

RFP Issue Date: October 1, 2009

**REQUEST FOR PROPOSALS  
No. ESD7387ABonin100082**

**NOTICE TO VENDORS**

**The Iowa Department of Natural Resources (DNR)**  
will be receiving sealed proposals until **4:30 PM central time**  
**on November 6, 2009** for a  
**Service Contract for**  
**Preparing a**  
**Raccoon River Basin Water Quality Master Plan**

Late proposals will not be considered. For information regarding this notice, and throughout the competitive acquisition process, interested service providers shall contact only the **Issuing Officer**:

Allen Bonini, Section Supervisor  
Iowa Department of Natural Resources  
Watershed Improvement Section  
502 E. 9<sup>th</sup> Street  
Des Moines, IA 50319  
Phone: 515.281.5107  
Fax: 515.281.8895  
Email: [allen.bonini@dnr.iowa.gov](mailto:allen.bonini@dnr.iowa.gov)

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**VENDORS ARE CAUTIONED TO FOLLOW ALL DIRECTIONS  
IN THIS RFP OR RISK DISQUALIFICATION**

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## **CHAPTER 1 ADMINISTRATIVE ISSUES**

### **1.1 Purpose**

The purpose of this Request for Proposals (RFP) is to solicit proposals from qualified service providers to lead a process to develop a Water Quality Master Plan for the Raccoon River Basin in Iowa. This Master Plan is intended to identify and recommend institutional structure(s), funding mechanisms, and overarching actions needed to address the identified primary water quality-based concerns within the Raccoon River Basin. This Master Plan may also serve as a model for developing other basin plans within the state.

### **1.2 Background Information**

This Master Plan is intended to serve as a road map for how to get from today's water quality-related problems in the Raccoon River Basin to tomorrow's solutions. The creation and implementation of this regionally-led Water Quality Master Plan can become the foundation for long-term success in developing and implementing environmentally sound and economically sustainable watershed and water quality improvement efforts needed in the Raccoon River Basin. By using the most up-to-date and complete scientific information available and by actively engaging interested stakeholders in the planning process, this Master Plan should serve to identify Raccoon River Basin water quality improvement goals and objectives, why they are needed, what steps are necessary to achieve those goals and objectives, what institutional and funding arrangements are needed to effectively and sustainably execute the Master Plan, and where to use best available watershed and water quality improvement practices in a strategic manner to achieve the plan's goals.

This RFP is designed to provide vendors with information necessary for the preparation of competitive bid proposals. The RFP process is for the DNR's benefit and is intended to provide the DNR with competitive information to assist in the selection process. It is not intended to be comprehensive. Each vendor is responsible for determining all factors necessary for submission of a comprehensive bid proposal. Vendors should be aware of the limitations of the project scope, timeline and state resources participating when completing their proposal.

#### **1.2.1 Authorization**

Activities envisioned through this RFP are authorized under Public Law 111-5, the American Recovery and Reinvestment Act of 2009 (ARRA) and are supported using funds reserved under Section 604(b) of the Clean Water Act (CWA) to carry out planning under Section 205(j) and 303(e) of the CWA. In addition, activities are supported through grant funds provided by the Environmental Protection Agency under the Section 319 Nonpoint Source Program.

#### **1.2.2 Eligible Vendors**

In accordance with Section 205(j) of the Clean Water Act, eligible vendors include any regional public comprehensive planning organization (RPCPO). For the purposes of this Request for Proposals RPCPOs include, but are not limited to, any entity organized under an agreement as authorized by Iowa Code Chapter 28E, Resource Conservation and Development councils, councils of government, regional planning commissions, community colleges, colleges or universities.

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Final determination as to eligibility shall rest with the Iowa Department of Natural Resources (DNR) and shall be at the sole discretion of DNR. For clarification on eligibility requirements please contact the DNR Issuing Officer.

### **1.2.3 Award Limits**

The DNR will award a single grant in the minimum amount of \$164,303, with a maximum grant amount not to exceed \$250,000 to a single eligible and selected RPCPO.

### **1.2.4 River Basin Eligibility**

Eligibility for this grant is limited to RPCPOs that intend to develop a Water Quality Master Plan for the Raccoon River Basin only. All eligible vendors must intend to develop a Master Plan that addresses the entire Raccoon River Basin.

### **1.2.5 Project Duration**

The Raccoon River Basin Water Quality Master Planning grant awarded through this RFP shall expire no later than June 30, 2011.

### **1.2.6 Cost-Share (Match) Requirements**

There are no cost-share match requirements to be eligible for this grant. However, proposals offering matching funds will be given additional favorable consideration.

### **1.2.7 Eligible Expenses**

Eligible expenses for these grant funds include: staffing costs directly related to Master Plan development, Master Plan information and education activities costs, local stakeholder group facilitation costs as part of Master Plan development activities, subcontractor costs to assist with Master Plan development, and related project travel costs.

### **1.2.8 Ineligible Expenses**

Ineligible expenses for these grant funds include any expenses not listed as eligible expenses in the previous section, and include, but are not limited to: food and beverages, taxes, overhead expenses, indirect costs and office expenses not directly related to project implementation.

### **1.2.9 Award Disbursement and Reporting Requirements**

The vendor selected for funding will enter into a contract with the DNR. The length of the **contract will be through no later than June 30, 2011** and will depend upon the activities proposed by the vendor and approved by the DNR. The contract will specify that the vendor provide the DNR with periodic project updates as a condition of completing the grant. Reporting requirements will include providing all reports required by the US Environmental Protection Agency under authority of the ARRA and the Section 319 Nonpoint Source Program, and will include, but may not be limited to, quarterly reporting of estimates of jobs created and jobs retained by the project, project expenditures, planning activities and accomplishments, and completion status of the project. The vendor shall also be required to comply with all other relevant requirements of the ARRA and other relevant federal statutes, rules and regulations as they pertain to the use of federal funds authorized under Section 604(b) of the CWA. The vendor must also prepare and submit a Raccoon River Water Quality Master Plan, as well as an Executive Summary of the Master Plan to the DNR. All information submitted as part of the grant will be considered public information, unless otherwise provided by law.

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### 1.3 Inquiries and Communications

All inquiries and communications concerning this RFP shall be submitted in writing to the Issuing Officer:

Allen Bonini, Section Supervisor  
Iowa Department of Natural Resources  
Watershed Improvement Section  
502 E. 9<sup>th</sup> Street  
Des Moines, IA 50319  
Phone: 515.281.5107  
Fax: 515.281.8895  
Email: [allen.bonini@dnr.iowa.gov](mailto:allen.bonini@dnr.iowa.gov)

During the procurement, including any period of evaluation, vendors shall contact **only** the Issuing Officer regarding this RFP. Discussing the RFP with any other State employee until the State issues a Notice of Intent to Award may result in disqualification.

In NO CASE shall verbal communications override written communications. Only written communications are binding on the State.

The State assumes no responsibility for representations concerning conditions made by its officers or employees prior to the execution of a legal contract, unless such representations are specifically incorporated into this RFP or written addenda to the RFP. Verbal discussions pertaining to modifications or clarifications of this RFP shall not be considered part of the RFP unless confirmed in writing. Any information provided by the vendor verbally shall not be considered part of that vendor's proposal. The vendor must submit information in writing for the information to be considered a part of the proposal.

### 1.4 Schedule of Events

#### Summary of Schedule of Events

<b>Event</b>	<b>Date</b>
Mandatory Vendors' Conference	<b>2:30 PM, October 15, 2009</b>
Mandatory Letters of Intent to Propose Due	<b>October 20, 2009</b>
Written Questions and Requests for Clarification Due	<b>4:30 PM, October 22, 2009</b>
Answers to Written Questions Issued	<b>October 27, 2009</b>
Proposals Due	<b>4:30 PM, November 6, 2009</b>
Vendor Interviews (if needed)	<b>Week of November 30, 2009</b>
Contract Execution	<b>In order to ensure compliance with the ARRA statutory deadline, a contract will be executed in late January 2010.</b>

**Please note that all times listed are Central (Iowa) time.**

#### 1.4.1 Mandatory Vendors' Conference

A **mandatory** vendors' conference will be held on October 15, 2009 at 2:30 PM central time, at the DNR 5<sup>th</sup> Floor Conference Room, Wallace Building, 502 East 9<sup>th</sup> Street, Des

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Moines, Iowa. ( [Directions to Wallace Office Building and Parking](#) ) The purpose of the vendors' conference is to allow prospective vendors an opportunity to ask questions regarding the RFP. Each vendor is responsible for determining all factors necessary for submission of a comprehensive proposal. The vendors' conference shall not be recorded. Nothing orally said at the vendors' conference shall be binding upon the State or DNR.

### 1.4.2 Questions and Requests for Clarification

Prospective vendors are invited to submit **written questions and requests for interpretation or clarification** concerning this RFP. The questions and requests for clarification must be in writing and received by the Issuing Officer no later than 4:30 PM, central time on October 22, 2009.

If the questions or requests for clarification pertain to a specific portion of the RFP, then the page(s) and section number(s) must be referenced.

Written responses to timely questions and timely requests for clarification will be issued no later than October 27, 2009, to all vendors who submit a Letter of Intent to Propose. DNR's written responses will NOT be considered part of the RFP unless the RFP is amended to address the issues raised in the questions.

Oral questions will not be permitted. In no case shall oral communication override written communication(s) issued by the DNR.

### 1.4.3 Mandatory Letters of Intent to Propose

Prospective vendors **must** submit a written '**Intent to Propose**' letter by October 20, 2009. Submitting an 'Intent to Propose' does not obligate the vendor to submit a proposal.

The written 'Intent to Propose' must include the company name, mailing address, phone number, fax number and electronic mail address of the vendor's main contact for communications regarding this RFP. Prospective vendors may deliver their 'Intent to Propose' by courier, fax, mail, or preferably via electronic mail. An "Intent to Propose" shall be delivered only to the Issuing Officer.

Failure to submit a letter of intent by the deadline specified will result in rejection of the vendor's bid proposal. **Proposals received from vendors who have not submitted the required written "Intent to Propose" letter shall not be opened or considered.**

### 1.4.4 Submission of Bid Proposals

Bid proposals must be received by the Issuing Officer no later than 4:30 PM, central time, November 6, 2009. **Meeting this deadline is a mandatory requirement and will not be waived by the DNR. Proposals received after the due date and time shall not be evaluated or considered and shall be returned unopened to the sender.**

Each bid proposal shall be submitted in the required format and shall be sealed. One (1) original (with original signatures) and five (5) copies of the bid proposal, plus one electronic copy on CD, shall be received by the Issuing Officer at the following address:

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Allen Bonini, Section Supervisor  
Iowa Department of Natural Resources  
Watershed Improvement Section  
502 E. 9<sup>th</sup> Street  
Des Moines, IA 50319  
Phone: 515.281.5107  
Fax: 515.281.8895  
Email: [allen.bonini@dnr.iowa.gov](mailto:allen.bonini@dnr.iowa.gov)

The original shall be clearly labeled with the words "original bid proposal." Additionally, all bid proposal packages shall be clearly labeled with the following information:

- Vendor's Name and Address
- RFP No.
- Proposal Due Date
- Issuing Officer's Name

### **1.5 General Information Regarding the Preparation and Submission of Bid Proposals**

#### **1.5.1 Preparation of the Bid Proposal**

A bid proposal must be typewritten in Arial Font size 11. Changes must be lined out and initialed. The proposal format set forth in Chapter 4 shall be followed. All answers given to the questions asked in the RFP are subject to verification. Misleading, conflicting or inaccurate answers shall be grounds for disqualification at any stage in the procurement process.

#### **1.5.2 Economy of Presentation**

Proposals shall not contain promotional or display materials. Proposals must address the technical requirements. All questions posed by the request for proposal must be answered concisely and clearly.

#### **1.5.3 Multiple Proposals**

If more than one method of meeting the requirements of this RFP is proposed by the same vendor, then each method should be labeled and submitted separately. Each bid proposal shall be evaluated separately.

#### **1.5.4 Amendment to the RFP and Bid Proposal, and Withdrawal of Bid Proposal**

The DNR reserves the right to amend the RFP at any time. The vendor shall acknowledge receipt of an amendment in its proposal. If the amendment occurs after the closing date for receipt of bid proposals, then the DNR may, in its sole discretion, allow vendors to amend their bid proposals in response to the DNR's amendment if necessary.

A vendor may amend its bid proposal at any time prior to the due date for bid proposals. The amendment must be in writing, signed by the vendor and received by the time set for receipt of proposals. Electronic mail and faxed amendments will not be accepted.

Upon written notice to the Issuing Officer, vendors submitting proposals in advance of the deadline may withdraw, modify, and resubmit proposals at any time prior to the deadline for submitting proposals. Electronic mail and faxed requests to withdraw proposals will not be accepted.

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### **1.5.5 Cost of Preparation of Bid Proposal**

The costs of preparation and delivery of the bid proposal shall be solely the responsibility of the vendor.

