

**BOARD OF SUPERVISORS**District 1 | **Stacey Walker**District 2 | **Ben Rogers**District 3 | **Louis J. Zumbach****JEAN OXLEY LINN COUNTY PUBLIC SERVICE CENTER**

935 2ND ST. SW

CEDAR RAPIDS, IA 52404

PH: 319-892-5000 | FAX: 319-892-5009

LinnCounty.org

**LINN COUNTY BOARD OF SUPERVISORS  
MEETING AGENDA**

Wednesday, May 26, 2021

11 a.m.

Formal Board Room—Jean Oxley Public Service Center  
935 2nd St. SW, Cedar Rapids, IA**Call to Order****Pledge of Allegiance****Public Comment: Five Minute Limit per Speaker**

This comment period is for the public to address topics on today's agenda.

**Consent Agenda**

Items listed on the consent agenda are routine and will be considered by one motion without individual discussion unless the Board removes an item for separate consideration.

**Reports****Resolutions**

Resolution to approve revision 1 of the FY2022 County Five Year Program to add in an Emergency Relief (ER) funded project for Derecho repairs.

**Contract and Agreements**

Approve and authorize Chair to sign a certificate of insurance to allow Linn County departments and agencies participation at the Linn County Fair June 21 through June 27, 2021.

Approve and authorize Chair to sign Shared Road Maintenance and Snow &amp; Ice Control Agreement between Linn County and the City of Springville.

Approve and authorize Chair to sign contract between Iowa Office of Drug Control &amp; Policy and Linn County for the Iowa Byrne Justice Assistance Grant (JAG) Program for on-call crisis counselor support at the Linn County Mental Health Access Center utilizing Foundation 2 as the contracted agency, for a total of \$21,000.

Approve and authorize Chair to sign a variance application for the reconstruction of a restroom within the floodplain in the 4200 block of Chain Bridge Road.

Approve and authorize Chair to sign a Decat Contract for Fiscal Year 2022, DCAT4-22-016; Protective Program between The Iowa Department of Human Services and Linn County effective July 1, 2021 through June 30, 2022 in the amount of \$39,935

**Licenses & Permits**

Approve Cigarette Permit for Casey's General Store #2789, 888 Vernon Valley Dr. SE, Cedar Rapids.

Approve Liquor License for Touch of Class, 5977 Mt. Vernon Rd. SE, Cedar Rapids, retroactive to May 20, 2021, noting all conditions have been met.

Approve Liquor License for Bass Farms, 840 Bass Ln., Mt Vernon, IA, retroactive to May 20, 2021, noting all conditions have been met.

Approve Liquor License for Columbus Club, 810 Vernon Valley Dr., Cedar Rapids, retroactive to May 20, 2021, noting all conditions have been met.

Approve Casey's General Store #2789 Liquor License, 888 Vernon Valley Dr. SE, noting all conditions have been met.

Approve Sutliff Cider Liquor License, 382 Sutliff Rd., noting all conditions have been met.

## **Regular Agenda**

### **Discuss and Decide on Consent Agenda**

#### **Minutes**

Discuss and decide on meeting minutes.

#### **Claims**

Discuss and decide on claims.

Update on Linn County's response to COVID-19

Discuss and decide on adoption of a post-bid quality assurance questionnaire for use in evaluation of qualifications of bidder.

#### **Public Comment: Five Minute Limit per Speaker**

This is an opportunity for the public to address the board on any subject pertaining to board business.

### **Board Member Reports**

#### **Correspondence**

#### **Appointments**

#### **Adjournment**

To adhere to social distancing requirements, Linn County employees and the public may participate in this meeting as follows:

- 1) Conference call—telephone number 1-800-945-0974, access code 501116
- 2) Email questions or comments prior to or during the meeting to: [bd-supervisors@linncounty.org](mailto:bd-supervisors@linncounty.org)

For questions about meeting accessibility or to request accommodations to attend or to participate in a meeting due to a disability, please contact the Board of Supervisors office at 319-892-5000 or at [bd-supervisors@linncounty.org](mailto:bd-supervisors@linncounty.org).

# 2022 County Five Year Program Resolution 0.1

## Linn County Secondary Roads

Unforeseen circumstances have arisen since adoption of the approved Secondary Road Five Year Program and previous revisions, requiring changes to the sequence, funding, and timing of the proposed work plan.

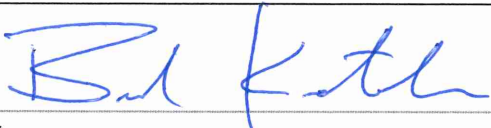
The Board of Supervisors of Linn County, Iowa, in accordance with Iowa Code section 309.22, initiates and recommends modification of the following project(s) in the accomplishment year (State Fiscal Year 2022), for approval by the Iowa Department of Transportation (Iowa DOT), per Iowa Code 309.23 and Iowa DOT Instructional Memorandum 2.050.

The following projects shall be ADDED to the Program's Accomplishment year:

| Project Number<br>Name<br>Project ID                                 | Project Location<br>Description of Work                                                                                                                     | AADT<br>Length<br>Bridge ID | Type of Work<br>Fund | Total    |
|----------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|----------------------|----------|
| ER-C057(LIGHT REPAIR)--<br>58-57<br>ER-C057-LIGHT REPAIR-22<br>48666 | On COUNTY HOME RD AT INTERSECTION WITH HWY<br>13S, S9 T84 R06<br>REPLACE DESTINATION LIGHT THAT WAS<br>DESTROYED BY DERECHO ON 8/10/2020. DDIR<br>APPROVED. | 5515<br>0.000 miles         | 395 Lighting<br>FA   | \$10,000 |

| Fund           | Accomplishment Year |             |            |
|----------------|---------------------|-------------|------------|
|                | Previous Amount     | New Amount  | Net Change |
| Local          | \$1,900,000         | \$1,902,000 | \$2,000    |
| Farm-to-Market | \$500,000           | \$500,000   | \$0        |
| Special        | \$5,015,000         | \$5,015,000 | \$0        |
| SWAP           | \$0                 | \$0         | \$0        |
| Federal Aid    | \$0                 | \$8,000     | \$8,000    |
| Totals         | \$7,415,000         | \$7,425,000 | \$10,000   |

### Recommended

  
County Engineer

5/25/2021  
Date

### Approved

\_\_\_\_\_  
Chair Board of Supervisors

\_\_\_\_\_  
Date

### Attested

I, \_\_\_\_\_, Auditor in and for Linn County, Iowa, do hereby certify the above and foregoing to be a true and exact copy of a resolution passed and approved by the Board of Supervisors of Linn County, Iowa, at its meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
County Auditor

**County of Linn, Iowa  
Certificate of Self-Insurance**

Contact Office:  
Risk Management  
935 2<sup>nd</sup> Street S.W.  
Cedar Rapids, IA 52404-2100

Date: May 18, 2021

|                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><i>Insured:</i></b> Linn County, its Elected Officials, Employees and Agents<br>935 2 <sup>nd</sup> Street S.W.<br>Cedar Rapids, IA 52404-2100 |
|---------------------------------------------------------------------------------------------------------------------------------------------------|

|                                               |
|-----------------------------------------------|
| <b><u>Type of Self-Insurance Coverage</u></b> |
|-----------------------------------------------|

|                                                             |
|-------------------------------------------------------------|
| General Liability<br>Auto Liability<br>Workers Compensation |
|-------------------------------------------------------------|

|                                                    |
|----------------------------------------------------|
| <b><u>Description of Operations/Locations:</u></b> |
|----------------------------------------------------|

|                                                                                                        |
|--------------------------------------------------------------------------------------------------------|
| Linn County departments and agencies participation at the Linn County Fair<br>June 21 – June 27, 2021. |
|--------------------------------------------------------------------------------------------------------|

|                                    |
|------------------------------------|
| <b><u>Program Description:</u></b> |
|------------------------------------|

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| This certificate is to confirm that Linn County is self-insured with regards to any and all general liability claims and all automobile claims, including comprehensive and collision. This self-insured status is not the result of a specific action by the Board of Supervisors, but results from Iowa law, which provides that political subdivisions are subject to liability for their torts and those of their officers and employees when acting within the scope of their duties (Iowa Code Chapter 670). Should a judgement creditor elect not to issue execution against a municipal corporation, a tax must be levied as early as practicable to pay the judgement (Iowa Code §§ 626.24, 670.10, and 627.18). |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Certificate Holder**

Linn County Fair Association  
PO Box 329  
Central City, IA 52214

County of Linn

\_\_\_\_\_  
Stacey Walker, Chairperson  
Board of Supervisors

\_\_\_\_\_  
Date

Prepared By: Linn County Secondary Road Dept., 1888 County Home Rd, Marion, IA 52302, (319)892-6400  
Return To: Linn County Auditor, 935 2<sup>nd</sup> Street SE, Cedar Rapids, IA 52404, (319)892-5300

**ROAD MAINTENANCE AND SNOW & ICE CONTROL AGREEMENT  
CITY OF SPRINGVILLE AND  
LINN COUNTY SECONDARY ROAD DEPARTMENT**

WHEREAS, for the benefit of the traveling public and the mutual benefit of the City of Springville, Iowa and Linn County, Iowa, and

WHEREAS, to effectively deal with common street and road maintenance problems which occur on shared portions and are considered to be of a normal and routine nature, to enhance consistency of related traffic control measures and to provide a more cost effective maintenance program, and

WHEREAS, to effectively deal with the common problem of snow removal and ice control on road surfaces and to promote the safer flow of traffic;

NOW THEREFORE, the City of Springville, Iowa (City) and Linn County, Iowa (County) herewith enter into agreement for maintenance and upkeep of roads and for snow and ice control on those roads as listed and shown on attached Exhibits and under the provisions hereinafter stated.

**MAINTENANCE**

The City shall provide normal and routine maintenance on County portions of roads indicated. The County shall provide normal and routine maintenance on City portions of roads indicated. For the purpose of this agreement normal and routine maintenance shall include the following work items as needed:

- minor ditch cleaning
- granular surface grading
- shoulder repair (No additional rock required)
- minor surface repairs such as crack sealing or pothole repair
- debris removal, illegal dumping clean up and dead animal disposal
- mowing – any and all mowing along County secondary roads shall be in accordance with Iowa Code 314.17
- tree and shrub removal (10' from the edge of the road, minimum)
- tree-trimming (16' vertical and 16' horizontal from the centerline of the road. All trimming to follow ANSI A-300 Pruning standards)
- pavement markings
- sweeping
- sign repairs
- minor bridge repair and culvert repair shall be the responsibility of the jurisdiction assigned that section of road

Each party shall control their maintenance operations as required by their respective policies and employees are to be covered by their own employer's insurance. It is the intent of this agreement that both parties shall act responsibly and promptly, taking into account its own rules and tempering its response according to type and severity of the maintenance issues that arise.

Normal and routine maintenance does not include the following work items:

- paving
- seal coating
- rock surfacing
- shoulder rock
- full depth patching and grading
- bridge and culvert rehabilitation or replacement
- weed control or eradication – all county roadside areas are included in Linn County's integrated roadside vegetation management plan

These work items are to be completed by project agreement, negotiated separately.

It shall be the responsibility of each jurisdiction to erect and maintain signs deemed appropriate within their designated road segments. Coordination required obtaining proper concurrence is the responsibility of the custodial jurisdiction.

Rock surfaced roads shall have 1,000 tons/mile of class A crushed stone surfacing meeting Iowa DOT specifications applied with this agreement and at 5 year intervals during the life of this agreement on all shared/100% owned roads. This may be owner jurisdiction or by paying actual cost to jurisdiction in charge.

Dust Control shall be permitted by the jurisdiction that has maintenance jurisdiction control. Residents who wish to obtain dust control must obtain a permit from the entity with maintenance jurisdiction control

Work within right-of-way permits and entrance permits must be applied for through the jurisdiction that has maintenance control and must follow said jurisdictions policies and standards.

## CONSTRUCTION

- Both jurisdictions shall approve plans and specifications before contracts are let or construction begins.
- The cost of all new construction, regardless of type, shall be borne based on jurisdictional limits.
- The planning and project administration of this construction shall be the responsibility of the jurisdiction that has the maintenance responsibility for the segment.
- A 7.5% project administration fee shall be included with the project invoice. The 7.5% fee applies to project costs within said jurisdiction.
- Each jurisdiction is to acquire rights-of-way within its own respective boundaries, as required.

The County and City as deemed necessary shall provide snow and ice control on the other's portion of the routes as listed and as shown on the attached. Each party shall control their operations as directed by their individual winter maintenance policies. It is the intent of this agreement that both parties shall act responsibly and promptly, taking into account their policy and the type, severity, and duration of the storm.

Requests for additional snow and ice control on roads within the incorporated area may be considered by the County, and the County shall be reimbursed from the City for the reasonable cost of this service. The requested additional work may be performed after the County has completed its regularly scheduled work outside of the incorporated area. The routes listed in this agreement may be reviewed periodically by the County and City.

Requests for additional snow and ice control on roads within the unincorporated area may be considered by the City, and the City shall be reimbursed from the County for the reasonable cost of this service. The requested additional work may be performed after the City has completed its regularly scheduled work inside the incorporated area. The routes listed in this agreement may be reviewed periodically by the County and City.

The City and County agree to save and indemnify and keep harmless, each other against all liabilities, judgments, costs, and expenses which may in any way come against the County or City or which in any way result from carelessness or neglect of either party or its agents, employees, or workmen in any respect whatsoever.

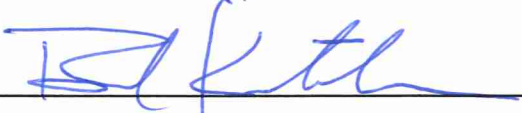
The City and County agree to indemnify and hold each other, their employees and agents, wholly harmless from any damages, claims, demands, or suits by any person or persons arising out of any acts or omissions by the City or County, its agents, servants or employees in the course of any work done in connection with any of the matters set forth in this agreement.

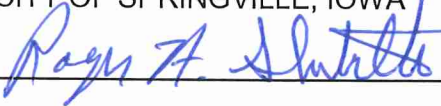
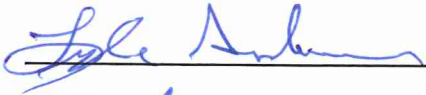
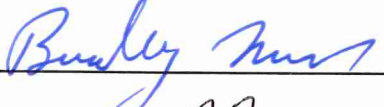
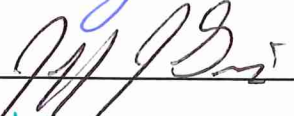
This agreement shall supersede any previous shared road maintenance and snow & ice control agreements and be in effect from the date of approval by the City Council and the Linn County Board of Supervisors and shall remain in effect until 30 days following either party providing a written notice for termination.

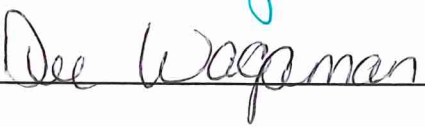
This agreement as hereby entered into by both parties is executed in **three copies**, either of which constitutes the original.

