

BURLINGTON CITY COUNCIL AGENDA
Meeting No. 26
January 16, 2017, 5:30 p.m.
Thomas J. Smith Council Chambers, City Hall

PLEDGE OF ALLEGIANCE

ROLL CALL

PROCLAMATION OF RETIREMENT:

Robert "Kirby" Corrick, Police Officer

CONSENT AGENDA: To the Public:

All matters listed under Item I., Consent Agenda, having been discussed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

MOTION: To approve all listed under Item I., Consent Agenda.

HEARING:

1. Statement: Consideration of the Voluntary Annexation of Territory
Motion to Close
Resolution Approving the Voluntary Annexation of Territory

RESOLUTIONS:

1. Resolution Approving the Application for a Staffing for Adequate Fire and Emergency Response Grant (SAFER) 2016
2. Resolution Approving Reimbursement for the Imagine Committee's Indoor Sports and Recreational Facility Fundraising Effort
3. Resolution Approving an Agreement with Howard R. Green Company for Design of the Traffic Signals Associated with the Agency Street Widening Project

COMMENTS FROM AUDIENCE

COMMENTS FROM COUNCIL/CITY MANAGER

ADJOURNMENT

ITEM I.
Consent Agenda

FINANCES AND MISCELLANEOUS

Minutes of Previous Meetings
Payroll and City Claims

REPORTS AND BONDS

RESOLUTIONS:

1. Resolution Approving Nuisance Abatements for Various Properties
2. Resolution Approving Refund of Liquor License for Orin Smith dba/The White Horse Lounge
3. Resolution Approving Agreement with HR Green, Inc. for Design of Phase 1 of the MASL Sewer Separation Project
4. Resolution Approving an Agreement with Klingner and Associates, P.C. for Design of a Retaining Wall and Street Repair at 4th and North Streets
5. Resolution Approving an Agreement with Stanley Consultants, Inc. to Perform Structural Analysis on the Central Avenue Bridge Retaining Walls
6. Resolution Approving the Release and Termination of Easements Located at 3001 Winegard Drive, Burlington, Iowa
7. Resolution Amending Fees and Charge Schedule at Flint Hills Municipal Golf Course

SET DATE FOR PUBLIC HEARINGS: February 6, 2017

1. Consideration of General Obligation Loan Agreement in a Principal Amount Not to Exceed \$7,300,000 and Approving Preliminary Official Statement for General Obligation Refunding Bonds, Series 2017A
2. Consideration of General Obligation Loan Agreement in a Principal Amount Not to Exceed \$7,800,000 and Approving Preliminary Official Statement for General Obligation Corporate Purpose Bonds, Series 2017B
3. Consideration of an Ordinance Amending Section 170.75 Signs of Chapter 170 Zoning Code of the Burlington Municipal Code



CITY OF BURLINGTON PROCLAMATION OF RETIREMENT

WHEREAS, the City of Burlington wishes to honor Officer Robert Kirby Corrick for over twenty-eight years of loyal service as an employee of the Burlington Police Department,

WHEREAS, Officer Corrick has provided the citizens of Burlington with outstanding, loyal and dedicated service beginning as a Communications Operator on September 1, 1988. He remained in this capacity until June 2, 1989 when he attended the Iowa Law Enforcement Academy's 114th Basic Class and graduated on November 10, 1989 as a sworn law enforcement officer. During his tenure as an officer he worked all patrol shifts, was assigned to the Narcotics Task Force and was one of the first DARE Officers and GREAT Officers in the area. Kirby was a School Resource Officer assigned to Burlington High School from 1999 to 2004 and again from 2014 to 2016.

WHEREAS, Officer Corrick was active with the Burlington Police Chaplain Corp as a graduate of the Christian Law Enforcement Chaplaincy program at Concordia Seminary and has led by example in his faith as he responds with members of the Corp to provide reassuring words and a shoulder to lean on when our citizens receive dark news. He was also an integral part of organizing and initiating a Hostage Negotiation Team comprised of Police Officers and Chaplains to reach out to community members that have cried out for help before resorting to desperate measures.

NOW, THEREFORE, we, the City Council of the City of Burlington, Iowa, do hereby recognize and commend

R. KIRBY CORRICK

for his outstanding service and commitment to the welfare and safety of the citizens of Burlington. We, the City Council, wish him sincere congratulations and much happiness in his retirement.

SIGNED and SEALED this 16th day of January, 2017.

ATTEST:

Kathleen P. Salisbury, MMC
City Clerk

Shane A. McCampbell
Mayor



Meeting No. Paper No. Seconded By: _____

_____ _____ AYES: _____

Introduced By: NAYS: _____

_____ MOTION CARRIED

That all matters listed under Item I., Consent Agenda having been discussed are considered to be routine by the City Council, be hereby approved.

Meeting No.

Paper No.

PUBLIC HEARING STATEMENT

THIS IS THE TIME SET FOR HEARING FOR CONSIDERATION OF THE VOLUNTARY ANNEXATION OF TERRITORY.

PUBLICATION HAS BEEN MADE IN THE HAWK EYE AS PRESCRIBED BY LAW.

THOSE FOR OR AGAINST MAY BE HEARD AT THIS TIME.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a Public Hearing will be held by the Burlington City Council for consideration of a petition for voluntary annexation of territory into the City of Burlington. The hearing will be held on Monday, January 16, 2017 at 5:30 PM in the City Council Chambers located on the 3rd floor of City Hall at 400 Washington Street, Burlington, Iowa.

The property to be considered for annexation is located directly east of 6356 Summer Street as shown on the map and legal description.

Additional information on the proposed annexation can be obtained from the Community Development Department located on the first floor of City Hall, 400 Washington Street, Burlington, Iowa between the hours of 8 AM and 5 PM, Monday through Friday or by calling (319) 753-8131.

Kathleen P. Salsbury, MMC - City Clerk

ANNEXATION LEGAL DESCRIPTION:

ANNEXATION TRACT 1:

PART OF THE SOUTHWEST 1/4 OF SECTION 17, T69N, R2W OF THE 5TH P.M., DES MOINES COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 17; THENCE S00°03'10"W 350.00' THENCE N89°37'19"W 20.00' TO THE PLACE OF BEGINNING; THENCE S00°03'10"W 490.14' THENCE N89°38'44"W 1557.26' TO THE CENTERLINE OF SUMMER STREET; THENCE N17°11'22"E 71.56' ALONG SAID CENTERLINE; THENCE 175.62' ALONG SAID CENTERLINE ON THE ARC OF A 1432.50' RADIUS CURVE CONCAVE NORTHWESTERLY WITH A 175.51' CHORD BEARING N13°41'24"E TO THE SOUTH LINE OF LOT 3 IN ALEXANDER HILLEARY ESTATE SUBDIVISION; THENCE S89°39'30"E 40.73' TO THE SOUTHEAST CORNER OF SAID LOT 3; THENCE N00°41'15"W 251.40' ALONG THE EAST LINE OF SAID LOT 3; THENCE S69°37'19"E 1457.26' TO THE PLACE OF BEGINNING, CONTAINING 16.76 ACRES MORE OR LESS, SUBJECT TO ESTABLISHED ROAD AND SUBJECT TO EASEMENTS, AGREEMENTS OR RESTRICTIONS OF RECORD. EXCEPTING THEREFROM THE

FOLLOWING DESCRIBED TRACT:

LOT NUMBER 1, IN DEER POINTE 1 SUBDIVISION, A SUBDIVISION IN DES MOINES COUNTY, IOWA AS PER PLAT FILED MAY 14, 2009, RECORDED AS DOCUMENT NO. 2009-002319 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER.

ALSO INCLUDING THE FOLLOWING DESCRIBED TRACTS:

ANNEXATION TRACT 2: PART OF THE NORTH 1/2 OF THE SOUTHWEST 1/4 OF SECTION 17, T89N, R2W OF THE 5TH P.M., DES MOINES COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER OF SAID SECTION 17; THENCE SOUTH 840.14' ALONG THE 1/4 SECTION LINE; THENCE WEST 20.0' TO THE SOUTHEAST CORNER OF THE 16.76 ACRE TRACT DESCRIBED IN WARRANTY DEED RECORDED OCTOBER 23, 1997 AS DOCUMENT NUMBER 97-006655 IN THE OFFICE OF THE DES MOINES

COUNTY RECORDER;

THENCE NORTH 840.14' THENCE EAST 20.0' ALONG THE 1/4 SECTION LINE TO THE PLACE OF BEGINNING, CONTAINING 0.39 ACRES MORE OR LESS.

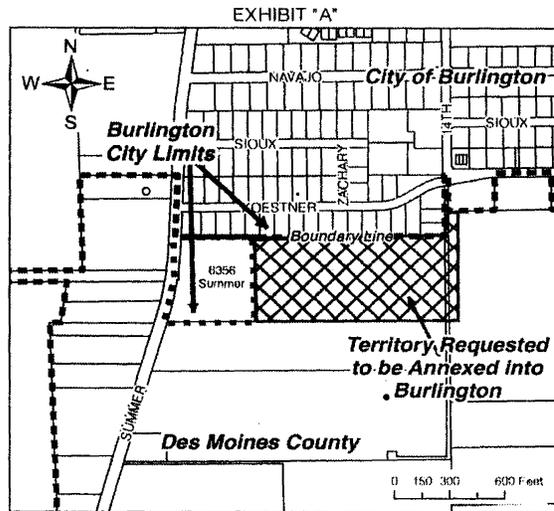
ANNEXATION TRACT 3:

PART OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 17, T69N, R2W OF THE 5TH P.M., DES MOINES COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 17; THENCE SOUTH 208.7' ALONG THE 1/4 SECTION LINE TO THE PLACE OF BEGINNING; THENCE EAST 46.0' THENCE SOUTH 631.44' THENCE WEST 46.0' TO THE 1/4 SECTION

LINE; THENCE NORTH 631.44' ALONG THE 1/4 SECTION LINE TO THE PLACE OF BEGINNING, CONTAINING 0.67 ACRES MORE OR LESS.

December 30, 2016 - 11



Meeting No. Paper No. Seconded By: _____

_____ _____ AYES: _____

Introduced By: NAYS: _____

_____ MOTION CARRIED

That the hearing regarding CONSIDERATION OF THE VOLUNTARY ANNEXATION
OF TERRITORY,

be closed.

Prepared by: City of Burlington
Eric Tysland, Development & Parks Director

400 Washington St, Burlington, IA 52601
(319) 753-8158

RESOLUTION NO. _____

Meeting No. _____

Paper No. _____

Introduced By: _____ AYES: _____

Seconded By: _____ NAYS: _____

RESOLUTION APPROVING THE VOLUNTARY ANNEXATION OF TERRITORY

WHEREAS, The City of Burlington, State of Iowa, is duly organized municipal corporation; and

WHEREAS, the City of Burlington, Iowa, has received an application for Voluntary Annexation of certain real estate under the ownership of the petitioners, Deer Pointe Subdivision, Inc. and Greg A. Koestner; and such property currently located in Des Moines County, Iowa as identified on the map in Exhibit "A" attached hereto and made a part hereof and is legally described as shown in Exhibit "B" attached hereto and made a part hereof; and

WHEREAS, such property collectively adjoins the City of Burlington, as required by Chapter 368 of the 2017 Code of Iowa; and

WHEREAS, it is in the best interests of the City of Burlington and the public that said property be annexed to the City of Burlington at this time.

NOW, THEREFORE, BE IT RESOLVED: The Request for Voluntary Annexation is hereby approved by the Burlington City Council and said property described in Exhibit "B" shall be annexed into the City of Burlington in accordance with the provisions of Chapter 368 of the 2017 Code of Iowa, and such property shall hereinafter become and be a part of the City of Burlington, Iowa.

APPROVED and ADOPTED this _____ day of _____, 2017.

ATTEST:

Shane A. McCampbell - Mayor

Kathleen P. Salisbury, MMC - City Clerk

EXHIBIT "A"

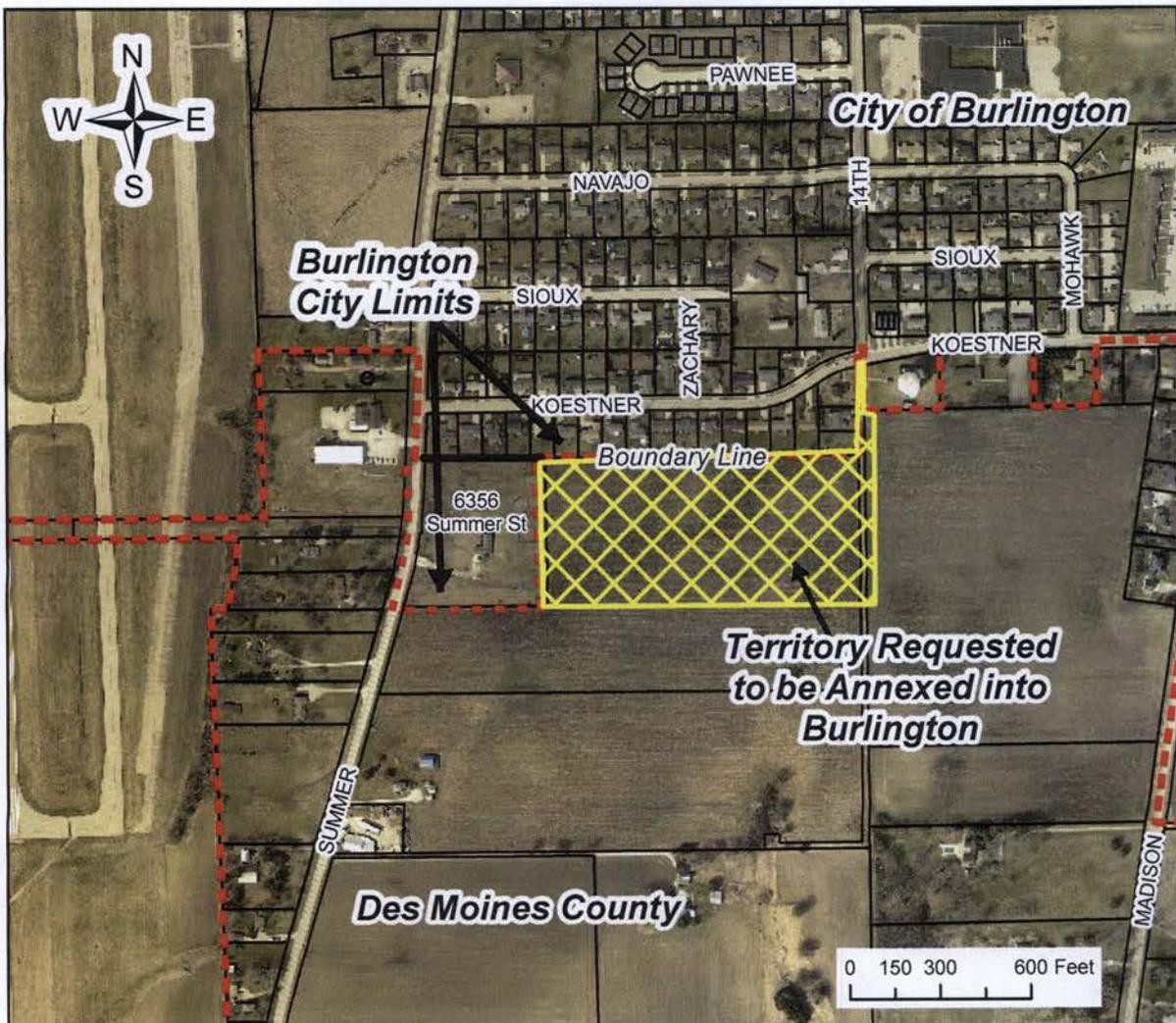


EXHIBIT "B"

The property to be considered for annexation is legally described as follows:

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RESOLUTION NO. _____

Meeting No. Paper No. Seconded By: _____

_____ _____ AYES: _____

Introduced By: _____ NAYS: _____

A RESOLUTION APPROVING THE APPLICATION FOR A STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE GRANT (SAFER) 2016

WHEREAS, the United States Department of Homeland Security has established the SAFER Grant to assist local governments to adequately staff fire and emergency response agencies; and

WHEREAS, the Burlington Fire Department has seen a decrease in operational staffing levels from 15 personnel per shift in 1997 to 13 personnel per shift in 2017; and

WHEREAS, during the same time period, the Burlington Fire Department’s annual calls for service has increased from 2,594 to 4,882; and

WHEREAS, the SAFER Grant will allow the Burlington Fire Department to better meet the National Fire Protection Association Standard 1710; and

WHEREAS, the Burlington Fire Department is now requesting authorization to apply for a SAFER Grant to partially fund six firefighter positions for a period of 3 years at a total cost to the City of Burlington of approximately \$631,000.

NOW, THEREFORE, BE IT RESOLVED BY THE BURLINGTON CITY COUNCIL:

1. That the Burlington City Council authorizes the Burlington Fire Department to submit a 2016 SAFER Grant application for the funding of six firefighters.
2. That if the Burlington Fire Department were awarded the funding for six firefighters, the Burlington City Council intends to seek long-term permanent funding for these positions when the grant period ends.

APPROVED and ADOPTED this 16th day of January, 2017.

ATTEST:

Kathleen P. Salisbury, MMC
City Clerk

Shane A. McCampbell
Mayor

Eligibility Criteria

Minimum Budget Requirement

At the time of application, the applicant's budget for fire-related programs and emergency response must not be below 80 percent of the applicant's average funding level in the 3 years prior to November 24, 2003.

Applicants experiencing economic hardship may apply for a waiver of this requirement. Please see Appendix A: FY 2016 SAFER Program Updates for additional information.

Other Eligibility Criteria

National Incident Management System (NIMS) Implementation

SAFER applicants are not required to be in compliance with the National Incident Management System (NIMS) to apply for funding or to receive an award.

However, any applicant who receives an FY 2016 SAFER award must achieve the level of NIMS compliance required by the Authority Having Jurisdiction (AHJ) over the applicant's emergency service operations (e.g., a local government), prior to the end of the grant's period of performance.

Maintenance of Effort (MOE)

There is no maintenance of effort requirement for the FY 2016 SAFER grant program.

Cost Share or Match

Recipients of SAFER Recruitment and Retention of Volunteer Firefighters Activity grants are not required to contribute non-federal funds.

Recipients of SAFER Hiring of Firefighters Activity grants are required to contribute non-federal funds subject to a Position Cost Limit and a Cost Share, as described below.

Position Cost Limit (No Waiver Available):

The amount of federal funding provided to a recipient for hiring a firefighter in any fiscal year may not exceed—

- in the first year of the grant, 75 percent of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted;
- in the second year of the grant, 75 percent of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted; and
- in the third year of the grant, 35 percent of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted.

