GENERAL CONDITIONS OF CITY'S SERVICE PROVIDER AGREEMENT SF

SECTION 1
SERVICE PROVIDER'S SERVICES

1.1. SERVICE PROVIDER'S SERVICES.

1.1.1. The Service Provider's services consist only of those Services performed by the Service Provider, Service Provider's employees and Service Provider's consultants as enumerated in Exhibit "A" of this Agreement.

1.1.2. Service Provider will assign qualified and experienced personnel to perform the Services. Where Exhibit "A" identifies specific Service Provider personnel, these individuals will remain assigned to provide the Services throughout the term of this Agreement, in accordance with their roles and responsibilities identified in Exhibit "A," unless otherwise approved in writing by the City. However, if the City objects to the manner of performance of any Service Provider personnel (including any third party contractors or agents of Service Provider), Service Provider will promptly take all necessary actions to rectify the objection, including, if requested by the City, the prompt removal of the individual from the provision of Services to the City. If it becomes necessary to replace any personnel, Service Provider will provide as a replacement a person with equivalent or better qualifications, as approved by the City (such approval not to be unreasonably withheld).

1.1.3. Service Provider warrants to City that Service Provider has sufficient experience and financial resources to complete the Services required by this Agreement.

1.1.4. Service Provider will perform the Services in a timely manner and in accordance with any schedule set forth in Exhibit "A." The parties agree that time is of the essence with respect to Service Provider's performance.

1.1.5. The City will have a reasonable opportunity (not to exceed thirty (30) days, unless otherwise specified in Exhibit "A" to review all deliverables or Services provided to the City under this Agreement. If the City informs Service Provider of a deficiency in the deliverables or Services, Service Provider will promptly make corrections and resubmit them to the City for review and approval. Service Provider will not charge the City for the time and expense in making corrections to deliverables that fail to comply with the requirements of this Agreement. If Service Provider is not able to timely make all appropriate corrections, the Service Provider will promptly refund any amounts previously paid by the City for work not performed in accordance with this Agreement. Nothing in this clause 1.1.5. will excuse Service Provider from meeting any delivery or project schedule set forth in Exhibit "A."

1.2. ADDITIONAL SERVICES.

1.2.1. Service requested by the City which is not described on Exhibit "A" as part of the Service Provider's services shall be considered as additional services of the Service Provider for which Service Provider may request additional compensation to be paid. The Service Provider shall not perform additional services requiring additional compensation without a written order to do so signed by the Project Manager which contains a mutually agreeable amount of additional compensation for the work. Any work performed by the Service

Provider for which a written order with a stated amount of compensation has not been issued shall be conclusively presumed to be part of the Service Provider's Services as set forth in Exhibit "A".

SECTION 2
CITY'S RESPONSIBILITIES

2.1. The City shall provide full information regarding requirements for the Services.

2.2. The City shall designate a city representative as the "Project Manager" authorized to act on the City's behalf with respect to the Project. The City or such authorized city representative shall render decisions and inform the Consultant of the same in a timely manner pertaining to questions or documents submitted by the Consultant in order to avoid unreasonable delay in the orderly and sequential progress of the Consultant's services.

SECTION 3
OWNERSHIP AND USE OF DOCUMENTS

3.1. All deliverables to be provided under this Agreement, and any invention, improvement, discovery, or innovation (whether or not patentable) made, conceived or actually reduced to practice by Service Provider in the performance of Services hereunder (collectively, “Work Product”) will be owned exclusively by the City, including all proprietary and intellectual property rights therein. To the extent not automatically vest in the City, Service Provider hereby assigns to the City all right, title and interest in and to the Work Product, including, without limitation, copyright, patent and trade secret rights. Upon the City’s request, Service Provider will execute any additional documents necessary for the City to perfect its ownership rights.

3.2 Notwithstanding the foregoing, Service Provider will retain ownership of it pre-existing and proprietary materials and other intellectual property that may be incorporated into the Work Product.

SECTION 4
SERVICE PROVIDER'S CLAIMS

4.1. If any instruction or decision by the Project Manager gives rise to a claim by the Service Provider for additional compensation or time to complete the Service, such claim shall be made in writing to the Project Manager within ten days of the decision or instruction by the Project Manager giving rise to the claim or it shall be deemed waived.