For the City of Springville, Iowa dated this 6 day of May, 2021.

For Linn County, Iowa dated this 19th day of May, 2021.

Reviewed by Linn County Engineer   
Brad Ketels, P.E.

CITY OF SPRINGVILLE, IOWA  
 Mayor  
  
  
  


ATTEST: 

LINN COUNTY BOARD OF SUPERVISORS  
\_\_\_\_\_  
Chairperson  
\_\_\_\_\_  
Vice Chairperson  
\_\_\_\_\_  
Supervisor  
ATTEST: \_\_\_\_\_  
Linn County Auditor

# **EXHIBIT A - Snow & Ice and Shared Road Maintenance Agreement**

LINN COUNTY & CITY OF SPRINGVILLE

For services other than those listed below, the City will be billed for the cost of operations requested within its jurisdiction in accordance with the current rates (copy available from the Engineer's Office) and/or actual costs. Linn County will pay the City for any pre-approved assistance at actual cost.

The City may operate on County roads as required to augment county services, turn around and/or provide access to city facilities.

## **Linn County will provide snow & ice control and road maintenance on the following:**

| Road Name       | From        | To                  | lane ft      | Notes |
|-----------------|-------------|---------------------|--------------|-------|
| 1 Burr Oaks Rd. | city limits | shared jurisdiction | 262          |       |
| 2 O'Brien Ln    | Hwy 151     | Dead End            | 3,466        |       |
| <b>Total:</b>   |             |                     | <b>3,727</b> |       |

## **Springville will provide snow & ice control and road maintenance on the following:**

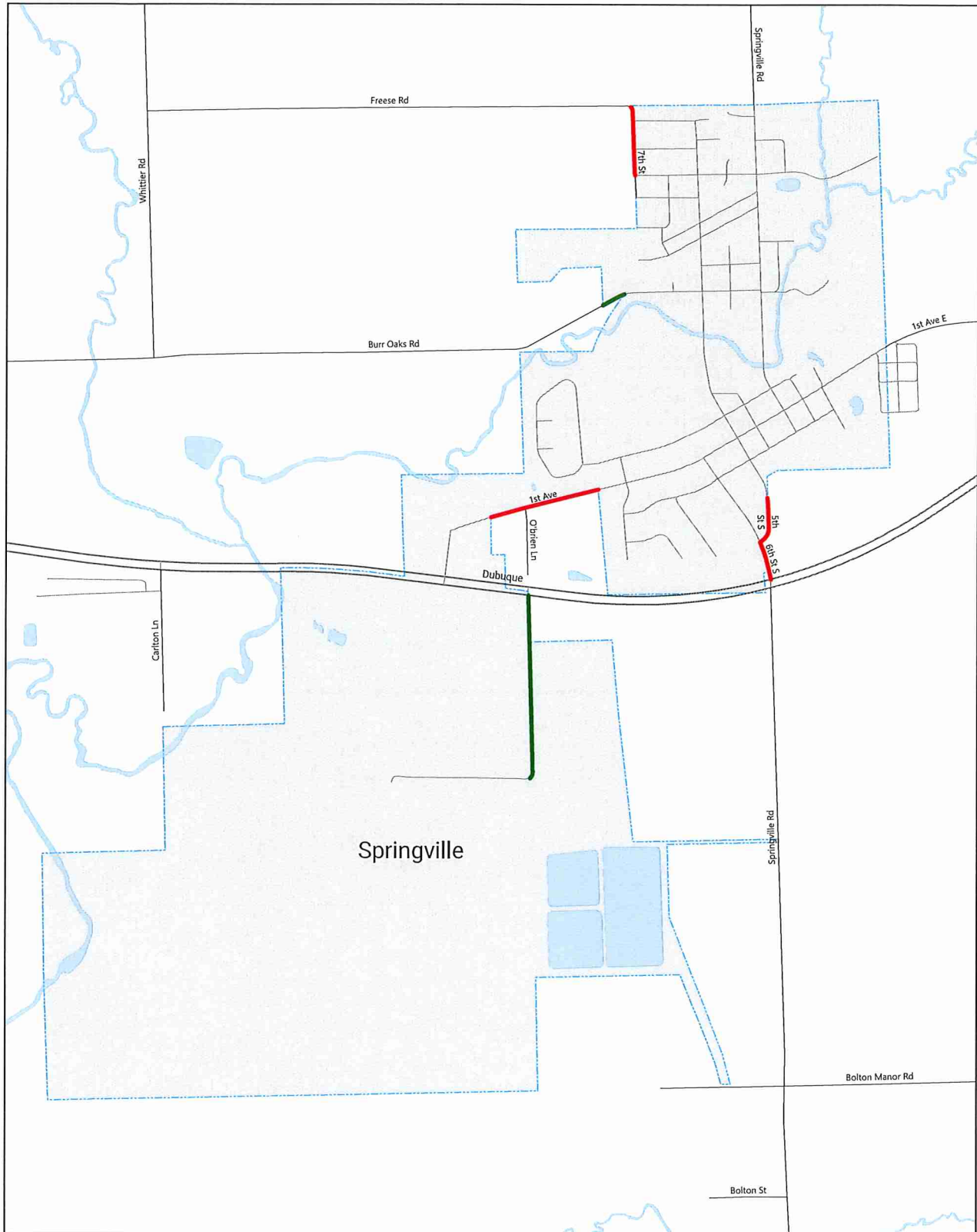
| Road Name     | From                    | To                      | lane ft      | Notes |
|---------------|-------------------------|-------------------------|--------------|-------|
| 1 7th St.     | Freese Rd               | 5th Ave                 | 744          |       |
| 2 5th St S    | city limits             | 6th St. S               | 511          |       |
| 3 6th St. S   | 5th St. S               | Hwy 151                 | 419          |       |
| 4 1st Ave     | 386' west of O'Brien Ln | 810' east of O'Brien Ln | 1,197        |       |
| <b>Total:</b> |                         |                         | <b>2,871</b> |       |





# Snow & Maintenance 28E Agreement

Linn County & City of Springville



## Responsible Jurisdiction

Snow Removal & Maintenance

- City of Springville
- Linn County





Planning & Development  
Linn County, Iowa

Unified Development Code Article IV  
Section 107-74

## Zoning Division

## Variance Application

Page 1 of 3

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                         |                                                                                                               |                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|---------------------------------------------------------------------------------------------------------------|----------------------------------------------|
| <b>Owner Information:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                         | <b>Applicant Information:</b>                                                                                 |                                              |
| Owner                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Linn County                             | Applicant                                                                                                     | Linn County Conservation                     |
| Address                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 935 2nd St SW<br>Cedar Rapids, IA 52404 | Address                                                                                                       | 10260 Morris Hills Rd<br>Toddville, IA 52341 |
| Phone                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 319-892-5000                            | Phone                                                                                                         | 319-892-6450                                 |
| Email                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | linncounty.org                          | Email                                                                                                         | linncountyparks.com                          |
| Surveyor/Engineer/Architect:<br>(if applicable)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                         | Shoemaker-Haaland<br>329 10th Ave SE Ste 215 C.R.<br>E-Mail shpec@shoemaker-haaland.com<br>Phone 319-286-8888 |                                              |
| Property Address:<br>or Address Range (block) Chain Bridge Road                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                         |                                                                                                               |                                              |
| GPN(s): 123422600100000                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                         |                                                                                                               |                                              |
| Rural Land Use Map<br>Designation: CNRA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                         |                                                                                                               |                                              |
| Brief legal(s):<br>(Sec./Twp./Range) NE 1/4, Sec. 33, T84N, R8W                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                         |                                                                                                               |                                              |
| Current Zoning: CNR                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                         | Total Acres: 1.11                                                                                             |                                              |
| <b>Submittal Requirements:</b><br><b>Application, Fee, Minor Site Plan Drawing</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                         |                                                                                                               |                                              |
| <p>The undersigned is/are the owner(s) of the described property on this application, located in the unincorporated area of Linn County, Iowa, assuring that the information provided herein is true and correct.<br/><b>If the variance applies to a structure, it shall be clearly staked out or flagged according to the submitted minor site plan. A representative of Linn County Planning and Development will conduct a site inspection to review the application and minor site plan.</b></p> <p>This development is subject to and shall be required, as a condition of final development approval, to comply with all Unified Development Code policies, requirements, and standards that are in effect at the time of final development approval. I hereby give my consent for the office of Linn County Planning and Development to conduct a site visit and photograph the subject property.</p> |                                         |                                                                                                               |                                              |
| Owner _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                         | Applicant <u>Randy Brady</u>                                                                                  |                                              |
| Date _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                         | Date <u>4/21/21</u>                                                                                           |                                              |
| Case # <u>JV21-0004</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                         | <b>RECEIVED</b><br><br><b>APR 21 2021</b><br><br>LINN COUNTY DEPARTMENT<br>OF PLANNING & DEVELOPMENT          |                                              |
| Receipt# _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                         |                                                                                                               |                                              |

**1. What are you requesting a variance from?**

- ☐ Required setback from lot line
- ☐ Required size limitation (accessory building, home occupation size, sign, etc.)
- ☒ Other

**Please explain:**

Placing a 12'x9' restroom in the floodplain. This restroom is a standard vault type restroom which the Conservation Department has been building & maintaining for over 50 years in all of our areas.

**2. Please explain why the application of the Linn County Unified Development Code to your property causes you a hardship. A hardship results when the code requirement, as applied to your property, deprives you of any reasonable economic use of the property.**

The Conservation Department wants to place a new handicapped accessible restroom in the Chain Lakes Natural Area. This area is a public river access, picnic area and trail access area for both the Linn County property but also access for areas of Iowa Dept. of Natural Resources property. The entire area is in the Cedar River floodplain

**3. Please explain why the hardship was created by the ordinance, not the applicant, and will not merely serve as a convenience to the applicant.**

The restroom serves as a convenience as well as a health & safety feature for the public who use our areas. The hardship would be to not provide an accessible restroom for the public.

**4. Please explain why you have no other alternatives other than a variance.**

Since the entire area is in the floodplain, there is no other alternative for the restroom. Placing the restroom on a mound, above the floodplain would make the facility inaccessible and create more of a concern of a no-rise situation than a simple building. The Conservation Department has been building and maintaining this style of restroom in our parks, especially more natural areas for over 50 years. The County has hired an engineer to provide a "no-rise" certificate for the restroom.



# CONTRACT DECLARATIONS AND EXECUTION

**Intergovernmental Contract:** Non-State Agency

| <b>RFP or Informal Solicitation #</b> | <b>Contract #</b> |
|---------------------------------------|-------------------|
| N/A                                   | DCAT4-22-016      |

| <b>Title of Contract</b> |
|--------------------------|
| Protective Program       |

This Contract must be signed by all parties before the Contractor provides any Deliverables. The Agency is not obligated to make payment for any Deliverables provided by or on behalf of the Contractor before the Contract is signed by all parties. This Contract is entered into by the following parties:

| <b>Agency of the State (hereafter “Agency”)</b>                                                                                                                                                                                       |                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Name/Principal Address of Agency:</b><br>Iowa Department of Human Services<br>1305 E. Walnut<br>Des Moines, IA 50319-0114                                                                                                          | <b>Agency Billing Contact Name / Address:</b><br>Kristi Tisl<br>1240 26th Ave. Court SW<br>Cedar Rapids, IA 52404<br><b>Phone:</b> (319)892-6710                                    |
| <b>Agency Contract Manager (hereafter “Contract Manager”) /Address (“Notice Address”):</b><br>Kristi Tisl<br>1240 26th Ave. Court SW<br>Cedar Rapids, IA 52404<br><b>Phone:</b> (319)892-6710<br><b>E-Mail:</b> ktisl@dhs.state.ia.us | <b>Agency Contract Owner (hereafter “Contract Owner”) / Address:</b><br>Matt Majeski<br>1240 26th Ave. Court SW<br>Cedar Rapids, IA 52404<br><b>E-Mail:</b> mmajesk@dhs.state.ia.us |

| <b>Contractor: (hereafter “Contractor”)</b>                                                                                                                                                                              |                                                                                                                                                                       |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Legal Name:</b> Linn County Board of Supervisors                                                                                                                                                                      | <b>Contractor’s Principal Address:</b><br>LCCS - Fiscal<br>1240 26th Ave. Ct SW<br>Cedar Rapids, IA 52404                                                             |
| <b>Tax ID #:</b> 426004338                                                                                                                                                                                               | <b>Organized under the laws of:</b> Iowa                                                                                                                              |
| <b>Contractor’s Contract Manager Name/Address (“Notice Address”):</b><br>Stacey Walker<br>935 2nd Street SW<br>Cedar Rapids, IA 52404<br><br><b>Phone:</b> (319) 892-5714<br><b>E-Mail:</b> stacey.walker@linncounty.org | <b>Contractor’s Billing Contact Name/Address:</b><br>Cathy Ryan<br>LCCS - Fiscal<br>1240 26th Ave. Court SW<br>Cedar Rapids, IA 52404<br><b>Phone:</b> (319) 890-5603 |

| <b>Contract Information</b>                                                                                                                                                                                                                                                                                                                |                                                                                                                                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Start Date:</b> 07/01/21                                                                                                                                                                                                                                                                                                                | <b>End Date of Base Term of Contract:</b> 06/30/22                                                                                        |
| <b>Possible Extension(s):</b> The Agency shall have the option to extend this Contract up to 2 additional 1-year extensions.                                                                                                                                                                                                               |                                                                                                                                           |
| <b>Contract Contingent on Approval of Another Agency:</b><br>No                                                                                                                                                                                                                                                                            | <b>ISPO Number:</b> ISPO-22-03                                                                                                            |
|                                                                                                                                                                                                                                                                                                                                            | <b>DoIT Number:</b> N/A                                                                                                                   |
| <b>Contract Warranty Period (hereafter "Warranty Period"):</b> The term of this Contract, including any extensions.                                                                                                                                                                                                                        | <b>Contract Include Sharing SSA Data?</b> No                                                                                              |
| <b>Contractor a Business Associate?</b> Yes                                                                                                                                                                                                                                                                                                | <b>Contractor a Qualified Service Organization?</b> No                                                                                    |
| <b>Contractor subject to Iowa Code Chapter 8F?</b> No                                                                                                                                                                                                                                                                                      | <b>Contract Includes Software (modification, design, development, installation, or operation of software on behalf of the Agency)?</b> No |
| <b>Contract Payments include Federal Funds?</b> Yes<br><b>The Contractor for federal reporting purposes under this Contract is a:</b> Subrecipient<br><b>Federal Funds Include Food and Nutrition Service (FNS) funds?</b> No<br><b>DUNS #:</b> 073501108<br><b>The Name of the Pass-Through Entity:</b> Iowa Department of Human Services |                                                                                                                                           |
| <b>CFDA #:</b> 93.556                                                                                                                                                                                                                                                                                                                      | <b>Federal Awarding Agency Name:</b> Department of Health and Human Services / Administration for Children and Families                   |
| <b>Grant Name:</b> Promoting Safe and Stable Families                                                                                                                                                                                                                                                                                      |                                                                                                                                           |

**Contract Execution**

This Contract consists of this Contract Declarations and Execution Section, the Special Terms, any Special Contract Attachments, the General Terms for Services Contracts, and the Contingent Terms for Service Contracts.