RESOLUTION NO. _____

Meeting No. Paper No. Seconded By: _____

_____ _____ AYES: _____

Introduced By: NAYS: _____

A RESOLUTION APPROVING REIMBURSEMENT FOR THE IMAGINE COMMITTEE'S INDOOR SPORTS AND RECREATIONAL FACILITY FUNDRAISING EFFORT

WHEREAS, The Imagine Committee identified through a community wide survey that an indoor recreational facility was among the top five priorities for Burlington enhancement; and

WHEREAS, A tentative design for the facility has been developed with a cost estimate of approximately twelve million dollars; and

WHEREAS, There is a desire to raise as much private capital for the construction of the facility as possible; and

WHEREAS, The Winegard Corporation has previous donated \$400,000 for the development of the indoor recreational facility; and

WHEREAS, A fundraising feasibility study was conducted in 2015 to determine if the resources were available to build such a facility and the results of the study were favorable; and

WHEREAS, This donation has also been utilized to fund the conceptual drawings and final construction cost estimate for fundraising; and

WHEREAS, The Imagine Committee is now prepared to enter the public fundraising phase in an effort to maximize private funding of this facility; and

WHEREAS, The Imagine Committee is seeking authorization of up to \$50,000 from the indoor facility account to pay for fundraising costs including professional services, material creation and publication, and other related expenses. The dollars would be paid as a reimbursement for actual expenses; and

WHEREAS, The City Council for the City of Burlington, Iowa agrees that raising private donations is a necessary component in making this project successful;

THEREFORE, BE IT RESOLVED BY THE BURLINGTON, IOWA CITY COUNCIL, That funds from the Winegard donation are authorized to be provided to the Greater Burlington Partnership for conceptual drawings and final construction cost estimate for fundraising in an amount up to \$50,000.

APPROVED and ADOPTED this 16th day of January, 2017.

ATTEST:

Kathleen P. Salisbury, MMC
City Clerk

Shane A. McCampbell
Mayor

RESOLUTION NO. _____

Meeting No. Paper No. Seconded By: _____

_____ _____ AYES: _____

NAYS: _____

Introduced By: _____

A RESOLUTION APPROVING AN AGREEMENT
WITH HOWARD R. GREEN COMPANY FOR DESIGN
OF THE TRAFFIC SIGNALS ASSOCIATED WITH THE
AGENCY STREET WIDENING PROJECT

RESOLVED: That the agreement between the City of Burlington and HR Green, Inc. for professional services for the design of traffic signals at Agency Street and the frontage road, said agreement attached hereto as Exhibit "A" be hereby approved.

BE IT FURTHER RESOLVED: That the Mayor be authorized to sign said agreement in the name of the City and the City Clerk is directed to enter said agreement in the Miscellaneous Contract Records.

APPROVED and ADOPTED this 16th day of January 2017.

ATTEST:

Kathleen P. Salisbury
City Clerk, M.M.C.

Shane A. McCampbell
Mayor

COUNCIL ITEM

TO: Jim Ferneau, City Manager
FROM: Nick MacGregor, Assistant City Manager for Public Works
SUBJECT: Agency Street Signal Design with HR Green, Inc.

**PREPARED FOR
COUNCIL MTG:** January 16, 2017

DATE: January 11, 2017

BACKGROUND/DESCRIPTION:

The City of Burlington is currently designing the RISE project of widening Agency Street. This RISE project calls for new traffic signals at the frontage road and the coordination of traffic signals from Roosevelt Street to West Burlington Avenue.

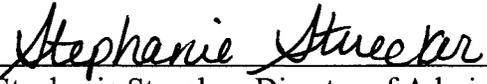
JUSTIFICATION/RECOMMENDATION:

The design of this project has been handled by City staff up until this point. The RISE project stipulates that traffic signals be installed at the frontage road intersection and synchronized with the intersections on Roosevelt Ave and West Burlington Ave. City staff does not have the expertise to design this portion of the project. HR Green is familiar with the area, completing the Agency Street corridor study in 2014. HR Green also performed synchronization of traffic lighting on Roosevelt Ave for the IDOT, which included its intersection with Agency Street.

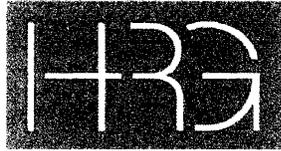
BUDGET IMPLICATIONS:

\$15,400 - Design Services

Funding Source: Agency Street RISE Activity 7134



Stephanie Stuecker, Director of Administrative Services



HRGreen

Exhibit "A"

PROFESSIONAL SERVICES AGREEMENT

For

**City of Burlington, IA
Agency Street and Old Wal-Mart Entrance Traffic Signal Design**

Jesse Howe, P.E.
City Engineer
3510 Division Street
Burlington, IA 52601
(319)7538176 ext. 418

J. Andrew Swisher, P.E., PTOE
HR Green, Inc.
5525 Merle Hay Road, Suite 200
Johnston, IA, 50131
HR Green Project Number: 170021

January 10, 2017

TABLE OF CONTENTS

- 1.0 PROJECT UNDERSTANDING
- 2.0 SCOPE OF SERVICES
- 3.0 DELIVERABLES AND SCHEDULES INCLUDED IN THIS AGREEMENT
- 4.0 ITEMS NOT INCLUDED IN AGREEMENT/SUPPLEMENTAL SERVICES
- 5.0 SERVICES BY OTHERS
- 6.0 CLIENT RESPONSIBILITIES
- 7.0 PROFESSIONAL SERVICES FEE
- 8.0 TERMS AND CONDITIONS

THIS **AGREEMENT** is between City of Burlington, IA (hereafter "CLIENT") and HR GREEN, INC. (hereafter "COMPANY").

1.0 Project Understanding

1.1 General Understanding

See Attachment A – Scope of Services

1.2 Design Criteria/Assumptions

See Attachment A – Scope of Services

2.0 Scope of Services

The CLIENT agrees to employ COMPANY to perform the following services:

See Attachment A – Scope of Services

3.0 Deliverables and Schedules Included in this Agreement

See Attachment A – Scope of Services

This schedule was prepared to include reasonable allowances for review and approval times required by the CLIENT and public authorities having jurisdiction over the project. This schedule shall be equitably adjusted as the project progresses, allowing for changes in the scope of the project requested by the CLIENT or for delays or other causes beyond the control of COMPANY.

4.0 Items not included in Agreement/Supplemental Services

The following items are not included as part of this agreement:

See Attachment A – Scope of Services

Supplemental services not included in the agreement can be provided by COMPANY under separate agreement, if desired.

5.0 Services by Others

See Attachment A – Scope of Services

6.0 Client Responsibilities

See Attachment A – Scope of Services

7.0 Professional Services Fee

7.1 Fees

The fee for services will be based on COMPANY standard hourly rates current at the time the agreement is signed. These standard hourly rates are subject to change upon 30 days' written notice. Non salary expenses directly attributable to the project such as: (1) living and traveling expenses of employees when away from the home office on business connected with the project; (2) identifiable communication expenses; (3) identifiable reproduction costs applicable to the work; and (4) outside services will be charged in accordance with the rates current at the time the service is done.

7.2 Invoices

Invoices for COMPANY's services shall be submitted, on a monthly basis. Invoices shall be due and payable upon receipt. If any invoice is not paid within 15 days, COMPANY may, without waiving any claim or right against the CLIENT, and without liability whatsoever to the CLIENT, suspend or terminate the performance of services. The retainer shall be credited on the final invoice. Accounts unpaid 30 days after the invoice date may be subject to a monthly service charge of 1.5% (or the maximum legal rate) on the unpaid balance. In the event any portion of an account remains unpaid 60 days after the billing, COMPANY may institute collection action and the CLIENT shall pay all costs of collection, including reasonable attorney's fees.

7.3 Extra Services

Any service required but not included as part of this contract shall be considered extra services. Extra services will be billed on a Time and Material basis with prior approval of the CLIENT.

7.4 Exclusion

This fee does not include attendance at any meetings or public hearings other than those specifically listed in the Scope of Services. These service items are considered extra and are billed separately on an hourly basis.

7.5 Payment

The CLIENT AGREES to pay COMPANY on the following basis:

Time and material basis with a Not to Exceed fee of \$15,400.00.

8.0 Terms and Conditions

The following Terms and Conditions are incorporated into this AGREEMENT and made a part of it.

8.1 Standard of Care

Services provided by COMPANY under this AGREEMENT will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing at the same time and in the same or similar locality.

8.2 Entire Agreement

This Agreement, and its attachments, constitutes the entire understanding between CLIENT and COMPANY relating to professional engineering services. Any prior or contemporaneous agreements, promises, negotiations, or representations not expressly set forth herein are of no effect. Subsequent modifications or amendments to this Agreement shall be in writing and signed by the parties to this Agreement. If the CLIENT, its officers, agents, or employees request COMPANY to perform extra services pursuant to this Agreement, CLIENT will pay for the additional services even though an additional written Agreement is not issued or signed.

8.3 Time Limit and Commencement of Services

This AGREEMENT must be executed within ninety (90) days to be accepted under the terms set forth herein. The services will be commenced immediately upon receipt of this signed Agreement.

8.4 Suspension of Services

If the Project or the COMPANY'S services are suspended by the CLIENT for more than thirty (30) calendar days, consecutive or in the aggregate, over the term of this Agreement, the COMPANY shall be compensated for all services performed and reimbursable expenses incurred prior to the receipt of notice of suspension. In addition, upon resumption of services, the CLIENT shall compensate the COMPANY for expenses incurred as a result of the suspension and resumption of its services, and the COMPANY'S schedule and fees for the remainder of the Project shall be equitably adjusted.

If the COMPANY'S services are suspended for more than ninety (90) days, consecutive or in the aggregate, the COMPANY may terminate this Agreement upon giving not less than five (5) calendar days' written notice to the CLIENT.

If the CLIENT is in breach of this Agreement, the COMPANY may suspend performance of services upon five (5) calendar days' notice to the CLIENT. The COMPANY shall have no liability to the CLIENT, and the CLIENT agrees to make no claim for any delay or damage as a result of such suspension caused by any breach of this Agreement by the CLIENT. Upon receipt of payment in full of all outstanding sums due from the CLIENT, or curing of such other breach which caused the COMPANY to suspend services, the COMPANY shall resume services and there shall be an equitable adjustment to the remaining project schedule and fees as a result of the suspension.

8.5 Book of Account

COMPANY will maintain books and accounts of payroll costs, travel, subsistence, field, and incidental expenses for a period of five (5) years. Said books and accounts will be available at all reasonable times for examination by CLIENT at the corporate office of COMPANY during that time.

8.6 Insurance

COMPANY will maintain insurance for claims under the Worker's Compensation Laws, and from General Liability and Automobile claims for bodily injury, death, or property damage, and Professional Liability insurance caused by the negligent performance by COMPANY'S employees of the functions and services required under this Agreement.

8.7 Termination or Abandonment

Either party has the option to terminate this Agreement. In the event of failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party, then the obligation to provide further services under this Agreement may be terminated upon seven days written notice. If any portion of the services is terminated or abandoned by CLIENT, the provisions of this Schedule of Fees and Conditions in regard to compensation and payment shall apply insofar as possible to that portion of the services not terminated or abandoned. If said termination occurs prior to completion of any phase of the project, the fee for

services performed during such phase shall be based on COMPANY's reasonable estimate of the portion of such phase completed prior to said termination, plus a reasonable amount to reimburse COMPANY for termination costs.

8.8 Waiver

COMPANY's waiver of any term, condition, or covenant or breach of any term, condition, or covenant, shall not constitute a waiver of any other term, condition, or covenant, or the breach thereof.

8.9 Severability

If any provision of this Agreement is declared invalid, illegal, or incapable of being enforced by any Court of competent jurisdiction, all of the remaining provisions of this Agreement shall nevertheless continue in full force and effect, and no provision shall be deemed dependent upon any other provision unless so expressed herein.

8.10 Successors and Assigns

All of the terms, conditions, and provisions hereof shall inure to the benefit of and are binding upon the parties hereto, and their respective successors and assigns, provided, however, that no assignment of this Agreement shall be made without written consent of the parties to this Agreement.

8.11 Third-Party Beneficiaries

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CLIENT or the COMPANY. The COMPANY's services under this Agreement are being performed solely for the CLIENT's benefit, and no other party or entity shall have any claim against the COMPANY because of this Agreement or the performance or nonperformance of services hereunder. The CLIENT and COMPANY agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this project to carry out the intent of this provision.

8.12 Governing Law and Jurisdiction

The CLIENT and the COMPANY agree that this Agreement and any legal actions concerning its validity, interpretation and performance shall be governed by the laws of the State of Iowa without regard to any conflict of laws provisions, which may apply the laws of other jurisdictions.

It is further agreed that any legal action between the CLIENT and the COMPANY arising out of this Agreement or the performance of the services shall be brought in a court of competent jurisdiction in the State of Iowa.

8.13 Dispute Resolution

Mediation. In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the CLIENT and COMPANY agree that all disputes between them arising out of or relating to this Agreement shall be submitted to non-binding mediation unless the parties mutually agree otherwise. The CLIENT and COMPANY further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with subcontractors, sub-consultants, suppliers or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.

8.14 Attorney's Fees

If litigation arises for purposes of collecting fees or expenses due under this Agreement, the Court in such litigation shall award reasonable costs and expenses, including attorney fees, to the party justly entitled thereto. In awarding attorney fees, the Court shall not be bound by any Court fee schedule, but shall, in the interest of justice, award the full amount of costs, expenses, and attorney fees paid or incurred in good faith.

8.15 Ownership of Instruments of Service

The CLIENT acknowledges that all reports, plans, specifications, field data, field notes, laboratory test data, calculations, estimates and other documents including all documents on electronic media prepared by COMPANY are instruments of service. Nevertheless, upon completion of the services and payment in full of all monies due to the COMPANY, the CLIENT shall receive ownership of the final documents prepared under this Agreement.

Under no circumstances shall the transfer of ownership of the COMPANY's drawings, specifications, electronic files or other instruments of service be deemed a sale by the COMPANY, and the COMPANY makes no warranties, either express or implied, of merchantability and fitness for any particular purpose, nor shall such transfer be construed or regarded as any waiver or other relinquishment of the COMPANY's copyrights in any of the foregoing, full ownership of which shall remain with the COMPANY, absent the COMPANY's express prior written consent.

8.16 Reuse of Documents

All project documents including, but not limited to, plans and specifications furnished by COMPANY under this project are intended for use on this project only. Any reuse, without specific written verification or adoption by COMPANY, shall be at the CLIENT's sole risk, and CLIENT shall defend, indemnify and hold harmless COMPANY from all claims, damages and expenses including attorney's fees arising out of or resulting therefrom.

Under no circumstances shall delivery of electronic files for use by the CLIENT be deemed a sale by the COMPANY, and the COMPANY makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall the COMPANY be liable for indirect or consequential damages as a result of the CLIENT's use or reuse of the electronic files.

8.17 Failure to Abide by Design Documents or To Obtain Guidance

The CLIENT agrees that it would be unfair to hold COMPANY liable for problems that might occur should COMPANY'S plans, specifications or design intents not be followed, or for problems resulting from others' failure to obtain and/or follow COMPANY'S guidance with respect to any errors, omissions, inconsistencies, ambiguities or conflicts which are detected or alleged to exist in or as a consequence of implementing COMPANY'S plans, specifications or other instruments of service. Accordingly, the CLIENT waives any claim against COMPANY, and agrees to defend, indemnify and hold COMPANY harmless from any claim for injury or losses that results from failure to follow COMPANY'S plans, specifications or design intent, or for failure to obtain and/or follow COMPANY'S guidance with respect to any alleged errors, omissions, inconsistencies, ambiguities or conflicts contained within or arising as a result of implementing COMPANY'S plans, specifications or other instruments of services. The CLIENT also agrees to compensate COMPANY for any time spent and expenses incurred remedying CLIENT's failures according to COMPANY'S prevailing fee schedule and expense reimbursement policy.

8.18 Opinion of Probable Construction Cost

COMPANY shall submit to the CLIENT an opinion of probable cost required to construct work recommended, designed, or specified by COMPANY, if required by CLIENT. COMPANY is not a construction cost estimator or construction contractor, nor should COMPANY'S rendering an opinion of probable construction costs be considered equivalent to the nature and extent of service a construction cost estimator or construction contractor would provide. This requires COMPANY to make a number of assumptions as to actual conditions that will be encountered on site; the specific decisions of other design professionals engaged; the means and methods of construction the contractor will employ; the cost and extent of labor, equipment and materials the contractor will employ; contractor's techniques in determining prices and market conditions at the time, and other factors over which COMPANY has no control. Given the assumptions which must be made, COMPANY cannot guarantee the accuracy of his or her opinions of cost, and in recognition of that fact, the CLIENT waives any claim against COMPANY relative to the accuracy of COMPANY'S opinion of probable construction cost.

8.19 Design Information in Electronic Form

Because electronic file information can be easily altered, corrupted, or modified by other parties, either intentionally or inadvertently, without notice or indication, COMPANY reserves the right to remove itself from its ownership and/or involvement in the material from each electronic medium not held in its possession. CLIENT shall retain copies of the work performed by COMPANY in electronic form only for information and use by CLIENT for the specific purpose for which COMPANY was engaged. Said material shall not be used

by CLIENT or transferred to any other party, for use in other projects, additions to this project, or any other purpose for which the material was not strictly intended by COMPANY without COMPANY's expressed written permission. Any unauthorized use or reuse or modifications of this material shall be at CLIENT'S sole risk. Furthermore, the CLIENT agrees to defend, indemnify, and hold COMPANY harmless from all claims, injuries, damages, losses, expenses, and attorney's fees arising out of the modification or reuse of these materials.

The CLIENT recognizes that designs, plans, and data stored on electronic media including, but not limited to computer disk, magnetic tape, or files transferred via email, may be subject to undetectable alteration and/or uncontrollable deterioration. The CLIENT, therefore, agrees that COMPANY shall not be liable for the completeness or accuracy of any materials provided on electronic media after a 30 day inspection period, during which time COMPANY shall correct any errors detected by the CLIENT to complete the design in accordance with the intent of the contract and specifications. After 40 days, at the request of the CLIENT, COMPANY shall submit a final set of sealed drawings, and any additional services to be performed by COMPANY relative to the submitted electronic materials shall be subject to separate AGREEMENT. The CLIENT is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by the COMPANY and electronic files, the signed or sealed hard-copy construction documents shall govern.

8.20 Information Provided by Others

The CLIENT shall furnish, at the CLIENT's expense, all information, requirements, reports, data, surveys and instructions required by this AGREEMENT. The COMPANY may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof. The COMPANY shall not be held responsible for any errors or omissions that may arise as a result of erroneous or incomplete information provided by the CLIENT and/or the CLIENT's consultants and contractors.

COMPANY is not responsible for accuracy of any plans, surveys or information of any type including electronic media prepared by any other consultants, etc. provided to COMPANY for use in preparation of plans. The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless the COMPANY from any damages, liabilities, or costs, including reasonable attorneys' fees and defense costs, arising out of or connected in any way with the services performed by other consultants engaged by the CLIENT.

COMPANY is not responsible for accuracy of topographic surveys provided by others. A field check of a topographic survey provided by others will not be done under this contract unless indicated in the Scope of Services.

