdoing by the Contractor, its servants, agents, or employees. OSA shall not withhold from the contract payments to Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the Contractor. Further, OSA shall not provide to the Contractor any insurance coverage or other benefits, including Workers' Compensation, normally provided by the State for its employees.

12. **TERMINATION:** OSA may terminate this Contract with or without cause upon ten (10) days written notice to the Contractor. The Contractor may terminate this Contract with cause upon thirty (30) days written notice to the OSA.

13. **MODIFICATION OR AMENDMENT:** This agreement may be modified, altered or changed only by written agreement signed by the parties hereto.

14. **PROCUREMENT REGULATIONS**: The Contract shall be governed by the applicable provisions of the Personal Service Contract Review Board Regulations, a copy of which is available at 210 East Capitol Street, Suite 800, Jackson, MS 39201, for inspection, unless exempted.

15. **INDEMNIFICATION:** To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate OSA and its members, officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions damages, losses, and costs of every kind and nature whatsoever, including, without limitation, court costs, investigative fees and expenses, and attorneys' fees, arising out of or caused by Contractor and/or its partners, principals, agents, employees and/or Subcontractors in the failure to perform this agreement.

16. **NOTICES:** All notices required or permitted to be given under this Contract must be in writing and personally delivered or sent by facsimile provided that the original of such notice is sent by certified United States mail postage prepaid, return receipt requested, or overnight courier with signed receipt, to the party to whom the notice should be given at the address set forth below.

Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

| For the Contractor: | | For the State Auditor's Office |
|---|---|---|
| Name | Brian Martin | Bill Pope |
| Title | President | Chief of Staff |
| Address | Post Office Box 972 | Post Office Box 956 |
| Address | Flora, MS 39071 | Jackson, MS 39205 |
| Phone | 601-573-8864 | 601-576-2800 |
| Fax | 601-879-0322 | 601-576-2650 |

17. **SEVERABILITY:** If any term or provision of this Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this agreement shall not be affected thereby and each term and provision of this agreement shall be valid and enforceable to the fullest extent permitted by law.

18. **CHANGE IN SCOPE OF WORK**: OSA may order changes in the work, consisting of additions, deletions, or other revisions within the general scope of the contract. No claims may be made by the Contractor that the scope of the project or of the Contractor's services has been changed, requiring changes to the amount of compensation to the Contractor or other adjustments to the contract, unless such changes or adjustments have been made by written amendment to the contract signed by OSA and the Contractor.

19. **FAILURE TO ENFORCE:** Failure by OSA, at any time, to enforce the provisions of the agreement shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the agreement or any part thereof or the right of OSA to enforce any provision at any time in accordance with its terms.

20. **CONFLICT OF INTEREST:** Contractor shall notify OSA of any potential conflict of interest resulting from the representation of or service to other clients. If such conflict cannot be resolved to OSA's satisfaction, OSA reserves the right to terminate this Contract.

21. **SOVEREIGN IMMUNITY**: By entering into this Contract with Contractor, the State of Mississippi does, in no way, waive its sovereign immunities or defenses, as provided by law.

22. **AUTHORITY TO CONTRACT:** Contractor warrants (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind, and (d) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.

23. **CONFIDENTIALITY:** Contractor hereby agrees to assure the confidentiality of any records obtained from OSA or from the State Personnel Board (SPB) for OSA, as required by state and federal privacy laws. No information, documents or other material provided to or prepared by

Contractor deemed confidential by OSA and/or the SPB pursuant to state and federal privacy laws, shall be made available to any person or organization without the prior approval of OSA. Any liability resulting from any wrongful disclosure of confidential information on the part of Contractor shall rest with Contractor.

Confidential Information shall mean (a) those materials, documents, data, and other information which Contractor has designated in writing as proprietary and confidential, and (b) all data and information which Contractor acquires as a result of its contact with and efforts on behalf of OSA and any other information designated in writing as confidential by OSA. Each party to this agreement agrees to protect all confidential information provided by one party to the other; to treat all such confidential information as confidential to the extent that confidential treatment is allowed under Mississippi and/or federal law, and, except as otherwise required by law, not to publish or disclose such information to any third party without the other party's written permission, and to do so by using those methods and procedures normally used to protect the party's own confidential information. Any liability resulting from the wrongful disclosure of confidential information on the part of Contractor or its Subcontractor shall rest with Contractor. Disclosure of any confidential information by Contractor or its Subcontractor without the express written approval of OSA shall result in the immediate termination of this agreement and the availability to OSA of any and all remedies at law or in equity.