In consideration of the mutual covenants in this Contract and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties have entered into this Contract and have caused their duly authorized representatives to execute this Contract.

|                                                     |                                                  |
|-----------------------------------------------------|--------------------------------------------------|
| <b>Contractor, Linn County Board of Supervisors</b> | <b>Agency, Iowa Department of Human Services</b> |
| Signature of Authorized Representative:             | Signature of Authorized Representative:          |
| Printed Name: Stacey Walker                         | Printed Name: Matt Majeski                       |
| Title: Chair, Linn County Board of Supervisors      | Title: Service Area Manager                      |
| Date:                                               | Date:                                            |

## **SECTION 1: SPECIAL TERMS**

### **1.1 Special Terms Definitions.**

"Emergency Wraparound Services" means services that are provided to families who would have their Eligible Child returned but for lack of such items as diapers, utility hook-up fees, beds or cribs, house cleaning, transportation, or other necessities. Non-allowable expenditures include, but are not limited to the following: payment of fines or other expenses resulting from the client's involvement in illegal activities; payment of rent deposits; and, services that cannot be tracked back to an Eligible Child.

"Nurturing Parenting Program" means in-home parent education with training modules specifically designed for teen parents, parents with intellectual challenges, and culturally-diverse populations. Weekly visits are 60 to 90 minutes in length, however the frequency, length and/or duration of visits are adapted to meet the needs of the family. Staff will have received approved Nurturing Parenting Program training.

"Protective Factors Survey" means survey administered at the beginning and end of services. The survey results are designed to measure changes in protective factors and identify areas where staff can focus on increasing individual family protective factors.

"PSSF" means Promoting Safe and Stable Families, a time limited family reunification service.

"PSSF Referral Form" means the referral form that is e-mailed or sent by interoffice mail to the Linn County Family Transformation Services office, and signed by the DHS Worker and DHS Supervisor.

"STAR Assessment Tool" means the assessment provided to the parents (pre and post) that identifies and prioritizes their risks (access to: food, housing, transportation, health care, social ties, and child care) and then guides the appropriate interventions/responses.

"Supervised Visitation " means court ordered supervised visitation and exchange services for families affected by domestic violence.

### **1.2 Contract Purpose.**

Supervised Visitation, in-home parent education, and emergency wraparound services for families with PSSF eligible children.

### **1.3 Scope of Work.**

#### **1.3.1 Deliverables.**

The Contractor shall provide the following:

- 1.) Supervised Visitation, in-home parent education, and Emergency Wraparound Services, for families with PSSF eligible children.
- 2.) Families being served must have children currently eligible under PSSF guidelines: a child who is removed from the child's home and placed in a foster family home or a child care institution, or a child who has been returned home (effective 10/1/18) and to the parents or primary caregiver of such a child, in order to facilitate the reunification of the child safely and appropriately within a timely fashion, but only during the 15-month period that begins on the date that the child, pursuant to section 475(5)(F), is considered to have entered foster care. In the case of a child who has been returned home, the services and activities shall only be provided during the 15-month period that begins on the date that the child returns home (10/1/18 and thereafter).
- 3.) The Nurturing Parenting Program model for individualized parent education services.

- 4.) Administration of the STAR Assessment Tool and the Protective Factors Survey,
- 5.) Referrals will be taken via e-mail or inter-office mail (not by phone), utilizing the PSSF Referral Form.
- 6.) Documentation of funds expended, including the State of Iowa identification number for PSSF eligible children, to ensure accurate tracking.
- 7.) Record keeping and tracking policies that document what services were provided, how the charge was determined, and that only PSSF eligible children and their families were served.
- 8.) Services will be available on the following days and times:  
Shift 1: Monday through Friday 11am - 7:30 pm  
Shift 2: Tuesday through Friday 11am - 7:30 pm and Saturday 9 am - 5:30 pm  
Hours are flexible based on the client's needs if they cannot meet during regular hours of operation.
- 9.) Services are provided at the Linn County Family Transformation Services office, 1240 26th Ave Ct SW Cedar Rapids, IA 52404, in family/guardian homes, or community locations when supervising a family activity.
- 10.) Service location determined on a case by case basis, taking into account court orders, DHS referral information, client and staff safety, and other factors.
- 11.) Staff will have successfully completed a Criminal History and Child Abuse Record check prior to providing services.
- 12.) Progress reports are to be submitted on the form provided by the Linn County Decat staff. Reports are to be submitted via e-mail to the Linn County Decat staff or designee by the following deadlines: October 15th, January 15th, April 15th and July 15th or the date specified on the report form
- 13.) Payment will be made by DHS but the claim forms are to be submitted to Linn County. Contractor will submit an original signature on a DHS claim form (GAX) and documentation of expenses to fiscal staff at Linn County Community Services by the 20th of each month to: Attn. Decat Fiscal Agent, Linn County Community Services. Submit 1 copy of your contract, or amendment, along with the first GAX.

### **1.3.2 Performance Measures.**

- a.) 13 unduplicated families will be served.
- b.) 25 unduplicated children/youth will be served.
- c.) 66% of families served will achieve family reunification.
- d.) 90% of families served will have no new founded child abuse or neglect incident while enrolled in program.
- e.) 50% of families rated high risk on the STAR Assessment Tool will have a lower risk rating on the post-test.
- f.) 100% of families served will meet PSSF eligibility requirements.
- g.) 100% of documentation including, but not limited to, approved referral forms, bills, and receipts shall be accurate and complete before Emergency Wrap-Around payments are made.

### **1.3.3 Monitoring, Review, and Problem Reporting.**

#### **1.3.3.1 Agency Monitoring Clause.** The Contract Manager or designee will:

- Verify Invoices and supporting documentation itemizing work performed prior to payment;
- Determine compliance with general contract terms, conditions, and requirements; and
- Assess compliance with Deliverables, performance measures, or other associated requirements based on the following:

The Decat Board will assist the Contract Manager in monitoring the performance of the Contractor to ensure the deliverables are met. Decat Staff will provide the following to the Decat Board, of which the local DHS Service Area Manager is a member:

- a) Contractor Budget Utilization Summary will be reviewed 4 times per fiscal year.
- b) Contractor Progress Report will be reviewed 3 times per fiscal year.
- c) Arrange presentation by the Contractor to the Decat Board upon request of the Board.
- d) Linn County Community Services staff, on behalf of Decat Board, will provide fiscal monitoring services on claims and documentation. .

**1.3.3.2 Agency Review Clause.** The Contract Manager or designee will use the results of monitoring activities and other relevant data to assess the Contractor's overall performance and compliance with the Contract. At a minimum, the Agency will conduct a review annually; however, reviews may occur more frequently at the Agency's discretion. As part of the review(s), the Agency may require the Contractor to provide additional data, may perform on-site reviews, and may consider information from other sources.

The Agency may require one or more meetings to discuss the outcome of a review. Meetings may be held in person. During the review meetings, the parties will discuss the Deliverables that have been provided or are in process under this Contract, achievement of the performance measures, and any concerns identified through the Agency's contract monitoring activities.

**1.3.3.3 Problem Reporting.** As stipulated by the Agency, the Contractor and/or Agency shall provide a report listing any problem or concern encountered. Records of such reports and other related communications issued in writing during the course of Contract performance shall be maintained by the parties. At the next scheduled meeting after a problem has been identified in writing, the party responsible for resolving the problem shall provide a report setting forth activities taken or to be taken to resolve the problem together with the anticipated completion dates of such activities. Any party may recommend alternative courses of action or changes that will facilitate problem resolution. The Contract Owner has final authority to approve problem-resolution activities.

The Agency's acceptance of a problem report shall not relieve the Contractor of any obligation under this Contract or waive any other remedy. The Agency's inability to identify the extent of a problem or the extent of damages incurred because of a problem shall not act as a waiver of performance or damages under this Contract.

**1.3.3.4 Addressing Deficiencies.** To the extent that Deficiencies are identified in the Contractor's performance and notwithstanding other remedies available under this Contract, the Agency may require the Contractor to develop and comply with a plan acceptable to the Agency to resolve the Deficiencies.

#### **1.3.4 Contract Payment Clause.**

**1.3.4.1 Pricing.** In accordance with the payment terms outlined in this section and Contractor's completion of the Scope of Work as set forth in this Contract, the Contractor will be compensated an amount not to exceed \$119,805.00 during the entire term of this Contract, which includes any extensions or renewals thereof. Payment will occur as follows:

#### **Payment Table**

| <u>Contract Duration</u> | <u>Amount Not to Exceed</u> |
|--------------------------|-----------------------------|
| 07/01/21 - 06/30/22      | \$39,935.00                 |
| 07/01/22 - 06/30/23      | \$39,935.00                 |
| 07/01/23 - 06/30/24      | \$39,935.00                 |

**Note:** continued payment for contract extension years is contingent upon extension of the Contract.

#### **1.3.4.2 Payment Methodology.**

The contractor will be paid an all-inclusive rate of \$36.31 per unit of service, not to exceed 1058.53 units; however Emergency Wrap Around Services will be based on actual expenses with accurate documentation.

Failure to meet the performance measures will result in reduction of payment. Contractor will be reimbursed as

follows:

- a) Meet 4 or more performance measures = 100% of actual expenses.
- b) Meet 3 performance measures = 90% of actual expenses.
- c) Meet less than 3 performance measures = 50% of actual expenses.

**1.3.4.3 Timeframes for Regular Submission of Initial and Adjusted Invoices.** The Contractor shall submit an Invoice for services rendered in accordance with this Contract. Invoice(s) shall be submitted monthly. Unless a longer timeframe is provided by federal law, and in the absence of the express written consent of the Agency, all Invoices shall be submitted within six months from the last day of the month in which the services were rendered. All adjustments made to Invoices shall be submitted to the Agency within ninety (90) days from the date of the Invoice being adjusted. Invoices shall comply with all applicable rules concerning payment of such claims.

**1.3.4.4 Submission of Invoices at the End of State Fiscal Year.** Notwithstanding the timeframes above, and absent (1) longer timeframes established in federal law or (2) the express written consent of the Agency, the Contractor shall submit all Invoices to the Agency for payment by August 1<sup>st</sup> for all services performed in the preceding state fiscal year (the State fiscal year ends June 30).

**1.3.4.5 Payment of Invoices.** The Agency shall verify the Contractor's performance of the Deliverables and timeliness of Invoices before making payment. The Agency will not pay Invoices that are not considered timely as defined in this Contract. If the Contractor wishes for untimely Invoice(s) to be considered for payment, the Contractor may submit the Invoice(s) in accordance with instructions for the Long Appeal Board Process to the State Appeal Board for consideration. Instructions for this process may be found at: [http://www.dom.state.ia.us/appeals/general\\_claims.html](http://www.dom.state.ia.us/appeals/general_claims.html).

The Agency shall pay all approved Invoices in arrears and in conformance with Iowa Code 8A.514. The Agency may pay in less than sixty (60) days, but an election to pay in less than sixty (60) days shall not act as an implied waiver of Iowa law.

**1.3.4.6 Reimbursable Expenses.** Unless otherwise agreed to by the parties in an amendment to the Contract that is executed by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the State for any Deliverables provided by or on behalf of the Contractor pursuant to this Contract. The Contractor shall be solely responsible for paying all costs, expenses, and charges it incurs in connection with its performance under this Contract.

#### **1.4 Insurance Coverage.**

The Contractor and any subcontractor shall obtain the following types of insurance for at least the minimum amounts listed below:

| <b>Type of Insurance</b>                                                        | <b>Limit</b>                           | <b>Amount</b> |
|---------------------------------------------------------------------------------|----------------------------------------|---------------|
| General Liability (including contractual liability) written on occurrence basis | General Aggregate                      | \$2 Million   |
|                                                                                 | Product/Completed Operations Aggregate | \$1 Million   |
|                                                                                 | Personal Injury                        | \$1 Million   |
|                                                                                 | Each Occurrence                        | \$1 Million   |
| Automobile Liability (including any auto, hired autos, and non-owned autos)     | Combined Single Limit                  | \$1 Million   |

|                                              |                         |                         |
|----------------------------------------------|-------------------------|-------------------------|
|                                              |                         |                         |
| Excess Liability, Umbrella Form              | Each Occurrence         | \$1 Million             |
|                                              | Aggregate               | \$1 Million             |
| Workers' Compensation and Employer Liability | As required by Iowa law | As Required by Iowa law |
| Property Damage                              | Each Occurrence         | \$1 Million             |
|                                              | Aggregate               | \$1 Million             |
| Professional Liability                       | Each Occurrence         | \$2 Million             |
|                                              | Aggregate               | \$2 Million             |

**1.5 Data and Security.** If this Contract involves Confidential Information, the following terms apply:

**1.5.1 Data and Security System Framework.** The Contractor shall comply with either of the following:

- Provide certification of compliance with a minimum of one of the following security frameworks, if the Contractor is storing Confidential Information electronically: NIST SP 800-53, HITRUST version 9, SOC 2, COBIT 5, CSA STAR Level 2 or greater, ISO 27001 or PCI-DSS version 3.2 prior to implementation of the system and again when the certification(s) expire, or
- Provide attestation of a passed information security risk assessment, passed network penetration scans, and passed web application scans (when applicable) prior to implementation of the system and again annually thereafter. For purposes of this section, "passed" means no unresolved high or critical findings.

**1.5.2 Vendor Security Questionnaire.** If not previously provided to the Agency through a procurement process specifically related to this Contract, the Contractor shall provide a fully completed copy of the Agency's Vendor Security Questionnaire (VSQ).

**1.5.3 Cloud Services.** If using cloud services to store Agency Information, the Contractor shall comply with either of the following:

- Provide written designation of FedRAMP authorization with impact level moderate prior to implementation of the system, or
- Provide certification of compliance with a minimum of one of the following security frameworks: HITRUST version 9, SOC 2, COBIT 5, CSA STAR Level 2 or greater or PCI-DSS version 3.2 prior to implementation of the system and again when the certification(s) expire.

**1.5.4 Addressing Concerns.** The Contractor shall timely resolve any outstanding concerns identified by the Agency regarding the Contractor's submissions required in this section.

**1.6 Reserved. (Labor Standards Provisions.)**

**1.7 Reserved. (Additional Terms.)**

## SECTION 2. GENERAL TERMS FOR SERVICE CONTRACTS

**2.1 Definitions.** When appearing as capitalized terms in this Contract (including any attachments) the following quoted terms (and the plural thereof, when appropriate) have the meanings set forth in this section.