### **1.5.6 Proposals Firm and Irrevocable**

It is intended that proposals will be evaluated and a Notice of Intent to Award will be issued as soon as possible following the deadline for receipt of proposals. Proposals must be held firm and irrevocable by vendors for a period of ninety (90) days following the deadline for receipt of proposals. In the event that the DNR and the successful vendor are negotiating a contract on or after the ninety days have elapsed from the date of the Notice of Intent to Award or the date on which any appeals relative to this procurement are resolved, whichever is later, the vendor agrees to hold its offer firm pending entering into a contract with the DNR.

### **1.5.7 Certification of Independence and No Conflict of Interest**

By submission of a response to this RFP, the vendor certifies that the proposal was developed independently. The vendor also certifies that no relationship exists or will exist during the contract period between the vendor and the State that interferes with fair competition or is a conflict of interest. The State reserves the right to reject a proposal or cancel the award if, in its sole discretion, any relationship exists that could interfere with fair competition or conflict with the interests of the State. Vendors should complete and submit Attachment 1, "*Certification of Independence and No Conflict of Interest.*"

### **1.5.8 Copy Rights**

By submitting a proposal the vendor agrees that the State may copy the proposal for the purposes of facilitating the evaluation or to respond to requests for public records. The vendor consents to such copying by submitting a proposal and warrants that such copying will not violate the rights of any third party. The State will have the right to use ideas or adaptations of ideas, presented in the proposals.

### **1.5.9 Release of Claims**

By submitting a bid proposal, the vendor agrees that it will not bring any claim or cause of action against the DNR or the State of Iowa based on any misunderstanding concerning the information provided herein or concerning the DNR's or the State's failure, negligent or otherwise, to provide the vendor with pertinent information as intended by this RFP.

### **1.5.10 Vendor Qualification Requirement**

Prior to execution of a contract with a successful vendor, the successful vendor must be qualified to do business with the State of Iowa by registering with the Department of Administrative Services at [http://das.gse.iowa.gov/gen\\_info/vendor\\_reg.html](http://das.gse.iowa.gov/gen_info/vendor_reg.html) and with the Secretary of State at <http://www.sos.state.ia.us/business/form.html>.

### **1.5.11 Gratuities**

Iowa Code chapter 68B restricts gifts that may be given or received by state employees and requires certain individuals to disclose information concerning their activities with state government. Each vendor is responsible to determine the applicability of this chapter to its activities and to comply with the requirements of the law. In addition, according to the provisions of Iowa Code section 722.1 it is a felony offense to bribe or attempt to bribe a public official. A vendor should not offer, promise, or give anything of

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value or benefit to a state employee with the intent to influence that employee's acts, opinion, judgment or exercise of discretion with respect to that employee's duties. Evidence of violations of these requirements will be turned over to the proper prosecuting attorney.

### **1.6 General Information Regarding Treatment of Bid Proposals**

#### **1.6.1 Rejection of Bid Proposals**

The DNR shall reject outright and shall not evaluate proposals for any one of the following reasons:

- The vendor fails to deliver the bid proposal by the due date and time.
- The vendor fails to deliver the cost proposal in a separate envelope.
- The vendor states that a service requirement cannot be met.
- The vendor initiates unauthorized contact regarding the RFP with state employees.
- The vendor provides misleading, conflicting or inaccurate responses.

Any proposal may also be rejected outright for any one of the following reasons:

- The vendor fails to comply with or respond to any part of the RFP requiring a response.
- The vendor's response materially changes a service requirement.
- The vendor's response limits the rights of the DNR.
- The vendor consistently fails to timely include information necessary to substantiate that it will be able to meet service requirements and necessary for the proposal to be adequately evaluated. A response of "will comply" or merely repeating the requirement is not sufficient. Responses must indicate present capability; representations that future developments will satisfy the requirement are not sufficient.
- The vendor fails to timely respond to the State's request for information, documents, or references.
- The vendor fails to timely include any signature, certification, authorization, stipulation, disclosure or guarantee requested.
- The vendor presents the information requested by this RFP in a format inconsistent with the instructions of the RFP.

The DNR reserves the right to accept or reject any part of any proposal. The DNR reserves the right to reject any and all bid proposals, in whole and in part and without penalty, received in response to the RFP at any time prior to the execution of a written contract. Issuance of this RFP in no way constitutes a commitment by the DNR to award a contract. This RFP is designed to provide vendors with the information necessary to prepare a competitive bid proposal. This RFP process is for the DNR's benefit and is intended to provide the DNR with competitive information to assist in the selection of a vendor to provide services. It is not intended to be comprehensive and each vendor is responsible for determining all factors necessary for submission of a comprehensive bid proposal.

#### **1.6.2 Proposal Property of the Agency**

All proposals become the property of the State of Iowa and shall not be returned to the vendor unless all proposals are rejected or the RFP is withdrawn by the DNR. In either event, vendors will be asked to send prepaid shipping instruments to the DNR for return

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of the bid proposals submitted. In the event no shipping instruments are received by the State, the bid proposals will be destroyed by the State. Otherwise, at the conclusion of the selection process, the contents of all proposals will be placed in the public domain and be opened to inspection by interested parties subject to the exceptions provided in Iowa Code Chapter 22 or other applicable law.

### **1.6.3 Proposal Obligations**

The content of the proposal and any clarification thereto submitted by the successful vendor shall become a part of the contractual obligation and incorporated by reference into the ensuing contract.

### **1.6.4 Conflicts between Terms**

The DNR reserves the right to accept or reject any exceptions taken by the successful vendor to the terms and conditions of this RFP. Should the successful vendor take exception to the terms and conditions required by the DNR, the successful vendor's exceptions may be rejected and the DNR may elect to void award of the contract. The DNR may elect to negotiate with the successful vendor regarding contract terms that do not materially alter the substantive requirements of the RFP or the contents of the vendor's proposal.

### **1.6.5 Choice of Law and Forum**

This RFP and the resulting contract are to be governed by the laws of the State of Iowa. Changes in the applicable laws and rules may affect the award process of the resulting contract. Vendors are responsible for ascertaining pertinent legal requirements and restrictions. Any and all litigation of actions commenced in connection with this RFP shall be brought in the Polk County District Court for the State of Iowa. If jurisdiction is not proper in Polk County District Court, then the action shall be brought in the United States District Court for the Southern District of Iowa, Central Division, providing that jurisdiction is proper in that forum.

## **1.7 Information Regarding the Evaluation Process**

### **1.7.1 Verification of Bid Proposal Contents**

The content of a bid proposal submitted by a vendor is subject to verification. Misleading or inaccurate responses shall result in disqualification.

### **1.7.2 Information from Other Sources**

The DNR reserves the right to obtain and consider information from other sources concerning a vendor, such as the vendor's capability and performance under other contracts.

### **1.7.3 Reference Checks**

The DNR reserves the right to contact any reference to assist in the evaluation of the bid proposal, to verify information contained in the bid proposal and to discuss the vendor's qualifications and the qualifications of any subcontractor identified in the bid proposal.

### **1.7.4 Oral Presentation**

At the request of the DNR, any vendor may be required to make an oral presentation to supplement its written proposal to assist in understanding or clarifying the proposal. Any information received shall not be considered in the evaluation of the Vendor's proposal if it materially alters the content of said proposal. Any cost incidental or related to the

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vendor presentation shall be solely the responsibility of the vendor and the vendor shall not be compensated by the DNR therefore.

### **1.7.5 Written Clarification by Vendor**

The DNR reserves the right to contact a vendor after the submission of bid proposals for the purpose of clarifying a bid proposal to ensure mutual understanding. The DNR shall request the clarification in writing. Information received in response to the DNR's written request shall not be considered in the evaluation if it materially alters the content the vendor's proposal.

### **1.7.6 Nonmaterial and Material Variances**

The DNR reserves the right to waive minor deficiencies in a bid proposal if, in the sole judgment of the DNR, its best interests will be served to do so. The decision regarding whether a deficiency may be waived or will require the rejection of the proposal shall be solely within the discretion of the DNR. **Each vendor is specifically notified that failure to comply with or response to any part of this RFP requiring a response shall result in rejection of its proposal as non-responsive.**

### **1.7.7 Proposal Evaluation and Award**

All proposals submitted shall be evaluated in accordance with the requirements set forth in Chapter 4 of this RFP. Any contract resulting from this RFP shall not necessarily be awarded to the vendor with the lowest prices. Instead, this contract shall be awarded to the compliant vendor who has the greatest number of points awarded as a result of the evaluation process.

### **1.7.8 Notice of Intent to Award**

A Notice of Intent to Award a contract, if one is issued, will be sent by mail to the successful vendor. Copies of the Notice of Intent to Award a contract will be sent by mail to all vendors submitting a timely proposal. After the announcement of the apparent successful vendor, negotiation and execution of the contract shall commence.

### **1.7.9 Acceptance Period**

Following the Notice of Intent to Award, if the apparent successful vendor fails to negotiate and deliver an executed contract within 60 days from the date of award, the State, in its sole discretion, may cancel the award and award the contract to the next highest ranked vendor or withdraw the RFP.

## **1.8 Information Regarding Confidentiality of Bid Proposals and Public Announcements**

### **1.8.1 Proposal Announcement**

The names of the vendors who submitted proposals within the time frame permitted will be immediately available after the proposal due date to any person who requests such information. The announcement of names of vendors who submitted a proposal **does not** mean that an individual proposal has been deemed technically compliant and therefore is accepted for evaluation.

### **1.8.2 Contents of Bid Proposals Confidential**

The contents of proposals shall remain confidential until the Evaluation Committee has reviewed all of the bid proposals submitted in response to this RFP and the DNR has announced a Notice of Intent to Award a contract. See Iowa Code section 72.3.

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Additionally, all scoring shall remain confidential prior to the issuance of a Notice of Intent to Award a contract. Following issuance by the DNR of a Notice of Intent to Award a contract, all proposals and scoring will become public information, subject to the provisions of Iowa Code chapter 22, 561 Iowa Administrative Code chapter 2, and other applicable law.

### **1.8.3 Public Records and Requests for Confidential Treatment**

Following the conclusion of the selection process, the DNR may treat all information submitted by a vendor as public information unless the vendor properly requests at the time of submitting the proposal that information be treated as confidential and the vendor receives confirmation from the DNR that the vendor's request for confidential treatment has been granted.

Each vendor is encouraged to familiarize itself with the applicable provisions of law prior to submitting a bid proposal.

Any requests for confidential treatment of information must be included in a cover letter with the vendor's proposal and must enumerate the specific grounds in Iowa Code Chapter 22, 561 Iowa Administrative Code chapter 2, and other applicable law which support treatment of the material as confidential and must indicate why disclosure is not in the best interests of the public. The request must also include the name, address, and telephone number of the person authorized by the vendor to respond to any inquiries by the DNR concerning the confidential status of the materials.

Any documents submitted which contain confidential information must be marked on the outside as containing confidential information, and each page upon which confidential information appears must be marked as containing confidential information. The confidential information must be clearly identifiable to the reader wherever it appears. All copies of the proposal submitted, as well as the original proposal, must be marked in this manner.

In addition to marking the material as confidential material where it appears, the vendor must submit one hard copy, and one electronic copy on CD, of the proposal, both marked '**Public Copy**' from which the confidential information has been excised. The confidential material must be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the document as possible. The 'Public Copy' must be submitted with the cover letter and will be made available for public inspection.

The vendor also shall include in its cover letter requesting confidential treatment a justification of its request prepared according to the provisions of 561 Iowa Administrative Code sections 2.5(2) and 2.5(7). The vendor shall specify the precise period of time for which confidential treatment is requested.

An entire proposal shall not be marked confidential. Only those sections meeting the criteria in Iowa Code Chapter 22 for confidentiality may be marked confidential information. **Costs that will be incorporated into any resulting contract can not be deemed confidential.**

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The vendor's failure to request confidential treatment of material pursuant to this section and the relevant laws and administrative rules shall be deemed by the DNR as a waiver of any right to confidentiality which the vendor may have had.

### **1.8.4 News Releases**

News releases or other materials made available to the public, the vendor's clients or potential clients pertaining to this procurement or any part of the proposal shall not be made without the prior written approval of the DNR.

**CHAPTER 2  
CONTRACTUAL TERMS AND CONDITIONS  
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**2.0 Preface**

Any contract(s) resulting from this RFP between the State and the successful vendor shall be a combination of the specifications, terms and conditions of this RFP; the offer of the vendor contained in the vendor's proposal; written clarifications or changes made in accordance with the provisions herein; and any other terms deemed necessary or acceptable by the DNR.

Any resulting contract shall be available to the public as part of the public record in accordance with applicable law.

**2.1 Selection Contingent Upon Contract Negotiations**

The initial selection of a bidder means that the DNR will negotiate in good faith with the selected bidder in expectation of executing a contract. If the DNR determines within its sole discretion that it cannot execute a contract with the selected bidder, then it may select a new bidder based on the next highest score or reissue an RFP at a later time.