8.21 Force Majeure

The CLIENT agrees that the COMPANY is not responsible for damages arising directly or indirectly from any delays for causes beyond the COMPANY's control. CLIENT agrees to defend, indemnify, and hold COMPANY, its consultants, agents, and employees harmless from any and all liability, other than that caused by the negligent acts, errors, or omissions of COMPANY, arising out of or resulting from the same. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters or acts of God; fires, riots, war or other emergencies; failure of any government agency to act in timely manner; failure of performance by the CLIENT or the CLIENT'S contractors or consultants; or discovery of any hazardous substances or differing site conditions. Severe weather disruptions include but are not limited to extensive rain, high winds, snow greater than two (2) inches and ice. In addition, if the delays resulting from any such causes increase the cost or time required by the COMPANY to perform its services in an orderly and efficient manner, the COMPANY shall be entitled to a reasonable adjustment in schedule and compensation.

8.22 Job Site Visits and Safety

Neither the professional activities of COMPANY, nor the presence of COMPANY'S employees and subconsultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. COMPANY and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The CLIENT agrees that the General Contractor is solely responsible for job site safety, and warrants that this intent shall be made evident in the CLIENT's AGREEMENT with the General Contractor.

The CLIENT also agrees that the CLIENT, COMPANY and COMPANY'S consultants shall be indemnified and shall be made additional insureds on the General Contractor's and all subcontractor's general liability policies on a primary and non-contributory basis.

8.23 Hazardous Materials

CLIENT hereby understands and agrees that COMPANY has not created nor contributed to the creation or existence of any or all types of hazardous or toxic wastes, materials, chemical compounds, or substances, or any other type of environmental hazard or pollution, whether latent or patent, at CLIENT'S premises, or in connection with or related to this project with respect to which COMPANY has been retained to provide professional engineering services. The compensation to be paid COMPANY for said professional engineering services is in no way commensurate with, and has not been calculated with reference to, the potential risk of injury or loss which may be caused by the exposure of persons or property to such substances or conditions. Therefore, to the fullest extent permitted by law, CLIENT agrees to defend, indemnify, and hold COMPANY, its officers, directors, employees, and consultants, harmless from and against any and all claims, damages, and expenses, whether direct, indirect, or consequential, including, but not limited to, attorney fees and Court costs, arising out of, or resulting from the discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acid, alkalis, toxic chemicals, liquids gases, or any other materials, irritants, contaminants, or pollutants in or into the atmosphere, or on, onto, upon, in, or into the surface or subsurface of soil, water, or watercourses, objects, or any tangible or intangible matter, whether sudden or not.

It is acknowledged by both parties that COMPANY'S scope of services does not include any services related to asbestos or hazardous or toxic materials. In the event COMPANY or any other party encounters asbestos or hazardous or toxic materials at the job site, or should it become known in any way that such materials may be present at the job site or any adjacent areas that may affect the performance of COMPANY'S services, COMPANY may, at its option and without liability for consequential or any other damages, suspend performance of services on the project until the CLIENT retains appropriate specialist consultant(s) or contractor(s) to identify, abate and/or remove the asbestos or hazardous or toxic materials, and warrants that the job site is in full compliance with applicable laws and regulations.

Nothing contained within this Agreement shall be construed or interpreted as requiring COMPANY to assume the status of a generator, storer, transporter, treater, or disposal facility as those terms appear within the Resource Conservation and Recovery Act, 42 U.S.C.A., §6901 et seq., as amended, or within any State statute governing the generation, treatment, storage, and disposal of waste.

8.24 Certificate of Merit

The CLIENT shall make no claim for professional negligence, either directly or in a third party claim, against COMPANY unless the CLIENT has first provided COMPANY with a written certification executed by an independent design professional currently practicing in the same discipline as COMPANY and licensed in the State in which the claim arises. This certification shall: a) contain the name and license number of the certifier; b) specify each and every act or omission that the certifier contends is a violation of the standard of care expected of a Design Professional performing professional services under similar circumstances; and c) state in complete detail the basis for the certifier's opinion that each such act or omission constitutes such a violation. This certificate shall be provided to COMPANY not less than thirty (30) calendar days prior to the presentation of any claim or the institution of any judicial proceeding.

8.25 Limitation of Liability

In recognition of the relative risks and benefits of the Project to both the CLIENT and the COMPANY, the risks have been allocated such that the CLIENT agrees, to the fullest extent permitted by law, to limit the liability of the COMPANY and COMPANY'S officers, directors, partners, employees, shareholders, owners and subconsultants for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert-witness fees and costs, so that the total aggregate liability of the COMPANY and COMPANY'S officers, directors, partners, employees, shareholders, owners and subconsultants shall not exceed \$50,000.00, or the COMPANY'S total fee for services rendered on this Project, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

8.26 Drywells, Underdrains and Other Infiltration Devices

Services provided by COMPANY under this AGREEMENT do NOT include the geotechnical design of drywells, underdrains, injection wells or any other item that may be devised for the purpose of removing water from the CLIENT'S property by infiltration into the ground. Due to the high variability of soil types and conditions such devices will not be reliable in all cases. While for this reason COMPANY does not

recommend the use of these devices, in some cases their use may be necessary to obtain an adequate amount of area for development on the CLIENT'S property. Since the use of these devices is intended to enhance the value of the CLIENT'S property and, in some cases, allow development that would otherwise not be possible, the CLIENT will assume all risks inherent in the design and construction of these devices, unless the contractor or a Geotechnical Engineer assumes these risks. Typical risks include but are not limited to:

- Failure to obtain the required release rate;
- Variability of the soils encountered during construction from those encountered in soil borings. (Soils can vary widely over a small change in location, horizontal or vertical, particularly with regards to permeability);
- Failure of the device due to siltation, poor construction or changes in the water table;
- Need to obtain additional soils information (i.e. borings etc.) to evaluate the function of installed devices;
- Reconstruction of failed or inadequate devices;
- Enlargement of detention/ retention facilities to make up for release rates that are lower than those used in the stormwater design, including engineering design and additional land required for such enlargement; and
- Regular maintenance to remove accumulated silt over the device's life span.

If the use of these devices is required COMPANY will advise the CLIENT that a Geotechnical Engineer must be retained to consult on the project. The CLIENT must enter into a separate agreement directly with this consultant. They will not be sub-contracted through COMPANY nor are their fees included as part of this AGREEMENT. COMPANY will work together with this consultant to obtain a final design. Our collaboration may include the use of a common standard detail or the creation of a new standard detail. COMPANY may make suggestions to the Geotechnical Engineer on ways to tailor these devices to meet the needs of the overall site design. The Geotechnical Engineer will evaluate these suggested details and modifications based on his experience and measured soils information to estimate the release rate for each detail considered. COMPANY may use a release rate of these devices as provided by the Geotechnical Engineer for the design of the stormwater system. This rate may be faxed to us, as a draft copy of the Geotechnical Engineers report or as a final copy of that report. In no case will COMPANY accept responsibility for the determination of the expected release rate of these devices.

If certification of the contractor's construction of these devices is required by the municipality or desired by the CLIENT a Geotechnical Engineer must also be obtained for these services. This is highly recommended in order to observe the actual soils where the devices are being constructed and to verify that the construction methods used do not violate any assumptions made by the Geotechnical Engineer during the design and evaluation of the standard detail. If a Geotechnical Engineer is not retained by the CLIENT to provide construction review, the CLIENT shall assume all risks that the devices may fail requiring additional geotechnical investigation or reconstruction and shall defend, indemnify and hold harmless COMPANY from all claims, damages and expenses including attorney's fees arising out of or resulting therefrom. Any construction observation services provided by COMPANY shall not include these devices.

8.27 Environmental Audits/Site Assessments

Environmental Audit/Site Assessment report(s) are prepared for CLIENT's sole use. CLIENT agrees to defend, indemnify, and hold COMPANY, its consultants, agents, and employees harmless against all damages, claims, expenses, and losses arising out of or resulting from any reuse of the Environmental Audit/Site Assessment report(s) without the written authorization of COMPANY.

8.28 Design Without Construction Observation

It is agreed that the professional services of COMPANY do not extend to or include the review or site observation of the contractor's work or performance and the CLIENT assumes all responsibility for interpretation of the contract documents and for construction observation. It is further agreed that the CLIENT will defend, indemnify and hold harmless COMPANY from any claim or suit whatsoever, including but not limited to all payments, expenses or costs involved, arising from the contractor's performance or the failure of the contractor's work to conform to the design intent and the contract documents. COMPANY agrees to be responsible for its employees' negligent acts, errors or omissions.

8.29 Municipal Advisor

The COMPANY is not a Municipal Advisor registered with the Security and Exchange Commission (SEC) as defined in the Dodd-Frank Wall Street Reform and Consumer Protection Act. When the CLIENT is a

municipal entity as defined by said Act, and the CLIENT requires project financing information for the services performed under this AGREEMENT, the CLIENT will provide the COMPANY with a letter detailing who their independent registered municipal advisor is and that the CLIENT will rely on the advice of such advisor. A sample letter can be provided to the CLIENT upon request.

This AGREEMENT is approved and accepted by the CLIENT and COMPANY upon both parties signing and dating the AGREEMENT. Services will not begin until COMPANY receives a signed agreement. COMPANY's services shall be limited to those expressly set forth in this AGREEMENT and COMPANY shall have no other obligations or responsibilities for the Project except as agreed to in writing. The effective date of the AGREEMENT shall be the last date entered below.

Sincerely,

HR GREEN, INC.



J. Andrew Swisher

Approved by:



Printed/Typed Name: David R. Dougherty

Title: Vice President

Date: 01-10-2017

City of Burlington, IA

Accepted by: _____

Printed/Typed Name: _____

Title: _____

Date: _____

ATTACHMENT A **SCOPE OF SERVICES**

PROJECT UNDERSTANDING

General Understanding

The City of Burlington (CLIENT) has procured HR Green, Inc. (COMPANY) to complete traffic signal design plans (N Sheets), special provisions, and an opinion of probable construction costs for the intersection (project intersection) of Agency Street and the entrance location to the old Wal-Mart location. It is understood the prepared traffic signal design documents will be integrated into the overall plan set and contractual documents by the CLIENT.

This intersection is currently traffic signal controlled. The existing traffic signal infrastructure is a span-wire type signal, typically used for temporary signal installations.

The replacement of the span-wire type signal at the intersection is being completed as part of a project to reconstruct approximately 2,100 feet of Agency Street. The CLIENT, in coordination with the City of West Burlington, applied for and was awarded a grant as part of the Revitalize Iowa's Sound Economy (RISE) program for this project.

Topographic survey has been collected by the CLIENT and will be provided to the COMPANY for use in the design of the proposed traffic signal system. It is anticipated that the proposed traffic signal system will be constructed within existing/available right-of-way limits.

Design Criteria/Assumptions

- Iowa Statewide Urban Design and Specifications (SUDAS)

SCOPE OF SERVICES

CLIENT agrees to employ COMPANY to perform the following major tasks:

- Project Management and Administration
- Preliminary Traffic Signal Design
- Final Traffic Signal Design
- Pre-Letting and Construction Support

Each of these tasks is described in detail below.

Task 1000 – Project Management and Administration

The project manager for COMPANY will be responsible for general coordination with CLIENT regarding project activities, meetings, invoicing, and deliverables. This task includes up to two (2) review meetings (by phone) involving two (2) representatives of the COMPANY, as well as administration and coordination of the project tasks. This includes project team meetings and regular communications, as well as general day-to-day administrative tasks. Project Management includes development and execution of a project work plan, as well as quality control reviews of all deliverables. Progress reports will be provided to CLIENT with each monthly invoice, indicating percentage of work completed for major tasks.

Task 2000 – Data Collection – Plan Information

The CLIENT will provide the COMPANY with topographic base CAD files of the intersection necessary to prepare the traffic signal improvement plans and other available relevant information. The accuracy of the survey data provided by the CLIENT to the COMPANY should be precise to the level necessary for Americans with Disability Act (ADA) push button placement design purposes.

It is assumed that the topographic base CAD files will include known utilities and existing condition right-of-way information. Base map of existing conditions will be delivered to the COMPANY in Autodesk or Microstation CAD format. Survey extents shall generally extend to 25 feet beyond end of radius returns at each intersection corner. Survey will include all visible surface features and structures within those extents – intakes, sidewalk joint lines, street pavement joints within the intersections including “reflected” concrete street joints visible through the asphalt, poles & guy wires, trees, visible utility appurtenances, etc.

If determined beneficial at a point during the design process, it is anticipated that the CLIENT will provide the COMPANY applicable ArcGIS files (i.e. water mains, etc.) of the project intersection. The intent of the ArcGIS files is to provide the COMPANY a better understanding of the existing features of the project intersection.

Task 3000 - Preliminary Permanent Traffic Signal Design

Traffic Signal (N Sheets) - Develop 1"=20' scale preliminary traffic signal modification plans
The modification plans will involve the replacement of the existing traffic signal system including cabinet, poles, handholes and associated conduit/wiring. New pedestrian related equipment including push buttons and pedestrian signal heads is anticipated. It is anticipated that the existing vehicle detection system at the intersection will be abandoned and a new vehicle detection system will be installed.

The traffic signal system design will be based on the following assumptions:

- Existing traffic signal cabinet / controller to be removed and salvaged from current location and a new traffic signal cabinet / controller and foundation to be installed in the same northeast quadrant of the intersection, pending Right-of-Way review;
- Existing power service connection to remain in current northeast quadrant of the intersection;
- Existing traffic signal pole uprights (vertical members) and traffic signal span wires (horizontal members) along with associated equipment (signal heads, pedestrian heads, etc.) to be salvaged and replaced with new equipment;
- Pedestrian push buttons and pedestrian signal heads will be included on the traffic signal poles in each of the quadrants. Stand-alone pedestrian push button and/or pedestrian signal poles may be used;
- Existing traffic signal related cabling/wiring, conduits, handholes will be removed/abandoned as necessary;
- New traffic signal related cabling/wiring, conduits, handholes will be installed as part of this project as necessary;
- Existing overhead power lines/poles will remain as currently constructed; no utility relocation coordination or plan production (other than traffic signal power service) is included within this Scope of Services;
- New stock equipment will be used for proposed equipment;
- A proposed video vehicle detection system is anticipated;
- The installation of emergency vehicle preemption (EVP) equipment is not anticipated however could be installed as part of this Scope of Services;
- Combination traffic signal/light poles will be used – including both traffic signal head mast arm and luminaire mast arm;
 - Pole style/finish consistent with proposed aesthetics of corridor;
 - LED Luminaire fixtures to be utilized;

- The project will not require point-by-point photometric analysis;
- The signal design will also include supplemental traffic signs to be installed as part of the traffic signal system. This includes but is not limited to street name signs, turn arrow plaques, and pedestrian signs. It is assumed for purposes of scoping that all proposed traffic signal related signing will be provided and installed by the CONTRACTOR;
- Traffic counts from the COMPANY will not be required;
- Preemption interconnection with railroad crossing to the west along Agency Street will not be required;
- Pavement marking, including painted crosswalk, design is not included within this Scope of Services. It is anticipated pavement marking plans are being completed by others.
- Design of fiber optic cable traffic signal system interconnect plans (1"=50' scale) will be prepared along the north side of Agency Street between W Burlington Avenue and Roosevelt Street existing intersection traffic signal cabinets;
 - The interconnect design will consist of design of conduit/handhole routing to/from the proposed traffic signal cabinet at the project intersection and the existing traffic signal cabinets located at the separate terminal intersections of W Burlington Avenue and at Roosevelt Street.
 - The design will include the installation of fiber optic cable, tracer wire, and pull rope within dedicated 2" or 3" conduit pathway.
 - The interconnect design will be at the outside plant fiber optic cable level and will not include the routing/splicing/design of individual optical fibers.
 - This Scope of Services includes zero (0) hours of design and/or coordination between the COMPANY and the CLIENT and/or Railroad Company with respect to the proposed fiber installation under the existing north-south alignment railroad line crossing Agency Street between W Burlington Avenue and the project intersection. It is understood the CLIENT will complete all necessary applicable coordination/permitting with the Railroad Company.
 - The proposed fiber will be installed into the proposed traffic signal cabinet (1 location) and the existing traffic signal cabinets (2 locations)
 - It is understood that the CLIENT will provide photos of the internal equipment components within the two existing traffic signal cabinets.
 - The installation of additional equipment to provide for traffic signal integration within the existing traffic signal cabinets is anticipated.

The preliminary permanent traffic signal plans will include: general notes/legend sheet (1 sheet overall), summary of quantities sheet (1 sheet overall), traffic signal component removal sheet (1 sheet), traffic signal layout sheet (1 sheet), conduit/wiring layout sheet (1 sheet), signal information sheet (1 sheet), interconnection sheets (3 sheets), quantities sheet (1 sheet) and typical details sheet (1 sheet). The approximate total number of traffic signal modification sheets is 11. Development of special details is not included within this Scope of Services.

The traffic signal layout will include location of proposed traffic signal and pedestrian poles, vehicle and pedestrian signal heads, pedestrian push buttons, controller cabinet, conduit, and handholes. The traffic signal wiring diagram, traffic signal quantities, and recommended traffic signal timings will not be completed as part of the preliminary submittal.

The traffic signal design will be completed in accordance with available/applicable City of Burlington details and specifications. Statewide Urban Design and Specifications (SUDAS) documents including specifications (Standard Specification 8010) and details will be used as necessary. This task includes the development of a technical specification / supplemental special provision for the necessary traffic signal equipment not covered by the SUDAS Standard Specification 8010 or City of Burlington specifications. It is assumed that this project involves the use of State funds and therefore requires the preparation of a "Public Interest Findings" (PIF) memorandum by the COMPANY.

Task 4000 - Final Permanent Traffic Signal Design

Refine the traffic signal design developed during the preliminary design phase for the previously listed intersection. Determine final traffic signal locations, signal phasing, signal timings, wiring, and pedestrian accommodations.

The project special provisions as prepared as part of the preliminary design will be revised as necessary. In addition, the COMPANY will coordinate with the local utility company on power supply to the modified traffic signal system. Power service coordination will remain at a high level with the intent that the project CONTRACTOR will be responsible for final power service coordination details.

Conducting turning movement counts at the previously listed intersection is not included in the Scope of Services. Opening day signal timings/phasing plans will be provided by the COMPANY and will be based on available existing traffic counts and/or available opening day traffic projections for the intersection made available by the CLIENT.

Clearance interval yellow and red time information will be provided for each of the traffic signal timing plans and will be based upon methodology available within Chapter 10 of the ITE Traffic Control Devices Handbook (2nd Edition, 2013). Pedestrian timings (where applicable) will be included within this Scope.

It is recommended the opening day signal timings be reviewed and refined after the area roadways are operating in post-construction/conversion conditions and traffic volume fluctuations have dissipated. The review and refinement of the traffic signal timings are not included in the Scope of Services.

The COMPANY will develop an engineer's opinion of probable construction cost for the intersection traffic signal improvements and will prepare the supplemental unit cost form.

Task 5000 - Traffic Signalization during Construction

Traffic Signal (N Sheets) – Contractor construction notes will be added to the traffic signal general notes sheets to require Contractor to maximize usage of existing span-wire traffic signal system during roadway construction activities. It is anticipated that the existing span wire traffic signal system will be utilized to the extent possible during the construction process. The installation of a temporary span-wire traffic signal system during the construction process is not anticipated. Instead during the crossover period between the existing span-wire traffic signal system and the proposed permanent traffic signal system, all-way Stop traffic control is anticipated.