**“Acceptance”** means that the Agency has determined that one or more Deliverables satisfy the Agency’s Acceptance Tests. Final Acceptance means that the Agency has determined that all Deliverables satisfy the Agency’s Acceptance Tests. Non-acceptance means that the Agency has determined that one or more Deliverables have not satisfied the Agency’s Acceptance Tests.

**“Acceptance Criteria”** means the Specifications, goals, performance measures, testing results and/or other criteria designated by the Agency and against which the Deliverables may be evaluated for purposes of Acceptance or Non-acceptance thereof.

**“Acceptance Tests” or “Acceptance Testing”** mean the tests, reviews, and other activities that are performed by or on behalf of the Agency to determine whether the Deliverables meet the Acceptance Criteria or otherwise satisfy the Agency, as determined by the Agency in its sole discretion.

**“Applicable Law”** means all applicable federal, state, and local laws, rules, ordinances, regulations, orders, guidance, and policies in place at Contract execution as well as any and all future amendments, changes, and additions to such laws as of the effective date of such change. Applicable Law includes, without limitation, all laws that pertain to the prevention of discrimination in employment and in the provision of services (e.g., Iowa Code ch. 216 and Iowa Code § 19B.7). For employment, this would include equal employment opportunity and affirmative action, and the use of targeted small businesses as subcontractors of suppliers. The term Applicable Law also encompasses the applicable provisions of Section 508 of the Rehabilitation Act of 1973, as amended, and all standards and requirements established by the Architectural and Transportation Barriers Access Board and the Iowa Office of the Chief Information Officer.

**“Bid Proposal” or “Proposal”** means the Contractor’s proposal submitted in response to the Solicitation, if this Contract arises out of a competitive process.

**“Business Days”** means any day other than a Saturday, Sunday, or State holiday as specified by Iowa Code §1C.2.

**“Confidential Information”** means, subject to any applicable State and federal laws and regulations, including but not limited to Iowa Code Chapter 22, any confidential or proprietary information or trade secrets disclosed by either party (a “Disclosing Party”) to the other party (a “Receiving Party”) that, at the time of disclosure, is designated as confidential (or like designation), is disclosed in circumstances of confidence, or would be understood by the parties, exercising reasonable business judgment, to be confidential. Regardless of whether or not the following information is designated as confidential, the term Confidential Information includes information that could be used to identify recipients or applicants of Agency services and recipients of Contract services including Protected Health Information (45 C.F.R. § 160.103) and Personal Information (Iowa Code § 715C.1(11)), Agency security protocols and procedures, Agency system architecture, information that could compromise the security of the Agency network or systems, and information about the Agency’s current or future competitive procurements, including the evaluation process prior to the formal announcement of results.

Confidential Information does not include any information that: (1) was rightfully in the possession of the Receiving Party from a source other than the Disclosing Party prior to the time of disclosure of the information by the Disclosing Party to the Receiving Party; (2) was known to the Receiving Party prior to the disclosure of the information by the Disclosing Party; (3) was disclosed to the Receiving Party without restriction by an independent third party having a legal right to disclose the information; (4) is in the public domain or shall have become publicly available other than as a result of disclosure by the Receiving Party in violation of this Agreement or in breach of any other agreement with the Disclosing Party; (5) is independently developed by the Receiving Party without any reliance on Confidential Information disclosed by the Disclosing Party; or (6) is disclosed by the Receiving Party with the written consent of the Disclosing Party.

**“Contract”** means the collective documentation memorializing the terms of the agreement between the Agency and the Contractor identified in the Contract Declarations and Execution Section and includes the signed Contract Declarations and Execution Section, the Special Terms, any Special Contract Attachments, the General Terms for Service Contracts, and the Contingent Terms for Service Contracts as these documents may be amended from time to time.

**“Deficiency”** means a defect, flaw, anomaly, failure, omission, interruption of service, or other problem of any nature whatsoever with respect to a Deliverable, including, without limitation, any failure of a Deliverable to conform to or meet an applicable specification. Deficiency also includes the lack of something essential or necessary for completeness or proper functioning of a Deliverable.

**“Deliverables”** means all of the services, goods, products, work, work product, data, items, materials and property to be created, developed, produced, delivered, performed, or provided by or on behalf of, or made available through, the Contractor (or any agent, contractor or subcontractor of the Contractor) in connection with this Contract. This includes data that is collected on behalf of the Agency.

**“Documentation”** means any and all technical information, commentary, explanations, design documents, system architecture documents, database layouts, test materials, training materials, guides, manuals, worksheets, notes, work papers, and all other information, documentation and materials related to or used in conjunction with the Deliverables, in any medium, including hard copy, electronic, digital, and magnetically or optically encoded media.

**“Invoice”** means a Contractor’s claim for payment. At the Agency’s discretion, claims may be submitted on an original invoice from the Contractor or may be submitted on a claim form acceptable to the Agency, such as a General Accounting Expenditure (GAX) form.

**“Solicitation”** means the formal or informal procurement (and any Addenda thereto) identified in the Contracts Declarations and Execution Section that was issued to solicit the Bid Proposal leading to this Contract.

**“Special Contract Attachments”** means any attachment to this Contract.

**“Special Terms”** means the Section of the Contract entitled “Special Terms” that contains terms specific to this Contract, including but not limited to the Scope of Work and contract payment terms. If there is a conflict between the General Terms for Services Contracts, the Contingent Terms for Service Contracts, and the Special Terms, the Special Terms shall prevail.

**“Specifications”** means all specifications, requirements, technical standards, performance standards, representations, and other criteria related to the Deliverables stated or expressed in this Contract, the Documentation, the Solicitation, and the Bid Proposal. Specifications shall include the Acceptance Criteria and any specifications, standards, or criteria stated or set forth in any applicable state, federal, foreign, and local laws, rules and regulations. The Specifications are incorporated into this Contract by reference as if fully set forth in this Contract.

**“State”** means the State of Iowa, the Agency, and all State of Iowa agencies, boards, and commissions, and when this Contract is available to political subdivisions, any political subdivisions of the State of Iowa.

**2.2 Duration of Contract.** The term of the Contract shall begin and end on the dates specified in the Contract Declarations and Execution Section, unless extended or terminated earlier in accordance with the termination provisions of this Contract. The Agency may, in its sole discretion, amend the end date of this Contract by exercising any applicable extension by giving the Contractor a written extension at least sixty (60) days prior to the expiration of the initial term or renewal term.

**2.3 Scope of Work.** The Contractor shall provide Deliverables that comply with and conform to the Specifications. Deliverables shall be performed within the boundaries of the United States.

## **2.4 Compensation.**

**2.4.1 Withholding Payments.** In addition to pursuing any other remedy provided herein or by law, the Agency may withhold compensation or payments to the Contractor, in whole or in part, without penalty to the Agency or work stoppage by the Contractor, in the event the Agency determines that: (1) the Contractor has failed to perform any of its duties or obligations as set forth in this Contract; (2) any Deliverable has failed to meet or

conform to any applicable Specifications or contains or is experiencing a Deficiency; or (3) the Contractor has failed to perform Close-Out Event(s). No interest shall accrue or be paid to the Contractor on any compensation or other amounts withheld or retained by the Agency under this Contract.

**2.4.2 Erroneous Payments and Credits.** The Contractor shall promptly repay or refund the full amount of any overpayment or erroneous payment within thirty (30) Business Days after either discovery by the Contractor or notification by the Agency of the overpayment or erroneous payment.

**2.4.3 Offset Against Sums Owed by the Contractor.** In the event that the Contractor owes the State any sum under the terms of this Contract, any other contract or agreement, pursuant to a judgment, or pursuant to any law, the State may, in its sole discretion, offset any such sum against: (1) any sum Invoiced by, or owed to, the Contractor under this Contract, or (2) any sum or amount owed by the State to the Contractor, unless otherwise required by law. The Contractor agrees that this provision constitutes proper and timely notice under any applicable laws governing offset.

## **2.5 Termination.**

**2.5.1 Termination for Cause by the Agency.** The Agency may terminate this Contract upon written notice for the breach by the Contractor or any subcontractor of any material term, condition or provision of this Contract, if such breach is not cured within the time period specified in the Agency's notice of breach or any subsequent notice or correspondence delivered by the Agency to the Contractor, provided that cure is feasible. In addition, the Agency may terminate this Contract effective immediately without penalty and without advance notice or opportunity to cure for any of the following reasons:

**2.5.1.1** The Contractor furnished any statement, representation, warranty, or certification in connection with this Contract, the Solicitation, or the Bid Proposal that is false, deceptive, or materially incorrect or incomplete;

**2.5.1.2** The Contractor or any of the Contractor's officers, directors, employees, agents, subsidiaries, affiliates, contractors or subcontractors has committed or engaged in fraud, misappropriation, embezzlement, malfeasance, misfeasance, or bad faith;

**2.5.1.3** The Contractor or any parent or affiliate of the Contractor owning a controlling interest in the Contractor dissolves;

**2.5.1.4** The Contractor terminates or suspends its business;

**2.5.1.5** The Contractor's corporate existence or good standing in Iowa is suspended, terminated, revoked or forfeited, or any license or certification held by the Contractor related to the Contractor's performance under this Contract is suspended, terminated, revoked, or forfeited;

**2.5.1.6** The Contractor has failed to comply with any applicable international, federal, state (including, but not limited to Iowa Code Chapter 8F), or local laws, rules, ordinances, regulations, or orders when performing within the scope of this Contract;

**2.5.1.7** The Agency determines or believes the Contractor has engaged in conduct that: (1) has or may expose the Agency or the State to material liability; or (2) has caused or may cause a person's life, health, or safety to be jeopardized;

**2.5.1.8** The Contractor infringes or allegedly infringes or violates any patent, trademark, copyright, trade dress, or any other intellectual property right or proprietary right, or the Contractor misappropriates or allegedly misappropriates a trade secret;

**2.5.1.9** The Contractor fails to comply with any applicable confidentiality laws, privacy laws, or any provisions of this Contract pertaining to confidentiality or privacy; or

**2.5.1.10** Any of the following has been engaged in by or occurred with respect to the Contractor or any corporation, shareholder or entity having or owning a controlling interest in the Contractor:

- Commencing or permitting a filing against it which is not discharged within ninety (90) days, of a case or other proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect; or filing an answer admitting the material allegations of a petition filed against it in any involuntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts; or consenting to any such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts;
- Seeking or suffering the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets;
- Making an assignment for the benefit of creditors;
- Failing, being unable, or admitting in writing the inability generally to pay its debts or obligations as they become due or failing to maintain a positive net worth and such additional capital and liquidity as is reasonably adequate or necessary in connection with the Contractor's performance of its obligations under this Contract; or
- Taking any action to authorize any of the foregoing.

**2.5.2 Termination Upon Notice.** Following a thirty (30) day written notice, the Agency may terminate this Contract in whole or in part without penalty and without incurring any further obligation to the Contractor. Termination can be for any reason or no reason at all.

**2.5.3 Termination Due to Lack of Funds or Change in Law.** Notwithstanding anything in this Contract to the contrary, and subject to the limitations set forth below, the Agency shall have the right to terminate this Contract without penalty and without any advance notice as a result of any of the following:

**2.5.3.1** The legislature or governor fail in the sole opinion of the Agency to appropriate funds sufficient to allow the Agency to either meet its obligations under this Contract or to operate as required and to fulfill its obligations under this Contract; or

**2.5.3.2** If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by the Agency to make any payment hereunder are insufficient or unavailable for any other reason as determined by the Agency in its sole discretion; or

**2.5.3.3** If the Agency's authorization to conduct its business or engage in activities or operations related to the subject matter of this Contract is withdrawn or materially altered or modified; or

**2.5.3.4** If the Agency's duties, programs or responsibilities are modified or materially altered; or

**2.5.3.5** If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation, or order is enacted, promulgated, or issued that materially or adversely affects the Agency's ability to fulfill any of its obligations under this Contract.

The Agency shall provide the Contractor with written notice of termination pursuant to this section.

**2.5.4 Other remedies.** The Agency's right to terminate this Contract shall be in addition to and not exclusive of other remedies available to the Agency, and the Agency shall be entitled to exercise any other rights and pursue any remedies, in law, at equity, or otherwise.

**2.5.5 Limitation of the State's Payment Obligations.** In the event of termination of this Contract for any reason by either party (except for termination by the Agency pursuant to Section 2.5.1, Termination for Cause by the Agency) the Agency shall pay only those amounts, if any, due and owing to the Contractor hereunder for Deliverables actually and satisfactorily provided in accordance with the provisions of this Contract up to and including the date of termination of this Contract and for which the Agency is obligated to pay pursuant to this Contract; provided however, that in the event the Agency terminates this Contract pursuant to Section 2.5.3, Termination Due to Lack of Funds or Change in Law, the Agency's obligation to pay the Contractor such amounts and other compensation shall be limited by, and subject to, legally available funds. Payment will be made only upon submission of Invoices and proper proof of the Contractor's claim. Notwithstanding the foregoing, this section in no way limits the rights or remedies available to the Agency and shall not be construed to require the Agency to pay any compensation or other amounts hereunder in the event of the Contractor's breach of this Contract or any amounts withheld by the Agency in accordance with the terms of this Contract. The Agency shall not be liable, under any circumstances, for any of the following:

**2.5.5.1** The payment of unemployment compensation to the Contractor's employees;

**2.5.5.2** The payment of workers' compensation claims, which occur during the Contract or extend beyond the date on which the Contract terminates;

**2.5.5.3** Any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead, or other costs associated with the performance of the Contract;

**2.5.5.4** Any damages or other amounts associated with the loss of prospective profits, anticipated sales, goodwill, or for expenditures, investments, or commitments made in connection with this Contract; or

**2.5.5.5** Any taxes the Contractor may owe in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes, or property taxes.

**2.5.6 Contractor's Contract Close-Out Duties.** Upon receipt of notice of termination, at expiration of the Contract, or upon request of the Agency (hereafter, "Close-Out Event"), the Contractor shall:

**2.5.6.1** Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the Close-Out Event, describing the status of all work performed under the Contract and such other matters as the Agency may require.

**2.5.6.2** Immediately cease using and return to the Agency any property or materials, whether tangible or intangible, provided by the Agency to the Contractor.

**2.5.6.3** Cooperate in good faith with the Agency and its employees, agents, and independent contractors during the transition period between the Close-Out Event and the substitution of any replacement service provider.

**2.5.6.4** Immediately return to the Agency any payments made by the Agency for Deliverables that were not rendered or provided by the Contractor.

**2.5.6.5** Immediately deliver to the Agency any and all Deliverables for which the Agency has made payment (in whole or in part) that are in the possession or under the control of the Contractor or its agents or subcontractors in whatever stage of development and form of recordation such property is expressed or embodied at that time.

**2.5.7 Termination for Cause by the Contractor.** The Contractor may only terminate this Contract for the breach by the Agency of any material term of this Contract, if such breach is not cured within sixty (60) days of the Agency's receipt of the Contractor's written notice of breach.

