

CONTRACT
BETWEEN
IOWA DEPARTMENT OF AGRICULTURE & LAND STEWARDSHIP
AND

This Contract is between the **Iowa Department of Agriculture and Land Stewardship** and **[name of the contractor]**. The parties agree as follows:

SECTION 1. IDENTITY OF THE PARTIES

1.1 The **Iowa Department of Agriculture and Land Stewardship** ("Agency") is authorized to enter into this Contract. Agency's address is **Wallace State Office Building, Des Moines, Iowa 50319**.

1.2 **[full legal name of the Contractor]** ("Contractor") is authorized to do business in the state of Iowa and to enter into this Contract. The Contractor's address is **[the Contractor's address]**.

SECTION 2. PURPOSE

The parties have entered into this Contract for the purpose of retaining the Contractor to provide: **[enter a brief description of the product or services to be provided]**.

SECTION 3. DURATION OF CONTRACT

The term of this Contract shall be **[enter beginning date]** through **[enter ending date]**, unless terminated earlier in accordance with the Termination section of this Contract.

SECTION 4. SCOPE OF SERVICES

4.1 Scope of Services. The Contractor shall provide the following services in accordance with the defined performance criteria as set forth below:

[Describe what the contractor is going to provide. Be specific.]

4.2 Non-Exclusive Rights. This Contract is not exclusive. The Agency 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.

SECTION 5. COMPENSATION

5.1 Pricing. The Contractor will be paid **[_____]** for the services described in the Scope of Services.

5.2 Billings. The Contractor shall submit, **upon completion**, an invoice for services rendered in accordance with this Contract. The invoice shall comply with all applicable rules concerning payment of such claims. The Agency shall pay all approved invoices in arrears and in conformance with Iowa Code 8A.514. The Agency may pay in less than sixty (60) days, but an election to pay in less than sixty (60) days shall not act as an implied waiver of Iowa Code § 8A.514.

Unless otherwise agreed in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the State for any goods or services provided by or on behalf of the Contractor under this Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under this Contract.

5.3 Delay of Payment Due to Contractor's Failure. If the Agency in good faith determines that the Contractor has failed to perform or deliver any service or product as required by this Contract, the Contractor shall not be entitled to any compensation under this Contract until such service or product is performed or delivered. In this event, the Agency may withhold that portion of the Contractor's compensation, which represents payment for service or product that was not performed or delivered.

5.4 Set-Off Against Sums Owed by the Contractor. In the event that the Contractor owes the State any sum under the terms of this Contract, any other Contract, pursuant to any judgment, or pursuant to any lack the State may set off the sum owed to the State against any sum owed by the State to the Contractor in the State's sole discretion, unless otherwise required by law. The Contractor agrees that this provision constitutes proper and timely notice under the law of setoff.

SECTION 6. TERMINATION

6.1 Termination Upon Notice. Following ten (10) days' written notice, the Agency 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 the Agency up to and including the date of termination.

6.2 Non-Appropriation. Notwithstanding anything in this Agreement to the contrary, and subject to the limitations, conditions and procedures set forth below, IDALS shall have the right to terminate this agreement without penalty by giving thirty (30) days written notice to the contracting party as a result of any of the following: (1) the legislature or governor fail to appropriate funds sufficient to allow IDALS to operate as required and to fulfill its obligations under this agreement; (2) if funds are de-appropriated or not allocated; (3) if IDALS authorization to operate is withdrawn or there is a material alteration in the programs administered by IDALS; and (4) if IDALS duties are substantially modified. In the event of termination of this Agreement due to non-appropriation, the exclusive, sole, and complete remedy of the contracting party shall be payment for services completed prior to termination.

6.3 Remedies of the Contractor in Event of Termination by the Agency. In the event of termination of this Contract for any reason by the Agency, the Agency 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 the Agency is obligated to pay pursuant to this Contract. 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 the Agency under this Contract in the event of termination.

6.4 The Contractor's Termination Duties. The Contractor, upon receipt of notice of termination or upon request of the Agency, shall:

6.4.1 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, conclusions resulting therefrom, any other matters the Agency may require.

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

6.4.3 Immediately return to the Agency any payments made by the Agency for services that were not rendered by the Contractor.

SECTION 7. INDEMNIFICATION

The Agency and Contractor agree to indemnify and hold harmless the State of Iowa and the Agency, its officers, employees and agents appointed and elected, and volunteers, from: any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments, including reasonable value of the time spent by the Attorney General's Office, and the costs and expenses and reasonable attorneys' fees of other counsel required to defend the State of Iowa or the Agency.