Design of temporary traffic signal plans during the staged construction of the intersection is not included in the Scope of Services. Temporary traffic signal supplemental special provisions will not be included as part the preliminary submittal. Temporary signal phasing diagrams (including suggested timings) will not be completed as part of the Scope of Services.

Task 6000 - Permitting

Completion and filing of applicable project permits will be completed by the CLIENT. This includes necessary permits to be filed with any and all utility companies. The scope assumes zero (0) COMPANY hours for this task.

Task 7000 – Pre-Letting and Construction Support

The COMPANY will provide responses to pre-letting questions from the CLIENT. The COMPANY will provide support to CLIENT construction staff on an as-requested basis. Support may include shop drawing review and response to Contractor Request for Information (RFI) (such as providing clarification of design intent when issues cannot be readily resolved from the plans and providing background calculations). Allow 10 hours of COMPANY time. Should additional effort become necessary, a supplemental agreement will be required.

Shop drawings anticipated include:

- Signal Pole / Mast Arm
- Controller and Controller Cabinet Equipment
- Vehicle Detection Equipment
- Conduit/Wiring/Fiber Optic Cable/Handholes
- Other Signal Equipment

DELIVERABLES AND SCHEDULE INCLUDED IN THIS AGREEMENT

The following items are considered deliverables as part of this contract.

- Preliminary (60%) Plans, black and white electronic format
- Final Plans, black and white electronic format
- Special Provisions
- Opinion of Probable Construction Cost
- Public Interest Finding Memorandum
- Monthly invoices and progress reports

Assuming approval of this agreement on or before January 13, 2017, the traffic signal design plans shall be complete on or before January 20, 2017 (Preliminary) and January 27, 2017 (Final).

ITEMS NOT COVERED BY THIS AGREEMENT

The following items are not included as part of this agreement:

- Traffic counts
- Traffic impact and/or travel demand studies, traffic modeling or forecasting
- Historical crash analysis
- Detailed geometric analysis of roadway, or sight distance measurements
- Updates to corridor traffic signal timing/phasing plans
- Excavating and/or potholing to expose buried utilities
- Boundary, topographic, legal or property surveys
- Easement or right-of-way acquisition services
- Staging and temporary traffic control plans
- Pavement marking and/or signing plans
- Public involvement
- Preparation of environmental or other permit applications (NPDES, 4(f), 404/401, etc.)
- Pavement condition analysis
- Point-by-point photometric analysis
- Corridor evaluation of the existing lighting layouts along the project intersection cross streets
- Utility relocation coordination or plan production (other than traffic signal power service)

Services not included in the agreement can be provided by the COMPANY under separate agreement, if desired.

SERVICES BY OTHERS

The COMPANY does not anticipate the need for subconsultant services to complete the scope of services.

CLIENT RESPONSIBILITIES

1. Overall project plans, specifications, estimate and contract document preparation
2. Railroad Company coordination

3. ADA walkway/curb-ramp design
4. Survey, GIS, and other project data
5. Permits
6. CLIENT to provide photos of the internal equipment components within the two existing traffic signal cabinets (at W Burlington Avenue and at Roosevelt Street)
7. See sections above for additional requirements

Meeting No. Paper No. Seconded By: _____

_____ _____ AYES: _____

Introduced By: NAYS: _____

_____ MOTION CARRIED

That this meeting be adjourned.

Meeting No. Paper No. Seconded By: _____

_____ _____ AYES: _____

NAYS: _____

Introduced By:

MOTION CARRIED

That the minutes of the City Council Meeting dated January 3, 2017, Meeting No. 25 and City Council Work Session dated January 9, 2017, having previously been submitted to the members of the City Council, be received and filed in the office of the City Clerk.

Jim Davidson, Mayor Pro-Tem _____

Robert Fleming, Council Member _____

Shane A. McCampbell, Mayor _____

Tim Scott, Council Member _____

Annie Wilson, Council Member _____

Meeting No. Paper No. Seconded By: _____

_____ _____ AYES: _____

Introduced By: NAYS: _____

_____ MOTION CARRIED

CITY CLAIMS: \$560,233.96

PAYROLL: \$552,357.47

RECEIPT OF FUNDS FOR MONTH ENDED DECEMBER, 2016: \$2,996,495.00

That the above bills be allowed and the Finance Director/Treasurer be instructed to draw the necessary checks in the payment thereof.

Meeting No. Paper No. Seconded By: _____

_____ _____ AYES: _____

Introduced By: NAYS: _____

_____ MOTION CARRIED

That the following be received and filed in the office of the City Clerk:

REPORTS

Minutes of the Human Rights Commission
for November 9, 2016

Minutes of the Burlington Municipal Waterworks Board of Trustees Board
for January 10, 2017

Great River Road Iowa
Mississippi River Parkway Commission
2015-2016 Annual Report
September 2016

BONDS

Nicholas Beelman dba/Good Steward Forestry
2506 170th Street
Mount Union, IA 52644
General Liability Insurance - 12/31/2016 to 12/31/2017
Automobile Liability Insurance - 12/18/2016 to 6/18/2017, 12/30/2016 to 06/30/2017
and 12/31/2016 to 06/30/2017
Workers Compensation Insurance - 12/31/2016 to 12/31/2017
City of Burlington is Named as Additional Insured

Nathan Blint dba/All American Tree Service
2536 Lee Henry Street
West Point, IA 52656
General Liability Insurance - 05/23/2016 to 05/23/2017
Automobile Liability Insurance - 05/23/2016 to 05/23/2017
Workers Compensation Insurance - 05/24/2016 to 05/24/2017
Equipment Floater Insurance - 05/23/2016 to 05/23/2017

Brockway Company, Inc.

P.O. Box 744

Burlington, IA 52601

General Liability Insurance - 01/01/2017 to 01/01/2018

Automobile Liability Insurance - 01/01/2017 to 01/01/2018

Umbrella Liability Insurance - 01/01/2017 to 01/01/2018

Workers Compensation Insurance - 01/01/2017 to 01/01/2018

City of Burlington and HR Green, Inc. (Engineer) are Named as Additional Insured on General Liability and Auto Liability

Leonard L. Boughton dba/Boughton's Tree Service

20946 115th Ave.

Sperry, IA 52650

General Liability Insurance - 01/21/2017 to 01/21/2018

Automobile Liability Insurance - 12/09/2016 to 12/09/2018

Workers Compensation Insurance - 02/14/2016 to 02/14/2018

National Multiple Sclerosis Society

100 N. Est Avenue, Suite 215

Sioux Falls, SD 57104

General Liability Insurance - 12/31/2016 to 12/31/2017

Automobile Liability Insurance - 12/31/2016 to 12/31/2017

Umbrella Liability Insurance - 12/31/2016 to 12/31/2017

Workers Compensation Insurance - 12/31/2016 to 12/31/2017

City of Burlington is Additional Insured, Excluding Workers Compensation and Employers Liability Policy

J D Electric Company

715 Valley Street

Burlington, IA 52601

General Liability Insurance - 01/01/2017 to 01/01/2018

Automobile Liability Insurance - 01/01/2017 to 01/01/2018

Umbrella Liability Insurance - 01/01/2017 to 01/01/2018

Workers Compensation Insurance - 01/01/2017 to 01/01/2018

Leased/Rented Equipment Insurance - 01/01/2017 to 01/01/2018

City of Burlington is Named as Additional Insured on General Liability

S G Construction Co., Inc.

2850 Mt. Pleasant Street, Suite 100

Burlington, IA 52601

General Liability Insurance - 01/01/2017 to 01/01/2018

Automobile Liability Insurance - 01/01/2017 to 01/01/2018

Umbrella Liability Insurance - 01/01/2017 to 01/01/2018

Workers Compensation Insurance - 01/01/2017 to 01/01/2018

Leased/Rented Equipment Insurance - 01/01/2017 to 01/01/2018

City of Burlington is Listed as Additional Insured

Newbury Management Company

3408 Woodland Avenue, Suite 504

West Des Moines, IA 50266

General Liability Insurance - 01/01/2017 to 01/01/2018

Automobile Liability Insurance - 01/01/2017 to 01/01/2018

Umbrella Liability Insurance - 01/01/2017 to 01/01/2018

Workers Compensation Insurance - 01/01/2017 to 01/01/2018

Blanket Personal Property Insurance - 01/01/2017 to 01/01/2018

City of Burlington is Named As Additional Insured

Century Signs, Inc.

2704 North 30th Street

Quincy, IL 62305-1231

General Liability Insurance - 02/01/2017 to 02/01/2018

Automobile Liability Insurance - 02/01/2017 to 02/01/2018

Umbrella Liability Insurance - 02/01/2017 to 02/01/2018

Workers Compensation Insurance - 02/01/2017 to 02/01/2018

Sign Installation, Sales and Service

RESOLUTION NO. _____

Meeting No. _____

Paper No. _____

Introduced By: _____

AYES: _____

Seconded By: _____

NAYS: _____

RESOLUTION APPROVING NUISANCE
ABATEMENTS FOR VARIOUS PROPERTIES

Abate No.	Parcel No.	Property Location & Legal	Owner	Abate Date	Description	Payment To	Amount
C-2091	16-05-278-010	232 S 6TH ST BARRETS SUB BLOCK 760 LOT:5	JOHN & KUCHEK RUCINSKI 232 S 6TH ST BURLINGTON, IA 52601	12/7/2016	TRASH	BURLINGTON LAWN ADMINISTRATIVE FEE DOCUMENT FILING FEE	\$95.00 \$100.00 \$5.00 <u>\$200.00</u>
C-2092	16-17-276-001	2910 MADISON SEC17 TWHSP69 RANGE2 PT SE NE	CODY FORD PO BOX 453 BURLINGTON, IA 52601	11/15/2016	MOWING LIMBS	STEWS LAWN SERVICE ADMINISTRATIVE FEE DOCUMENT FILING FEE	\$200.00 \$200.00 \$5.00 <u>\$405.00</u>
M-2145	11-32-310-004	615 N GUNNISON CAMERON HD & RE SUB LOT:55	DENNIS & ANGELA MANES 334 GRANT ST BURLINGTON, IA 52601	11/22/2016	MOWING	BURLINGTON LAWN ADMINISTRATIVE FEE DOCUMENT FILING FEE	\$50.00 \$100.00 \$5.00 <u>\$155.00</u>
M-2146	16-04-352-005	305 LOCUST ORIGINAL CITY LOT 320 & 321 E 1/2	MARTHA SWAILES 720 S 4TH ST BURLINGTON, IA 52601	11/21/2016	TRASH	BURLINGTON LAWN ADMINISTRATIVE FEE DOCUMENT FILING FEE	\$70.00 \$100.00 \$5.00 <u>\$175.00</u>
M-2147	11-32-309-017	605 N GARFIELD CAMERON ROBT ADD LOT:68	SHAWNA EVANS 605 N GARFIELD BURLINGTON, IA 52601	11/7/2016	TRASH MOWING	STEWS LAWN SERVICE ADMINISTRATIVE FEE DOCUMENT FILING FEE	\$85.00 \$200.00 \$5.00 <u>\$290.00</u>
M-2148	11-31-427-015	1712 AGENCY NIEMANN SUB LOT:1	NICHOLAS & DONNA KRIER 1712 AGENCY BURLINGTON, IA 52601	11/15/2016	MOWING TRASH	STEWS LAWN SERVICE ADMINISTRATIVE FEE DOCUMENT FILING FEE	\$75.00 \$200.00 \$5.00 <u>\$280.00</u>
M-2149	16-05-127-013	103 N WOODLAWN SMITHS ADD LOT:61 EXC W8'	BRADLEY & APRIL DICKENSON 103 N WOODLAWN BURLINGTON, IA 52601	11/21/2016	TRASH	STEWS LAWN SERVICE ADMINISTRATIVE FEE DOCUMENT FILING FEE	\$100.00 \$200.00 \$5.00 <u>\$305.00</u>

APPROVED and ADOPTED this 16th day of January, 2017

ATTEST:

Kathleen P. Salisbury, MMC
City Clerk

Shane A. McCampbell
Mayor

COUNCIL ITEM

TO: Jim Ferneau, City Manager
FROM: Bob Wright, Engineering Manager
SUBJECT: MASL Sewer Separation – Phase 1
Professional Services Agreement with HR Green, Inc.

**PREPARED FOR
COUNCIL MTG:** January 16, 2017

DATE: January 4, 2017

BACKGROUND/DESCRIPTION:

The City of Burlington is under a consent agreement (Consent Order No. 2007-WW-22-A2) with the Iowa DNR to eliminate our combined sewer overflows. The attached resolution approves the acceptance of HR Green's Professional Services Agreement for the first phase of the MASL Sewer Separation Project. Phase 1 of this project will develop modeling and design plans for the Locust Basin Sanitary and Storm sewer separation, flow monitoring plans, prepare all necessary CDBG application documents, and complete the Environmental Assessment (EA) process for the entire MASL basin according to HUD requirements outlined in the 2016 CDBG Management Guide.

JUSTIFICATION/RECOMMENDATION:

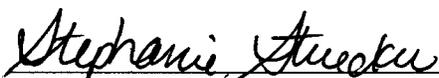
We have reviewed the initial draft agreement and made modification to minimize HR Green's costs associated with construction administration. It is recommended that Council approve the attached resolution and authorize the Mayor to sign, on behalf of the City, a professional services agreement with HR Green, Inc. of Cedar Rapids, Iowa.

BUDGET IMPLICATIONS:

Per the schedule in Section 4, and the budgetary "not to exceed" list engineering services fees identified in Section 5, we anticipate the follow budgetary costs:

FY17: \$183,800 - Project Planning and Design Modeling necessary for CDBG Application
FY18: \$659,900 - Additional Project Planning, Design, Bidding, and Construction Services

Funding Sources: SRF Revenue Bonds



Stephanie Stuecker, Director of Administrative Services



Exhibit "A"

PROFESSIONAL SERVICES AGREEMENT

For

**City of Burlington, IA
MASL Sewer Separation Project**

Jesse Howe, P.E.
City Engineer
3510 Division Street
Burlington, IA 52601
(319) 753-8176 ext. 418

Matthew J. Wildman, PE
HR Green, Inc.
8710 Earhart Lane SW
Cedar Rapids, IA 52404
160282

January 4, 2017

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- 1.0 PROJECT UNDERSTANDING
- 2.0 SCOPE OF SERVICES
- 3.0 DELIVERABLES AND SCHEDULES INCLUDED IN THIS AGREEMENT
- 4.0 ITEMS NOT INCLUDED IN AGREEMENT/SUPPLEMENTAL SERVICES
- 5.0 SERVICES BY OTHERS
- 6.0 CLIENT RESPONSIBILITIES
- 7.0 PROFESSIONAL SERVICES FEE
- 8.0 TERMS AND CONDITIONS

THIS **AGREEMENT** is between City of Burlington, IA (hereafter "CLIENT") and HR GREEN, INC. (hereafter "COMPANY").

1.0 Project Understanding

1.1 General Understanding

See Attachment A – Scope of Services

1.2 Design Criteria/Assumptions

See Attachment A – Scope of Services

2.0 Scope of Services

The CLIENT agrees to employ COMPANY to perform the following services:

See Attachment A – Scope of Services

3.0 Deliverables and Schedules Included in this Agreement

See Attachment A – Scope of Services

This schedule was prepared to include reasonable allowances for review and approval times required by the CLIENT and public authorities having jurisdiction over the project. This schedule shall be equitably adjusted as the project progresses, allowing for changes in the scope of the project requested by the CLIENT or for delays or other causes beyond the control of COMPANY.

4.0 Items not included in Agreement/Supplemental Services

The following items are not included as part of this agreement:

See Attachment A – Scope of Services

Supplemental services not included in the agreement can be provided by COMPANY under separate agreement, if desired.

5.0 Services by Others

See Attachment A – Scope of Services

6.0 Client Responsibilities

See Attachment A – Scope of Services

7.0 Professional Services Fee

7.1 Fees

The fee for services will be based on COMPANY standard hourly rates current at the time the agreement is signed. These standard hourly rates are subject to change upon 30 days' written notice. Non salary expenses directly attributable to the project such as: (1) living and traveling expenses of employees when away from the home office on business connected with the project; (2) identifiable communication expenses; (3) identifiable reproduction costs applicable to the work; and (4) outside services will be charged in accordance with the rates current at the time the service is done.

7.2 Invoices

Invoices for COMPANY's services shall be submitted, on a monthly basis. Invoices shall be due and payable upon receipt. If any invoice is not paid within 15 days, COMPANY may, without waiving any claim or right against the CLIENT, and without liability whatsoever to the CLIENT, suspend or terminate the performance of services. The retainer shall be credited on the final invoice. Accounts unpaid 30 days after the invoice date may be subject to a monthly service charge of 1.5% (or the maximum legal rate) on the unpaid balance. In the event any portion of an account remains unpaid 60 days after the billing, COMPANY may institute collection action and the CLIENT shall pay all costs of collection, including reasonable attorney's fees.

7.3 Extra Services

Any service required but not included as part of this contract shall be considered extra services. Extra services will be billed on a Time and Material basis with prior approval of the CLIENT.

7.4 Exclusion

This fee does not include attendance at any meetings or public hearings other than those specifically listed in the Scope of Services. These service items are considered extra and are billed separately on an hourly basis.

7.5 Payment

The CLIENT AGREES to pay COMPANY on the following basis:

Time and material basis with a Not to Exceed fee as shown in Attachment A.

8.0 Terms and Conditions

The following Terms and Conditions are incorporated into this AGREEMENT and made a part of it.

8.1 Standard of Care

Services provided by COMPANY under this AGREEMENT will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing at the same time and in the same or similar locality.

8.2 Entire Agreement

This Agreement, and its attachments, constitutes the entire understanding between CLIENT and COMPANY relating to professional engineering services. Any prior or contemporaneous agreements, promises, negotiations, or representations not expressly set forth herein are of no effect. Subsequent modifications or amendments to this Agreement shall be in writing and signed by the parties to this Agreement. If the CLIENT, its officers, agents, or employees request COMPANY to perform extra services pursuant to this Agreement, CLIENT will pay for the additional services even though an additional written Agreement is not issued or signed.

8.3 Time Limit and Commencement of Services

This AGREEMENT must be executed within ninety (90) days to be accepted under the terms set forth herein. The services will be commenced immediately upon receipt of this signed Agreement.

8.4 Suspension of Services

If the Project or the COMPANY'S services are suspended by the CLIENT for more than thirty (30) calendar days, consecutive or in the aggregate, over the term of this Agreement, the COMPANY shall be compensated for all services performed and reimbursable expenses incurred prior to the receipt of notice of suspension. In addition, upon resumption of services, the CLIENT shall compensate the COMPANY for expenses incurred as a result of the suspension and resumption of its services, and the COMPANY'S schedule and fees for the remainder of the Project shall be equitably adjusted.