## **2.6 Indemnification.**

**2.6.1 By the Contractor.** The Contractor agrees to indemnify and hold harmless the State and its officers, appointed and elected officials, board and commission members, employees, volunteers, and agents (collectively the "Indemnified Parties"), from any and all costs, expenses, losses, claims, damages, liabilities, settlements, and judgments (including, without limitation, the reasonable value of the time spent by the Attorney General's Office,) and the costs, expenses, and attorneys' fees of other counsel retained by the Indemnified Parties directly or indirectly related to, resulting from, or arising out of this Contract, including but not limited to any claims related to, resulting from, or arising out of:

**2.6.1.1** Any breach of this Contract;

**2.6.1.2** Any negligent, intentional, or wrongful act or omission of the Contractor or any agent or subcontractor utilized or employed by the Contractor;

**2.6.1.3** The Contractor's performance or attempted performance of this Contract, including any agent or subcontractor utilized or employed by the Contractor;

**2.6.1.4** Any failure by the Contractor to make all reports, payments, and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees, or costs required by the Contractor to conduct business in the State of Iowa;

**2.6.1.5** Any claim of misappropriation of a trade secret or infringement or violation of any intellectual property rights, proprietary rights, or personal rights of any third party, including any claim that any Deliverable or any use thereof (or the exercise of any rights with respect thereto) infringes, violates, or misappropriates any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other intellectual property right or proprietary right of any third party.

## **2.7 Insurance.**

**2.7.1 Insurance Requirements.** At the Contractor's expense, the Contractor and any subcontractor shall maintain insurance in full force and effect covering its work during the entire term of this Contract, which includes any extensions or renewals thereof. Insurance shall be provided through companies licensed by the State of Iowa, through statutorily authorized self-insurance programs, through local government risk pools, or through any combination of these. The Contractor's insurance shall, among other things, be occurrence based and shall insure against any loss or damage resulting from or related to the Contractor's performance of this Contract regardless of the date the claim is filed or expiration of the policy. The State of Iowa and the Agency shall be named as additional insureds or loss payees, or the Contractor shall obtain an endorsement to the same effect, as applicable.

**2.7.1.2.** Name the State of Iowa and the Agency as additional insureds or loss payees on the policies for all coverages required by this Contract, with the exception of Workers' Compensation, or the Contractor shall obtain an endorsement to the same effect; and

**2.7.1.3** Provide a waiver of any subrogation rights that any of its insurance carriers might have against the State on the policies for all coverages required by this Contract, with the exception of Workers' Compensation. The requirements set forth in this section shall be indicated on the certificates of insurance coverage supplied to the Agency.

**2.7.2 Types and Amounts of Insurance Required.** Unless otherwise requested by the Agency in writing, the Contractor shall cause to be issued insurance coverages insuring the Contractor and/or subcontractors against all general liabilities, product liability, personal injury, property damage, and (where applicable) professional liability in the amount specified in the Special Terms for each occurrence. In addition, the Contractor shall ensure it has any necessary workers' compensation and employer liability insurance as required by Iowa law.

**2.7.3 Certificates of Coverage.** The Contractor shall submit certificates of the insurance, which indicate coverage and notice provisions as required by this Contract, to the Agency upon execution of this Contract. The Contractor shall maintain all insurance policies required by this Contract in full force and effect during the entire term of this Contract, which includes any extensions or renewals thereof, and shall not permit such policies to be canceled or amended except with the advance written approval of the Agency. The insurer shall state in the certificate that no cancellation of the insurance will be made without at least a thirty (30) day prior written notice to the Agency. The certificates shall be subject to approval by the Agency. Approval of the insurance certificates by the Agency shall not relieve the Contractor of any obligation under this Contract.

**2.7.4 Notice of Claim.** Contractor shall provide prompt notice to the Agency of any claim related to the contracted services made by a third party. If the claim matures to litigation, the Contractor shall keep the Agency regularly informed of the status of the lawsuit, including any substantive rulings. The Contractor shall confer directly with the Agency about and before any substantive settlement negotiations.

## **2.8 Ownership and Security of Agency Information.**

**2.8.1 Ownership and Disposition of Agency Information.** Any information either supplied by the Agency to the Contractor, or collected by the Contractor on the Agency's behalf in the course of the performance of this Contract, shall be considered the property of the Agency ("Agency Information"). The Contractor will not use the Agency Information for any purpose other than providing services under the Contract, nor will any part of the information and records be disclosed, sold, assigned, leased, or otherwise provided to third parties or commercially exploited by or on behalf of the Contractor. The Agency shall own all Agency Information that may reside within the Contractor's hosting environment and/or equipment/media.

**2.8.2 Foreign Hosting and Storage Prohibited.** Agency Information shall be hosted and/or stored within the continental United States only.

**2.8.3 Access to Agency Information that is Confidential Information.** The Contractor's employees, agents, and subcontractors may have access to Agency Information that is Confidential Information to the extent necessary to carry out responsibilities under the Contract. Access to such Confidential Information shall comply with both the State's and the Agency's policies and procedures. In all instances, access to Agency Information from outside of the United States and its protectorates, either by the Contractor, including a foreign office or division of the Contractor or its affiliates or associates, or any subcontractor, is prohibited.

**2.8.4 No Use or Disclosure of Confidential Information.** Confidential Information collected, maintained, or used in the course of performance of the Contract shall only be used or disclosed by the Contractor as expressly authorized by law and only with the prior written consent of the Agency, either during the period of the Contract or thereafter. The Contractor shall immediately report to the Agency any unauthorized use or disclosure of Confidential Information. The Contractor may be held civilly or criminally liable for improper use or disclosure of Confidential Information.

**2.8.5 Contractor Breach Notification Obligations.** The Contractor agrees to comply with all applicable laws that require the notification of individuals in the event of unauthorized use or disclosure of Confidential Information or other event(s) requiring notification in accordance with applicable law. In the event of a breach

of the Contractor's security obligations or other event requiring notification under applicable law, the Contractor agrees to follow Agency directives, which may include assuming responsibility for informing all such individuals in accordance with applicable laws, and to indemnify, hold harmless, and defend the State of Iowa against any claims, damages, or other harm related to such breach.

**2.8.6 Compliance of Contractor Personnel.** The Contractor and the Contractor's personnel shall comply with the Agency's and the State's security and personnel policies, procedures, and rules, including any procedure which the Agency's personnel, contractors, and consultants are normally asked to follow. The Contractor agrees to cooperate fully and to provide any assistance necessary to the Agency in the investigation of any security incidents and breaches that may involve the Contractor or the Contractor's personnel. All services shall be performed in accordance with State Information Technology security standards and policies as well as Agency security policies and procedures. By way of example only, see Iowa Code 8B.23, and <https://ocio.iowa.gov/home/standards>.

**2.8.7 Subpoena.** In the event that a subpoena or other legal process is served upon the Contractor for records containing Confidential Information, the Contractor shall promptly notify the Agency and cooperate with the Agency in any lawful effort to protect the Confidential Information.

**2.8.8 Return and/or Destruction of Information.** Upon expiration or termination of the Contract for any reason, the Contractor agrees to comply with all Agency directives regarding the return or destruction of all Agency Information and any derivative work. Delivery of returned Agency Information must be through a secured electronic transmission or by parcel service that utilizes tracking numbers. Such information must be provided in a format useable by the Agency. Following the Agency's verified receipt of the Agency Information and any derivative work, the Contractor agrees to physically and/or electronically destroy or erase all residual Agency Information regardless of format from the entire Contractor's technology resources and any other storage media. This includes, but is not limited to, all production copies, test copies, backup copies and /or printed copies of information created on any other servers or media and at all other Contractor sites. Any permitted destruction of Agency Information must occur in such a manner as to render the information incapable of being reconstructed or recovered. The Contractor will provide a record of information destruction to the Agency for inspection and records retention no later than thirty (30) days after destruction.

**2.8.9 Contractor's Inability to Return and/or Destroy Information.** If for any reason the Agency Information cannot be returned and/or destroyed upon expiration or termination of the Contract, the Contractor agrees to notify the Agency with an explanation as to the conditions which make return and/or destruction not possible or feasible. Upon mutual agreement by both parties that the return and/or destruction of the information is not possible or feasible, the Contractor shall make the Agency Information inaccessible. The Contractor shall not use or disclose such retained Agency Information for any purposes other than those expressly permitted by the Agency. The Contractor shall provide to the Agency a detailed description as to the procedures and methods used to make the Agency Information inaccessible no later than thirty (30) days after making the information inaccessible. If the Agency provides written permission for the Contractor to retain the Agency Information in the Contractor's information systems, the Contractor will extend the protections of this Contract to such information and limit any further uses or disclosures of such information.

## **2.9 Intellectual Property.**

**2.9.1 Ownership and Assignment of Other Deliverables.** The Contractor agrees that the State and the Agency shall become the sole and exclusive owners of all Deliverables. The Contractor hereby irrevocably assigns, transfers and conveys to the State and the Agency all right, title and interest in and to all Deliverables and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables, including copyrights, patents, trademarks, trade secrets, trade dress, mask work, utility design, derivative works, and all other rights and interests therein or related thereto. The Contractor represents and warrants that the State and the Agency shall acquire good and clear title to all Deliverables, free from any

claims, liens, security interests, encumbrances, intellectual property rights, proprietary rights, or other rights or interests of the Contractor or of any third party, including any employee, agent, contractor, subcontractor, subsidiary, or affiliate of the Contractor. The Contractor (and Contractor's employees, agents, contractors, subcontractors, subsidiaries and affiliates) shall not retain any property interests or other rights in and to the Deliverables and shall not use any Deliverables, in whole or in part, for any purpose, without the prior written consent of the Agency and the payment of such royalties or other compensation as the Agency deems appropriate. Unless otherwise requested by the Agency, upon completion or termination of this Contract, the Contractor will immediately turn over to the Agency all Deliverables not previously delivered to the Agency, and no copies thereof shall be retained by the Contractor or its employees, agents, subcontractors, or affiliates, without the prior written consent of the Agency.

**2.9.2 Waiver.** To the extent any of the Contractor's rights in any Deliverables are not subject to assignment or transfer hereunder, including any moral rights and any rights of attribution and of integrity, the Contractor hereby irrevocably and unconditionally waives all such rights and enforcement thereof and agrees not to challenge the State's rights in and to the Deliverables.

**2.9.3 Further Assurances.** At the Agency's request, the Contractor will execute and deliver such instruments and take such other action as may be requested by the Agency to establish, perfect, or protect the State's rights in and to the Deliverables and to carry out the assignments, transfers and conveyances set forth in Section 2.9, Intellectual Property.

**2.9.4 Publications.** Prior to completion of all services required by this Contract, the Contractor shall not publish in any format any final or interim report, document, form, or other material developed as a result of this Contract without the express written consent of the Agency. Upon completion of all services required by this Contract, the Contractor may publish or use materials developed as a result of this Contract, subject to confidentiality restrictions, and only after the Agency has had an opportunity to review and comment upon the publication. Any such publication shall contain a statement that the work was done pursuant to a contract with the Agency and that it does not necessarily reflect the opinions, findings, and conclusions of the Agency.

## **2.10 Warranties.**

### **2.10.1 Construction of Warranties Expressed in this Contract with Warranties Implied by Law.**

Warranties made by the Contractor in this Contract, whether: (1) this Contract specifically denominates the Contractor's promise as a warranty; or (2) the warranty is created by the Contractor's affirmation or promise, by a description of the Deliverables to be provided, or by provision of samples to the Agency, shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties that arise through the course of dealing or usage of trade. The warranties expressed in this Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the Deliverables provided by the Contractor. With the exception of Subsection 2.10.3, the provisions of this section apply during the Warranty Period as defined in the Contract Declarations and Execution Section.

### **2.10.2 Contractor represents and warrants that:**

**2.10.2.1** All Deliverables shall be wholly original with and prepared solely by the Contractor; or it owns, possesses, holds, and has received or secured all rights, permits, permissions, licenses, and authority necessary to provide the Deliverables to the Agency hereunder and to assign, grant and convey the rights, benefits, licenses, and other rights assigned, granted, or conveyed to the Agency hereunder or under any license agreement related hereto without violating any rights of any third party;

**2.10.2.2** The Contractor has not previously and will not grant any rights in any Deliverables to any third party that are inconsistent with the rights granted to the Agency herein; and

**2.10.2.3** The Agency shall peacefully and quietly have, hold, possess, use, and enjoy the Deliverables without suit, disruption, or interruption.

**2.10.3 The Contractor represents and warrants that:**

**2.10.3.1** The Deliverables (and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables); and

**2.10.3.2** The Agency's use of, and exercise of any rights with respect to, the Deliverables (and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables), do not and will not, under any circumstances, misappropriate a trade secret or infringe upon or violate any copyright, patent, trademark, trade dress or other intellectual property right, proprietary right or personal right of any third party. The Contractor further represents and warrants there is no pending or threatened claim, litigation, or action that is based on a claim of infringement or violation of an intellectual property right, proprietary right or personal right or misappropriation of a trade secret related to the Deliverables. The Contractor shall inform the Agency in writing immediately upon becoming aware of any actual, potential, or threatened claim of or cause of action for infringement or violation of an intellectual property right, proprietary right, or personal right or misappropriation of a trade secret. If such a claim or cause of action arises or is likely to arise, then the Contractor shall, at the Agency's request and at the Contractor's sole expense:

- Procure for the Agency the right or license to continue to use the Deliverable at issue;
- Replace such Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation, or misappropriation;
- Modify or replace the affected portion of the Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation, or misappropriation; or
- Accept the return of the Deliverable at issue and refund to the Agency all fees, charges, and any other amounts paid by the Agency with respect to such Deliverable. In addition, the Contractor agrees to indemnify, defend, protect, and hold harmless the State and its officers, directors, employees, officials, and agents as provided in the Indemnification Section of this Contract, including for any breach of the representations and warranties made by the Contractor in this section.

The warranty provided in this Subsection 2.10.3 shall be perpetual, shall not be subject to the contractual Warranty Period, and shall survive termination of this Contract. The foregoing remedies provided in this subsection shall be in addition to and not exclusive of other remedies available to the Agency and shall survive termination of this Contract.

**2.10.4 The Contractor represents and warrants that the Deliverables shall:**

**2.10.4.1** Be free from material Deficiencies; and

**2.10.4.2** Meet, conform to, and operate in accordance with all Specifications and in accordance with this Contract during the Warranty Period, as defined in the Contract Declarations and Execution Section. During the Warranty Period the Contractor shall, at its expense, repair, correct or replace any Deliverable that contains or experiences material Deficiencies or fails to meet, conform to or operate in accordance with Specifications within five (5) Business Days of receiving notice of such Deficiencies or failures from the Agency or within such other period as the Agency specifies in the notice. In the event the Contractor is unable to repair, correct, or replace such Deliverable to the Agency's satisfaction, the Contractor shall refund the fees or other amounts paid for the Deliverables and for any services related thereto. The foregoing shall not constitute an exclusive remedy under this Contract, and the Agency shall be entitled to pursue any other available contractual, legal, or equitable remedies. The Contractor shall be available at all reasonable times to assist the Agency with questions, problems, and concerns about the Deliverables, to inform the Agency promptly of any known Deficiencies in any Deliverables, repair and correct any Deliverables not performing in accordance with the warranties contained in this Contract, notwithstanding that such Deliverables may have been accepted by the Agency, and provide the Agency with all necessary materials with respect to such repaired or corrected Deliverable.