SECTION 8. LIMITATION OF LIABILITY

The Contractor expressly acknowledges that the **Agency's appropriation** is subject to legislative change by either the federal or state government. Should either legislative body enact measures which alter the **Agency's appropriation** the Contractor shall not hold the Agency liable in any manner for the resulting changes. The Agency shall use best efforts to provide thirty (30) days' written notice to the Contractor of any legislative change. During the thirty (30)-day period, the parties shall meet and make a good faith effort to agree upon changes to the Contract to address the legislative change. Nothing in this Subsection shall affect or impair the Agency's right to terminate the Contract pursuant to the termination provisions.

SECTION 9. CONTRACT ADMINISTRATION

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

9.2 Compliance with the Law; Nondiscrimination in Employment. The Contractor, its employees, agents, and subcontractors shall not engage in discriminatory employment practices which are forbidden by federal or state law, executive orders, and rules of the Iowa Department of Administrative Services. The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, orders when performing under the Contract, including without limitation, all laws applicable to the prevention of discrimination in employment (e.g., Iowa Code chapter 216 and section 19B.7) and the use of targeted small businesses as subcontractors and suppliers. Upon the State's written request, the Contractor shall submit to the State a copy of its affirmative action plan, containing goals and time specifications, and accessibility plans and policies as required under Iowa Administrative Code chapter 11—121.

The Contractor, its employees, agents and subcontractors shall also comply with all federal, state, and local laws, including any permitting and licensure requirements, in carrying out the work performed under this Contract.

In the event Contractor contracts with third parties for the performance of any of the Contractor obligations under this Contract as set forth in section 9.6, Contractor shall take such steps as necessary to ensure such third parties are bound by the terms and conditions contained in this section.

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

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

9.3 Amendments. This Contract may be amended in writing from time to time by mutual consent of the parties. All amendments to this Contract must be in writing and fully executed by the parties.

9.4 Third Party Beneficiaries. There are no third party beneficiaries to this Contract. This Contract is intended only to benefit the State, the Agency and the Contractor.

9.5 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 clause, a transfer of a controlling interest in the Contractor shall be considered an assignment.

9.6 Use of Third Parties. The Agency acknowledges that the Contractor may contract with third parties for the performance of any of the Contractor's obligations under this Contract. All subcontracts shall be subject to prior approval by the Agency. The Contractor may enter into these contracts to complete the project provided that the Contractor remains responsible for all services performed under this Contract. All restrictions, obligations and responsibilities of the Contractor under this Contract shall also apply to the subcontractors. The Agency shall have the right to request the removal of a subcontractor from the Contract for good cause.

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

9.8 Not a Joint Venture. Nothing in this Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. Each party shall be deemed to be an independent contractor contracting for services and acting toward the mutual benefits expected to be derived herefrom. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Contract.

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

9.10 Authorization. Each party to this Contract represents and warrants to the other parties that:

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

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

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

9.12 Record Retention and Access. The Contractor shall maintain books, records and documents which sufficiently and properly document and calculate all charges billed to the Agency throughout the term of this Contract for a period of at least three (3) 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.

9.13 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 the Agency 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.

9.14 Additional Provisions. The parties agree that if an Addendum, Rider or Exhibit is attached hereto by the parties, and referred to herein, then the same shall be deemed incorporated herein by reference.

9.15 Choice of Law/Forum. This Agreement shall be governed in all respects by, and construed in accordance with, the laws of the State of Iowa, without giving effect to the choice of law principles thereof. Any and all disputes relating to this Agreement shall be brought solely in Des Moines, Iowa, in Polk County District Court for the State of Iowa, if jurisdiction is proper. However, if jurisdiction is not proper in the Iowa District Court for Polk County, but is proper only in a United States District Court, the matter shall be commenced in the United States District Court for the Southern District of Iowa, Central Division.

SECTION 10. EXECUTION

IN WITNESS WHEREOF, in consideration of the mutual covenants set forth above and for other goods and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties have entered into the above Contract and have caused their duly authorized representatives to execute this Contract.

AGENCY:

Name: Iowa Department of Agriculture and Land Stewardship

Authorized Signature: _____

Date: _____

CONTRACTOR:

Name: _____

Authorized Signature: _____

Date: _____