24. **ENTIRE AGREEMENT:** This agreement constitutes the entire agreement of the parties with respect to the subject matter contained herein, and supersedes or replaces any and all prior negotiations, understandings, and agreements, written or oral, between the parties relating thereto.

This Contract has been entered into and executed by the parties hereto as of the day and year first above written.

| MARTIN CONSULTING GROUP, INC. | MISSISSIPPI OFFICE OF THE STATE AUDITOR |
|---|---|
| BRIAN MARTIN<br>President | STACEY E. PICKERING<br>State Auditor |
| 7/25/17<br>Date | 7/21/17<br>Date |

Quotes (2018)

**Brandi Zuber**

**From:** Brian Martin <brian@arcwise.net>
**Sent:** Tuesday, July 11, 2017 9:38 AM
**To:** Brandi Zuber
**Subject:** RE: Quote
**Attachments:** MCG OSA Quote_20170710.pdf

Hi Brandi,

Please see the attached requested quote for FY 2018.

Thanks,
Brian

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**From:** Brandi Zuber [mailto:Brandi.Zuber@osa.ms.gov]
**Sent:** Friday, July 7, 2017 10:18 AM
**To:** Brian Martin
**Subject:** Quote

Good Morning Brian –

Can you provide an estimated amount of hours and hourly rate for the attached scope of services of the web-based/Timekeeping and MAGIC files for OSA. This will be for the time frame of August 1, 2017 – June 30, 2018.

Please let me know if you have any additional questions or concerns.

Thanks,

*Brandi Zuber*
Budget and Finance Director
Mississippi Office of the State Auditor
Ph. 601-576-2648
brandi.zuber@osa.ms.gov

P.O. Box 956; Jackson, MS 39205
501 North West Street, Suite 801
Jackson, MS 39201

# MS Office of the State Auditor

## Quote for Consulting Services
7/10/2017

**Description**
This quote is for consulting services to be provided by Martin Consulting Group, LLC (MCG) to the MS Office of the State Auditor (OSA) to provide development, maintenance, and support for the agency's internal software applications to include the web-based project/time-keeping and billing systems.

**Requirements**
OSA is in need of a resource to provide services including but not limited to:

- Maintain and support OSA web-based Project/Timekeeping application
  - Analyze changing OSA business requirements and make enhancements to Project/Timesheet web application (C#.net)
  - Provide guidance and assistance to OSA staff on all system-related questions
- Provide database support for OSA divisions
  - Maintain SQL SSIS and SSRS reporting jobs and subscriptions
  - Update Employee timesheet approval levels and division transfers as needed
- Assist OSA staff with MAGIC file interface
  - Analyze DFA requirements and implement changes to OSA invoice system
  - Troubleshoot import and export issues
- Maintain internal Audit invoice system to include:
  - Making enhancements to invoice system to accommodate legislative changes
  - Advise senior OSA staff on impact of proposed changes
  - Maintain and support interface to Project/Timekeeping system
  - Assist with import and export of files to and from MAGIC statewide accounting system
  - Assist and advise OSA billing administrator on troubleshooting and issue resolution related to:
    - Outlook interface for automated emailing of invoices
    - Advise on billing milestones and federal allocation table setup and usage
    - Assist with new billing entity setup
    - Provide support for diagnosing MAGIC interface issues

**Assumptions**
- MCG Consultant will spend time onsite with OSA staff when necessary.
- MCG will provide additional services whenever required for special projects on an as-needed basis.

**Professional Arrangements**
This engagement is proposed to be on a Time and Materials Cost basis at a rate of eighty five dollars ($85) per hour. Anticipated hours are not expected to exceed three hundred fifty (350) for fiscal year 2018.

## Brandi Zuber

**From:** Jim Moore
**Sent:** Friday, July 7, 2017 10:06 AM
**To:** Brandi Zuber
**Subject:** FW: Scope of Services
**Attachments:** Scope of Services.docx

**From:** Ryan Allen [mailto:rmallen@ventech.com]
**Sent:** Friday, July 7, 2017 10:04 AM
**To:** Jim Moore <Jim.Moore@osa.ms.gov>
**Subject:** FW: Scope of Services

Jim,

Thank you so much for the opportunity to provide a quote on the attached services for web-based/TimeKeeping and MAGIC.

Unfortunately, we do not have any engineers that can provide these services for the agency, therefore Venture will not be able to provide a quote for you on this project.

Thank you for considering us and please reach out to us on other opportunities that the agency may have.

Ryan Allen
Senior Account Manager
Venture Technologies
601.978.6114 - Direct
601.956.3750 - Fax
rmallen@ventech.com
www.ventech.com