**2.10.5** The Contractor represents, warrants and covenants that all services to be performed under this Contract shall be performed in a professional, competent, diligent, and workmanlike manner by knowledgeable, trained, and qualified personnel, all in accordance with the terms and Specifications of this Contract and the standards of performance considered generally acceptable in the industry for similar tasks and projects. In the absence of a Specification for the performance of any portion of this Contract, the parties agree that the applicable Specification shall be the generally accepted industry standard. So long as the Agency notifies the Contractor of any services performed in violation of this standard, the Contractor shall re-perform the services at no cost to the Agency, such that the services are rendered in the above-specified manner, or if the Contractor is unable to perform the services as warranted, the Contractor shall reimburse the Agency any fees or compensation paid to the Contractor for the unsatisfactory services.

**2.10.6** The Contractor represents and warrants that the Deliverables will comply with all Applicable Law.

**2.10.7 Obligations Owed to Third Parties.** The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to this Contract are or will be fully satisfied by the Contractor so that the Agency will not have any obligations with respect thereto.

## ***2.11 Acceptance of Deliverables.***

**2.11.1 Acceptance of Written Deliverables.** For the purposes of this section, written Deliverables means documents including, but not limited to project plans, planning documents, reports, or instructional materials (“Written Deliverables”). Although the Agency determines what Written Deliverables are subject to formal Acceptance, this section generally does not apply to routine progress or financial reports. Absent more specific Acceptance Criteria in the Special Terms, following delivery of any Written Deliverable pursuant to the Contract, the Agency will notify the Contractor whether or not the Deliverable meets contractual specifications and requirements. Written Deliverables shall not be considered accepted by the Agency, nor does the Agency have an obligation to pay for such Deliverables, unless and until the Agency has notified the Contractor of the Agency’s Final Acceptance of the Written Deliverables. In all cases, any statements included in such Written Deliverables that alter or conflict with any contractual requirements shall in no way be considered as changing the contractual requirements unless and until the parties formally amend the Contract.

**2.11.2 Notice of Acceptance and Future Deficiencies.** The Contractor’s receipt of any notice of Acceptance, including Final Acceptance, with respect to any Deliverable shall not be construed as a waiver of any of the Agency’s rights to enforce the terms of this Contract or require performance in the event the Contractor breaches this Contract or any Deficiency is later discovered with respect to such Deliverable.

## ***2.12 Contract Administration.***

**2.12.1 Independent Contractor.** The status of the Contractor shall be that of an independent contractor. The Contractor, its employees, agents, and any subcontractors performing under this Contract are not employees or agents of the State or any agency, division, or department of the State simply by virtue of work performed pursuant to this Contract. Neither the Contractor nor its employees shall be considered employees of the Agency or the State for federal or state tax purposes simply by virtue of work performed pursuant to this Contract. The Agency will not withhold taxes on behalf of the Contractor (unless required by law).

**2.12.2 Incorporation of Documents.** To the extent this Contract arises out of a Solicitation, the parties acknowledge that the Contract consists of these contract terms and conditions as well as the Solicitation and the Bid Proposal. The Solicitation and the Bid Proposal are incorporated into the Contract by reference. If the Contractor proposed exceptions or modifications to the Sample Contract attached to the Solicitation or to the Solicitation itself, these proposed exceptions or modifications shall not be incorporated into this Contract unless expressly set forth herein. If there is a conflict between the Contract, the Solicitation, and the Bid Proposal, the

conflict shall be resolved according to the following priority, ranked in descending order: (1) the Contract; (2) the Solicitation; (3) the Bid Proposal.

**2.12.3 Intent of References to Bid Documents.** To the extent this Contract arises out of a Solicitation, the references to the parties' obligations, which are contained in this Contract, are intended to supplement or clarify the obligations as stated in the Solicitation and the Bid Proposal. The failure of the parties to make reference to the terms of the Solicitation or the Bid Proposal in this Contract shall not be construed as creating a conflict and will not relieve the Contractor of the contractual obligations imposed by the terms of the Solicitation and the Contractor's Bid Proposal. Terms offered in the Bid Proposal, which exceed the requirements of the Solicitation, shall not be construed as creating an inconsistency or conflict with the Solicitation or the Contract. The contractual obligations of the Agency are expressly stated in this document. The Bid Proposal does not create any express or implied obligations of the Agency.

**2.12.4 Compliance with the Law; Nondiscrimination in Employment.** The Contractor, its employees, agents, and subcontractors shall comply at all times with all Applicable Law. All such Applicable Law is incorporated into this Contract as of the effective date of the Applicable Law. The Contractor and Agency expressly reject any proposition that future changes to Applicable Law are inapplicable to this Contract and the Contractor's provision of Deliverables and/or performance in accordance with this Contract. When providing Deliverables pursuant to this Contract the Contractor, its employees, agents, and subcontractors shall comply with all Applicable Law.

**2.12.4.1** The Contractor, its employees, agents, and subcontractors shall not engage in discriminatory employment practices which are forbidden by Applicable Law. Upon the State's written request, the Contractor shall submit to the State a copy of its affirmative action plan, containing goals and time specifications, and non-discrimination and accessibility plans and policies regarding services to clients as required under 11 Iowa Admin. Code chapter 121.

**2.12.4.2** The Contractor, its employees, agents, and subcontractors shall also comply with all Applicable Law regarding business permits and licenses that may be required to carry out the work performed under this Contract.

**2.12.4.3** In the event the Contractor contracts with third parties for the performance of any of the Contractor obligations under this Contract as set forth in Section 2.12.9, Use of Third Parties, the Contractor shall take such steps as necessary to ensure such third parties are bound by the terms and conditions contained in this section.

**2.12.4.4** Notwithstanding anything in this Contract to the contrary, the Contractor's failure to fulfill any requirement set forth in this section shall be regarded as a material breach of this Contract and the State may cancel, terminate, or suspend in whole or in part this Contract. The State may further declare the Contractor ineligible for future state contracts in accordance with authorized procedures or the Contractor may be subject to other sanctions as provided by law or rule.

**2.12.5 Procurement.** The Contractor shall use procurement procedures that comply with all applicable federal, state, and local laws and regulations.

**2.12.6 Non-Exclusive Rights.** This Contract is not exclusive. The Agency reserves the right to select other contractors to provide Deliverables similar or identical to those described in the Scope of Work during the entire term of this Contract, which includes any extensions or renewals thereof.

**2.12.7 Amendments.** With the exception of the Contract end date, which may be extended in the Agency's sole discretion, this Contract may only be amended by mutual written consent of the parties. Amendments shall be executed on a form approved by the Agency that expressly states the intent of the parties to amend this

Contract. This Contract shall not be amended in any way by use of terms and conditions in an Invoice or other ancillary transactional document. To the extent that language in a transactional document conflicts with the terms of this Contract, the terms of this Contract shall control.

**2.12.8 No Third Party Beneficiaries.** There are no third party beneficiaries to this Contract. This Contract is intended only to benefit the State and the Contractor.

**2.12.9 Use of Third Parties.** The Agency acknowledges that the Contractor may contract with third parties for the performance of any of the Contractor's obligations under this Contract. The Contractor shall notify the Agency in writing of all subcontracts relating to Deliverables to be provided under this Contract prior to the time the subcontract(s) become effective. The Agency reserves the right to review and approve all subcontracts. The Contractor may enter into these contracts to complete the project provided that the Contractor remains responsible for all Deliverables provided under this Contract. All restrictions, obligations, and responsibilities of the Contractor under this Contract shall also apply to the subcontractors and the Contractor shall include in all of its subcontracts a clause that so states. The Agency shall have the right to request the removal of a subcontractor from the Contract for good cause.

**2.12.10 Choice of Law and Forum.** The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Contract without regard to the conflict of law provisions of Iowa law. Any and all litigation commenced in connection with this Contract shall be brought and maintained solely in Polk County District Court for the State of Iowa, Des Moines, Iowa, or in the United States District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa, wherever jurisdiction is appropriate. This provision shall not be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to the Agency or the State of Iowa.

**2.12.11 Assignment and Delegation.** The Contractor may not assign, transfer, or convey in whole or in part this Contract without the prior written consent of the Agency. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment. The Contractor may not delegate any of its obligations or duties under this Contract without the prior written consent of the Agency. The Contractor may not assign, pledge as collateral, grant a security interest in, create a lien against, or otherwise encumber any payments that may or will be made to the Contractor under this Contract.

**2.12.12 Integration.** This Contract represents the entire Contract between the parties. The parties shall not rely on any representation that may have been made which is not included in this Contract.

**2.12.13 No Drafter.** No party to this Contract shall be considered the drafter of this Contract for the purpose of any statute, case law, or rule of construction that would or might cause any provision to be construed against the drafter.

**2.12.14 Headings or Captions.** The paragraph headings or captions used in this Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.

**2.12.15 Not a Joint Venture.** Nothing in this Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Contract.

**2.12.16 Joint and Several Liability.** If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation, or other business organization, all such entities shall be jointly and severally liable for

carrying out the activities and obligations of this Contract, for any default of activities and obligations, and for any fiscal liabilities.

**2.12.17 Supersedes Former Contracts or Agreements.** This Contract supersedes all prior contracts or agreements between the Agency and the Contractor for the Deliverables to be provided in connection with this Contract.

**2.12.18 Waiver.** Except as specifically provided for in a waiver signed by duly authorized representatives of the Agency and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

**2.12.19 Notice.** Any notices required by the Contract shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to each party's Contract Manager as set forth in the Contract Declarations and Execution Section. From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party. Each such notice shall be deemed to have been provided:

- At the time it is actually received in the case of hand delivery;
- Within one (1) day in the case of overnight delivery, courier or services such as Federal Express with guaranteed next-day delivery; or
- Within five (5) days after it is deposited in the U.S. Mail.

**2.12.20 Cumulative Rights.** The various rights, powers, options, elections, and remedies of any party provided in this Contract, shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled.

**2.12.21 Severability.** If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Contract.

**2.12.22 Time is of the Essence.** Time is of the essence with respect to the Contractor's performance of the terms of this Contract. The Contractor shall ensure that all personnel providing Deliverables to the Agency are responsive to the Agency's requirements and requests in all respects.

**2.12.23 Authorization.** The Contractor represents and warrants that:

**2.12.23.1** It has the right, power, and authority to enter into and perform its obligations under this Contract.

**2.12.23.2** It has taken all requisite action (corporate, statutory, or otherwise) to approve execution, delivery, and performance of this Contract and this Contract constitutes a legal, valid, and binding obligation upon itself in accordance with its terms.

**2.12.24 Successors in Interest.** All the terms, provisions, and conditions of the Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and legal representatives.

**2.12.25 Records Retention and Access.**

**2.12.25.1 Financial Records.** The Contractor shall maintain accurate, current, and complete records of the financial activity of this Contract which sufficiently and properly document and calculate all charges billed to the Agency during the entire term of this Contract, which includes any extensions or renewals thereof, and for a

period of at least seven (7) years following the date of final payment or completion of any required audit (whichever is later). If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the seven (7) year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular seven (7) year period, whichever is later. The Contractor shall permit the Agency, the Auditor of the State of Iowa or any other authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records, or other records of the Contractor relating to orders, Invoices or payments, or any other Documentation or materials pertaining to this Contract, wherever such records may be located. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. Based on the audit findings, the Agency reserves the right to address the Contractor's board or other managing entity regarding performance and expenditures. When state or federal law or the terms of this Contract require compliance with the OMNI Circular, OMB Uniform Guidance: Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards or other similar provision addressing proper use of government funds, the Contractor shall comply with these additional records retention and access requirements:

**2.12.25.1.1** Records of financial activity shall include records that adequately identify the source and application of funds. When the terms of this Contract require matching funds, cash contributions made by the Contractor and third-party in-kind (property or service) contributions, these funds must be verifiable from the Contractor's records. These records must contain information pertaining to contract amount, obligations, unobligated balances, assets, liabilities, expenditures, income, and third-party reimbursements.

**2.12.25.1.2** The Contractor shall maintain accounting records supported by source documentation that may include but are not limited to cancelled checks, paid bills, payroll, time and attendance records, and contract award documents.

**2.12.25.1.3** The Contractor, in maintaining project expenditure accounts, records and reports, shall make any necessary adjustments to reflect refunds, credits, underpayments or overpayments, as well as any adjustments resulting from administrative or compliance reviews and audits. Such adjustments shall be set forth in the financial reports filed with the Agency.

**2.12.25.1.4** The Contractor shall maintain a sufficient record keeping system to provide the necessary data for the purposes of planning, monitoring, and evaluating its program.

**2.12.25.2** The Contractor shall retain all non-medical and medical client records for a period of seven (7) years from the last date of service for each patient; or in the case of a minor patient or client, for a period consistent with that established by Iowa Code § 614.1(9), whichever is greater.

**2.12.26 Audits.**

**2.12.26.1** The Agency may require, at any time and at its sole discretion, that recipients of non-federal and/or federal funds have an audit performed. The Contractor shall submit one (1) copy of the audit report to the Agency within thirty (30) days of its issuance, unless specific exemption is granted in writing by the Agency. The Contractor shall submit with the audit report a copy of the separate letter to management addressing a deficiency in internal control and/or material findings, if provided by the auditor. The Contractor may be required to comply with other prescribed compliance and review procedures.

**2.12.26.2** The Contractor shall be solely responsible for the cost of any required audit unless otherwise agreed in writing by the Agency.

**2.12.26.3 Reimbursement of Audit Costs.** If the Auditor of the State of Iowa notifies the Agency of an issue or finding involving the Contractor's noncompliance with laws, rules, regulations, and/or contractual agreements governing the funds distributed under this Contract, the Contractor shall bear the cost of the Auditor's review and any subsequent assistance provided by the Auditor to determine compliance. The Contractor shall reimburse the Agency for any costs the Agency pays to the Auditor for such review or audit.

**2.12.27 Staff Qualifications and Background Checks.** The Contractor shall be responsible for assuring that all persons, whether they are employees, agents, subcontractors, or anyone acting for or on behalf of the Contractor, are properly licensed, certified, or accredited as required under applicable state law and the Iowa Administrative Code. The Contractor shall provide standards for service providers who are not otherwise licensed, certified, or accredited under state law or the Iowa Administrative Code.

The Agency reserves the right to conduct and/or request the disclosure of criminal history and other background investigation of the Contractor, its officers, directors, shareholders, and the Contractor's staff, agents, or subcontractors retained by the Contractor for the performance of Contract services.