If the COMPANY'S services are suspended for more than ninety (90) days, consecutive or in the aggregate, the COMPANY may terminate this Agreement upon giving not less than five (5) calendar days' written notice to the CLIENT.

If the CLIENT is in breach of this Agreement, the COMPANY may suspend performance of services upon five (5) calendar days' notice to the CLIENT. The COMPANY shall have no liability to the CLIENT, and the CLIENT agrees to make no claim for any delay or damage as a result of such suspension caused by any breach of this Agreement by the CLIENT. Upon receipt of payment in full of all outstanding sums due from the CLIENT, or curing of such other breach which caused the COMPANY to suspend services, the COMPANY shall resume services and there shall be an equitable adjustment to the remaining project schedule and fees as a result of the suspension.

8.5 Book of Account

COMPANY will maintain books and accounts of payroll costs, travel, subsistence, field, and incidental expenses for a period of five (5) years. Said books and accounts will be available at all reasonable times for examination by CLIENT at the corporate office of COMPANY during that time.

8.6 Insurance

COMPANY will maintain insurance for claims under the Worker's Compensation Laws, and from General Liability and Automobile claims for bodily injury, death, or property damage, and Professional Liability insurance caused by the negligent performance by COMPANY's employees of the functions and services required under this Agreement.

8.7 Termination or Abandonment

Either party has the option to terminate this Agreement. In the event of failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party, then the obligation to provide further services under this Agreement may be terminated upon seven days written notice. If any portion of the services is terminated or abandoned by CLIENT, the provisions of this Schedule of Fees and Conditions in regard to compensation and payment shall apply insofar as possible to that portion of the services not terminated or abandoned. If said termination occurs prior to completion of any phase of the project, the fee for services performed during such phase shall be based on COMPANY's reasonable estimate of the portion of

such phase completed prior to said termination, plus a reasonable amount to reimburse COMPANY for termination costs.

8.8 Waiver

COMPANY's waiver of any term, condition, or covenant or breach of any term, condition, or covenant, shall not constitute a waiver of any other term, condition, or covenant, or the breach thereof.

8.9 Severability

If any provision of this Agreement is declared invalid, illegal, or incapable of being enforced by any Court of competent jurisdiction, all of the remaining provisions of this Agreement shall nevertheless continue in full force and effect, and no provision shall be deemed dependent upon any other provision unless so expressed herein.

8.10 Successors and Assigns

All of the terms, conditions, and provisions hereof shall inure to the benefit of and are binding upon the parties hereto, and their respective successors and assigns, provided, however, that no assignment of this Agreement shall be made without written consent of the parties to this Agreement.

8.11 Third-Party Beneficiaries

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CLIENT or the COMPANY. The COMPANY's services under this Agreement are being performed solely for the CLIENT's benefit, and no other party or entity shall have any claim against the COMPANY because of this Agreement or the performance or nonperformance of services hereunder. The CLIENT and COMPANY agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this project to carry out the intent of this provision.

8.12 Governing Law and Jurisdiction

The CLIENT and the COMPANY agree that this Agreement and any legal actions concerning its validity, interpretation and performance shall be governed by the laws of the State of Iowa without regard to any conflict of laws provisions, which may apply the laws of other jurisdictions.

It is further agreed that any legal action between the CLIENT and the COMPANY arising out of this Agreement or the performance of the services shall be brought in a court of competent jurisdiction in the State of Iowa.

8.13 Dispute Resolution

Mediation. In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the CLIENT and COMPANY agree that all disputes between them arising out of or relating to this Agreement shall be submitted to non-binding mediation unless the parties mutually agree otherwise. The CLIENT and COMPANY further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with subcontractors, sub-consultants, suppliers or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.

8.14 Attorney's Fees

If litigation arises for purposes of collecting fees or expenses due under this Agreement, the Court in such litigation shall award reasonable costs and expenses, including attorney fees, to the party justly entitled thereto. In awarding attorney fees, the Court shall not be bound by any Court fee schedule, but shall, in the interest of justice, award the full amount of costs, expenses, and attorney fees paid or incurred in good faith.

8.15 Ownership of Instruments of Service

The CLIENT acknowledges that all reports, plans, specifications, field data, field notes, laboratory test data, calculations, estimates and other documents including all documents on electronic media prepared by COMPANY are instruments of service. Nevertheless, upon completion of the services and payment in full of all monies due to the COMPANY, the CLIENT shall receive ownership of the final documents prepared under this Agreement.

Under no circumstances shall the transfer of ownership of the COMPANY's drawings, specifications, electronic files or other instruments of service be deemed a sale by the COMPANY, and the COMPANY makes no

warranties, either express or implied, of merchantability and fitness for any particular purpose, nor shall such transfer be construed or regarded as any waiver or other relinquishment of the COMPANY's copyrights in any of the foregoing, full ownership of which shall remain with the COMPANY, absent the COMPANY's express prior written consent.

8.16 Reuse of Documents

All project documents including, but not limited to, plans and specifications furnished by COMPANY under this project are intended for use on this project only. Any reuse, without specific written verification or adoption by COMPANY, shall be at the CLIENT's sole risk, and CLIENT shall defend, indemnify and hold harmless COMPANY from all claims, damages and expenses including attorney's fees arising out of or resulting therefrom.

Under no circumstances shall delivery of electronic files for use by the CLIENT be deemed a sale by the COMPANY, and the COMPANY makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall the COMPANY be liable for indirect or consequential damages as a result of the CLIENT's use or reuse of the electronic files.

8.17 Failure to Abide by Design Documents or To Obtain Guidance

The CLIENT agrees that it would be unfair to hold COMPANY liable for problems that might occur should COMPANY'S plans, specifications or design intents not be followed, or for problems resulting from others' failure to obtain and/or follow COMPANY'S guidance with respect to any errors, omissions, inconsistencies, ambiguities or conflicts which are detected or alleged to exist in or as a consequence of implementing COMPANY'S plans, specifications or other instruments of service. Accordingly, the CLIENT waives any claim against COMPANY, and agrees to defend, indemnify and hold COMPANY harmless from any claim for injury or losses that results from failure to follow COMPANY'S plans, specifications or design intent, or for failure to obtain and/or follow COMPANY'S guidance with respect to any alleged errors, omissions, inconsistencies, ambiguities or conflicts contained within or arising as a result of implementing COMPANY'S plans, specifications or other instruments of services. The CLIENT also agrees to compensate COMPANY for any time spent and expenses incurred remedying CLIENT's failures according to COMPANY'S prevailing fee schedule and expense reimbursement policy.

8.18 Opinion of Probable Construction Cost

COMPANY shall submit to the CLIENT an opinion of probable cost required to construct work recommended, designed, or specified by COMPANY, if required by CLIENT. COMPANY is not a construction cost estimator or construction contractor, nor should COMPANY'S rendering an opinion of probable construction costs be considered equivalent to the nature and extent of service a construction cost estimator or construction contractor would provide. This requires COMPANY to make a number of assumptions as to actual conditions that will be encountered on site; the specific decisions of other design professionals engaged; the means and methods of construction the contractor will employ; the cost and extent of labor, equipment and materials the contractor will employ; contractor's techniques in determining prices and market conditions at the time, and other factors over which COMPANY has no control. Given the assumptions which must be made, COMPANY cannot guarantee the accuracy of his or her opinions of cost, and in recognition of that fact, the CLIENT waives any claim against COMPANY relative to the accuracy of COMPANY'S opinion of probable construction cost.

8.19 Design Information in Electronic Form

Because electronic file information can be easily altered, corrupted, or modified by other parties, either intentionally or inadvertently, without notice or indication, COMPANY reserves the right to remove itself from its ownership and/or involvement in the material from each electronic medium not held in its possession. CLIENT shall retain copies of the work performed by COMPANY in electronic form only for information and use by CLIENT for the specific purpose for which COMPANY was engaged. Said material shall not be used by CLIENT or transferred to any other party, for use in other projects, additions to this project, or any other purpose for which the material was not strictly intended by COMPANY without COMPANY's expressed written permission. Any unauthorized use or reuse or modifications of this material shall be at CLIENT'S sole risk. Furthermore, the CLIENT agrees to defend, indemnify, and hold COMPANY harmless from all claims, injuries, damages, losses, expenses, and attorney's fees arising out of the modification or reuse of these materials.

The CLIENT recognizes that designs, plans, and data stored on electronic media including, but not limited to computer disk, magnetic tape, or files transferred via email, may be subject to undetectable alteration and/or uncontrollable deterioration. The CLIENT, therefore, agrees that COMPANY shall not be liable for the completeness or accuracy of any materials provided on electronic media after a 30 day inspection period,

during which time COMPANY shall correct any errors detected by the CLIENT to complete the design in accordance with the intent of the contract and specifications. After 40 days, at the request of the CLIENT, COMPANY shall submit a final set of sealed drawings, and any additional services to be performed by COMPANY relative to the submitted electronic materials shall be subject to separate AGREEMENT. The CLIENT is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by the COMPANY and electronic files, the signed or sealed hard-copy construction documents shall govern.

8.20 Information Provided by Others

The CLIENT shall furnish, at the CLIENT's expense, all information, requirements, reports, data, surveys and instructions required by this AGREEMENT. The COMPANY may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof. The COMPANY shall not be held responsible for any errors or omissions that may arise as a result of erroneous or incomplete information provided by the CLIENT and/or the CLIENT's consultants and contractors.

COMPANY is not responsible for accuracy of any plans, surveys or information of any type including electronic media prepared by any other consultants, etc. provided to COMPANY for use in preparation of plans. The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless the COMPANY from any damages, liabilities, or costs, including reasonable attorneys' fees and defense costs, arising out of or connected in any way with the services performed by other consultants engaged by the CLIENT.

COMPANY is not responsible for accuracy of topographic surveys provided by others. A field check of a topographic survey provided by others will not be done under this contract unless indicated in the Scope of Services.

8.21 Force Majeure

The CLIENT agrees that the COMPANY is not responsible for damages arising directly or indirectly from any delays for causes beyond the COMPANY's control. CLIENT agrees to defend, indemnify, and hold COMPANY, its consultants, agents, and employees harmless from any and all liability, other than that caused by the negligent acts, errors, or omissions of COMPANY, arising out of or resulting from the same. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters or acts of God; fires, riots, war or other emergencies; failure of any government agency to act in timely manner; failure of performance by the CLIENT or the CLIENT'S contractors or consultants; or discovery of any hazardous substances or differing site conditions. Severe weather disruptions include but are not limited to extensive rain, high winds, snow greater than two (2) inches and ice. In addition, if the delays resulting from any such causes increase the cost or time required by the COMPANY to perform its services in an orderly and efficient manner, the COMPANY shall be entitled to a reasonable adjustment in schedule and compensation.

8.22 Job Site Visits and Safety

Neither the professional activities of COMPANY, nor the presence of COMPANY'S employees and subconsultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. COMPANY and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The CLIENT agrees that the General Contractor is solely responsible for job site safety, and warrants that this intent shall be made evident in the CLIENT's AGREEMENT with the General Contractor. The CLIENT also agrees that the CLIENT, COMPANY and COMPANY'S consultants shall be indemnified and shall be made additional insureds on the General Contractor's and all subcontractor's general liability policies on a primary and non-contributory basis.

8.23 Hazardous Materials

CLIENT hereby understands and agrees that COMPANY has not created nor contributed to the creation or existence of any or all types of hazardous or toxic wastes, materials, chemical compounds, or substances, or any other type of environmental hazard or pollution, whether latent or patent, at CLIENT's premises, or in connection with or related to this project with respect to which COMPANY has been retained to provide professional engineering services. The compensation to be paid COMPANY for said professional engineering

services is in no way commensurate with, and has not been calculated with reference to, the potential risk of injury or loss which may be caused by the exposure of persons or property to such substances or conditions. Therefore, to the fullest extent permitted by law, CLIENT agrees to defend, indemnify, and hold COMPANY, its officers, directors, employees, and consultants, harmless from and against any and all claims, damages, and expenses, whether direct, indirect, or consequential, including, but not limited to, attorney fees and Court costs, arising out of, or resulting from the discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acid, alkalis, toxic chemicals, liquids gases, or any other materials, irritants, contaminants, or pollutants in or into the atmosphere, or on, onto, upon, in, or into the surface or subsurface of soil, water, or watercourses, objects, or any tangible or intangible matter, whether sudden or not.

It is acknowledged by both parties that COMPANY'S scope of services does not include any services related to asbestos or hazardous or toxic materials. In the event COMPANY or any other party encounters asbestos or hazardous or toxic materials at the job site, or should it become known in any way that such materials may be present at the job site or any adjacent areas that may affect the performance of COMPANY'S services, COMPANY may, at its option and without liability for consequential or any other damages, suspend performance of services on the project until the CLIENT retains appropriate specialist consultant(s) or contractor(s) to identify, abate and/or remove the asbestos or hazardous or toxic materials, and warrants that the job site is in full compliance with applicable laws and regulations.

Nothing contained within this Agreement shall be construed or interpreted as requiring COMPANY to assume the status of a generator, storer, transporter, treater, or disposal facility as those terms appear within the Resource Conservation and Recovery Act, 42 U.S.C.A., §6901 et seq., as amended, or within any State statute governing the generation, treatment, storage, and disposal of waste.

8.24 Certificate of Merit

The CLIENT shall make no claim for professional negligence, either directly or in a third party claim, against COMPANY unless the CLIENT has first provided COMPANY with a written certification executed by an independent design professional currently practicing in the same discipline as COMPANY and licensed in the State in which the claim arises. This certification shall: a) contain the name and license number of the certifier; b) specify each and every act or omission that the certifier contends is a violation of the standard of care expected of a Design Professional performing professional services under similar circumstances; and c) state in complete detail the basis for the certifier's opinion that each such act or omission constitutes such a violation. This certificate shall be provided to COMPANY not less than thirty (30) calendar days prior to the presentation of any claim or the institution of any judicial proceeding.

8.25 Limitation of Liability

In recognition of the relative risks and benefits of the Project to both the CLIENT and the COMPANY, the risks have been allocated such that the CLIENT agrees, to the fullest extent permitted by law, to limit the liability of the COMPANY and COMPANY'S officers, directors, partners, employees, shareholders, owners and subconsultants for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert-witness fees and costs, so that the total aggregate liability of the COMPANY and COMPANY'S officers, directors, partners, employees, shareholders, owners and subconsultants shall not exceed \$50,000.00, or the COMPANY'S total fee for services rendered on this Project, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

8.26 Drywells, Underdrains and Other Infiltration Devices

Services provided by COMPANY under this AGREEMENT do NOT include the geotechnical design of drywells, underdrains, injection wells or any other item that may be devised for the purpose of removing water from the CLIENT'S property by infiltration into the ground. Due to the high variability of soil types and conditions such devices will not be reliable in all cases. While for this reason COMPANY does not recommend the use of these devices, in some cases their use may be necessary to obtain an adequate amount of area for development on the CLIENT'S property. Since the use of these devices is intended to enhance the value of the CLIENT'S property and, in some cases, allow development that would otherwise not be possible, the CLIENT will assume all risks inherent in the design and construction of these devices, unless the contractor or a Geotechnical Engineer assumes these risks. Typical risks include but are not limited to:

- Failure to obtain the required release rate;
- Variability of the soils encountered during construction from those encountered in soil borings. (Soils can vary widely over a small change in location, horizontal or vertical, particularly with regards to permeability);
- Failure of the device due to siltation, poor construction or changes in the water table;

- Need to obtain additional soils information (i.e. borings etc.) to evaluate the function of installed devices;
- Reconstruction of failed or inadequate devices;
- Enlargement of detention/ retention facilities to make up for release rates that are lower than those used in the stormwater design, including engineering design and additional land required for such enlargement; and
- Regular maintenance to remove accumulated silt over the device's life span.

If the use of these devices is required COMPANY will advise the CLIENT that a Geotechnical Engineer must be retained to consult on the project. The CLIENT must enter into a separate agreement directly with this consultant. They will not be sub-contracted through COMPANY nor are their fees included as part of this AGREEMENT. COMPANY will work together with this consultant to obtain a final design. Our collaboration may include the use of a common standard detail or the creation of a new standard detail. COMPANY may make suggestions to the Geotechnical Engineer on ways to tailor these devices to meet the needs of the overall site design. The Geotechnical Engineer will evaluate these suggested details and modifications based on his experience and measured soils information to estimate the release rate for each detail considered. COMPANY may use a release rate of these devices as provided by the Geotechnical Engineer for the design of the stormwater system. This rate may be faxed to us, as a draft copy of the Geotechnical Engineers report or as a final copy of that report. In no case will COMPANY accept responsibility for the determination of the expected release rate of these devices.

If certification of the contractor's construction of these devices is required by the municipality or desired by the CLIENT a Geotechnical Engineer must also be obtained for these services. This is highly recommended in order to observe the actual soils where the devices are being constructed and to verify that the construction methods used do not violate any assumptions made by the Geotechnical Engineer during the design and evaluation of the standard detail. If a Geotechnical Engineer is not retained by the CLIENT to provide construction review, the CLIENT shall assume all risks that the devices may fail requiring additional geotechnical investigation or reconstruction and shall defend, indemnify and hold harmless COMPANY from all claims, damages and expenses including attorney's fees arising out of or resulting therefrom. Any construction observation services provided by COMPANY shall not include these devices.

8.27 Environmental Audits/Site Assessments

Environmental Audit/Site Assessment report(s) are prepared for CLIENT's sole use. CLIENT agrees to defend, indemnify, and hold COMPANY, its consultants, agents, and employees harmless against all damages, claims, expenses, and losses arising out of or resulting from any reuse of the Environmental Audit/Site Assessment report(s) without the written authorization of COMPANY.

8.28 Construction Observation

COMPANY shall visit the project at appropriate intervals (as described in the scope of services) during construction to become generally familiar with the progress and quality of the contractors' work and to determine if the work is proceeding in general accordance with the Contract Documents. The CLIENT has not retained COMPANY to make detailed inspections or to provide exhaustive or continuous project review and observation services. COMPANY does not guarantee the performance of, and shall have no responsibility for, the acts or omissions of any contractor, subcontractor, supplier or any other entity furnishing materials or performing any work on the project.

If the CLIENT desires more extensive project observation or full-time project representation, the CLIENT shall request in writing such services be provided by COMPANY as Additional Services in accordance with the terms of the Agreement.

8.29 Municipal Advisor

The COMPANY is not a Municipal Advisor registered with the Security and Exchange Commission (SEC) as defined in the Dodd-Frank Wall Street Reform and Consumer Protection Act. When the CLIENT is a municipal entity as defined by said Act, and the CLIENT requires project financing information for the services performed under this AGREEMENT, the CLIENT will provide the COMPANY with a letter detailing who their independent registered municipal advisor is and that the CLIENT will rely on the advice of such advisor. A sample letter can be provided to the CLIENT upon request.

This AGREEMENT is approved and accepted by the CLIENT and COMPANY upon both parties signing and dating the AGREEMENT. Services will not begin until COMPANY receives a signed agreement. COMPANY's services shall be limited to those expressly set forth in this AGREEMENT and COMPANY shall have no other obligations or responsibilities for the Project except as agreed to in writing. The effective date of the AGREEMENT shall be the last date entered below.