**2.2 Acceptance of Terms and Conditions**

By submitting a proposal, each vendor acknowledges its acceptance of the specifications, terms and conditions of a contract contained in this RFP, without change except as otherwise expressly stated in its proposal, and of the specifications, terms and conditions of the contract forms found in Attachment 2, "*Contract Special Conditions*" and Attachment 3, "*Contract General Conditions*." If a vendor takes exception to a provision, it must state the reason for the exception and set forth in its proposal the specific contract language it proposes to include in place of the provision. Exceptions that materially change these terms or the requirements of the RFP may be deemed non-responsive by the DNR, as determined in its sole discretion, resulting in possible disqualification of the vendor's proposal. With regard to the "Special Conditions," DNR and the successful vendor may agree to modifications to the terms of the "Special Conditions" as necessary to negotiate the terms of a contract.

A vendor's failure to state an exception to any provision and propose alternative language may be deemed by the DNR to constitute vendor's acceptance thereof. The State reserves the right to refuse to enter into a contract with the successful vendor for any reason, even after delivery of notice of selection or intent to award a contract.

The terms and conditions as stated herein relate only to this RFP, and do not extend to other or future contracts a prospective vendor may currently have or may have in the future with the DNR, nor do the terms and conditions as stated herein relate to any other DNR procurement which may be in process.

**2.3 Agreement Term and Renewals**

The term of the contract shall be until no later than June 30, 2011, unless terminated earlier in accordance with the terms of the contract. The effective date of the contract shall not precede the date upon which both parties have signed the contract and the date upon which the contract is approved by the Environmental Protection Commission or the Natural Resources Commission, if such approval is required. DNR shall have the sole option to renew and extend this Contract for subsequent periods, adding up to no

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more than 6 years total, by executing a signed contract prior to the expiration of this Contract.

### **2.4 Ownership of Deliverables**

By submitting a proposal, each vendor agrees that all materials, work product and other deliverables (the "Deliverables") to be produced or provided under this contract and all intellectual property rights in or related to the Deliverables shall become and remain the sole and exclusive property of the DNR. The successful vendor will be required to assign all right, title and interest in and to all Deliverables that will be owned by the DNR. As the owner of such Deliverables and related intellectual property rights, the DNR may, without limitation: (i) obtain and hold copyrights, patents or such other registrations or intellectual property protections with respect to the Deliverables as may be desirable or appropriate, (ii) adapt, change, modify, edit or use the Deliverables as the DNR sees fit, including in combination with the works of others, (iii) prepare derivative works based on the Deliverables and publish, display and distribute any Deliverable(s) in any medium, and (iv) sell, license, sublicense, lease, or permit others to use the Deliverables and any intellectual property rights therein or related thereto, all without payment of any additional compensation to vendor.

### **2.5 Accounting System Audit**

Pursuant to the provisions of 81 IAC chapter 26, prior to signing a service contract which exceeds \$150,000.00, the DNR shall obtain from the Auditor of State a certification stating that the vendor has an accounting system adequate to effect compliance with the terms and conditions of the contract. The vendor may be required to submit to an audit, if necessary, and shall pay for the audit, in accordance with the provisions of Iowa Code Section 11.36.

## **RFP Issue Date: October 1, 2009**

### **CHAPTER 3 SCOPE OF WORK REQUIREMENTS**

#### **3.1 Purpose of RFP**

The purpose of this RFP is for the DNR to obtain proposals to lead a process to develop a Water Quality Master Plan for the Raccoon River Basin in Iowa. This Master Plan is intended to identify and recommend institutional structure(s), funding mechanisms, and overarching actions needed to address the identified primary water quality-based concerns within the Raccoon River Basin. This Master Plan may also serve as a model for developing other basin plans within the state.

#### **3.2 Background**

This Master Plan is intended to serve as a road map for how to get from today's water quality-related problems in the Raccoon River Basin to tomorrow's solutions. The creation and implementation of this regionally-led Water Quality Master Plan can become the foundation for long-term success in developing and implementing environmentally sound and economically sustainable watershed and water quality improvement efforts needed in the Raccoon River Basin. By using the most up-to-date and complete scientific information available and by actively engaging interested stakeholders in the planning process, this Master Plan should serve to identify Raccoon River Basin water quality improvement goals and objectives, why they are needed, what steps are necessary to achieve those goals and objectives, what institutional and funding arrangements are needed to effectively and sustainably execute the Master Plan, and where to use best available watershed and water quality improvement practices in a strategic manner to achieve the plan's goals.

##### **3.2.1 Authorization**

Activities envisioned through this RFP are authorized under Public Law 111-5, the American Recovery and Reinvestment Act of 2009 (ARRA) and are supported using funds reserved under Section 604(b) of the Clean Water Act (CWA) to carry out planning under Section 205(j) and 303(e) of the CWA. In addition, activities are supported through grant funds provided by the Environmental Protection Agency under the Section 319 Nonpoint Source Program.

##### **3.2.2 Eligible Vendors**

In accordance with Section 205(j) of the Clean Water Act, eligible vendors include any regional public comprehensive planning organization (RPCPO). For the purposes of this Request for Proposals RPCPOs include, but are not limited to, any entity organized under an agreement as authorized by Iowa Code Chapter 28E, Resource Conservation and Development councils, councils of government, regional planning commissions, community colleges, colleges or universities.

Final determination as to eligibility shall rest with the Iowa Department of Natural Resources (DNR) and shall be at the sole discretion of DNR. For clarification on eligibility requirements please contact the DNR Issuing Officer.

##### **3.2.3 Award Limits**

The DNR will award a single grant in the minimum amount of \$164,303, with a maximum grant amount not to exceed \$250,000 to a single eligible and selected RPCPO.

##### **3.2.4 River Basin Eligibility**

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Eligibility for this grant is limited to RPCPOs that intend to develop a Water Quality Master Plan for the Raccoon River Basin only. All eligible vendors must intend to develop a Master Plan that addresses the entire Raccoon River Basin.

### **3.2.5 Project Duration**

The Raccoon River Basin Water Quality Master Planning grant awarded through this RFP shall expire no later than June 30, 2011.

### **3.2.6 Cost-Share (Match) Requirements**

There are no cost-share match requirements to be eligible for this grant. However, proposals offering matching funds will be given additional favorable consideration.

### **3.2.7 Eligible Expenses**

Eligible expenses for these grant funds include: staffing costs directly related to Master Plan development, Master Plan information and education activities costs, local stakeholder group facilitation costs as part of Master Plan development activities, subcontractor costs to assist with Master Plan development, and related project travel costs.

### **3.2.8 Ineligible Expenses**

Ineligible expenses for these grant funds include any expenses not listed as eligible expenses in the previous section, and include, but are not limited to: food and beverages, taxes, overhead expenses, indirect costs and office expenses not directly related to project implementation.

**3.3 Description of Scope of Work.** DNR seeks to obtain a Contractor to perform the following tasks:

Task 1: Identify what needs to happen for the river to meet water quality standards and designated uses in order to comply with the federal Clean Water Act.

Task 2: Provide guidance on how to reduce the impact of the watershed on hypoxia in the Gulf of Mexico.

Task 3: Identify what needs to happen for the river to become a healthy, functioning ecosystem that supports habitat for wildlife and aquatic species and water-based recreation.

Task 4: Identify how to reduce peak flows and velocity in the river.

Task 5: Define an environmentally and economically sustainable landscape for the basin that supports the water quality, ecosystem and recreational goals for the river system.

Task 6: Provide realistic recommendations on how to institutionalize and fund implementation of the Master Plan.

Task 7: Provide federal, state, regional and local agencies and institutions with a mechanism to coordinate and integrate activities and focus program resources to solve identified priority problems.

## **RFP Issue Date: October 1, 2009**

Task 8: Outline strategies to inspire public and private institutions and organizations, as well as watershed residents, to actively engage in implementing the Master Plan.

Task 9: Create a Raccoon River Basin Water Quality Master Plan that will identify and recommend institutional structure(s), funding mechanisms, and overarching actions needed to achieve water quality improvement goals, and that will identify the amount of time needed to achieve these goals. The Master Plan may also include strategies to implement actions over multiple phases over time to achieve identified water quality improvement goals.

Task 10: Prepare and submit a Raccoon River Basin Water Quality Master Plan as a final product and deliverable which addresses the tasks outlined above. The grantee shall also provide the DNR with an executive summary of the Master Plan, suitable for electronic distribution by the department and other interested parties. The completed Master Plan that fulfills this requirement must be submitted to the Iowa DNR Watershed Improvement Program before final grant payment will be made.

Task 11: Provide the DNR with periodic monthly and quarterly project updates. Reporting requirements will include providing all reports required by the US Environmental Protection Agency under authority of the ARRA and the Section 319 Nonpoint Source Program, and will include, but may not be limited to, quarterly reporting of estimates of jobs created and jobs retained by the project, project expenditures, planning activities and accomplishments, and completion status of the project. The vendor shall also be required to comply with all other relevant requirements of the ARRA and other relevant federal statutes, rules and regulations as they pertain to the use of federal funds authorized under Section 604(b) of the CWA.

Task 12: Any additional tasks as proposed by the vendor in order to complete the project and provide the deliverables requested in this RFP.

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### CHAPTER 4 SUBMISSION OF PROPOSALS

#### 4.0 Technical Proposal and Separate Cost Proposal

Each proposal shall contain a technical proposal and a separately sealed cost proposal.

#### 4.1 Form of Proposals

##### 4.1.1 Title Page

Each technical proposal and each cost proposal shall include a title page created *using Attachment 4, "Technical or Cost Proposal Title Page."*

##### 4.1.2 Table of Contents

Each technical proposal and each cost proposal shall include a "Table of Contents" showing the page numbers of each section of the proposal. **If a proposal does not clearly identify by page number or exhibit number where information is given, then the proposal shall be considered non-responsive for each such question.**

##### 4.1.3 Statement of Understanding of and Compliance with RFP

Each proposal shall contain a signed Attachment 5, "*Positive Statement of Understanding of and Compliance with Chapter 1, Administrative Issues, and Chapter 2, Contractual Terms and Conditions.*" Failure to provide this signed statement shall be deemed acceptance by the prospective vendor of the contract terms and conditions as stated in Chapter 2. The prospective vendor may take exception to the contract terms and conditions of Chapter 2 and may submit its exceptions in writing with its proposal. However, the prospective vendor's exceptions may be rejected and the entire proposal deemed non-responsive.

##### 4.1.4 Other Attachments

All attachments to the proposal must be included for the proposal to be complete. Proposals submitted without the required attachments may be rejected.

#### 4.2 Content of Technical Proposal

Each technical proposal shall contain the following elements.

##### 4.2.1 Executive Summary

The vendor shall provide a brief Executive Summary (no more than ten pages) explaining the process to complete all project Tasks, provide all Deliverables, and obtain the State's acceptance. The vendor also shall state why its proposed approach best supports the requirements of the Request for Proposal.

##### 4.2.2 Work Plan

Vendor proposals shall include a detailed Work Plan (no more than 25 pages) explaining how the vendor intends to complete all Tasks listed in the Scope of Work contained in section 3.3, provide the Deliverables, and obtain the State's acceptance of all Deliverables. The Work Plan shall include, but is not limited to:

a. A detailed description of how the vendor proposes to complete each of the Tasks described in the Scope of Work contained in section 3.3, including:

- Proposed action steps to achieve objectives/overall goals of the project;

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- Planned use of any subcontracted services to assist in conducting the planning process;
- Targeted planning group stakeholders and participants;
- Planning method to be used to aid in developing the Master Plan;
- Any evidence of community support for the planning effort envisioned;
- Any proposed third-party funding organizations and their respective roles and responsibilities;
- Means and methods for identifying and establishing water quality-related improvement goals;
- Means and methods to be used to identify institutional structure(s), funding mechanisms, and overarching actions needed to address primary water quality concerns in order to achieve water quality improvement goals;
- Means and methods for identifying and soliciting involvement of stakeholder groups targeted for participation in the Master Plan development process
- An estimate of the hours, duration and anticipated date of completion for each task, and for the project as a whole; and
- Identifying, preferably by name and title, the personnel (either the vendor's or subcontractor's) who will be assigned responsibility for performing each task, their hourly rate of compensation, and the overall percentage of their monthly work time assigned to this project.

b. A detailed schedule for completing each of the Tasks described in the Scope of Work contained in section 3.3, based on the number of hours, days and weeks required for completing each Task, and specifying start and end dates for each Task, and having final drafts of all Deliverables submitted to the DNR for approval by specific dates.

c. A detailed description of the level of qualifications of the vendor personnel who will perform each of the Tasks described in the Scope of Work contained in section 3.3.

d. The proposed approach to coordinating the responsibilities of DNR staff with those of the vendor to ensure overall project success and to ensure that knowledge transfer occurs.

e. A description of what methodology, tools, standards and procedures shall be used to obtain DNR acceptance of the work performed by the Contractor under the contract.

f. A description of how the project shall be managed, prioritized, and controlled, including a description of project management structure and an organization chart.

g. A Project Change Control Plan for controlling the project and prioritizing DNR and Vendor change requests.