**2.12.28 Solicitation.** The Contractor represents and warrants that no person or selling agency has been employed or retained to solicit and secure this Contract upon an agreement or understanding for commission, percentage, brokerage, or contingency excepting bona fide employees or selling agents maintained for the purpose of securing business.

**2.12.29 Obligations Beyond Contract Term.** All obligations of the Agency and the Contractor incurred or existing under this Contract as of the date of expiration or termination will survive the expiration or termination of this Contract. Contract sections that survive include, but are not necessarily limited to, the following: (1) Section 2.4.2, Erroneous Payments and Credits; (2) Section 2.5.5, Limitation of the State's Payment Obligations; (3) Section 2.5.6, Contractor's Contract Close-Out Duties; (4) Section 2.6, Indemnification, and all subparts thereof; regardless of the date any potential claim is made or discovered by the Agency or any other Identified Party; (5) Section 2.8, Ownership and Security of Agency Information, and all subparts thereof; (6) Section 2.9, Intellectual Property, and all subparts thereof; (7) Section 2.12.10, Choice of Law and Forum; (8) Section 2.12.16, Joint and Several Liability; (9) Section 2.12.20, Cumulative Rights; (10) Section 2.12.24 Successors In Interest; (11) Section 2.12.25, Records Retention and Access, and all subparts thereof; (12) Section 2.12.26, Audits; (13) Section 2.12.34, Repayment Obligation and (14) Section 2.12.37, Use of Name or Intellectual Property.

**2.12.30 Counterparts.** The parties agree that this Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

**2.12.31 Delays or Potential Delays of Performance.** Whenever the Contractor encounters any difficulty which is delaying or threatens to delay the timely performance of this Contract, including but not limited to potential labor disputes, the Contractor shall immediately give notice thereof in writing to the Agency with all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery schedule or be construed as a waiver by the Agency or the State of any rights or remedies to which either is entitled by law or pursuant to provisions of this Contract. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery schedule because of such delay. Furthermore, the Contractor will not be excused from failure to perform that is due to a Force Majeure unless and until the Contractor provides notice pursuant to this provision.

**2.12.32 Delays or Impossibility of Performance Based on a Force Majeure.** Neither party shall be in default under the Contract if performance is prevented, delayed, or made impossible to the extent that such prevention, delay, or impossibility is caused by a force majeure. The term "force majeure" as used in this Contract includes

an event that no human foresight could anticipate or which if anticipated, is incapable of being avoided. Circumstances must be abnormal and unforeseeable, so that the consequences could not have been avoided through the exercise of all due care, such as acts of God, war, civil disturbance and other similar causes. The delay or impossibility of performance must be beyond the control and without the fault or negligence of the parties. "Force majeure" does not include: financial difficulties of the Contractor or any parent, subsidiary, affiliated or associated company of the Contractor; claims or court orders that restrict the Contractor's ability to deliver the Deliverables contemplated by this Contract; strikes; labor unrest; or supply chain disruptions.

If a delay results from a subcontractor's conduct, negligence or failure to perform, the Contractor shall not be excused from compliance with the terms and obligations of the Contract unless the subcontractor or supplier is prevented from timely performance by a Force Majeure as defined in this Contract.

If a Force Majeure delays or prevents the Contractor's performance, the Contractor shall immediately use its best efforts to directly provide alternate, and to the extent possible, comparable performance. Comparability of performance and the possibility of comparable performance shall be determined solely by the Agency.

The party seeking to exercise this provision and not perform or delay performance pursuant to a Force Majeure shall immediately notify the other party of the occurrence and reason for the delay. The parties shall make every effort to minimize the time of nonperformance and the scope of work not being performed due to the unforeseen events. Dates by which performance obligations are scheduled to be met will be extended only for a period of time equal to the time lost due to any delay so caused.

**2.12.33 Right to Address the Board of Directors or Other Managing Entity.** The Agency reserves the right to address the Contractor's board of directors or other managing entity of the Contractor regarding performance, expenditures, and any other issue the Agency deems appropriate.

**2.12.34 Repayment Obligation.** In the event that any State and/or federal funds are deferred and/or disallowed as a result of any audits or expended in violation of the laws applicable to the expenditure of such funds, the Contractor shall be liable to the Agency for the full amount of any claim disallowed and for all related penalties incurred. The requirements of this paragraph shall apply to the Contractor as well as any subcontractors.

**2.12.35 Immunity from Liability.** Every person who is a party to the Contract is hereby notified and agrees that the State, the Agency, and all of their employees, agents, successors, and assigns are immune from liability and suit for or from the Contractor's and/or subcontractors' activities involving third parties and arising from the Contract.

**2.12.36 Public Records.** The laws of the State require procurement and contract records to be made public unless otherwise provided by law.

**2.12.37 Use of Name or Intellectual Property.** The Contractor agrees it will not use the Agency and/or State's name or any of their intellectual property, including but not limited to, any State, state agency, board or commission trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of the Agency and/or the State.

**2.12.38 Taxes.** The State is exempt from Federal excise taxes, and no payment will be made for any taxes levied on the Contractor's employees' wages. The State is exempt from State and local sales and use taxes on the Deliverables.

**2.12.39 No Minimums Guaranteed.** The Contract does not guarantee any minimum level of purchases or any minimum amount of compensation.

**2.12.40 Conflict of Interest.** The Contractor represents, warrants, and covenants that no relationship exists or will exist during the Contract period between the Contractor and the Agency that is a conflict of interest. No employee, officer, or agent of the Contractor or subcontractor shall participate in the selection or in the award or administration of a subcontract if a conflict of interest, real or apparent, exists. The provisions of Iowa Code chapter 68B shall apply to this Contract. The Contractor shall establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by the desire for private gain for themselves or others with whom they have family, business, or other ties.

In the event the Contractor becomes aware of any circumstances that may create a conflict of interest the Contractor shall immediately take such actions to mitigate or eliminate the risk of harm caused by the conflict or appearance of conflict. The Contractor shall promptly, fully disclose and notify the Agency of any circumstances that may arise that may create a conflict of interest or an appearance of conflict of interest. Such notification shall be submitted to the Agency in writing within seven (7) Business Days after the conflict or appearance of conflict is discovered.

In the event the Agency determines that a conflict or appearance of a conflict exists, the Agency may take any action that the Agency determines is necessary to mitigate or eliminate the conflict or appearance of a conflict. Such actions may include, but are not limited to:

**2.12.40.1** Exercising any and all rights and remedies under the Contract, up to and including terminating the Contract with or without cause; or

**2.12.40.2** Directing the Contractor to implement a corrective action plan within a specified time frame to mitigate, remedy and/or eliminate the circumstances which constitute the conflict of interest or appearance of conflict of interest; or

**2.12.40.3** Taking any other action the Agency determines is necessary and appropriate to ensure the integrity of the contractual relationship and the public interest.

The Contractor shall be liable for any excess costs to the Agency as a result of the conflict of interest.

**2.12.41 Certification Regarding Sales and Use Tax.** By executing this Contract, the Contractor certifies it is either (1) registered with the Iowa Department of Revenue, collects, and remits Iowa sales and use taxes as required by Iowa Code chapter 423; or (2) not a “retailer” or a “retailer maintaining a place of business in this state” as those terms are defined in Iowa Code § 423.1(42) and (43). The Contractor also acknowledges that the Agency may declare the Contract void if the above certification is false. The Contractor also understands that fraudulent certification may result in the Agency or its representative filing for damages for breach of contract.

## SECTION 3: CONTINGENT TERMS FOR SERVICE CONTRACTS

**3.1 Federal Certifications and Terms.** The following terms apply, to the extent applicable by law, when the Contract is funded with any federal funds.

**3.1.1 Certification of Compliance with Pro-Children Act of 1994.** The Contractor must comply with Public Law 103-227, Part C Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act). This Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the Deliverables are funded by federal programs either directly or through State or local governments. Federal programs include grants, cooperative agreements, loans or loan guarantees, and contracts. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities (other than clinics) where Women, Infants, and Children (WIC) coupons are redeemed.

The Contractor further agrees that the above language will be included in any subawards that contain provisions for children's services and that all subgrantees shall certify compliance accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to \$1,000.00 per day.

### **3.1.2 Certification Regarding Drug Free Workplace**

**3.1.2.1 Requirements for Contractors Who are Not Individuals.** If the Contractor is not an individual, the Contractor agrees to provide a drug-free workplace by:

**3.1.2.1.1** Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

**3.1.2.1.2** Establishing a drug-free awareness program to inform employees about:

- The dangers of drug abuse in the workplace;
- The Contractor's policy of maintaining a drug-free workplace;
- Any available drug counseling, rehabilitation, and employee assistance programs; and
- The penalties that may be imposed upon employees for drug abuse violations;

**3.1.2.1.3** Making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by Subsection 3.1.2.1.1;

**3.1.2.1.4** Notifying the employee in the statement required by Subsection 3.1.2.1.1 that as a condition of employment on such contract, the employee will:

- Abide by the terms of the statement; and
- Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

**3.1.2.1.5** Notifying the contracting agency within ten (10) days after receiving notice under the second unnumbered bullet of Subsection 3.1.2.1.4 from an employee or otherwise receiving actual notice of such conviction;

**3.1.2.1.6** Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by 41 U.S.C. § 8104; and

**3.1.2.1.7** Making a good faith effort to continue to maintain a drug-free workplace through implementation of this subsection.

**3.1.2.2 Requirement for Individuals.** If the Contractor is an individual, by signing the Contract, the Contractor agrees not to engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the Contract.

**3.1.2.3 Notification Requirement.** The Contractor shall, within thirty (30) days after receiving notice from an employee of a conviction pursuant to 41 U.S.C. § 8102(a)(1)(D)(ii) or 41 U.S.C. § 8103(a)(1)(D)(ii):

**3.1.2.3.1** Take appropriate personnel action against such employee up to and including termination; or

**3.1.2.3.2** Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

**3.1.3 Equal Employment Opportunity.** If this Contract is a “federally assisted construction contract” as defined in 41 C.F.R. part 60-1.3, and except as otherwise may be provided under 41 C.F.R. part 60, this Contract includes, by reference, the equal opportunity clause provided under 41 C.F.R. 60–1.4(b) in accordance with Executive Order 11246, Equal Employment Opportunity (30 C.F.R. 12319, 12935, 3 C.F.R. 1964–1965 Comp., p. 339) as amended by Executive Order 11375 amending Executive Order 11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 C.F.R. part 60.

**3.1.4 Davis-Bacon Act, as amended.** When required by federal program legislation, the Contractor (and its subcontractors) for prime construction contracts in excess of \$2,000 must comply with the Davis-Bacon Act (40 U.S.C. §§ 3141-3148) as supplemented by Department of Labor regulations (29 C.F.R. Part 5). In accordance with the statute, among other things, contractors must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor and are required to pay wages not less than once a week.

**3.1.5 Copeland “Anti-Kickback” Act.** If applicable, the Contractor must comply with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. part 3), which prohibits the Contractor and subrecipients from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

**3.1.6 Contract Work Hours and Safety Standards Act.** Where applicable, if this Contract is in excess of \$100,000 and involves the employment of mechanics or laborers, the Contractor shall comply with 40 U.S.C. §§ 3702 and 3704 as supplemented by Department of Labor regulations (29 C.F.R. part 5). Under 40 U.S.C. § 3702, each contractor must compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**3.1.7 Rights to Inventions Made Under a Contract or Agreement.** If this Contract is funded by a federal “funding agreement” as defined under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with 37 C.F.R. part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements,” and any implementing regulations issued by the federal awarding agency.

**3.1.8 Clean Air Act.** If this Contract is in excess of \$150,000, the Contractor must comply with all applicable standards, orders, and regulations issued under the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387). Violations must be reported to the federal awarding agency and the regional office of the Environmental Protection Agency.

**3.1.9 Debarment and Suspension.**

**3.1.9.1 Contract Award.** A “contract award” (see 2 C.F.R. § 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. part 180 that implement Executive Orders 12549 (3 C.F.R. part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**3.1.9.2 Certification Related to Debarment and Suspension.** If this is a covered transaction, the Contractor certifies to the best of its knowledge and belief that it and its principals and subcontractors are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency.

This certification is a material representation of fact upon which reliance was placed when the Agency determined to enter into this transaction. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available at law or by contract, the Agency may terminate this Contract.

The Contractor shall provide immediate written notice to the Agency if it has been debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any federal department or agency. The terms “covered transaction,” “debarment,” “suspension,” “ineligible,” “lower tier covered transaction,” “principal,” and “voluntarily excluded,” as used in this section, have the meanings set out in 2 C.F.R. part 180.

The Contractor agrees that it will include this certification in all lower tier covered transactions and subcontracts.

**3.1.10 Restriction on Lobbying.**

The Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352), sets conditions on the use of Federal funds supporting this Contract. The Contractor shall comply with all requirements of 45 C.F.R. part 93, which are incorporated herein as if fully set forth. No appropriated funds supporting this Contract may be expended by the Contractor for payment of any person for influencing or attempting to influence an officer or employee of any agency (as defined in 5 U.S.C. § 552(f)), a member of Congress in connection with the award of this Contract, the making of any federal funding grant award connected to this Contract, the making of any Federal loan connected to this Contract, the entering into any cooperative agreement connected to this Contract, and the extension, continuation, or modification of this Contract.

**3.1.10.1** Contractors that apply or bid for an award exceeding \$100,000 shall file with the Agency a certification form, set forth in Appendix A of 45 C.F.R. part 93, certifying the Contractor, including any subcontractor(s) at all

tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) have not made, and will not make, any payment prohibited under 45 C.F.R. § 93.100.

**3.1.10.2** The Contractor shall file with the Agency a disclosure form, set forth in Appendix B of 45 C.F.R. part 93, in the event the Contractor or subcontractor(s) at any tier (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) has made or has agreed to make any payment using non-appropriated funds, including profits from any covered Federal action, which would be prohibited under 45 C.F.R. § 93.100 if paid for with appropriated funds. All disclosure forms shall be forwarded from tier to tier until received by the Contractor and shall be treated as a material representation of fact upon which all receiving tiers shall rely.

**3.1.10.3** The Contractor shall file with the Agency subsequent disclosure forms at the end of each calendar quarter in which there occurs any event that requires disclosure or materially affects the accuracy of the information contained in any disclosure form previously filed. Such events include:

**3.1.10.3.1** A cumulative increase of \$25,000 or more in the amount paid or expected to be paid to influence a covered Federal action;

**3.1.10.3.2** A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; and

**3.1.10.3.3** A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

**3.1.10.3.4** The Contractor may be subject to civil penalties if the Contractor fails to comply with the requirements of 45 C.F.R. part 93. An imposition of a civil penalty does not prevent the Agency from taking appropriate enforcement actions which may include, but not necessarily be limited to, termination of the Contract.

**3.1.10.4** To fulfill the certification requirement in 45 C.F.R. part 93, the Contractor certifies to the following by entering into this Contract:

**3.1.10.4.1** Certification for Contracts, Grants, Loans, and Cooperative Agreements  
The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 1 for each such failure.