Sincerely,

HR GREEN, INC.

Matthew Wildman, PE

Approved by: _____

Printed/Typed Name: _____

Title: _____ Date: _____

CITY OF BURLINGTON, IA

Accepted by: _____

Printed/Typed Name: _____

Title: _____ Date: _____

ATTACHMENT A **SCOPE OF SERVICES**

PROJECT DESCRIPTION

The City of Burlington (CLIENT) has procured HR Green, Inc. (COMPANY) to investigate, design and administer construction for the MASL Sewer Separation Project. Much of the City of Burlington sewer conveys sanitary as well as storm sewer flows (combined sewer system). Low flows are conveyed through pump stations to the treatment facility prior to discharging to the Mississippi River. As wet-weather occurs, flows above the capacity of the pumping and treatment system result in a combined sewer overflow (CSO) and directly discharge to the Mississippi River. The City developed a Long-term Control Plan (LTCP) to separate the sewers and that document was incorporated into a legally enforceable Administrative Consent Order.

COMPANY has been retained by the CLIENT through a multi-phased approach intended to meet the requirements of the current or future to-be-amended Administrative Consent Order No. 2007-WW-22 (amended 2014). The City has separated the Hawkeye and Cascade basins with the remaining to be separated basin called the MASL basin. The MASL basin includes the Market, Angular, South and Locust sub-basins and is located between the Hawkeye and Cascade drainage basins. The MASL basin is loosely bounded by the Mississippi River to the east, Market Street to the north, Cambridge Drive to the west and Harrison Avenue to the south.

OVERALL WORK APPROACH

The multi-phased approach was developed as a strategy to most cost-effectively proceed with separation of the MASL basin. The approach starts by separating the Locust basin first, then moving to South, Angular and Market, in that order. Locust is the smallest basin and the separation work could be completed quickly and efficiently with funding, design, bidding and construction all completed by the end of 2018. This would eliminate 1 of the 4 CSOs and completely separate one of the basins. The COMPANY's approach to separate the Locust Basin is to design and construct all new sanitary sewer and reuse the existing combined system for storm sewer. By installing all new sanitary sewer, old pipe, manholes, and service taps will all be replaced, eliminating these major sources of potential inflow and infiltration (I&I) into the sanitary sewer.

While the new sanitary service taps are being installed, each service connection will be exposed and the opportunity will exist for evaluation, either by visual observation or televising. Visual observation would include noting pipe type, amount of flow, and overall condition of the pipe. The service laterals could also be televised, if necessary, from the street to the house without having to excavate or utilize a lateral launch camera from inside the sewer main, which can be cost prohibitive on a large number of connections.

This would also be a good time to complete home inspections to make sure roof drains, foundation tiles, area drains, and sump pumps are disconnected from the sanitary sewer system. COMPANY will work with the CLIENT to review City ordinances and policy to make sure the CLIENT has right-of-entry to complete these inspections.

COMPANY will use any historical flow monitoring information that we can gather from the CLIENT, review current monitoring locations and make recommendations for addition of new temporary and permanent flow meters within the Locust Basin as well as the other basins. This monitoring will allow COMPANY to validate and quantify the success of the work as it is being

completed within the Locust Basin and allow the approach to be refined, if necessary, moving forward into the larger basins.

The overall goal of this approach is to allow the CLIENT to go into each basin once, complete the work necessary to separate the storm and sanitary sewer, address the I&I, and eliminate the CSO. This approach completes the work more effectively the first time, rather than having to go back later into each of these basins to complete a number of I&I projects following the separation. Future I&I projects would be much more expensive and would disrupt residents and businesses a second time after the initial separation work was complete.

Following completion of the Locust Basin, cost information, flow data before and after the project, percentage of service connections needing additional separation work or replacement, and overall timing of project elements will be available to refine the approach on the other basins. This information will allow the COMPANY to comprehensively develop the costs, schedule and other impacts to the South, Angular and Market basins. Armed with this information, the COMPANY and the CLIENT can consider if it is necessary to request an extension of the Administrative Consent Order Compliance Schedule.

This Scope of Services includes tasks necessary to apply for project funding, design the Locust Basin separation project, and complete an Environmental Review for the entire MASL Basin. Additional work will be completed under future supplemental agreements and will include the following tasks:

1. Develop a Preliminary Design Report for the MASL Basin. The Preliminary Design Report will prioritize projects within the remaining MASL basins, evaluate costs for these projects, develop a schedule for completion of these projects, and make recommendations for future improvements.
2. Develop a Sewer Master Plan for the entire City. The Sewer Master Plan will be an extension of the Preliminary Design Report developed for the MASL Basin.
3. Implement a flow monitoring program in the Hawkeye and Cascade drainage basins.
4. Develop an Inflow and Infiltration reduction strategy for the Hawkeye and Cascade drainage basins. This strategy will be developed using data collected during flow monitoring program.
5. Design combined sewer separation projects for the remaining MASL basins including Market, Angular and South.
6. Design storage tanks and/or peak flow treatment systems within the MASL basin, as necessary following separation projects.
7. Design WWTF capacity upgrades, as necessary, following separation projects.

LOCUST BASIN WORK APPROACH

This scope of work describes the services to be rendered by COMPANY for the Locust Basin Combined Sewer Separation Project for the CLIENT. The project will include the following general tasks:

1. Environmental Review of the entire MASL basin
2. Funding Strategy development and funding applications including Community Development Block Grant (CDBG) and State Revolving Fund (SRF).
3. Review of existing infrastructure information previously collected by others
4. Flow metering within the Locust Basin
5. Develop flow metering plan for Hawkeye, Cascade and remaining MASL basins
6. Combined Sewer and new Sanitary Sewer Modeling in the Locust Basin
7. Design of new sanitary sewer (estimated 13,000 lf) throughout the Locust Basin.
8. Storm sewer system modeling in the Locust Basin

9. Design of storm water improvements in the Locust Basin, including green infrastructure
10. Bidding phase services
11. Construction phase services.

These services will include serving as the CLIENT's professional engineering representative for the Project, providing professional engineering consultation and advice, and furnishing civil, process, structural, electrical engineering as well as other services as noted herein.

SECTION 1: BASIC SERVICES OF COMPANY:

The services outlined in this section of the scope of services are recommended by the Iowa DNR *Wastewater Engineering Construction Permitting Process Manual* and will be followed to meet the Iowa DNR requirements and help the project move forward smoothly. COMPANY shall adhere and follow the requirements set forth in the CDBG guidelines, which are incorporated within. COMPANY proposes to complete the following services:

PHASE 1 – PROJECT PLANNING

General

1. COMPANY will provide on-going project management including budget and schedule management.
2. Project Kickoff Meeting - The COMPANY will conduct a project kickoff meeting to clarify and identify specific project elements and objectives and the CLIENT's requirements for the project, review the project staffing and organization, and develop detailed project schedule with critical dates, milestones, and deliverables. The COMPANY will prepare and distribute meeting notes within one week of the meeting date.
3. Project Progress Meetings – COMPANY will conduct a monthly status review meeting with CLIENT to present a summary of the work completed on each task, estimated completion of tasks, discussion of project issues, and a summary of the work status compared to the project schedule and budget.
4. Contact the Iowa DNR and request assignment of a Project Manager.
5. Conduct a Project Initiation Meeting with the CLIENT and the Iowa DNR as required for the Facility Plan process.
6. Review and evaluate the existing data provided by the CLIENT.

Facility Plan

1. Prepare a narrative on the condition and status of the existing combined sewer system based on interviews with CLIENT staff and summary reports from smoke testing or televising work that has been completed by others. The narrative will be included in the Facility Plan. If additional investigation of the sewer system is required, a supplemental agreement will be developed.
2. Develop a recommendation and justification for the Locust Basin separation and approach as needed for CDBG and SRF funding applications.
3. Prepare a draft report and submit up to eight (8) copies to the Client for review and comment. The report will include a recommended alternative with justification.
4. Attend a meeting with Client to review the draft report and comments.
5. Finalize the report to incorporate Client's comments, and submit up to eight (8) copies of the final report to Client and three (3) copies to the Iowa DNR. The final report will be sealed by an engineer licensed to do work in the State of Iowa.

Survey (Locust Basin)

1. Perform necessary design survey of the Locust Basin (subconsultant). This is to include the following:
 - a. Topographic Survey - Provide topographic survey for project area. This will include only the City right-of-way along the proposed sanitary sewer alignment in the Locust Basin.
 - b. Utility Survey - The Iowa One Call system shall be used to obtain the locations as shown on utility company plans. Utilities will not be marked in the field. The private utilities could include telephone, fiber optics, electric, gas, cable television, etc. Field survey of the locations of each private utility will be performed only as readily visible on the surface. This includes the location of utility appurtenances (e.g. telephone pedestals, power poles, guy wires, electric transformer boxes, cable television pedestals, light poles and luminaries, valves, utility accesses and vaults). **Excavating to expose buried private utilities is not part of this contract.** The Iowa One Call system shall also be used to obtain locations of public utilities. The public utilities shall include water mains and services, combined sewer systems, and traffic signal systems.
 - c. Base Map Preparation - A base map file will be created containing contours, topographic features, and utility information. The base map will be used for the design of proposed improvements.

Flow Monitoring

1. THE COMPANY will review existing flow metering data from the City including locations of past flow monitoring. COMPANY will develop a flow monitoring program for the MASL, Hawkeye, and Cascade drainage basins.
2. COMPANY will set up a flow meter in the existing combined sewer in the Locust basin to obtain dry weather and wet weather flow information from the most downstream location within the Locust Basin. The existing information will be utilized for design and analysis of the system. The flow monitoring will then be used to monitor progress and determine efficacy of the sewer separation.
3. The COMPANY will utilize existing flow meter data provided by the CLIENT, where possible.
4. Precipitation data will be obtained from a rain gauge rented by COMPANY and located within the Locust basin.
5. A QA/QC program will be followed to review the integrity of the collected data.
6. Summary data from the flow monitoring evaluation will be used as input data for the hydraulic modeling.

Sewer Modeling (Locust Basin)

1. Collect and review existing system data for identifying the sewer system components and directing the surveying of existing facilities.
2. Review flow meter records for verification of the sanitary sewer system model.
3. Develop Sanitary Sewer Hydraulic Model for the Locust Basin only.
 - a. Develop and calibrate a hydraulic software model of the existing sewer system for both existing dry weather and wet weather flow. Utilizing the hydraulic model, the COMPANY will design the new sanitary system.
 - b. Input available data of the existing combined sewer system provided by the CLIENT into a hydraulic model. GIS data is expected to include manhole locations, manhole material, manhole center invert, pipe locations, pipe inverts (drop connections), pipe size, pipe material, structure rim elevations,

and operational characteristics, and flow generation per area. Calibration of the sewer system in the model will utilize dry weather flow data. The flow monitoring results attained during flow monitoring will be analyzed and the model will be updated after the conclusion of construction of the Locust Basin.

Storm Modeling

1. **Develop Storm Sewer Hydrology and Hydraulics Model**
 - a. Export the existing conditions combined sewer system model into XP-SWMM for storm sewer modeling.
 - b. Develop drainage basin data and hydrology model input parameters for the Locust Basin. Hydrology inputs will be made at trunk line manholes. Individual intake modeling will not be completed.
 - c. Verify the storm sewer model against flow monitoring data and adjust model as needed. Verify existing conditions modeling results with City staff for the 1.25-inch, 5-year, 10-year, and 25-year storm events.
 - d. Review existing combined sewer pipe conditions from available televising reports provided by the City.
 - e. Identify drainage problem areas within the basin from available reports, City staff accounts, and modeling results.
 - f. Utilize the model to identify existing pipe capacity issues.
2. **Storm Flow Reduction Feasibility Assessment**
 - a. Utilize the Storm Sewer model to identify potential underground detention storage opportunities.
 - b. Identify green infrastructure opportunities within the basin from available GIS data including but not limited to parcel layers, aerials, contours, soils, and utility mapping. Locate viable locations for specific Best Management Practices (BMPs) designed to reduce the volume and rate of runoff entering the storm sewer system, particularly upstream of identified problem areas or capacity limited pipes.
 - c. Evaluate the feasibility of flow reduction opportunities, taking into account such factors as current and future land use, municipal ownership, site grading and existing features, proximity to existing storm mains, location within each sub-watershed, potential rate reduction, basic cost-to-benefit analysis, constructability, funding eligibility, public acceptance, and public education potential.
 - d. Prepare a draft Storm Sewer System Technical Memorandum which will include a narrative summary of the storm sewer modeling assumptions, inputs, and results. Identify storm sewer system issues and potential flow reduction or attenuation opportunities, including detention and green infrastructure. Present identified candidate BMP locations in a decision matrix format.
 - e. Meet with City staff to review the draft Storm Sewer System Technical Memorandum. Review existing storm sewer system issues and discuss potential flow reduction options listed in the decision matrix. Gather feedback from City staff and finalize a list of flow reduction options to advance to conceptual design. Prepare the final Storm Sewer System Technical Memorandum incorporating feedback from the City and decisions made during the review meeting.

NEPA Compliance (MASL Basin)

1. COMPANY will complete the Environmental Assessment (EA) process for the entire MASL basin according to HUD requirements outlined in the 2016 CDBG Management Guide. This will include:
 - a. Coordinate with the necessary federal, state, and local agencies such as U.S. Fish and Wildlife Service (FWS), U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency (EPA), Iowa Department of Economic Development (IDED), Iowa Department of Natural Resources (DNR), and the State Historic Society of Iowa (SHPO)
 - b. Conduct a windshield field studies for listed species habitat, contaminated/hazardous waste sites and summarize finding in a memorandum.
 - c. Up to two people will be on site to conduct a Waters of the U.S. and wetland delineation using methods outlined in the USACE wetlands delineation manual and Midwest Supplement. Assist the City with the submittal of this information to the USACE.
 - d. COMPANY will complete the 8 Step Process if wetland or floodplains will be impacted by the proposed project. This will include the development of a memorandum of how the 8 Step Process was followed and development of publications for the newspaper and public comment.
 - e. Sub-consult with a firm to conduct a cultural resource study of the proposed project study area and provide a cultural resources report. COMPANY will submit this report to SHPO for their review and comment.
 - f. Complete the EA documentation which includes the Statutory Checklist, the Environmental Assessment Checklist, the Other Requirement Section, and the Summary of Findings and Conclusions.
 - g. Develop a combined publication for the Finding of No Significant Impact and Notice of Intent (NOI) - Request to Release Funds (RROF). Coordinate with IDED and provide information needed for NOI to RROF and FONSI.

Funding Strategy & Preparation of CDBG Application

1. Complete and submit the Iowa Finance Authority (IFA) Planning and Design Loan application form. (Allows for 0% interest and no payments until SRF loan is in place, if approved).
2. Identify and evaluate funding scenarios associated with the elimination of combined sewers and sanitary sewer overload projects:
 - a. COMPANY will use relevant studies to identify public funding programs based on the scope and scale of the referenced project. These funding sources will also be evaluated to determine which program(s) are consistent with the needs of project. This information will then be used to formulate up to three funding scenarios for the referenced project. The funding scenarios will illustrate external funding opportunities that are comparatively more consistent with the needs of the project.
 - b. COMPANY will help the CLIENT identify and evaluate local funding options that could help fulfill local funding match requirements. Values used in evaluating these options are based on opinions of probable construction costs provided by the CLIENT.
 - c. Work Product(s): A memorandum summarizing funding alternatives as well as characteristics associated with each program. In addition, a section will include up to three funding scenarios outlining an approach for funding planned improvements.

3. Define the preferred funding plan and outline a strategy to realign funding options based on funding outcomes:
 - a. COMPANY will meet with CLIENT to discuss the work product associated with Task 1 and outline a project plan and schedule.
 - b. Work Product(s): Work products will amend funding strategies included in the Task 1 memorandum. Ultimately, this document will serve as the implementation strategy for the project.
4. Prepare one Community Development Block Grant Application:
 - a. COMPANY will perform the following sub-tasks as part of an overall implementation strategy for this project. Efforts will be directed to:
 - i. Preparing a CDBG application: COMPANY will prepare one CDBG funding application for a project defined by the CLIENT. COMPANY will prepare the application and outline a process for review, edits, and submission of the final proposal. COMPANY assumes that an application will be submitted on or before October 1, 2017.
 - ii. Distribute "draft" application for review prior to submission to respective granting agencies. COMPANY will distribute "draft" application materials to the CLIENT for review. The distribution will occur approximately 14 days prior to the filing deadline. The schedule will also identify a target response date for CLIENT comments, questions, etc. To the extent possible, revisions will be incorporated into the draft application.
 - iii. Final applications will be forwarded to the CLIENT for submission to the granting agency. The primary plan will be to submit the completed application to the CLIENT with instructions concerning forwarding the document(s) to the respective granting agency.
 - iv. Post-submission contact with grant agency. COMPANY will contact granting agency periodically to ensure that the application was received, determine if the review committee has questions, respond to questions, and provide proactive efforts during the proposal review phase. COMPANY will advise the CLIENT accordingly. Additionally, COMPANY will temper contact with the granting agency to avoid undue attention or criticism.
 - v. COMPANY will attend up to two meetings in Burlington as deemed necessary and appropriate.
 - vi. Assess grant decisions. At the outset of a funding decision COMPANY will advise the CLIENT on subsequent actions that may be required. If a notice of award occurs, COMPANY will advise CLIENT about grant agreements the CLIENT will be required to follow. In the event that a an award is less than the level of financial support summarized in the proposal/application or the project is not funded, COMPANY will advise CLIENT on subsequent actions the CLIENT can take. To the extent that budget allows, COMPANY will participate in assisting the CLIENT in these endeavors.
 - vii. Grant Administration. COMPANY will not be responsible for any on-going administration of CDBG funds, if awarded.
 - b. COMPANY will provide grant and/or funding proposals associated with identified funding opportunities, email communication and/or phone calls pertaining to targeted funding programs. Preparation of the application does not guarantee a successful funding award.

PHASE 2 – DESIGN SERVICES

In general, design services for the Locust Basin Separation will include the following:

1. Prepare drawings for a new sanitary sewer system within the Locust Basin. It is assumed that this pipe will be installed within the existing City right-of-way.
2. Prepare drawings for repairs/replacement of the existing combined sewer (to be reused for storm sewer only) and green infrastructure improvements. It is assumed that these improvements will be installed within the existing City right-of-way.
3. Prepare construction specifications and contract documents. COMPANY standard specifications will be used.
4. Conduct project status meetings between the CLIENT and COMPANY staff to review the completed work and documents, discuss content and schedule of the remaining work, and receive comments, approvals, or redirection of these efforts. Project status meetings at 30%, 60% and 90% completion are proposed.
5. Prepare an opinion of probable cost for the project at the 30%, 60% and 90% complete milestones. Provide a final opinion of probable cost for the project to file with the completed documents.
6. Utilize Quality Assurance (QA) in design and perform Quality Control (QC) review of drawings, specifications, and contract documents.
7. Furnish up to eight (8) copies of the final drawings, specifications, and contract documents to the CLIENT.
8. Submit final drawings, specifications, contract documents, and applications for construction permit to the Iowa Department of Natural Resources (IDNR).