### **4.3 Content of Cost Proposal**

Each cost proposal shall contain a detailed breakdown of the monetary cost accorded by the vendor to each of the Tasks described in the Scope of Work contained in section 3.3. Each cost proposal shall be submitted in the form designated in Attachment 6, "*Cost Proposal Format*." The "*Cost Proposal Format*" is the only document on which specific pricing or reference to pricing or costs shall appear.

### **4.4 Vendor Information**

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### **4.4.1 Vendor Firm General Information**

The vendor shall provide basic corporate and sub-contractor information to include, but not be limited to, ownership, size, relationship with larger owner, financial resources, date of incorporation, and staffing locations.

The vendor and each subcontractor shall provide detailed descriptions of at least three previous successfully implemented similar projects. For each project listed, the vendor shall provide the firm name; and the name, title, address, telephone number, FAX number, and email address of the contact person for that firm.

### **4.4.2 Vendor Project Managers and Personnel Information**

The vendor's Project Manager and personnel (and any subcontractor personnel) shall be qualified to perform the Tasks required and to assure timely achievement of the Scope of Work.

The level of qualifications of the Project Manager and personnel (and any subcontractor personnel) shall be identified in the proposal. For each Task, the vendor shall provide a list of Personnel meeting each level and qualifications designated by the vendor. The vendor also shall provide for each individual staff member (and any subcontractor personnel) a resume including at least the following information:

- 1) Academic background and degrees.
- 2) Professional certifications.
- 3) Previous experience with similar projects.
- 4) At least three (3) business or professional references that include: names of contacts, titles, addresses, telephone and FAX numbers and electronic mail addresses.
- 5) Availability of time for this project.

Vendor's (and any subcontractor's) Project Manager and Personnel shall not be substituted without prior written approval of the State's Project Manager.

DNR reserves the right to review and remove vendor and sub-contractor personnel prior to and during their assignment and to request changes of selected personnel after their assignment.

### **4.4.3 Vendor Financial Information**

Proposals must indicate whether any of the following conditions have been applicable to the vendor, or a subsidiary or intermediary company or holding company of the vendor, during the past three (3) years. If any of the following conditions are applicable, then the vendor shall state the details of the occurrence.

1. Whether a contract has been terminated for default;
2. Whether any penalties have been assessed under any existing or past contracts with the State of Iowa or other governmental entities;
3. Whether the vendor or a subsidiary or intermediary company or holding company of the vendor has been the subject of any order, judgment or decree of any federal or state authority barring, suspending or otherwise limiting the right of the Vendor to engage in any business, practice or activity; or
4. Whether the vendor or a subsidiary or intermediary company or holding company of the vendor holds or has held trading in the stock of the company suspended.

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### **4.5 Submission of Proposals**

#### **4.5.1 Number of Copies and Labeling on Sealed Envelopes**

Each separately sealed package shall contain an originally signed printed original, five (5) duplicate printed copies, plus one separate electronic copy on CD. All sealed packages, printed copies and CDs shall be clearly labeled with the following information:

- Vendor's Name and Address
- Contact Person and Telephone
- Project Title and RFP Number
- Proposal Due Date and Time
- Original (or Copy)
- Technical Proposal (or Cost Proposal)

Originally signed Proposals and all printed copies in English shall be printed on 8 ½ x 11 sheets of white paper, bound in standard 3 ring binders.

For information regarding additional "Public Copies" needed in the event of a request for confidential treatment of technical proposal information, please refer to section 1.8.3.

#### **4.5.2 Format of Electronic Copies**

All electronic copies on CD may be read-only but shall use searchable text formats, such as Microsoft Word, Excel, Project, Publisher, PowerPoint or Adobe Acrobat and allow for text highlighting, copying and pasting by the State.

#### **4.5.3 To Whom Submitted**

The Issuing Officer designated above shall receive all proposals.

#### **4.5.4 Deadline for submission**

Each proposal (including technical and costs proposals) shall be received by the State by **4:30 PM, central time, November 6, 2009**. Late proposals shall be returned unopened to the sender. There is no firm timeline for completing the evaluation.

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## CHAPTER 5 EVALUATION OF PROPOSALS

### 5.0 Proposals Not Compliant with RFP

The State will review proposals for compliance with the proposal format instructions and verify full compliance with the requirements of this RFP. Any proposal found noncompliant will be rejected and not scored. Proposals meeting all mandatory requirements will be further evaluated as specified below. The Proposals will be reviewed and analyzed by the DNR's Evaluation Committee.

### 5.1 Separation of Cost Proposals

All cost proposals shall remain unopened and separated from the technical proposals until the evaluation committee has completed its evaluation of the technical proposal.

### 5.2 Evaluation of Technical Proposals

Proposals meeting the mandatory requirements will be further evaluated and points awarded based upon the documents provided by the vendor. No prospective vendor is promised a minimum or maximum number of points. Each proposal will be scored based on an evaluation of the following factors:

- Presentation in Proposal
- Work Plan
- Proposed Timeline
- Qualifications and Experience of Vendor (and any subcontractor)
- Qualifications and Experience of Vendor (and any subcontractor) Personnel (Project Managers and Staff)

### 5.3 Evaluation of Cost Proposals

Cost Proposals will be evaluated and points awarded as follows: The proposal with the lowest total cost will receive all the available points for cost. The cost scores for the other compliant proposals will be awarded relative to all compliant proposals. An example of how the number of relative points may be awarded to all other Cost Proposals, the lowest bid can be used as the numerator with each of the other bids as the denominator. The resulting percentage times the total number of available points can be the total score awarded for cost to other compliant vendors. Points will be rounded to the nearest higher whole value.

Example for evaluating Cost:

Vendor A quotes \$35,000;

Vendor B quotes \$45,000;

Vendor C quotes \$65,000.

Vendor A: receives 100% of the available points for cost.

Vendor B:  $\frac{\$35,000}{\$45,000} =$  receives 78% of available points for cost.

Vendor C:  $\frac{\$35,000}{\$65,000} =$  receives 54% of available points for cost.

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**RFP ATTACHMENT 1  
(to be used with section 1.5.7)**

**PROSPECTIVE VENDORS – SIGN AND SUBMIT CERTIFICATION WITH  
TECHNICAL AND COST PROPOSALS.**

**CERTIFICATION OF INDEPENDENCE AND  
NO CONFLICT OF INTEREST**

By submission of a proposal in response to RFP ESD7387ABonin100082, the vendor certifies (and in the case of a joint proposal, each party thereto certifies) that the proposal has been developed independently, without consultation, communication or agreement with any employee or vendor of the Department who has worked on the development of this RFP, or with any person serving as a member of the evaluation committee; the proposal has been developed independently, without consultation, communication or agreement with any other vendors or parties for the purpose of restricting competition; unless otherwise required by law, the information in the proposal has not been knowingly disclosed by the vendor and will not knowingly be disclosed prior to the award of the contract, directly or indirectly, to any other vendor; no attempt has been made or will be made by the vendor to induce any other vendor to submit or not to submit a proposal for the purpose of restricting competition; no relationship exists or will exist during the contract period between the vendor and the Department that interferes with fair competition or is a conflict of interest.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

Name of Vendor Organization: \_\_\_\_\_

**RFP ATTACHMENT 2  
CONTRACT SPECIAL CONDITIONS**

**PROFESSIONAL SERVICES  
SPECIAL CONDITIONS**

This Contract is entered into between the Iowa Department of Natural Resources (DNR) and *(Contractor Name)*. The parties agree as follows:

**Section 1 IDENTITY OF THE PARTIES**

**1.1 Parties.** DNR is authorized to enter into this Contract. DNR's address is: Wallace State Office Building, 502 East 9<sup>th</sup> Street, Des Moines, Iowa 50319.

*(Contractor Name)*, a *(Contractor Legal Entity Type)* is organized under the laws of the State of *(Name of State)* and is registered with the Iowa Secretary of State. The Contractor's address is: *(Contractor's Address)*.

**1.2 Project Managers.** Each party has designated a Project Manager, who shall be responsible for oversight and negotiation of any contract modifications, as follows:

**DNR Project Manager:**

***Allen Bonini***  
DNR  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, IA 50319  
Phone: ***515.281.5107***  
Fax: ***515.281.8895***  
Email: [\*\*\*allen.bonini@dnr.iowa.gov\*\*\*](mailto:allen.bonini@dnr.iowa.gov)

**Contractor Project Manager:**

***(Contractor Project Manager Name)***  
Phone: ***(Contractor Project Manager Phone)***  
Fax: ***(Contractor Project Manager Fax)***  
Email: ***(Contractor Project Manager Email)***

**Section 2 STATEMENT OF PURPOSE**

**2.1 Background.** Activities envisioned through this contract are authorized under Public Law 111-5, the American Recovery and Reinvestment Act of 2009 (ARRA) and are supported using funds reserved under Section 604(b) of the Clean Water Act (CWA) to carry out planning under Section 205(j) and 303(e) of the CWA. In addition, activities are supported through grant funds provided by the Environmental Protection Agency under the Section 319 Nonpoint Source Program.

**2.2 Purpose.** The purpose of this contract is to develop a Water Quality Master Plan for the Raccoon River Basin in Iowa. This Master Plan is intended to identify and recommend institutional structure(s), funding mechanisms, and overarching actions needed to address the identified primary water quality-based concerns within the Raccoon River Basin. This Master Plan may also serve as a model for developing other basin plans within the state.

This Master Plan is intended to serve as a road map for how to get from today's water quality-related problems in the Raccoon River Basin to tomorrow's solutions. The creation and implementation of this regionally-led Water Quality Master Plan can become the foundation for long-term success in developing and implementing environmentally sound and economically

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sustainable watershed and water quality improvement efforts needed in the Raccoon River Basin. By using the most up-to-date and complete scientific information available and by actively engaging interested stakeholders in the planning process, this Master Plan should serve to identify Raccoon River Basin water quality improvement goals and objectives, why they are needed, what steps are necessary to achieve those goals and objectives, what institutional and funding arrangements are needed to effectively and sustainably execute the Master Plan, and where to use best available watershed and water quality improvement practices in a strategic manner to achieve the plan's goals.

### Section 3 DURATION OF CONTRACT

**3.1 Term of Contract.** The term of this Contract shall be *February 1, 2010* through *June 30, 2011* unless terminated earlier in accordance with the Termination section of this Contract.

**3.2 Approval of Contract.** If the amount of compensation to be paid by DNR according to the terms of this Contract is equal to or greater than \$25,000.00 (twenty five thousand dollars), then performance shall not commence unless by *February 1, 2010* this Contract has been approved by the *Environmental Protection Commission* and has been signed by both parties.

**3.3 Renewal.** DNR shall have the sole option to renew and extend this Contract for subsequent periods, adding up to no more than 6 years total, by executing a signed contract prior to the expiration of this Contract.

### Section 4 DEFINITIONS

"Deliverables" shall mean services to be provided by, or on behalf of, the Contractor pursuant to this Contract. Deliverables shall include the tasks set out in this Contract and everything produced by the Contractor that is related to the tasks, such as reports, meetings, documentation, designs, copy, artwork, data, information, graphics, images, processes, techniques, materials, plans, papers, forms, studies, modifications, content, concepts, and all other tangible and intangible works, materials and property of every kind and nature that are related to the deliverables.

"Task Milestone Date" shall mean any of the dates contained in the Contract stating the deadline for accomplishing tasks required by this Contract.

### Section 5 STATEMENT OF WORK

**5.1 Statement of Work.** Contractor shall perform the following tasks. Contractor shall complete its obligations under this Contract by the Task Milestone Dates set out in the following table.

Obligation	Task Milestone Date
<b>Task 1:</b> Task Name Description: Description	No later than Task Due Date
<b>Task 2:</b> Task Name Description: Description	No later than Task Due Date
<b>ETC</b>	<b>ETC</b>

**5.2 Final Notice of Acceptance.** If DNR concludes, in its sole discretion, that all the Tasks required by the Statement of Work have been timely completed and all deliverables and services required by this Contract have been satisfactorily completed and delivered, and that the

## RFP Issue Date: October 1, 2009

implementation of the Statement of Work is completed and successfully deployed, then DNR shall issue a written Final Notice of Acceptance.

**5.3 Non-Exclusive Rights.** This Contract is not exclusive. DNR reserves the right to select other contractors to provide services similar or identical to the Scope of Services described in this Contract during the term of this Contract.

**5.4 Stop Services.** In addition to its other remedies described herein, DNR shall have the right at any time during the Contract term to direct the services of Contractor fully or partially suspended or stopped, if the deliverables or services fail to conform to applicable specifications and requirements in this Contract. DNR shall give Contractor written notice of a stop work directive. DNR shall provide to Contractor the reasons for the stop work directive.