#### **3.1.10.4.2 Statement for Loan Guarantees and Loan Insurance**

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**3.1.11 Procurement of Recovered Materials.** The Contractor must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

#### **3.1.12 Federal Licenses.**

**3.1.12.1 Licensing.** If all or a portion of the funding used to pay for the Deliverables is being provided through a grant from the federal government, the Contractor acknowledges and agrees that pursuant to applicable federal laws, regulations, circulars, and bulletins, the federal awarding agency reserves certain rights including, without limitation, a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes, the Deliverables developed under this Contract and the copyright in and to such Deliverables.

**3.1.12.2 Software Ownership Rights and Federal License.** The Contractor shall ensure that the Agency has all ownership rights in software or modifications thereof and associated documentation designed, developed or installed pursuant to the Contract. The federal government reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for federal government purposes, software and associated documentation designed, developed or installed in whole or in part with federal funds pursuant to this Contract.

**3.1.13 Audits of Federally-Funded Contracts: Audit of Non-Federal Entity.** Non-federal entities, as that term is defined in 45 C.F.R. § 75.2, that expend \$750,000 or more in a fiscal year in federal awards (from all sources) shall have a single audit conducted for that year in accordance with the provisions of OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements. Single audits must be completed and the data collection form and reporting package must be submitted electronically to the Federal Audit Clearinghouse within the earlier of thirty (30) calendar days after the Contractor’s receipt of the auditor’s report(s), or nine months after the end of the audit period. The Contractor shall submit to the Agency one (1) copy of the separate letter to management addressing material findings, if provided by the auditor, promptly following receipt by Contractor. The Contractor shall also submit one (1) copy of the final audit report to the Agency within thirty

(30) days after the Contractor's receipt thereof, if either the schedule of findings and questioned costs or the summary schedule of prior audit findings includes any audit findings related to federal awards provided by the Agency. The requirements of this subsection shall apply to the Contractor as well as any subcontractors.

When internal control over some or all of the compliance requirements for a major program are likely to be ineffective in preventing or detecting noncompliance, the planning and performing of testing are not required for those compliance requirements. However, the auditor must report a significant deficiency or material weakness in accordance with § 200.516 Audit findings, assess the related control risk at the maximum, and consider whether additional compliance tests are required because of ineffective internal control.

The Contractor shall be solely responsible for the cost of any required audit unless otherwise agreed in writing by the Agency.

**3.1.14 Food and Nutrition Services Funded Contract.** If applicable, the Contractor shall comply with the requirements of the USDA's regulation regarding nondiscrimination (7 C.F.R. parts 15, 15b), Title VI of the Civil Rights Act of 1964 (Public Law 83-352), section 11(c) of the Food Stamp Act of 1977, as amended, the Food Stamp Act of 1977, as amended, the Age Discrimination, Act of 1975 (Public Law 95-135) and the Rehabilitation Act of 1973 (Public Law 93-112, section 504) and all requirements imposed by regulations issued pursuant to these Acts by the Department of Agriculture to the effect that, no person in the United States shall, on the grounds of race, color, age, political belief, religion, handicap, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under the Food Stamp Program.

**3.2 Business Associate Agreement.** If the Contractor acts as the Agency's Business Associate and performs certain services on behalf of or for the Agency pursuant to this Contract that involves information that is protected by the Health Insurance Portability and Accountability Act of 1996, as amended, and the federal regulations published at 45 C.F.R. part 160 and 164, then the Contractor is the Agency's Business Associate. By signing this Contract, the Business Associate certifies it will comply with the Business Associate Agreement Addendum ("BAA"), and any amendments thereof, as posted to the Agency's website: <http://dhs.iowa.gov/HIPAA/baa>. This BAA, and any amendments thereof, is incorporated into the Contract by reference.

By signing this Contract, the Business Associate consents to receive notice of future amendments to the BAA through electronic mail. The Business Associate shall file and maintain a current electronic mail address with the Agency for this purpose. Notwithstanding anything to the contrary in the Contract, the Agency may amend the BAA by posting an updated version of the BAA on the Agency's website at: <http://dhs.iowa.gov/HIPAA/baa>, and providing the Business Associate electronic notice of the amended BAA. The Business Associate shall be deemed to have accepted the amendment unless the Business Associate notifies the Agency of its non-acceptance in accordance with the Notice provisions of the Contract within 30 days of the Agency's notice referenced herein. Any agreed alteration of the then current Agency BAA shall have no force or effect until the agreed alteration is reduced to a Contract amendment that must be signed by the Business Associate, Agency Director, and the Agency Security and Privacy Officer.

If there is a conflict between the BAA and provisions in Section 2.8, Ownership and Security of Agency Information, the provisions in the BAA shall control.

**3.3 Reserved. (Qualified Service Organization)**

**3.4 Reserved. (Certification Regarding Iowa Code Chapter 8F)**

**3.5 Reserved. (Software Contracts)**



## **SPECIAL CONTRACT ATTACHMENTS**

The Special Contract Attachments in this section are a part of the Contract.

N/A

## Linn County Post-Bid General Contractor Quality Assurance Questionnaire

### Name and number of project

Pursuant to Iowa Code §26.9, which requires that contracts for public improvements be awarded to the "lowest responsive, responsible bidder," and in accordance with Iowa court decisions allowing public entities to consider factors other than price in determining who is the lowest responsible bidder, the Linn County Board of Supervisors does hereby provide the following Questionnaire to General Contractor who has been identified as the apparent low bidder on this project. The fully completed Questionnaire, with attachments, shall be submitted within 14 calendar days of notification to the apparent low bidder. Contractors who do not complete the following questionnaire are subject to being deemed "non-responsive."

1. Full name of Bidder \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_  
Email \_\_\_\_\_

List all other names under which Bidder has operated in the past five (5) years

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Please provide with this Questionnaire the name, address, phone number and name of contact for three (3) entities which will provide references for the Bidder.

Provide Bidder's contractor registration number and full names of registration holders as per Iowa Construction Contractor Registration requirements

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Contractor Registration expiration date \_\_\_\_\_

2. Has the Bidder's contractor registration ever been suspended or revoked in any jurisdiction  
Yes ☐ No ☐

If yes, attach information regarding suspension/revocation and all relevant documents

Within the past three (3) years, has Bidder been debarred by any federal, state or local governmental entity from bidding on projects

Yes ☐ No ☐

If yes, attach information related to the debarment

Does Bidder attest that it will comply with each of the following:

Iowa's Minimum Wage Law

Yes ☐ No ☐

Maintain workers' compensation insurance or be qualified as a self-insurer and provide proof of insurance or ability to self-insure

Yes ☐ No ☐

2. On a separate sheet, list construction projects in excess of \$1 million value that Bidder has in progress. Provide the name of the project, owner, architect, contract amount, key Bidder personnel, percent complete and scheduled completion date.

On a separate sheet, list the projects in excess of \$1 million value Bidder has completed in the past three (3) years. Provide the name of the project, owner, architect, contract amount, officer in charge, project manager, project superintendent and any other key personnel, date of completion and percentage of the total project performed by your own employees.

On a separate sheet, identify the individuals Bidder intends to be the officer in charge, project manager, project superintendent and any other key personnel on this project. Include a resume and/or recent work history for each identified individual.

*4 points*

3. On a separate sheet, list the Bidder's last five (5) completed projects and for each the scheduled completion date and final completion date, noting any owner approved extensions.

*4 points*

4. Within the past three (3) years has Bidder defaulted on a contract or been disqualified, removed or otherwise prevented from bidding on or completing any project

Yes ☐ No ☐

If yes, provide the year of the incident, name, address and telephone number of the owner of the project, project name and location.

Has Bidder ever been unable to obtain a bond or been denied a bond?

Yes ☐ No ☐

If yes, please provide all relevant details.

Within the past five (5) years has Bidder ever failed to complete any work awarded to it?

Yes ☐ No ☐

If yes, provide all relevant details.

*10 points*

5. Is Bidder currently being investigated for, or within the past five (5) years been found to have been in violation of any of the following state or federal laws: Iowa Minimum Wage Act; Iowa Non-English Speaking Employees Act; Iowa Child Labor Act; Iowa Labor Commissioner's Right to Inspect Premises; Iowa Compensation Insurance Act; Iowa Employment Security Act; Iowa Competition Act; Iowa Income, Corporate and Sales Tax Code; a "willful" violation of the Iowa or Federal Occupational Safety and Health Act; Iowa Employee Registration Requirements; Iowa Hazardous Chemical Risks Act; Iowa Wage Payment Collection Act; Federal Income and Corporate Tax Code; the National Insurance and Social Security Act; the Fair Labor Standard Act.

Yes ☐ No ☐

If yes, please explain

Has Bidder been found by a court or agency of competent jurisdiction to be delinquent in meeting its obligations under local, state or federal tax laws within the last five (5) years? (delinquent shall include, but not be limited to failure to file, failure to pay or imposition of tax liens)

Yes ☐ No ☐

Are there any judgements, arbitration proceedings or suits pending or outstanding against Bidder or its officers that relate to, arise out of, or are in the course of the Bidder's business

Yes ☐ No ☐

If yes, provide relevant details

25 points

6. Does Bidder affirm that it will retain only Subcontractors who can fully comply with the bid specifications, including those that address requirements concerning the Subcontractor Quality Assurance Bid Requirements

Yes ☐ No ☐

Does Bidder affirm that it will be responsible for ensuring that each Subcontractor meets the Subcontractor Quality Assurance Bid Requirements

Yes ☐ No ☐

Please submit a list of intended Subcontractors for any work that will be assigned, sublet or subcontracted by the Bidder in excess of \$25,000 at the time of the bid. In the event Contractor wishes to replace any originally designated Subcontractor or add a Subcontractor, such may only occur with the approval of Linn County. Such approval will not be unreasonably withheld. Properly license Bidder employees with the appropriate licensing authority.

Yes ☐ No ☐

21 points

7. Will Bidder make available to Linn County, or its representative(s), upon request, documentation to satisfy the County, in the County's sole discretion, that the Bidder's workers utilized on this project are actual employees, with unemployment and workers compensation coverage, not "leased employees" or independent contractors

Yes ☐ No ☐

Please provide contact information (name, company, address phone number) for three (3) entities which will provide references for the Bidder.

Will Bidder only utilize on-site employees who have completed the OSHA 10-hour Construction Industry Training Program

Yes ☐ No ☐

If yes, provide Contractor's Federal ID Number \_\_\_\_\_  
Provide name and address of Contractor's Registered Agent \_\_\_\_\_

21 points

I hereby certify on behalf of the Bidder that (1) all of the information provided by me in this Questionnaire is true and correct to the best of my knowledge; (2) I am authorized to sign this Questionnaire on behalf of the Bidder whose name appears in Question #1; (3) if any of the information I have provided herein becomes inaccurate, prior to execution of any project contract, I will immediately provide the Linn County Policy & Administration Director with updated accurate information in writing; and (4) I hereby authorize any person or entity named herein to provide the Purchasing Services with whatever information might be required to verify this Questionnaire.

Name of Bidder \_\_\_\_\_

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

Signature of Authorized Representative

\_\_\_\_\_ Title

\_\_\_\_\_ Type/Print Name

\_\_\_\_\_ Date

STATE OF IOWA, County, ss: \_\_\_\_\_

Subscribed and sworn to before me by the said \_\_\_\_\_

On this date of \_\_\_\_\_ 2021

\_\_\_\_\_  
Notary Public in and for the State of Iowa

\_\_\_\_\_  
Contractor Name

## **Linn County Post-Bid Subcontractor Quality Assurance Bid Requirements**

**Name and number of project**

The following requirements are intended to be included in the Quality Assurance sections of the Bid Specifications which the General Contractor will, along with all other quality assurance requirements, be required to manage.

### **FOR ALL SUBCONTRACTORS**

Subcontractor must not be under current investigation for or previously have been found to have violated in the last five (5) years any of the following state or federal laws: Iowa Minimum Wage Act; Iowa Non-English Speaking Employees Act; Iowa Child Labor Act; Iowa Labor Commissioner's Right to Inspect Premises; Iowa Compensation Insurance Act; Iowa Employment Security Act; Iowa Competition Act; Iowa Income, Corporate and Sales Tax Code; a "willful" violation of the Iowa or Federal Occupational Safety and Health Act; Iowa Employee Registration Requirements; Iowa Hazardous Chemical Risks Act; Iowa Wage Payment Collection Act; Federal Income and Corporate Tax Code; The National Insurance and Social Security Act; and The Fair Labor Standards Act.

Subcontractors will only utilize Subcontractor on-site employees that have completed the Occupational Safety and Health Act (OSHA) 10-hour Construction Industry Training Program.

Subcontractor must properly license employees with the appropriate licensing authority.

Subcontractor at all levels, that is even a Subcontractor of a Subcontractor, will only utilize workers on this project that have unemployment and workers compensation coverage provided by the Subcontractor by which the worker is employed. Subcontractor will make available to General Contractor such documentation that is necessary to satisfy General Contractor that the Subcontractor is in compliance with this provision.

Subcontractor is not required to use apprentices on this project. If Subcontractor chooses to employ apprentices on this project, Subcontractor must provide, upon request of the General Contractor, evidence that each of the apprentices on this project is participating in and registered with a DOL-approved apprentice or training program or substantially equivalent apprenticeship or training program

## **A list of things a Legitimate Contractor should be performing.**

### **Applies to all Prime Contractors and their Subcontractors.**

- Must be a Legitimate Business;
  - o Registered with the State on Secretary of State Website as a Business.
  - o Registered as a Contractor on Iowa Workforce Development Website.
    - Contractor's License.
  - o Must be able to obtain required Bid Bond.
  - o Pay employees as employee's not as subcontractors, No 1099 Employee's.
    - Certified Payroll will be required if needed.
  - o Any Employee's classified as Apprentices must be enrolled in a Registered D.O.L. Apprenticeship program.
- Must have a Legitimate Safety Program following OSHA regulations;
  - o Foreman/Leadership on Jobs, 30 Hour OSHA.
  - o Workers/Employee's on jobs, 10 Hour OSHA.
    - Minimum for all employees.
  - o Annual Employee Training in any work tasks that you perform, examples are as follows,
    - Aerial Lifts
    - Arc Flash Hazards
    - Asbestos Awareness Training
    - Confined Space
    - Drug & Alcohol Awareness Supervisor Training
    - Electrical Safety Lockout/Tagout
    - Fall Protection
    - Forklift Safety
    - Hot Work
    - Personal Protective Equipment
    - Scaffold User Safety
    - S.D.S. Compliance, Safety Data Sheets
- Drug Testing Program.
  - o 5 panel test Minimum, 10 panel test Preferred.
- Background Checks.
  - o Who is truly on your Jobsite?
  - o Responsibility of who is on the Jobsite.
    - Badging?
- State Licensing in Craft if required by State Law.