More specifically, each phase of the design will be broken down as follows:

Conceptual Design (30%)

1. Sanitary Sewer
 - a. Develop project alignment
 - b. Identify site access and easement requirements
 - c. Survey to identify property boundaries and utilities
2. Storm Sewer
 - a. Develop schematic plans and preliminary calculations for BMPs selected from the Storm Flow Reduction Feasibility Assessment
 - b. Identify property boundaries, utilities, and easement requirements
 - c. Prepare Sponsored Project Application for eligible practices within Locust Basin
 - d. Develop conceptual storm sewer plans. For budgeting purposes it is assumed that 20% of the length of existing sewer mains will require replacement (approximately 2,800 LF). Determine preliminary pipe sizing and slope.
3. Traffic and Transportation Analysis
 - a. Identify primary traffic impacts and develop draft detour plan
 - b. Develop standard pavement patching and replacement details for both transverse and lateral sanitary improvements.
 - c. Prepare pavement patching and/or replacement typical details
 - d. Develop conceptual staging and traffic control memo that describes parameters used to guide subsequent design

Preliminary Design (60%)

1. Sanitary Sewer

- a. Prepare preliminary alignment plans
- b. Prepare preliminary tunneling plan (if applicable)
- c. Develop sequence of construction
2. Storm Sewer
 - a. Complete BMP design calculations
 - b. Prepare preliminary BMP plans, sections, and profiles.
 - c. Complete storm sewer design calculations and develop preliminary storm tabulation.
 - d. Identify any non-standard storm structures and develop preliminary details.
 - e. Prepare preliminary plan and profile sheets.
 - f. Prepare preliminary erosion control sheets.
3. Traffic and Transportation Analysis
 - a. Prepare preliminary pavement patching and/or replacement staking information
For budgeting purposes it is assumed 20% of the length of new sanitary sewer mains will require pavement replacement (approximately 2,800 LF). Transverse patches are also assumed at every new sanitary service extension to the side opposite the new sewer main.
 - b. Develop preliminary staging and traffic control concept

Final Design (90%)

1. Prepare final plans and specifications
2. Prepare construction permit applications as required
3. Finalize sequence of construction
4. Develop final staging and traffic control concept
5. Prepare 90% plans and specifications and review with the City
6. Develop final opinion of probable construction cost and schedule
7. Submit final plans and specifications to the City of Burlington, for public hearings, advertisement and bid letting

PHASE 3: BIDDING SERVICES

The following Work Approach for Bidding Services described herein identifies the specific services to be provided by COMPANY. These services include:

1. Correspond with prospective bidders, suppliers, and other interested parties with questions and comments during the bid period.
2. Issue addenda as appropriate to interpret, clarify, or expand bidding documents.
3. Attend a pre-bid meeting with the CLIENT and prospective bidders, suppliers, and other interested parties.
4. Prepare construction contract documents and submit to each contractor for completion.

The following services are not included as part of Bidding Services:

1. Print the required number of drawings, specifications, and contract documents for distribution to prospective bidders for the project, anticipated to be 30 sets of documents.
2. Advertise for bids for the construction of the project.
3. Furnish copies of drawings, specifications, and contract documents to prospective bidders and other interested parties.

4. Receive and process requests for bidding documents and maintain a record of parties to whom bidding documents have been issued.
5. Attend the bid opening.
6. Prepare bid tabulation sheets and distribute to the CLIENT and all plan holders.
7. Assist the CLIENT in evaluating bids and awarding construction contracts.
8. Review and submit the executed contract documents to the CLIENT for approval.

PHASE 4: CONSTRUCTION PHASE SERVICES

The following Work Approach for Construction Phase Services described herein identifies the specific services to be provided by COMPANY. These services include:

1. Providing construction phase administration during the duration of the improvements project. This includes appropriate construction documentation including shop drawing review and clarification requests.
2. Providing a part-time resident observer to monitor the construction activities.
3. Assisting the CLIENT with start-up of the new facilities.

Construction Contract Administration

1. Coordinate a preconstruction meeting after award of construction contract for the CLIENT, Contractor, subcontractors and utility companies. COMPANY's Resident Observer will prepare and distribute meeting minutes to all participants.
2. Respond to requests for clarification and, review and recommend action on Contractor initiated claims.
3. Review shop drawings, samples, and other data which the Contractor is required to submit, but only for conformance with design concept of the Project and conformance with the information given in the contract documents. Such review shall not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto.
4. Participate in regular (monthly) progress meetings conducted by COMPANY's Resident Observer and Contractor and prepare meeting minutes from each meeting.
5. During the period of construction, COMPANY shall make periodic visits to the site at intervals appropriate to the various stages of construction as COMPANY deems appropriate. Up to eight (8) site visits are anticipated and budgeted. The purpose of these visits shall be to observe the site and work, to familiarize COMPANY with the progress and quality of the work, and to determine for the CLIENT's benefit and protection if the work is proceeding in accordance with the intent of the contract documents and construction schedule. COMPANY shall keep the CLIENT informed of the progress and quality of the work and shall use reasonable care to inform the CLIENT of defects and deficiencies in the Contractor's work and of the Contractor's failure to carry out the work in accordance with the intent of the construction documents and the construction schedule. COMPANY shall not, during such visits supervise, direct or have control over the Contractor's work nor shall COMPANY have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by the Contractor, for safety precautions and programs incident to the work or for any failure of the Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to the Contractor furnishing and performing his work. Accordingly, COMPANY can neither guarantee the performance of the construction contract by the Contractor nor assume responsibility for the Contractor's failure to furnish and perform his work in

accordance with the contract documents. During such visits, COMPANY may disapprove of or reject the Contractor's work while it is in progress if COMPANY believes that such work will not produce a completed Project that conforms generally to the contract documents or that it will prejudice the integrity of the design concept of the Project as reflected in the contract documents. COMPANY will document Contractor deficiencies verbally and in writing to the Contractor.

6. Issue necessary interpretations and clarifications of the contract documents.
7. Conduct observation to determine if the work is substantially complete and a final observation with CLIENT staff to determine if the completed work is acceptable so that COMPANY may recommend, in writing, final payment to the Contractor and may give written notice to CLIENT and the Contractor that the work is acceptable, but any such recommendation and notice will be subject to the limitations expressed in item 7, and the duties imposed under item 8. COMPANY and CLIENT staff will provide a punch list for the Contractor.

The following services are not included as part of Construction Phase Services:

1. Project Management - Provide on-going project management for the duration of the construction phase of the project. Based on recent similar projects, construction of this project is anticipated to take 12 months from award to final completion for the contractor. This schedule may change based on the start date of construction. The construction phase of the project is expected to be complete within a twelve month period. Little or no construction activity is anticipated during the winter months.
2. Review Contractor's construction schedule and monthly updates for general compliance with the intent of the Contract Documents.
3. Consult with and advise the CLIENT and act as CLIENT's representative. All of CLIENT's instructions to the Contractor will be issued through COMPANY, who will have the authority to act on behalf of the CLIENT. COMPANY shall not act on the CLIENT's behalf without securing actual authority from the CLIENT's representative prior to taking such action.
4. Consult with CLIENT regarding the status of the work and partial payments due to the Contractor. Such recommendations of payment will constitute a representation to CLIENT, based on such observations and review, that the work has progressed to the point indicated, and that, to the best of COMPANY's knowledge, information and belief, quality of such work is generally in accordance with the contract documents. In the case of unit price work, COMPANY's recommendation of payment will include determinations of quantities and classifications of such work. COMPANY's review of the Contractor's work for the purpose of recommending payments shall not impose on COMPANY the responsibility to supervise, direct or control such work. It shall also not impose responsibility on COMPANY to make any examination to ascertain how or for what purposes the Contractor has used the monies paid on account of the contract price.
5. Prepare change orders as required. Evaluate and determine the acceptability of substitute materials and equipment proposed by the Contractor.
6. Prepare record drawings showing those changes made during construction, based on the marked-up drawings and other data furnished by the Contractor to COMPANY and which COMPANY considers significant. Provide the CLIENT with one paper copy (not Mylar) and an electronic copy in .pdf format of the record drawings.
7. Resident Observation - COMPANY will provide a Resident Observer throughout the construction period. Resident Observer's responsibilities include the following.

Should the construction period extend beyond the specified time frame, the Resident Observer services shall be subject to negotiation.

- a. Observe the progress and quality of the work
- b. Determine if the work is proceeding in general conformance with the intent of the contract documents, soliciting input from COMPANY as required.
- c. Review Contractor's construction schedule and monthly updates for general compliance with the intent of the Contract Documents, soliciting input from COMPANY as required.
- d. Conduct progress meetings (monthly) and distribute minutes.
- e. Receive, review, and process monthly payment requests.
- f. Answer Contractor questions.
- g. Prepare site visit logs, take photos, and prepare monthly status reports to document the progress of the work.
- h. Review progress with CLIENT representatives.
- i. Log clarification requests, submittals, and contract modifications.
- j. Coordinate the work of laboratories in the inspection and tests of materials and equipment used in construction and then receive and evaluate reports by such laboratories.
- k. Prepare punch lists, conduct a final inspection, review contract closeout documentation and recommend final payment to close out the construction contract.
- l. Resident shall compile Contractor's as-built markups to prepare record drawings.

SECTION 2: ITEMS NOT COVERED IN THIS CONTRACT

Supplemental services not included in the agreement can be provided by COMPANY under separate agreement, if desired.

1. Supplemental engineering work required to meet the requirements of regulatory or funding agencies that become effective subsequent to the date of this agreement.
2. Visits to the construction site in excess of the number of such trips and associated time set forth.
3. Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work by any Contractor, (3) default by any Contractor, and (4) failure of the Contractor to complete the work within the construction contract time.
4. Evaluation of unusually complex or unreasonably numerous claims submitted by Contractor or others in connection with the work.
5. Property surveys or related engineering services needed for the transfer of interests in real property or easements, engineering surveys, and providing other special field surveys.
6. Preparation of plats, deeds, easements or other documents, and meetings and negotiations with property owners in securing agreements and executed documents for these property transfers and easements. For this project, it is assumed that the new sanitary sewer and storm water elements will be constructed within the City ROW or current easements. If easements are identified and necessary for the construction, a supplemental agreement will be developed with the City.
7. Legal services necessary to obtain title, easement, or right-of-way for any elements of the Project.
8. Other specialty environmental investigations and reports.
9. Other technical studies that may be required.

10. Packaging of the Project into contracts and bid lettings/negotiations in number greater than one single contract.
11. Additional Funding Assistance beyond the IFA application is not included. Further funding assistance can be provided through a supplemental agreement after completion of the facility plan.
12. Provide in-place soil density testing to assess compaction.
13. Provide concrete materials testing. Prepare concrete cylinders and provide laboratory testing for concrete strength.
14. Assistance in legal and regulatory actions.
15. Preparation of operation and maintenance manual; training of operating personnel; operating assistance.
16. Performs services requested by the CLIENT, but not included in Sections 1 or 2.
17. Meetings and negotiations with property owners in securing agreements and executed documents for property transfers and easements.
18. Design of ADA-compliant pedestrian facilities
19. Any other engineering services in connection with the Project.

SECTION 3: CLIENT'S RESPONSIBILITIES

CLIENT shall do the following:

1. Designate a person to act as the CLIENT'S representative with respect to the services to be rendered under this agreement. Such person shall have authority to transmit instructions, receive information, interpret and define CLIENT'S policies and decisions with respect to COMPANY'S services for the Project.
2. Assist COMPANY by placing at COMPANY'S disposal all available information pertinent to the Project including previous reports, plans, specifications, shop drawings, test results, and Operation and Maintenance instructions; also other data relative to design or construction of the Project.
3. Arrange for access to and make all provisions for COMPANY to enter upon public and private property as required for COMPANY to perform services under this agreement.
4. Examine all sketches, drawings, specifications, and other documents presented by COMPANY; obtain advice of an attorney, insurance counselor and other consultants as CLIENT deems appropriate for such examination and render in writing decisions pertaining thereto.
5. Assist in completion and provide information for applications sent to selected funding agencies.
6. The CLIENT will provide historic flow monitoring data in electronic Excel or CSV format.
7. The CLIENT will provide historic rain data from previous flow monitoring studies.
8. The CLIENT will provide copies of all reports, plans, plats, exhibits, and other information of record.
9. The CLIENT will participate in all meetings.
10. The CLIENT will provide payments for all permits required for the project.
11. The CLIENT will provide legal and accounting services as needed by the project.
12. Provide COMPANY electronic plant influent and effluent flow data or electronic MORs, if available.

SECTION 4: SCHEDULE

Work to be completed prior to July 1, 2017 (Necessary for CDBG Application)

Project Planning	
Facility Plan	February 17, 2017
Survey	August 1, 2017
Flow Monitoring Plan	February 17, 2017
Sewer Modeling	April 1, 2017
Storm Modeling	May 1, 2017
NEPA Compliance (Locust Basin Only)	May 26, 2017
Funding Strategy & Preparation of CDBG Application	September 1, 2017

Work to be completed after to July 1, 2017

Project Planning	
Survey	August 1, 2017
NEPA Compliance (Market Angular and South)	August 1, 2017
Submit Sponsored Project Application	September 1, 2017

Design Services	
Conceptual Design	July 2017
Preliminary Design	August 2017
Submit Final Plans and Specification to CLIENT and IDNR	November 2017

Bidding Phase Services	February 2018
Award Construction Contract	March 2018

Construction Phase Services	
Construction Administration/Observation	April 2018-Dec. 2018

This schedule assumes that review comments are received from the CLIENT within two weeks of submittal of the documents for review. COMPANY will make its best effort to meet this schedule. COMPANY shall retain the right to not comply due to unforeseen conditions or delays not in the control of the COMPANY.

SECTION 5: ENGINEERING SERVICES FEE (Phase 1)

The cost of services for the above Project scope of services, not including Additional Services outlined in Section 2 above, is broken down as follows:

Work to be completed prior to July 1, 2017(Necessary for CDBG Application)

Project Planning	
Project Management	\$18,500
Facility Plan	\$11,900
Flow Monitoring Plan	\$7,600
Sewer Modeling	\$44,100
Storm Modeling	\$49,800
NEPA Compliance (Locust Basin Only)	\$29,700
Funding Strategy & Preparation of CDBG Application	\$22,200
Project Planning Total	\$183,800

Work to be completed After July 1, 2017

Project Planning

Project Management	\$10,500
Survey	\$63,500
Flow Monitoring	\$39,300
NEPA Compliance (Market, Angular and South)	\$89,100

Project Planning Total	\$202,400
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Design Services

Conceptual Design

Project Management	\$15,100
Storm Sewer/Green Infrastructure	\$42,400
Sanitary Sewer	\$52,200
Traffic Control/Pavement Replacement	\$3,800

Preliminary Design

Project Management	\$16,400
Storm Sewer/Green Infrastructure	\$42,900
Sanitary Sewer	\$56,100
Traffic Control/Pavement Replacement	\$22,300

Final Design

Project Management	\$18,300
Storm Sewer/Green Infrastructure	\$37,500
Sanitary Sewer	\$63,700
Traffic Control/Pavement Replacement	\$21,600

Design Total	\$392,400
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Bidding Phase Services

Bidding Phase Services	\$7,600
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Bidding Phase Total	\$7,600
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Construction Phase Services

Construction Administration	\$57,500
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Construction Phase Total	\$57,500
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SECTION 6: FUTURE PHASES

The Scope of Services presented above will complete the separation of the Locust Basin. This work will be considered Phase 1 of the MASL Combined Sewer Separation Project. Other phased improvements fees will be amended to the contract in the future as more definition is made. Future phases of this work will incorporate the other basins and are outlined below with an approximate schedule for these phases.

Phase	Task	Year to be Completed
Phase 1	Locust Basin	
	Design	2017
	Construction	2018
Phase 2	Sewer Master Plan	2017
	Ordinance and Policy Review	2017
	Public Outreach	2017
Phase 3	South Basin	
	Design	2018
	Construction (Part 1)	2019
	Construction (Part 2)	2020
Phase 4	Angular Basin	
	Design	2020
	Construction (Part 1)	2021
	Construction (Part 2)	2022
Phase 5	Market Basin	
	Design	2022
	Construction (Part 1)	2023
	Construction (Part 2)	2024
Phase 6	Lift Station and Plant Upgrades	
	Design	2024
	Construction (Part 1)	2025
	Construction (Part 2)	2026
Phase 7	System Storage (if necessary)	
	Design	2026
	Construction	2027

SECTION 7: STANDARD RATES & FEES

See Attached Rate Sheet



HR Green

HR GREEN, INC.
Billing Rate Schedule
Effective January 1, 2017

Professional Services	Billing Rate Range
Principal	\$195- \$280
Senior Professional	\$165- \$250
Professional	\$110- \$180
Junior Professional	\$85- \$135
Senior Technician	\$95- \$130
Technician	\$45- \$115
Senior Field Personnel	\$100- \$165
Field Personnel	\$60- \$145
Junior Field Personnel	\$50- \$90
Administrative Coordinator	\$100-\$140
Administrative	\$55- \$115
Corporate Admin	\$70- \$120
Operators/Interns	\$30- \$100

Reimbursable Expenses

1. All materials and supplies used in the performance of work on this project will be billed at cost plus 10%.
2. Auto mileage will be charged per the standard mileage reimbursement rate established by the Internal Revenue Service. Survey and construction vehicle mileage will be charged on the basis of \$0.85 per mile or \$65.00 per day.
3. Charges for sub-consultants will be billed at their invoice cost plus 15%.
4. A rate of \$6.00 will be charged per HR Green labor hour for a technology and communication fee.
5. All other direct expenses will be invoiced at cost plus 10%.

COUNCIL ITEM

TO: Jim Ferneau, City Manager

FROM: Bob Wright, City Engineering Manager

SUBJECT: Retaining Wall and Street Repair at 4th and North Streets
Professional Services Agreement with Klingner & Associates, P.C.

**PREPARED FOR
COUNCIL MTG:** January 16, 2017

DATE: January 4, 2017

BACKGROUND/DESCRIPTION:

The intersection of 4th and North Streets has experienced a landslide on the eastern edge of the Right-of-Way (ROW) due to a major storm. This has resulted in a narrow and unsafe passage for pedestrians, and there is concern that this problem will eventually encroach upon the street. The attached resolution approves the acceptance of Klingner & Associates, P.C. Professional Services Agreement for the surveying, design, and construction administration support for a retaining wall and redesign of the existing street and ROW paving.

JUSTIFICATION/RECOMMENDATION:

We have reviewed the agreement and agree with the scope of work and fee structure proposed by Klingner & Associates, P.C. It is recommended that Council approve the attached resolution and authorize the Mayor to sign, on behalf of the City, a professional services agreement with Klingner & Associates of Burlington, Iowa.

BUDGET IMPLICATIONS:

FY17: \$42,500 fixed fee plus reimbursable expenses, estimated at \$1500, as defined in the scope of services.