**5.5 Industry Standards.** Services rendered pursuant to this Contract shall be performed in a professional and workmanlike manner in accordance with the terms of this Contract and the standards of performance considered generally acceptable in the relevant industry for similar tasks and projects. In the absence of a detailed specification for the performance of any portion of this Contract, the parties agree that the applicable specification shall be the generally accepted industry standard.

**5.6 Amendments to Statement of Work – Change Order Procedure.** Modifications, deletions and additions may be made to a Statement of Work at any time during the term of this Contract by mutual written consent of the parties. Any amendment to a Statement of Work shall be called a Change Order, and the following procedures shall be followed:

**5.6.1 Written Request.** DNR shall specify in writing the desired modifications to the same degree of specificity as in the original Scope of Services.

**5.6.2 The Contractor's Response.** The Contractor shall submit to DNR a time and cost estimate for the requested Change Order within five (5) business days of receiving the Change Order Request.

**5.6.3 Acceptance of the Contractor Estimate.** If DNR accepts the estimate presented by the Contractor within five (5) business days of receiving the Contractor's response, the Contractor shall perform the modified services subject to the time and cost estimates included in the Contractor response. The Contractor's performance and the modified services shall be governed by the terms and conditions of this Contract.

**5.6.4 Adjustment to Compensation.** The parties acknowledge that a Change Order for this Contract may or may not entitle the Contractor to an equitable adjustment in the Contractor's compensation or the performance deadlines under this Contract and that such Change Order may require approval of the Natural Resources or Environmental Protection Commission.

**5.7 Incorporation of Documents.** The following documents, and any amendments thereto existing on the date this Contract is signed by DNR, are incorporated into this Contract by this reference: (1) the Request for Proposal issued on **October 1, 2009** and written responses to bidders' question (collectively referred to as the RFP), attached as Exhibit B; and (2) the Contractor's Proposal of **(Contractor submittal date)** submitted in response to the RFP, attached as Exhibit A.

**5.8 Preference.** In the case of any inconsistency or conflict between the provisions of this document (including all related schedules and Statements of Work), the RFP or the Contractor's Proposal, the inconsistency or conflict shall be resolved as follows: first, by giving preference to

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the provisions of this document (including any Statements of Work); second, by giving preference to the provisions of the Proposal; and third, by giving preference to the provisions of the RFP.

### Section 6 MONITORING AND REVIEW

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**6.1 Task Milestone Dates.** Contractor shall complete its obligations under this Contract by the Task Milestone Dates set out in Section 5.1.

Failure by Contractor to complete the above-designated portions of its obligations by the Task Milestone Dates set out herein shall constitute material breach of this Contract by Contractor and shall be grounds for DNR to immediately terminate this Contract for cause.

**6.2 Review Meetings.** Commencing with beginning performance of this Contract, the Project Managers shall meet (*Review Meeting Frequency*) to discuss progress made by the Contractor during the performance of this Contract. The meetings shall occur, either in person or by telephone conference call, at the following times: (*Meeting Date*) at (*Meeting Time*) Meetings may be postponed only on a case-by-case basis by mutual written agreement of the parties.

**6.3 Status Reports.** Prior to each review meeting, the Contractor Project Manager shall provide a status report listing:

- o Accomplishments during the previous period,
- o Activities planned for the upcoming period,
- o Tasks completed or deliverables produced during the previous period,
- o An updated schedule of upcoming deliverables,
- o Any problems or concerns encountered since the last meeting, and
- o An explanation of any deviations from the financial and hourly expenditures contained in the Contractor's proposal of (*Contractor RFP Submittal Date*), attached hereto as Exhibit A.

At the next scheduled meeting after which any party has identified in writing a problem, the party responsible for resolving the problem shall provide a report setting forth activities undertaken, or to be undertaken, to resolve the problem, together with the anticipated completion dates of such activities. Any party may recommend alternative courses of action or changes that shall facilitate problem resolution.

**6.4 DNR right to review and observe.** DNR shall have the right to review and observe, at any time, completed work or work in progress. Contractor shall allow the State of Iowa or DNR, to inspect its facilities and books and records relating to invoicing and time records for the purpose of monitoring and evaluating performance of this Contract.

### Section 7 COMPENSATION

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**7.1 Source of Funding.** The source of funding for this Contract is authorized under Public Law 111-5, the American Recovery and Reinvestment Act of 2009 (ARRA) and is supported using funds reserved under Section 604(b) of the Clean Water Act (CWA) to carry out planning under Section 205(j) and 303(e) of the CWA. Additional funding is provided by a grant from the Environmental Protection Agency through its Section 319 Nonpoint Source Program.

**7.2 Not-to-exceed total amount of Contract.** Payment for the work performed by Contractor according to the terms of this Contract shall not exceed *\$insert amount*. Payment shall be for satisfactory completion of the Statement of Work outlined in this Contract, provided that Contractor has complied with the terms of this Contract.

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**7.3 Retained Amount.** DNR shall retain ten percent (10%) of the compensation associated with this Contract to secure the Contractor's performance under this Contract. The Retained Amount shall be payable only upon DNR's issuance of a written Final Notice of Acceptance.

**7.4 Final Notice Acceptance of Implementation of Statements of Work.** If DNR concludes, in its sole discretion, that all the Tasks required by the Statement of Work have been timely completed and all deliverables and services required by this Contract have been satisfactorily completed and delivered, and that the implementation of the Statement of Work is completed and successfully deployed, then DNR shall issue a written Final Notice of Acceptance.

**7.5 Budget.** The budget for this Contract shall be as follows:

Task	Amount of compensation allotted to Task
Task 1: <i>Name</i>	Not to exceed <i>Amount</i>
<b>Total</b>	<b>Not to exceed Total Contract Amount</b>

**7.6 Submission of Invoices.** Invoices shall be submitted to DNR according to the following schedule:

<u>Task Milestone Date</u>	<u>Amount Due</u>	<u>Invoice Due No Later Than:</u>
Task 1: <i>Name</i>	Not to exceed <i>Amount</i>	<i>(Invoice Due Date)</i>
<b>Total</b>	<b>Not to exceed</b>	

Each invoice shall itemize the work performed pursuant to the Contract. Each invoice shall comply with all applicable rules concerning payment of such claims and shall contain appropriate documentation necessary to support the fees or charges included in the invoice. DNR shall have the right to dispute any invoice item submitted for payment and to withhold payment of any disputed amount if DNR reasonably believes the invoice is inaccurate or incorrect in any way. Original invoices shall be submitted to:

Iowa Department of Natural Resources  
Attention: **Allen Bonini**  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, IA 50319

**7.7 Payment of Invoices.** DNR shall pay approved invoices in arrears and in conformance with Iowa Code section 8A.514. Unless otherwise agreed to in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the State of Iowa for any services provided by or on behalf of the Contractor under this Contract. Payment will be issued to:

*(Contractor Project Manager Name and Address)*

**7.8 No advance payment.** No advance payments shall be made for any Deliverables provided by Contractor pursuant to this Contract.

**7.9 Delay of Payment Due to Contractor's Failure.** If DNR determines that the Contractor has failed to perform or deliver any service or product required by this Contract, then the Contractor shall not be entitled to any compensation, or any further compensation if compensation has already occurred, under this Contract until such service or product is performed or delivered. DNR shall withhold that portion of the invoice amount which represents payment for the task or deliverable that was not completed, delivered and successfully deployed.

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**7.10 Erroneous Payments and Credits.** Contractor shall promptly re-pay or refund to DNR the full amount of any overpayment or erroneous payment within ten (10) business days after either discovery by Contractor or notification by DNR of the overpayment or erroneous payment.

**7.11 Set-off Against Sums Owed by Contractor.** In the event that Contractor owes DNR or the State of Iowa ("State") any sum (including any State taxes in arrears) under the terms of this Contract, any other Contract, pursuant to a judgment, or pursuant to any law, DNR may set off such sum against any sum invoiced to DNR by Contractor. This may be done in DNR's sole discretion unless otherwise required by law.

**7.12 Reimbursable Expenses.** There shall be no reimbursable expenses associated with this Contract separate from the compensation referred to in this section, unless agreed to by both parties in an amendment to this Contract or in a Change Order executed by both parties. Unless otherwise specifically provided for in this Contract, Contractor shall be solely responsible for all its costs and expenses, including travel, mileage, meals, lodging, equipment, supplies, personnel, training, salaries, benefits, insurance, conferences, long distance telephone, and all other costs and expenses of the Contractor.

**7.13 Stop Services.** In addition to its other remedies described herein, DNR shall have the right at any time during the Contract term to direct the services of the Contractor fully or partially suspended or stopped, if the deliverables or services fail to conform to applicable specifications and requirements under this Contract. DNR shall give Contractor the reasons for the stop work directive.

**7.14 Final Payment.** Before final payment or a termination settlement under this Contract, the Contractor shall execute and deliver to DNR a release of all claims against DNR arising under, or by virtue of, this Contract except claims which are specifically exempted by the Contractor. Unless otherwise provided in this Contract, by state law or otherwise expressly agreed to by the parties to the Contract, final payment under a settlement upon termination of this Contract shall not constitute a waiver of DNR's claims against the Contractor, or the Contractor's sureties under this Contract or applicable performance and payment bonds.

**RFP ATTACHMENT 3  
CONTRACT GENERAL CONDITIONS**

**PROFESSIONAL SERVICES  
GENERAL CONDITIONS**

**Section 1 COMPLIANCE WITH THE LAW**

The Contractor, and its employees and agents, shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders when performing the services under this Contract, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as suppliers. The Contractor, and its employees and agents shall also comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under this Contract. Contractor represents and warrants that it has complied with all federal, state, foreign and local laws applicable to the performance of its obligations under this Contract.

**Section 2 TERMINATION**

**2.1 Termination Due to Lack of Funds or Change in Law.** DNR shall have the right to terminate this Contract without penalty by giving sixty (60) days' written notice to the Contractor as a result of any of the following:

**2.1.1** The legislature or governor fail in the sole opinion of DNR to appropriate funds sufficient to allow DNR to either meet its obligations under this Contract or to operate as required and to fulfill its obligations under this Contract; or if funds anticipated for the continued fulfillment of the Contract are, at any time, not forthcoming or are insufficient, either through the failure of DNR to appropriate funds or funding from a federal source is reduced or discontinued for any reason, or through discontinuance or material alteration of the program for which funds were provided; or

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

**2.1.3** If DNR'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

**2.1.4** If DNR's duties, programs or responsibilities are modified or materially altered; or

**2.1.5** 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 DNR's ability to fulfill any of its obligations under this Contract.

**2.2 Immediate Termination by DNR.** DNR may terminate this Contract for any of the following reasons effective immediately without advance notice and without penalty:

**2.2.1** In the event the Contractor is required to be certified or licensed as a condition precedent to providing services, the revocation or loss of such license or certification will result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;

**2.2.2** DNR determines that the actions, or failure to act, of the Contractor, and its agents and employees have caused, or reasonably could cause, any person's life, health or safety to be jeopardized;

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**2.2.3** The Contractor fails to comply with confidentiality laws or provisions;

**2.2.4** The Contractor furnished any statement, representation or certification in connection with this Contract or the RFP which is materially false, deceptive, incorrect or incomplete.

**2.3 Termination for Cause.** The occurrence of any one or more of the following events shall constitute cause for DNR to declare the Contractor in default of its obligations under this Contract.

**2.3.1** The Contractor fails to perform, to DNR's satisfaction, any material requirement of this Contract or is in violation of a material provision of this Contract, including, but without limitation, the express warranties made by the Contractor;

**2.3.2** DNR determines that satisfactory performance of this Contract is substantially endangered or that a default is likely to occur;

**2.3.3** The Contractor fails to make substantial and timely progress toward performance of the Contract;

**2.3.4** The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or DNR reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;

**2.3.5** The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of this Contract;

**2.3.6** The Contractor has engaged in conduct that has or may expose the State or DNR to liability, as determined in DNR's sole discretion;

**2.3.7** The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property right or proprietary right, or the Contractor has misappropriated a trade secret, or

**2.3.8** Contractor fails to comply with any of the Task Milestone dates contained in this Contract.

**2.4 Notice of Default.** If there is a default event caused by the Contractor, DNR shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in DNR's written notice to the Contractor. If the breach or noncompliance is not remedied by the date of the written notice, DNR may either:

**2.4.1** Immediately terminate the Contract without additional written notice; or,

**2.4.2** Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

**2.5 Termination upon Notice.** Following 30 days' written notice, DNR may terminate this Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Contractor. Following termination upon notice, the Contractor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for services provided under this Contract to DNR up to and including the date of termination.

**2.6 Remedies of the Contractor in Event of Termination by DNR.** In the event of termination of this Contract for any reason by DNR, DNR shall pay only those amounts, if any, due and owing to the Contractor for services actually rendered up to and including the date of termination of the Contract and for which DNR is obligated to pay pursuant to this Contract.