SECTION 5
TERMINATION, SUSPENSION OR ABANDONMENT

5.1. This Agreement may be terminated by either party upon not less than seven days' written notice.

5.2. If the Services are terminated by the City, the City shall compensate the Service Provider for all work performed prior to termination and any expenses incurred in connection therewith.

5.3. If the Services are terminated by the Service Provider, the City shall compensate Service Provider for all work satisfactorily performed and presented to the City prior to termination.

5.4 Any provision of this Agreement (including, but not limited to indemnity obligations) that by their nature extend beyond termination will remain in effect in accordance with their terms.

SECTION 6
MISCELLANEOUS PROVISIONS

6.1. This Agreement shall be governed by the laws of the State of Iowa.

6.2. The Woodbury County, Iowa, District Court shall have jurisdiction over any litigation between the City and Consultant over any matter arising out of this Agreement.

6.3. This is a contract for services. Therefore, the City shall not be bound to the successors, executors, administrators, assigns or legal representatives of the Service Provider in respect to the covenants and obligations of this Agreement absent specific written agreement to be so bound.

6.4. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or Service Provider.

6.5 Service Provider and its agents, contractors and employees entering upon City property will take all proper and sufficient precautions and safeguards against the occurrence of any accidents, injuries (including death) or damages to any persons or property.

6.6 In the case of a conflict between the provisions herein and any other attachment to this Agreement, the provisions set forth above will govern, unless otherwise specifically agreed to in writing.

SECTION 7
INSURANCE AND INDEMNIFICATION

7.1. The Service Provider shall procure and maintain during the term of this Agreement and subject to availability and at a comparable price for two years thereafter professional liability [errors and omissions] insurance in the amount of $1,000,000.00.

7.2. (1) Statutory Workers' Compensation – A standard Workers Compensation policy approved for use in the State of Iowa shall be issued with the following coverages:

(a) Statutory Benefits covering all employees injured on the job by accident or disease as prescribed by Iowa Code Chapter 85.

(b) Employer's Liability Insurance with the following limits:

Bodily injury by accident each accident……..…….$500,000
Bodily injury by disease each accident……..……..$500,000
Bodily injury by disease policy limit……....$500,000

(2) Comprehensive General Liability

(a) Each Occurrence ..……..……$1,000,000
(b) Aggregate ……$2,000,000
(c) Personal and Advertising Injury Limit…..……......$1,000,000
(d) Products Completed Operations Aggregate Limit ……$2,000,000
(e) Fire Damage Limit (any one fire) ……...$50,000
(f) Medical Damage Limit (any one person) ……$5,000

(3) Automobile Public Liability and Property Damage

(a) Combined Single Limit …….$1,000,000

7.3. Certificates of Insurance acceptable to the City indicating insurance required by this Article in force shall be filed with the City prior to commencing any work hereunder. These certificates shall contain a provision that coverage under these policies shall not be canceled until at least thirty days' prior written notice has been given to the City. With regards to the General Liability and Automobile Liability insurance, the City shall be named an additional insured on the Certificate of Insurance.

7.4. Service Provider will indemnify, hold harmless and defend the City, its elected officials, officers, employers, and agents against any and all damages, suits, actions, claims, liabilities, losses, judgments, costs and expense (including attorney fees) arising out of or relating to (i) any personal or bodily injury (including death) or property damage caused by Service Provider's or Service Provider's employee, agent, consultant or contractor's negligent, willful or unlawful acts or omissions or breach of Agreement or (ii) an infringement or misappropriation of any third party intellectual property or proprietary rights (including, without limitation, trademark, trade secret, copyright or patent) by the Services or Work Product.

SECTION 8
PAYMENTS TO THE SERVICE PROVIDER

8.1. City shall pay Service Provider for the services performed as described on Exhibit "A" under the heading of "Service Provider's Services" a maximum amount as set forth in Exhibit "A", Service Provider's project budget, attached hereto, which is a part of this Agreement.

8.2. ADDITIONAL SERVICES.

8.2.1. In the event additional services are desires by the City, the same shall be requested by a written order which shall specify the additional services and the maximum charge therefore.