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Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to DNR under this Contract in the event of termination. However, DNR shall not be liable for any of the following costs:

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

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

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

**2.6.4** Any taxes that may be owed by the Contractor not directly in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

**2.7 The Contractor's Termination Duties.** The Contractor upon receipt of notice of termination or upon request of DNR, shall:

**2.7.1** 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 date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, and conclusions resulting there from, any other matters DNR may require.

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

**2.7.3** Comply with DNR's instructions for the timely transfer of any active files and work product produced by the Contractor under this Contract.

**2.7.4** Cooperate in good faith with DNR, its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor.

**2.7.5** Immediately return to DNR any payments made by DNR for services that were not rendered by the Contractor.

**2.8 Rights in incomplete products.** In the event the Contract is terminated, all finished or unfinished documents, data, reports, or other materials prepared by the Contractor under this Contract shall, at the option of DNR, become DNR's property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other material.

### **Section 3 INDEPENDENT CONTRACTOR**

The status of the Contractor shall be that of an independent contractor. The Contractor, and its employees and agents performing under this Contract are not employees or agents of the State of Iowa or any agency, division or department of the state. Neither the Contractor nor its employees shall be considered employees of DNR or the State of Iowa for federal or state tax purposes. DNR will not withhold taxes on behalf of the Contractor. Contractor shall be responsible for payment of all taxes in connection with any income earned from performing this Contract.

### **Section 4 CONFLICT OF INTEREST**

**4.1** The Contractor covenants that the Contractor presently has no interest and shall not acquire any interest, direct and indirect, which would conflict in any manner or degree with the

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performance of services required under this Contract. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed.

**4.2** During the term of this Contract, Contractor shall not provide services that would create a conflict of interest with the Contractor's duties set out in this Contract. In determining whether a particular activity creates an unacceptable conflict of interest, situations in which an unacceptable conflict shall be deemed to exist shall include, but not to be limited to, any of the following:

**4.2.1** The activity involves the use of the state's or DNR's time, facilities, equipment, and supplies or other evidences of employment for purposes other than the performance of Contractor's obligations under this Contract.

**4.2.2** The activity involves the receipt of, promise of, or acceptance of money or other consideration by Contractor from anyone other than the state or DNR for the performance of any acts that Contractor is required or expected to perform as a part of Contractor's performance under this Contract.

**4.2.3** The outside employment or activity is subject to the official control, inspection, review, audit, or enforcement authority of DNR.

**4.3** If the activity creating a conflict of interest is in progress when the term of this Contract begins or is described in paragraph 4.2.1 or 4.2.2 above, then Contractor shall immediately cease the activity. During the term of this Contract, Contractor shall not enter into any activity described in paragraph 4.2.3 or which constitutes any other unacceptable conflict of interest. Contractor shall immediately disclose to DNR the existence of any conflict of interest, including conflicts of interest which are described in paragraph 4.2.3 and are in progress when the term of this Contract begins.

### **Section 5 AMENDMENTS**

This Contract may be amended only by written mutual consent of the parties.

### **Section 6 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 choice of law provisions of Iowa law. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, the exclusive jurisdiction for the proceeding shall be brought 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 DNR or the State of Iowa.

### **Section 7 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.

### **Section 8 ENTIRE AGREEMENT**

This Contract constitutes the entire agreement between DNR and the Contractor with respect to the subject matter hereof, and the Contractor acknowledges that it is entering into the Contract solely on the basis of the terms and conditions herein contained and not in reliance upon any representation, statement, inducement or promise, whether oral or written, not contained herein. This Contract supersedes all prior contracts and agreements between DNR and the Contractor for the services provided in connection with this Contract.

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### **Section 9      ASSIGNMENT AND DELEGATION**

This Contract may not be assigned, transferred or conveyed, in whole or in part, without the prior written consent of the other party. For the purpose of construing this provision, a transfer of a controlling interest in the Contractor shall be considered an assignment.

### **Section 10      REPRESENTATIONS AND WARRANTIES**

**10.1 Construction of Warranties Expressed in this Contract with Warranties Implied by Law.** All warranties made by the Contractor in all provisions of this Contract and the Proposal by the Contractor, whether or not this Contract specifically denominates the Contractor's promise as a warranty or whether the warranty is created only by the Contractor's affirmation or promise, or is created by a description of the materials and services to be provided, or by provision of samples to DNR, shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties which arise through 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 goods and services provided by the Contractor. The provisions of this Section apply during the term of this Contract and any extensions or renewals thereof.

**10.2 Concepts, Materials, and Works Produced.** Contractor represents and warrants that all the concepts, materials and deliverables produced, or provided to DNR pursuant to the terms of this Contract shall be wholly original with the Contractor or that the Contractor has secured all applicable interests, rights, licenses, permits or other intellectual property rights in such concepts, materials and work product produced under this Contract. The Contractor represents and warrants that the concepts, materials and work product produced under this Contract, and DNR's use of same, and the exercise by DNR of the rights granted by this Contract, shall not infringe upon any other work, other than material provided by the Contract to the Contractor to be used as a basis for such materials, or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm or corporation and that the concepts, materials and work product produced under this Contract will not infringe upon the copyright, trademark, trade name, literary, dramatic, statutory, common law or any other rights of any person, firm or corporation or other entity. The Contractor represents and warrants that it is the owner of or otherwise has the right to use and distribute any software, the materials owned by the Contractor and any other materials, work product produced under this Contract and methodologies used in connection with providing the services contemplated by this Contract.

**10.3 Professional Practices.** The Contractor represents and warrants that all of the services to be performed hereunder will be rendered using sound, professional practices and in a competent and professional manner by knowledgeable, trained and qualified personnel.

**10.4 Conformity with Contractual Requirements.** The Contractor represents and warrants that the work product produced under this Contract will appear and operate in conformance with the terms and conditions of this Contract.

**10.5 Authority to Enter into Contract.** The Contractor represents and warrants that it has full authority to enter into this Contract and that it has not granted and will not grant any right or interest to any person or entity that might derogate, encumber or interfere with the rights granted to DNR.

**10.6 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 DNR will not have any obligations with respect thereto.

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**10.7 Title to Property.** The Contractor represents and warrants that title to any property assigned, conveyed or licensed to DNR is good and that transfer of title or license to DNR is rightful and that all property shall be delivered free of any security interest or other lien or encumbrance.

**10.8 Industry Standards.** The Contractor represents and expressly warrants that all aspects of the goods and services provided or used by it shall conform to the applicable industry standards in the performance of this Contract.

**10.9 Technology Updates.** The Contractor represents warrants that it shall continually use and integrate the most current and up-to-date technology commercially available.

### **Section 11 CONFIDENTIALITY**

**11.1 Access to Confidential Data.** The Contractor's employees and agents may have access to confidential data maintained by DNR to the extent necessary to carry out its responsibilities under the contract. The Contractor shall presume that all information received pursuant to this Contract is confidential unless otherwise designated by DNR. The Contractor shall provide to DNR a written description of its policies and procedures, if any exist, to safeguard confidential information. The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract. The Contractor shall provide adequate supervision and training to its agents and employees to ensure compliance with the terms of this contract. The private or confidential data shall remain the property of DNR at all times. Failure by the Contractor to submit its confidentiality policies or to comply in any way with the requirements of this paragraph shall not affect Contractor's obligations to comply with other requirements herein. Nothing in this paragraph shall be construed to in any way affect the Contractor's obligations to comply with Iowa and DNR statutes and rules applicable to confidentiality, as well as DNR policies and procedures regarding confidentiality, including Department of Administrative Services (DAS) and DNR IT Security policies and procedures.

**11.2 No Dissemination of Confidential Data.** No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of DNR, either during the period of the Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of DNR. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract in whatever form it is maintained promptly at the request of DNR.

**11.3 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 DNR and cooperate with DNR in any lawful effort to protect the confidential information.

**11.4 Reporting of Unauthorized Disclosure.** The Contractor shall immediately report to DNR any unauthorized disclosure of confidential information.

**11.5 Survives Termination.** The Contractor's obligation under this Contract regarding confidential materials and information shall survive termination of this Contract.

### **Section 12 PROPERTY, INTELLECTUAL PROPERTY, PATENT AND COPYRIGHT**

**12.1 Title to Property.** Title to all property furnished by DNR or the State to Contractor to facilitate the performance of this Contract shall remain the sole property of DNR and the State. All such property shall be used by Contractor only for purposes of fulfilling its obligations under this Contract and shall be returned to DNR upon the earliest of completion, termination, or cancellation of this Contract or at DNR's request. Contractor acknowledges that it shall acquire no interest or rights in and to such property. Except as expressly provided in this Contract, Contractor shall not disclose or use such property for any purpose, including pledging or

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encumbering it, selling or using it for monetary gain, using it to compile mailing lists, solicit business or pursue other business activities, or otherwise. Title to all property purchased by Contractor, for which Contractor has been reimbursed or paid by DNR under this Contract, shall pass to and vest in the State, except as otherwise provided in this Contract.

**12.2 Care of Property.** Contractor shall be responsible for the proper custody and care of any DNR-owned property, including data, databases, software, interfaces, hardware, telecommunications lines and equipment, intellectual property and DNR Property furnished for Contractor's use in connection with the performance of the contract. Contractor shall exercise its best efforts to prevent damage to all such property and shall, at DNR's request, restore damaged property to its condition prior to the damage at the sole expense of Contractor. Such restoration shall be complete when judged satisfactory by DNR. In the event such property cannot be restored to DNR's satisfaction, Contractor shall reimburse DNR for any loss or damage to such property caused by Contractor, or any agent, contractor or subcontractor employed or utilized by Contractor. Contractor shall not take any action that would impair the value of, or goodwill associated with, the name, property and intellectual property rights of DNR and the State. Contractor shall obtain the prior advance written approval from DNR prior to Contractor's use of the name, marks or intellectual property rights of DNR or the State.

**12.3 Hardware and Equipment.** In the event that any hardware and other equipment owned by Contractor and used in connection with this Contract is subject to the security interest or a legal or equitable interest by a third party who is not a party to this Contract, Contractor shall insure in any such transactions that DNR shall be notified of a default occurring under the instrument and if Contractor does not cure the default within the time allowed, DNR may, in its sole discretion, cure the default by Contractor and assess or set off all costs associated with affecting cure, including the amount in default and reasonable attorneys fees against Contractor.

**12.4 Ownership of Deliverables and Intellectual Property.** Contractor agrees that the Deliverables and all intellectual property rights and proprietary rights arising out of, embodied in, or related to, such Deliverables, shall become and remain the sole and exclusive property of the DNR and the State. Contractor hereby irrevocably transfers, assigns and conveys to the DNR and the State all right, title and interest in and to such Deliverables and intellectual property rights and proprietary rights. Contractor shall take all actions as may be necessary or requested by the DNR to carry out and effect such transfer, assignment and conveyance. Contractor represents and warrants that the DNR and the State shall acquire good and clear title to such Deliverables, free from any claims, liens, security interests, encumbrances or other rights or interests of Contractor or of any Third Party. The DNR and the State shall have the right to obtain and hold copyrights, patents or such other registrations or intellectual property protections as may be desirable or appropriate to the subject matter, and any extensions or renewals thereof. Contractor shall assist the DNR and the State to obtain and secure copyrights, patents or other intellectual property rights, registrations or protections with respect to all such Deliverables in the United States and any other countries. Contractor agrees to execute all papers and to give all facts known to it necessary to secure United States or foreign country copyrights and patents, and to transfer or cause to transfer to the DNR and the State all the right, title and interest in and to such Deliverables. Contractor also agrees to waive and not assert any moral rights it may have with regard to such Deliverables. The Contractor shall not retain any property interests or other rights in and to such Deliverables and shall not use such Deliverables, in whole or in part, for any purpose, without the prior written consent of the DNR and the payment of such royalties or other compensation as the DNR deems appropriate. As the owner of such Deliverables, the DNR and the State may, without limitation: (i) adapt, change, modify, edit or use the Deliverables as the DNR or the State sees fit, including in combination with the works of others, prepare derivative works based on the Deliverables, and publish, display and distribute throughout the world any Deliverable(s) in any medium, whether now known or later devised, including, without limitation, any digital or optical medium, and (ii) make, use, sell, license, sublicense, or lease the

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Deliverables and any intellectual property rights therein or related thereto without payment of additional compensation to Contractor.

**12.5 Further Assurances.** At the DNR's request, Contractor shall execute and deliver such instruments and take such other action as may be requested by the DNR to establish, perfect or protect the State's and the DNR's rights in and to the Deliverables and to carry out the assignments, transfers and conveyances required by this Contract. Contractor shall execute any instruments, provide all facts known to it, and do all other things requested by the DNR (both during and after the term of this Contract) in order to vest more fully in the State and the DNR any and all ownership rights and intellectual property rights in and to the Deliverables. In the event the DNR is unable, after reasonable effort, to secure Contractor's signature on any letters, patent, copyright, or other analogous protection relating to the Deliverables, for any reason whatsoever, Contractor hereby irrevocably designates and appoints the DNR, and its duly authorized officers, employees and agents, as Contractor's agent and attorney-in-fact, to act for and in its behalf to execute and file any such application or applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent, copyright registrations, and other analogous protection, including extensions and renewals thereon, with the same legal force and effect as if executed by Contractor.

**12.6 Disputes.** In any dispute over ownership or licensing rights, Contractor shall have the burden of proving prior or independently developed rights by clear and convincing proof.

### **Section 13 JOINT AND SEVERAL LIABILITY**

If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, then all such entities shall be jointly and severally liable for carrying out the activities and obligations of this contract, and for any default activities and obligations.

### **Section 14 WAIVER**

Except as specifically provided for in a waiver signed by duly authorized representatives of DNR 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.

### **Section 15 NOTICE**

**15.1** Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein 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 as set forth as follows in Section 1 of this Contract.

**15.2** Each such notice shall be deemed to have been provided:

**15.2.1** At the time it is actually received; or,

**15.2.2** Within one day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day delivery; or,

**15.2.3** Within five (5) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail.

**15.3** 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 and as provided herein.

### **Section 16 CUMULATIVE RIGHTS**

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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 as long as any default remains in any way unremedied, unsatisfied or undischarged.

### **Section 17 TIME IS OF THE ESSENCE**

Time is of the essence with respect to the performance of the terms of this Contract.

### **Section 18 RECORD RETENTION AND ACCESS**

The Contractor shall maintain books, records and documents which sufficiently and properly document and calculate all charges billed to DNR throughout the term of this Contract for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records. The Contractor shall permit the Auditor of the State of Iowa or any 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.

### **Section 19 SOLICITATION**

The Contractor 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.

### **Section 20 OBLIGATIONS BEYOND CONTRACT TERM**

This Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to this Contract. All obligations of DNR and the Contractor incurred or existing under this Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of this Contract.

### **Section 21 DELAY OR IMPOSSIBILITY OF PERFORMANCE**

The Contractor shall not be in default under this Contract if performance is delayed or if Contractor may not reasonably perform the Contract due to an act of God, flood, fire or similar events. In each such case, the delay or impracticability must be beyond the reasonable control and anticipation of the Contractor, and without the fault or negligence of the Contractor. If delay results from a subcontractor's conduct, from the Contractor's negligence or fault, or from circumstances which by the exercise of reasonable diligence the Contractor should have been able to anticipate or prevent, then the Contractor shall be in default and this paragraph shall not be applicable. It shall be the responsibility of the Contractor to prove that performance was delayed or impracticable within the meaning of this paragraph.

### **Section 22 SUPERCEDES FORMER CONTRACTS OR AGREEMENTS**

Unless this Contract is an amendment to a Contract entered into between DNR and Contractor and is designated as such, then this Contract supersedes all prior contracts or agreements between DNR and the Contractor for the services provided in connection with this Contract.

### **Section 23 USE OF THIRD PARTIES AND SUBCONTRACTORS**

Contractor may not contract with third parties for the performance of any of Contractor's obligations under this Contract, unless and then only to the extent that the Special Conditions of this Contract specify otherwise. If the Special Conditions provide for a subcontractor or subcontractors, then the following conditions shall apply:

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**23.1** All subcontracts shall be subject to prior approval by the DNR. The DNR's consent shall not be deemed in any way to provide for the incurrence of any obligation of DNR in addition to the remuneration agreed upon in this Contract. Any subcontract to which DNR has consented shall be in writing and shall in no way alter the terms and conditions of this Contract.

**23.2** The Contractor may enter into subcontracts to complete the work required by this Contract provided that the Contractor remains responsible for all services performed under this Contract. No subcontract or delegation of work shall relieve or discharge the Contractor from any obligation, provision, or liability under this Contract. The Contractor shall remain responsible for such performance and shall be fully responsible and liable for all acts or omissions of any subcontractor.

**23.3** All restrictions, obligations and responsibilities of the Contractor under this Contract also shall apply to the subcontractors.

**23.4** DNR shall have the right to request the removal of a subcontractor from the Contract for good cause. The Contractor shall indemnify, defend and hold harmless DNR and the State from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever arising as a result of Contractor's breach of any subcontract in which it enters, including Contractor's failure to pay any and all amounts due by Contractor to any subcontractor.

**23.5** Each subcontract shall contain provisions for DNR access to the subcontractor's books, documents, and records and for inspections of work, as required of Contractor herein.

**23.6** Any action of a subcontractor, which, if done by Contractor, would constitute a breach of this Contract, shall be deemed a breach by Contractor and have the same legal effect.

**23.7** If delay results from a subcontractor's conduct, from the Contractor's negligence or fault, or from circumstances which by the exercise of reasonable diligence the Contractor should have been able to anticipate or prevent, then the Contractor shall be in default and Section 21, "Delay of Impossibility of Performance," shall not be applicable.

**23.8** If the Contract is subject to the provisions of Iowa Code chapter 8F, then the Contractor shall comply with Iowa Code chapter 8F with respect to any subcontract Contractor enters into pursuant to this Contract. Any compliance documentation, including but not limited to certification, received from any subcontractor shall be forwarded to DNR immediately.

### **Section 24 SELF-INSURANCE BY THE STATE OF IOWA**

Pursuant to Iowa Code chapter 669, DNR and the State of Iowa are self-insured against all risks and hazards related to this Contract. No separate fund has been established to provide self-insurance, and the State of Iowa is not obligated to establish any such fund during the term of this Contract.

### **Section 25 INDEMNIFICATION**

The Contractor agrees to indemnify and hold harmless the State of Iowa and DNR, its officers, employees and agents appointed and elected and volunteers from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments, related to or arising from: any breach of this Contract; any negligent, intentional or wrongful act or omission of the Contractor or any agent or subcontractor utilized or employed by the Contractor; the Contractor's performance or attempted performance of this Contract, including any agent or subcontractor utilized or employed by the Contractor; any failure by the Contractor to comply with the Compliance with the Law provision of this Contract; 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

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Iowa; any infringement of any copyright, trademark, patent, trade dress, or other intellectual property right; or any failure by the Contractor to adhere to the confidentiality provisions of this Contract.

### **Section 26 IMMUNITY FROM LIABILITY**

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

### **Section 27 NON-SUPPLANTING REQUIREMENT**

To the extent required by federal or state law, federal and state funds made available under this Contract shall be used to supplement and increase the level of state, local, and other non-federal funds that would in the absence of such federal and state funds be made available for the programs and activities for which funds are provided and will in no event take the place of state, local, and other non-federal funds.

### **Section 28 CERTIFICATION REGARDING SALES AND USE TAX**

By executing this Contract, the Contractor certifies that it is either (a) registered with the Iowa Department of Revenue, collects and remits sales and use taxes as required by Iowa Code chapter 432; or (b) not a "retailer" or a "retailer maintaining a place of business in this state" as those terms are defined in Iowa Code sections 423.1(42) and (43). The Contractor also acknowledges that the DNR 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 representatives filing action for damages for breach of contract.

### **Section 29 TAXES**

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

### **Section 30 EQUAL EMPLOYMENT PROVISIONS**

The Contractor has read and understands the provisions in Attachment A, Equal Employment Opportunity, attached hereto and made part of this Contract by this reference, and the Contractor agrees to conform to the requirements contained therein.

### **Section 31 FEDERALLY-FUNDED AGREEMENTS**

If this Contract is funded by federal monies, then the Contractor has read and understands the provisions of Attachment B, Additional Requirements for Federally-Funded Agreements, attached hereto and made part of this Contract by this reference, and the Contractor agrees to conform to the requirements contained therein.

### **Section 32 INSURANCE MAINTAINED BY CONTRACTOR**

The Contractor has read and understands the provisions in Attachment C, Insurance Clause, attached hereto and made part of this Contract by this reference, and the Contractor agrees to conform to the requirements contained therein.

### **Section 33 INFORMATION TECHNOLOGY SECURITY**

The Contractor and all Contractor personnel shall comply with Iowa information technology security statutes, rules and policies. By signing this contract, the Contractor acknowledges that the Contractor has read and understands the provisions of the information technology security policies adopted by the Iowa Department of Administrative Services (DAS) and DNR in effect on the date of signing. The Contractor further agrees to read and abide by any revised DAS and DNR policies, posted on the respective agency websites, that come into effect during the term of this Contract.

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### **Attachment A Equal Employment Opportunity.**

The Contractor agrees to the following:

**A.1** The Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, religion, sex, national origin, age, gender identity, gender orientation, pregnancy, family status, marital status or mental or physical disability. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated, during employment, without regard to their race, creed, color, religion, sex, national origin, age, gender identity, gender orientation, pregnancy, family status, marital status or mental or physical disability except where mental or physical disability relates to a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor's business. Such action shall include but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The Contractor agrees to post notices, setting forth provisions of this nondiscrimination clause, in conspicuous places available to employees and applicants for employment.

**A.2** The Contractor shall in all solicitations or advertisements for employees, placed by or on behalf of the Contractor, state that all qualified applicants shall receive consideration for employment without regard to race, creed, color, religion, sex, national origin, age, gender identity, gender orientation, pregnancy, family status, marital status or mental or physical disability except where mental or physical disability is a bona fide occupation qualification reasonably necessary to the normal operation of the Contractor's business.

**A.3** The Contractor shall comply with all relevant provisions of the Iowa Civil Rights Act of 1965, as amended, Iowa Executive Order 15 or 1973, Chapter 19B, Code of Iowa, Federal Executive Order 11246 of 1965, as amended by Federal Executive Order 11376 of 1967, and Title VI of the Civil Rights Act of 1964, as amended. The Contractor shall furnish all information and reports requested by the state of Iowa or required by, or pursuant to, the rules and regulations thereof and shall permit access to payroll and employment records by the state of Iowa for purposes of investigation to ascertain compliance with such rules, regulations or requests, or with this nondiscrimination clause.

**A.4** In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the aforesaid rules, regulations or requests, this contract may be canceled, terminated or suspended in whole or in part. In addition, the state of Iowa may take such further action, and such other sanctions may be imposed and remedies invoked, as provided by the Iowa Civil Rights Act of 1965, as amended, Chapter 216, Code of Iowa, or as otherwise provided by law.

**A.5** The Contractor shall include the provisions of paragraphs 8.1 through 8.4 hereof in every subcontract, unless specifically exempted by approval of the state of Iowa, so that such provisions shall be binding on each subcontract. The Contractor shall take such action with respect to any subcontract as the state of Iowa may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the state of Iowa, the Contractor may request the state of Iowa to enter into such litigation to protect the interests of the state of Iowa.

**A.6** In accordance with the provisions of 541 Iowa Administrative Code chapter 4:

- The Contractor or subcontractor is prohibited from engaging in discriminatory employment practices forbidden by federal and state law, executive orders and rules of the department of management, which pertain to equal employment opportunity and affirmative action.

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- The Contractor or subcontractor may be required to have on file a copy of the affirmative action program, containing goals and time specifications. These contractual provisions shall be fully enforced. Any breach of them shall be regarded as a material breach of the Contract.
- Compliance with the provisions of Iowa Code section 19B.7 and all applicable rules of the department of management prior to the execution of the Contract shall be a condition of the Contract binding upon the Contractor or service provider, its successors, and assignees.
- Failure to fulfill the nondiscrimination requirements of this Contract or any of the rules and orders may cause the Contract to be canceled, terminated, or suspended in whole or in part, and the Contractor or service provider may be declared ineligible for future state contracts in accordance with authorized procedure or the Contractor may be subject to other sanctions as provided by law or rule.
- The Contractor may be required to submit to the department of management or the DNR a copy of its affirmative action plan containing goals and time specifications.
- The Contractor shall be able to demonstrate to the satisfaction of the department of management or the DNR that its affirmative action program is productive.
- The Contractor may be required to submit reports as requested by the department of management. The department of management may request other relevant information from a contractor at any time.
- The department of management may undertake a compliance review of the Contractor, and the department of management may take action, as appropriate, to seek to terminate contracts or funding found to be in violation of the rules.

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### Attachment B Additional Requirements for Federally-funded Agreements

**B.1 Suspension and Debarment.** The Contractor certifies pursuant to 31 CFR Part 19 that neither it nor its principles are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any federal department or agency.

**B.2 Lobbying Restrictions.** The Contractor shall comply with all certification and disclosure requirements prescribed by 31 U.S.C. Section 1352 and any implementing regulations and shall be responsible for ensuring that any subcontractor fully complies with all certification and disclosure requirements.

**B.3 Pro-Children Act of 1994.** Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan or loan guarantee. 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 WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party. The Contractor certifies that it will comply with the requirements of the Pro-Children Act of 1994 and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

**B.4 Certified Audits.** Local governments and non-profit subrecipient entities that expend \$500,000 or more in a year in federal awards (from all sources) shall have a single audit conducted for that year in accordance with the provisions of OMB Circular A-133 "Audit of States, Local Governments, and Non-Profit Organizations." A copy of the final audit report shall be submitted to DNR 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 DNR. If an audit report is not required to be submitted per the criteria above, the subrecipient must provide written notification to DNR that the audit was conducted in accordance with Government Auditing Standards and that neither the schedule of findings and questioned costs nor the summary schedule of prior audit findings includes any audit findings related to federal awards provided by the DNR. See A-133 Section 21 for a discussion of subrecipient versus vendor relationships.

**B.5 Drug Free Work Place.** The Contractor shall provide a drug free workplace in accordance with the Drug Free Workplace Act of 1988 and all applicable regulations.

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## Attachment C Insurance Clause

**C.1 Insurance Policies.** Contractor shall maintain in full force and effect, with insurance companies of recognized responsibility, at its expense, insurance covering its work of the type and in amounts required by this Contract, including any extensions and renewals. Contractor's insurance shall, among other things, be occurrence based and shall insure against 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 DNR shall be named as additional insureds or loss payees, or the Contractor shall obtain an endorsement to the same effect, as applicable.

Unless otherwise requested by DNR, Contractor shall, at its sole cost, cause to be issued and maintained in effect during the entire term of this Contract not less than the insurance coverage's set forth below each naming DNR and the State of Iowa as an additional insured or loss payee, as applicable:

### C.2 Type of Insurance

<i>Type of Insurance</i>	LIMIT	AMOUNT
General Liability (including contractual liability) written on an occurrence basis	General Aggregate Prod./Comp. Aggregate	\$ 1 million \$ 1 million
	Personal injury	\$ 500,000
	Each Occurrence	\$ 500,000
Property Damage	Each Occurrence	\$ 500,000
	Aggregate	\$ 1 million
Workers Compensation and Employer Liability	As Required by Iowa law	

**C.3 Professional Liability Insurance.** Contractor shall procure and maintain a professional liability insurance policy that is specific to the project that is the subject of this contract. The insurance shall provide [Contract Amount](#) in coverage and a three-year extended discovery period following completion of the term of this contract.

**C.4 Claims Provision.** All insurance policies required by this Contract must provide coverage for all claims arising from activities occurring during the term of the policy regardless of the date the claim is filed or expiration of the policy.

**C.5 Certificates of Coverage.** All insurance policies required by this Contract shall remain in full force and effect during the entire term of this Contract and any extensions or renewals thereof and shall not be canceled or amended except with the advance written approval of DNR. The Contractor shall submit certificates of the insurance, which indicate coverage and notice provisions as required by this Contract, to DNR within 10 days of the date DNR enters into this Contract. The certificates shall be subject to approval by DNR. The insurer shall state in the certificate that no cancellation of the insurance will be made without at least thirty (30) days' prior written notice to DNR. Approval of the insurance certificates by DNR shall not relieve the Contractor of any obligation under this Contract.

**C.6 No Limitation of Liability.** Acceptance of the insurance certificates by DNR shall not act to relieve Contractor of any obligation under this Contract. All insurance policies and certificates shall be issued only by companies authorized to transact business in the State of Iowa. It shall be the responsibility of Contractor to keep the respective insurance policies and coverages current and in force during the life of this Contract.

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**C.7 Warranty.** Contractor warrants that it has examined its insurance coverage to determine whether DNR and the State can be named as additional insureds without creating an adverse effect on Contractor's coverage.

**C.8 Waiver of Subrogation Rights.** Contractor shall obtain a waiver of any subrogation rights that any of its insurance carriers might have against DNR or the State. The waiver of subrogation rights shall be indicated on the certificates of insurance coverage supplied to DNR.

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**RFP ATTACHMENT 4**

**TECHNICAL PROPOSAL TITLE PAGE**  
**OR**  
 **COST PROPOSAL TITLE PAGE**  
**(Check appropriate designation)**

Submitted by:	
Firm Name:	
Address:	
City, State, Zip:	
Telephone:	
FAX:	
Email Address:	
Signature:	
Print Name:	
Title:	
Date:	

**Original**

**Copy**

**Public Copy redacting information for which confidential treatment is requested. No part of a cost proposal may be held confidential. Please refer to section 1.8.3.**

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**RFP ATTACHMENT 5  
POSITIVE STATEMENT OF UNDERSTANDING OF COMPLIANCE WITH  
CHAPTER 1, ADMINISTRATIVE ISSUES,  
AND  
CHAPTER 2, CONTRACTUAL TERMS AND CONDITIONS**

I certify that I have read and understand Chapter 1, *Administrative Issues*, and Chapter 2, *Contractual Terms and Conditions* of RFP No. \_\_\_\_\_.  
I further certify that this response to RFP No. \_\_\_\_\_ complies with Chapters 1 and 2.

By signing this statement, I agree to accept the contract terms and conditions stated in Chapter 2, *Contractual Terms and Conditions*; in RFP Attachment 2, *Contract Special Conditions*; and in RFP Attachment 3, *Contract General Conditions*, except as I have specifically stated below:

I further understand and agree that the exceptions listed in this statement may be rejected by DNR and the entire proposal may be deemed non-responsive, according to section 4.1.3 of RFP No. \_\_\_\_\_.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

Name of Vendor Organization: \_\_\_\_\_

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**RFP ATTACHMENT 6  
COST PROPOSAL FORMAT**

Vendor Cost Proposal shall include an all-inclusive, itemized, total cost in U.S. Dollars (including all travel, expenses, etc.) to provide the requested services. All pricing to be FOB Destination, freight cost included; and based on Net 60 Days Payment Terms.

ITEM	DNR REQUEST	LOCAL SHARE IN-KIND	LOCAL SHARE HARD DOLLARS	IDENTIFY SOURCE(S) OF LOCAL SHARE	TOTAL COST
Staffing	\$	\$	\$		\$
Grant administration	\$	\$	\$		\$
Travel costs	\$	\$	\$		\$
Office/meeting space	\$	\$	\$		\$
Info & education activities	\$	\$	\$		\$
Subcontractor costs	\$	\$	\$		\$
Meeting facilitation costs	\$	\$	\$		\$
Other:	\$	\$	\$		\$
Other:	\$	\$	\$		\$
<b>Total</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>--</b>	<b>\$</b>

**Note:** As a reminder, there are no cost-share match requirements to be eligible for this project. However, proposals offering matching funds will be given additional favorable consideration.

Payment Milestone for Completion of Task	Firm Fixed US \$ Price
Task 1	
Task 2	
Task 3	
ETC.	

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

Name of Vendor Organization: \_\_\_\_\_

**RFP ATTACHMENT 7  
PROSPECTIVE VENDOR PROPOSAL CERTIFICATION  
(To be submitted with TECHNICAL PROPOSAL)  
(Use with section 1.5.6)**

**PROPOSAL CERTIFICATION**

I certify that I have the authority to bind the vendor indicated below to the specific terms, conditions and technical specifications required in the attached Request for Proposal No. \_\_\_\_\_ and offered in the vendor's proposal. I understand that by submitting this proposal, the vendor indicated below agrees to provide the services, which meet or exceed the requirements of the RFP unless noted in the proposal and at the prices quoted by the vendor.

I certify that the vendor indicated below (a) acknowledges receipt of and accepts the provisions of amendment to this RFP dated \_\_\_\_\_ or (b) has received no amendments to this RFP.

I certify that the contents of the proposal are true and accurate and that the vendor has not knowingly made any false or misleading statements in the proposal.

I further certify that I have the authority to bind the vendor indicated below to its costs contained in this proposal, and I certify that the quoted costs will remain binding and unchangeable for the term of any contract that may result from this proposal, in accordance with the provisions of section 1.5.6 of the RFP.

I further certify that Vendor and all Vendor personnel shall comply with Iowa information technology security statutes, rules and policies, including the provisions of the information technology security policies adopted by the Iowa Department of Administrative Services (DAS) and DNR. I understand the successful vendor and individual personnel will be asked to sign similar certifications if a contract is awarded.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

Name of Vendor Organization: \_\_\_\_\_

**RFP ATTACHMENT 8**

**PROSPECTIVE VENDOR CERTIFICATION REGARDING DEBARMENT,  
SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER  
TIER COVERED TRANSACTIONS**

By signing and submitting this Proposal in response to RFP No. \_\_\_\_\_, the vendor is providing the certification set out below:

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the vendor knowingly rendered an erroneous certification, in addition to other remedies available to the federal government the department or State with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. The vendor shall provide immediate written notice to the person to which this Proposal is submitted if at any time the vendor learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principle, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this Proposal is submitted for assistance in obtaining a copy of those regulations.
4. The vendor agrees by submitting this Proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or State with which this transaction originated.
5. The vendor further agrees by submitting this Proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not

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proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. A participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

8. Except for transactions authorized under paragraph 4 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or State with which this transaction originated may pursue available remedies, including suspension and/or debarment.

- (1) The vendor certifies, by submission of this Proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or State.
- (2) Where the vendor is unable to certify to any of the statements in this certification, such vendor shall attach an explanation to this Proposal.

---

Signature: Date:

---

Printed Name and Title

---

Name of Vendor Organization

**RFP ATTACHMENT 9  
PROSPECTIVE VENDOR AUTHORIZATION TO RELEASE INFORMATION  
(For use with sections 1.7.2 and 1.7.3)**

**AUTHORIZATION TO RELEASE INFORMATION**

\_\_\_\_\_ (Name of vendor) hereby authorizes any person or entity, public or private, having any information concerning the vendor's background, including but not limited to its performance history regarding its prior rendering of services similar to those detailed in RFP No. \_\_\_\_\_, to release such information to the Department.

The vendor acknowledges that it may not agree with the information and opinions given by such person or entity in response to a reference request. The vendor acknowledges that the information and opinions given by such person or entity may affect in a negative way its chances to receive contract awards from the Department or may otherwise affect in a negative way its reputation or operations.

The vendor accepts the risk associated with this authorization to release information. The vendor agrees to release all persons, entities, the Department, and the State of Iowa from any liability whatsoever that may be incurred as a result of the release of information which occurs following the execution of this authorization to release information or following the use in any way by any person of the information obtained.

\_\_\_\_\_  
Printed Name of Vendor Organization

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name and Title

**RFP Attachment 10  
PROSPECTIVE VENDOR CERTIFICATION OF CONFIDENTIALITY AND  
NONDISCLOSURE AGREEMENT**

**CERTIFICATION OF CONFIDENTIALITY AND NONDISCLOSURE  
AGREEMENT**

I \_\_\_\_\_  
(Print Name)

For \_\_\_\_\_  
(Vendor)

acknowledge that in the performance of responsibilities under a contract my company may acquire or have access information regarding State of Iowa employees, clients and/or Iowa citizens and that such information is designated as “proprietary and confidential”.

I acknowledge that my company may be subject to significant Federal and State criminal and civil penalties if it misuses or improperly releases / discloses the confidential information it may acquire or have access to.

Therefore, my company agrees not to disclose or misuse such information except for purposes of performing under the contract. If there is doubt over confidentiality, we will regard it as confidential information. We further agree to adhere to any written procedures and policies with respect to the handling of confidential information.

I understand, acknowledge, and agree that this confidentiality and nondisclosure agreement remains in full force and effect after the conclusion, termination or expiration of the contract.

\_\_\_\_\_  
Signature Date

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**RFP ATTACHMENT 11  
PROSPECTIVE VENDOR  
CERTIFICATION REGARDING REGISTRATION, COLLECTION, AND  
REMISSION OF STATE SALES AND USE TAX**

**CERTIFICATION REGARDING REGISTRATION, COLLECTION, AND  
REMISSION OF STATE SALES AND USE TAX**

Pursuant to Iowa Code sections 423.2(9A) and 423.5(8), a retailer in Iowa or a retailer maintaining a business in Iowa that enters into a contract with a state agency must register, collect, and remit Iowa sales tax and Iowa use tax levied under Iowa Code chapter 423 on all sales of tangible personal property and enumerated services. The Act also requires vendors to certify their compliance with sales tax registration, collection, and remission requirements and provides potential consequences if the certification is false or fraudulent.

By submitting a proposal in response to Request for Proposal No. \_\_\_\_\_, the undersigned certifies the following: (check the applicable box)

Our Company is registered with the Iowa Department of Revenue, collects, and remits Iowa sales and use taxes as required by Iowa Code chapter 432;

**OR**

Our Company is not a "retailer" or a "retailer maintaining a place of business in this state" as those terms are defined in Iowa Code subsections 423.1(42) & (43).

Our Company also acknowledges that the State of Iowa may declare our bid or resulting contract void if the above certification is false. Our Company also understands that fraudulent certification may result in the State of Iowa or its representative filing for damages for breach of contract.

\_\_\_\_\_  
Printed Name of Vendor Organization

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name and Title