Funding Sources: Sewer Mainline Repairs Activity 5453



Stephanie Stuecker, Director of Administrative Services

Exhibit "A"

ENGINEERING/ARCHITECTURAL/SURVEYING SERVICES AGREEMENT

DATE January 4, 2017
PROJECT TYPE (Office Code) 0502
PROJECT RESPONSIBLE STAFF
Bryan C. Bross, PE, RG

CLIENT City of Burlington PHONE NO. 319-753-8171 ext. 412
CONTACT PERSON Nick MacGregor CELL NO. _____
TITLE Assistant City Manager for Public Works EMAIL: MacGregorN@burlingtoniowa.org
ADDRESS Public Works, 3510 Division Street, Burlington, IA 52601

PROJECT AND SCOPE OF SERVICES: The Engineer/Architect/Surveyor (E/A/S) (Klingner & Associates, P.C.) agrees to provide to you (the Client) the following consulting, design, advisory, and/or surveying services:

See Attachment I - SCOPE OF SERVICES

FEES AND EXPENSES: Our services will be charged on a Lump Sum basis of Forty Two Thousand Five Hundred Dollars and No/100 (\$42,500.00), plus all "Reimbursable Expenses" as described on the attached Scope of Services.

GENERAL TERMS AND CONDITIONS: Our agreement is subject to the general terms and conditions attached herein. *Our services do not include special inspections and structural tests as defined in Sections 1701 through 1715 of the International Building Code (IBC) unless specifically noted.*

ACCEPTANCE: Acceptance must be made within thirty (30) days from the above date. Once accepted, you acknowledge that you have read, accepted and approved this agreement. You also authorize us to proceed.

E/A/S: KLINGNER & ASSOCIATES, P.C.

CLIENT: CITY OF BURLINGTON

By Bryan C Bross (CA)

By _____

Title Vice President

Title _____

Project No. _____

Date _____

SITE DESCRIPTION: The intersection of 4th and North Street in the City of Burlington has experienced a landslide on the eastern edge of the ROW due to a major storm event. This has resulted in a narrow and unsafe passage for pedestrians, and there is some concern that this problem will eventually encroach upon the street itself.

ITEMS TO BE PROVIDED BY CLIENT:

1. Access upon the property for the purpose of site survey and investigations.
2. Assistance dealing with adjacent property owners and media as required from time to time.
3. Information regarding all buried utilities at the site.
4. Design preferences for inclusion of sidewalk(s), guard rail(s), street grades, paving material, retaining wall aesthetic requirements and materials, project budget, etc.
5. Bidding services.
6. Construction observation & permitting.

SCOPE OF SERVICES TO BE PROVIDED BY KLINGNER AND ASSOCIATES, P.C.:

Design of Retaining Wall and Street Repair

1. Land surveying services to include field utility and topographic data collection, courthouse research, and approximate boundary corners necessary to establish limits of right-of-way (ROW) in state plane coordinates. Survey data will be used to develop a base plan for the civil design.
2. Engineering services to determine appropriate street grades to establish the height of the proposed retaining wall. Consideration will be given to site limitations including existing utilities and adjacent topography as well as limits of ROW.
3. Design approximately 100' of reinforced concrete retaining wall structure on the eastern side of the intersection to include foundation, backfill, and soil reinforcement details as applicable.
4. Design of intersection pavement including curb and gutter, sidewalk on eastern side, and guard rail. Pavement surface will be asphalt while curb, gutter, and sidewalk will be concrete as it customary. SUDAS guidelines will be utilized, but plan and specification preparation according to laDOT format may result in additional fees.
5. Plans will be prepared in AutoCAD format sized for a 24"x36" sheet, and will be delivered in Adobe PDF format. All technical specifications will be included on the plan sheets. An Engineer's Construction Cost Estimate will be prepared and delivered along with the plans.

The above design services will be charged as a Lump Sum fee plus Reimbursables. The Lump Sum fee is \$42,500. Reimbursables are expected to be less than \$1,500. We are prepared to provide assistance with other services upon request, but will not engage in additional services prior to written authorization. Services not explicitly noted above are not included in the scope of work.

GENERAL TERMS AND CONDITIONS

DEFINITIONS: The term Client shall be herein interpreted as the person, corporation, or public entity to which this contract is made. The term E/A/S is any division of Klingner & Associates, P.C. providing the professional Engineering, Architectural, or Surveying services.

SCOPE OF SERVICES: Services are limited to those specifically listed; they do not include others not set forth or not listed which are expressly excluded from the scope of the E/A/S's services unless separately provided in writing, including but not limited to special inspections and structural tests as defined in Sections 1701 through 1715 of the International Building Code (IBC). The E/A/S assumes no responsibility to perform or provide any services not specifically listed.

STANDARD OF PRACTICE: Services performed by the E/A/S under this agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, expressed or implied, and no warranty or guarantee is included or intended in this agreement, or in any report, opinion, document or otherwise.

FIDUCIARY RESPONSIBILITY: The Client confirms that neither the E/A/S nor any of the E/A/S's subconsultants or subcontractors has offered any fiduciary service to the Client and no fiduciary responsibility shall be owed to the Client by the E/A/S or any of the E/A/S's subconsultants or subcontractors as a consequence of the E/A/S's entering into this Agreement with the Client.

CHANGED CONDITIONS: This Agreement is based on conditions actually known by or disclosed to the E/A/S. If other conditions not originally known or disclosed become known or disclosed, the E/A/S may require a renegotiation of appropriate portions of this Agreement (e.g., compensation or scope of service).

INFORMATION PROVIDED BY OTHERS: The Client shall furnish and grant permission to use, at the Client's expense, all information, requirements, reports, data, surveys and instructions as defined in the Scope of Services of this Agreement. The E/A/S may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof without independent verifications or investigation.

UNAUTHORIZED CHANGES: In the event the Client, the Client's contractors or subcontractors, or anyone for whom the Client is legally liable makes or permits to be made any changes to any reports, plans, specifications or other construction documents prepared by the E/A/S without obtaining the E/A/S's prior written consent, the Client shall assume full responsibility for the results or consequences of such changes. Therefore the Client waives any claim against the E/A/S and releases the E/A/S from any liability arising directly or indirectly from such unapproved changes whether or not known by the E/A/S.

CHANGE ORDERS: The Client agrees not to make any claim directly or indirectly against the E/A/S on the basis of professional negligence, breach of contract, or otherwise with respect to the costs of approved Covered Change Orders unless the costs of such approved Covered Change Orders exceed fifteen percent (15%) of Construction Cost, and then only for an amount in excess of such percentage. For purposes of this paragraph, the cost of Covered Change Orders will not include any costs that Client would have incurred if the Covered Change Order work had been included originally without any imprecision, incompleteness, error, omission, ambiguity, or inconsistency in the Contract Documents and without any other error or omission of the E/A/S related thereto.

BETTERMENT: If, due to the E/A/S's negligence, a required item or component of the Project is omitted from the E/A/S's construction documents, the E/A/S shall not be responsible for paying the cost required to add such item or component to the extent that such item or component would have been required and included in the original construction documents. In no event will the E/A/S be responsible for any cost or expense that provides betterment or upgrades or enhances the value of the Project.

COMPENSATION METHODS: The "Lump Sum" method includes compensation for the E/A/S's services and services of outside the E/A/S's, if any. Appropriate amounts will be incorporated in the Lump Sum to account for labor, overhead, profit and may or may not include Reimbursable Expenses. The "Standard Hourly Rate" method is an amount equal to the cumulative hours charged per each classification of employee, times a current Standard Hourly Rate (revised annually on July 1st) for each applicable billing classification for all services performed on a Specific Project, plus Reimbursable Expenses and outside the E/A/S charges, if any. The "Payroll Cost Times Multiplier" method is an amount equal to the cumulative hours charged per each classification of employee, times a specified multiplier of the employee's payroll cost. The "Payroll Cost" is defined as the salary and wage of an employee plus the cost of customary and statutory benefits including, but not necessarily limited to, social security contributions, unemployment, health, sick leave, vacation, workers' compensation, incentive and holiday pay applicable thereto. "Reimbursable Expenses" means the actual expenses incurred directly or indirectly in connection with the work including but not limited to the following: transportation and subsistence, telephone and media expenses, reproduction or printing, computer time, and outside the E/A/Ss.

PAYMENT: The E/A/S may bill for its services and expenses monthly, based on the proportion of the actual work completed at the time of billing. Payment of bills is due within fifteen (15) calendar days from the date billed. If not paid within 30 calendar days, the Client agrees to additionally pay interest at the rate of one percent (1%) per month on the unpaid balance, or the maximum rate of interest permitted by law, whichever is less. In addition, the Client agrees to pay attorney fees, cost and collection expenses if incurred by the E/A/S to obtain payment. Any claim for payment will be brought in Adams County, Illinois.

RISK ALLOCATION: The E/A/S's liability to the Client for injury or damage to persons or property arising out of work performed for the Client and for which liability may be found to rest upon the E/A/S, other than for professional errors, omissions or negligence will be limited to the E/A/S's general liability insurance coverage of \$1,000,000.00.

LIMITATION OF LIABILITY: For any damage on account of professional errors, omissions or negligence will be limited to \$100,000.00 or the fee, whichever is less. In no event shall the E/A/S be liable for incidental or consequential damages. This provision is separable from the remainder of this agreement to the extent inconsistent with law.

CONSTRUCTION CONTINGENCY: Client recognizes and expects that certain Change Orders may be required to be issued as the result in whole or part of imprecision, incompleteness, errors, omissions, ambiguities, or inconsistencies in the Drawings, Specifications, and other design documentation furnished by the E/A/S or in the other professional services performed or furnished by the E/A/S under this Agreement ("Covered Change Orders"). Accordingly, Client agrees to budget a minimum of five percent (5%) of the total client's construction contractor's bid amount(s) for contingencies.

DEFECTS IN SERVICE: The Client shall immediately report to the E/A/S any defects or suspected defects in the E/A/S's services of which the Client becomes or should have become aware and allow the E/A/S to take measures to minimize the consequences of such a defect. Failure by the Client to notify the E/A/S shall relieve the E/A/S of the costs of remedying the defects claimed above the sum such remedy would have cost had prompt notification been given when such defects were or should have been first discovered.

ILLINOIS REVISED STATUTES COMPLIANCE: The Consultant and he/she and his/her principals have not been barred from signing this Agreement as a result of a violation of Sections 33E-3 and 33E-4 of the Criminal Code of 1961 (Chapter 38 of the Illinois Revised Statutes).

TIME OF COMPLETION: The E/A/S will use its best efforts to complete the work by the date indicated in the schedule, but the E/A/S shall incur no liability due to any delay for any reason and the Client's obligation to pay fees and expenses shall not be affected by any delay. In addition, if any delay increases the cost or time required by the E/A/S to perform its services in an orderly, professional and efficient manner, the E/A/S shall be entitled to a reasonable and equitable adjustment in schedule and/or compensation.

OWNERSHIP OF DRAWINGS AND ELECTRONIC INFORMATION: Drawings, tracings, plats, specifications, CADD files, electronic information, and other products produced by the E/A/S may be used in connection with the Client's presently proposed project, but shall otherwise be the E/A/S's property and their use for any other project is not authorized. The Client agrees, to the fullest extent permitted by law, to hold harmless and indemnify the E/A/S from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney's fees, arising out of or in any way connected with modification, translation, misinterpretation, misuse, or reuse by the Client or others of the machine readable information and data or other electronic data which may be provided by the E/A/S under this Agreement. Contract Documents include both the sealed drawings and the electronic files. If there is a conflict between the two, the sealed drawings will govern.

ACCEPTANCE PERIOD: CADD files shall have an acceptance period of 90 days. During this time, the Client can examine the electronic files and verify their correctness. The E/A/S will remedy any errors discovered in the files during this period. Once the acceptance period ends, the Client has accepted the files and takes responsibility for their ongoing maintenance.

OPINIONS OF PROBABLE COST: In providing opinions of probable cost, the Client understands that the E/A/S has no control over contractor's costs or the price of contractor's labor, equipment or materials, or over the Contractor's method of pricing, and that the opinions of probable cost provided herein are to be made on the basis of the E/A/S's qualifications and experience. The E/A/S makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual costs.

HAZARDOUS ENVIRONMENTAL CONDITIONS: Unless expressly stated in writing, the E/A/S does not provide assessments of the existence or presence of any hazardous or other environmental conditions or environmental contaminants or materials ("Hazardous Environmental Conditions"). Client shall inform the E/A/S of any and all known Hazardous Environmental Conditions before services are provided involving or affecting them. If unknown Hazardous Environmental Conditions are encountered, the E/A/S will notify the Client and, as appropriate, government officials of them. The E/A/S may without liability or reduction or delay of compensation due suspend services on the affected portion of the project until Client takes appropriate action to abate, remediate, or remove the Hazardous Environmental Condition. The E/A/S shall not be considered an "arranger", "operator", "generator", "transporter", "owner," or "responsible party" of or with respect to contaminants, materials, or substances; assumes no liability for correction of any Hazardous Environmental Condition; and shall be entitled to payment or reimbursement of expenses, costs, or damages occasioned by undisclosed Hazardous Environmental Conditions.

CONSTRUCTION SERVICES: Should the Client provide construction observation or review with either the Client's representatives or a third party, the E/A/S's services under this Agreement will be considered to be completed upon completion and submittal of the Final Design or the services outlined in the Scope of Work. It is understood and agreed that if the E/A/S's Services under this Agreement do not include project observation, or review of the Contractor's performance, or other construction services, and that such services will be provided by the Client, then the Client assumes all responsibility for interpretation of the Contract Documents and for construction observation or review and waives any claims against the E/A/S that may be in any way connected thereto.

AUTHORITY AND RESPONSIBILITY: The E/A/S (1) does not guarantee the actual bids the Client will receive or the work of any Contractor or Subcontractor, (2) has no authority to stop work by any Contractor or Subcontractor, (3) has no supervision or control as to the work or persons doing the work, (4) does not have charge of the work, (5) is not responsible for safety in, on, or about the job site, and (6) does not have any control of the safety or adequacy of any equipment, building component, scaffolding, supports, forms or other work aids. The E/A/S neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to finish and perform its work in accordance with the Contract Documents.

TERMINATION: This agreement may be terminated by either party on written notice. If terminated by either party (with or without cause), the Client agrees to pay for all services and reimburse all expenses performed or incurred to and including the date written notice of termination is received by either party.

DISPUTE RESOLUTION: Any claims or disputes made during design, construction or post-construction between the Client and the E/A/S shall be submitted to non-binding mediation. The Client and the E/A/S agree to include a similar mediation agreement with all Contractors, Subcontractors, Sub consultants, Suppliers and Fabricators, thereby providing for mediation as the primary method for dispute resolution between all parties.

BINDING EFFECT: This is the entire agreement. It may not be amended except in writing. It shall be binding on both the Client and the E/A/S and their legal representatives, executors, administrators, successors and assigns.

INDEMNIFICATION: The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the E/A/S, his or her officers, directors, employees, agents and sub consultants from and against said damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising out of or in any way connected with the E/A/S's providing emergency services under this Agreement, excepting only those damages, liabilities or costs arising directly from the sole negligence or willful misconduct of the E/A/S.

FAST TRACK/DESIGN-BUILD AND CONSTRUCTION: In consideration of the benefits to the Client of employing the "fast track" process (in which some of the E/A/S's design services overlap the construction work and/or are out of sequence with the traditional project performance or delivery method), and in recognition of the inherent risks of fast tracking to the E/A/S which Client accepts, the Client waives all claims against the E/A/S for design changes and modification of portions of the services already constructed due to the Client's decision to employ the fast track process. The Client further agrees to compensate the E/A/S for all Additional Services required to modify, correct, or adjust the Construction Documents and coordinate them in order to meet the Client's Project requirements because of the Client's knowing decision to construct the Project in a fast track manner.

RIGHT OF ENTRY: Client shall provide for E/A/S's right to enter property owned by Client and/or others in order for E/A/S to fulfill the scope of service for this Project. Client understands that use of exploration equipment may unavoidably cause damage, the correction of which is not the responsibility of E/A/S.

BURIED UTILITIES: Client shall be responsible for designating the location of all utility lines and subterranean structures within the property lines of the Project. Client agrees to waive any claim against the E/A/S and to defend, indemnify and hold harmless for any claim or liability for injury or loss arising from the E/A/S or other persons encountering utilities or other manmade objects that were not called to the E/A/S's attention or which were not properly located on the plans furnished to the E/A/S. Client further agrees to compensate the E/A/S for any time or expenses incurred by the E/A/S in defense of any such claim, in accordance with the E/A/S's standard hourly per diem fee schedule and expense reimbursement policy.

REIMBURSABLE EXPENSE ITEMIZATION
EFFECTIVE JULY 1, 2016 THROUGH JUNE 30, 2017

PRINTING

REPORTS, MANUALS, SPECIFICATIONS COPIES	<u>B & W</u>	<u>Color</u>
8 1/2" x 11", including Collating & Binding.....	\$ 0.15 Each	\$ 0.50 Each
8 1/2" x 14", including Collating & Binding.....	\$ 0.20 Each	\$ 0.75 Each
11" x 17", including Collating & Binding.....	\$ 0.25 Each	\$ 1.15 Each
PLAN SHEETS (Based On Square Footage Of Media Used)	<u>B & W</u>	<u>Color</u>
Bond.....	\$ 0.50/sq ft	2.00/sq ft
Vellum.....	\$ 0.60/sq ft	2.40/sq ft
Mylar.....	\$ 0.75/sq ft	3.00/sq ft

COMPUTER PLOTTING

Labor cost plus media (\$40.00 minimum charge for non-project related plotting)

GENERAL ITEMS

Mileage (may adjust due to fuel fluctuations)	\$ 0.54 per Mile
Reproduction (i.e. Prints, Copies, Plans, etc).....	At Cost + 15%
Computer Aided Design/Drafting	\$ 15.00 per Hour
Long Distance & Cell Calls, Subsistence & Lodging.....	At Cost
Non-reusable Supplies	At Cost + 15%
Boat.....	\$ 200.00/Day
ATV.....	\$ 65.00/Day
ATV-Truck.....	\$ 100.00/Day
Digital CD Copies	\$ 6.00 Ea + Labor

SURVEY ITEMS

Three Dimensional Scanning.....	\$200.00/hour
Global Positioning & Robotic Survey Instrument	\$20.00/Hour
Wood Lath.....	\$ 0.80 Each
2" x 2" or 1" x 2" Wood Hub	\$ 0.80 Each
Wood Paddle Stake.....	\$ 1.00 Each
Concrete Monument.....	\$55.00 Each
Wire Flag Marker.....	\$ 0.15 Each
Iron Pipe Marker.....	\$10.00 Each
Rebar Pin Marker	\$ 2.50 Each
Fence Post.....	\$ 6.00 Each
GPS Monuments	At Cost
Recorder, Filing Fees	At Cost

ENVIRONMENTAL ITEMS

Peristaltic Pump.....	\$85.00/Day
Bailer.....	\$10.00 Each
PID Meter.....	\$85.00/Day
pH Meter.....	\$10.00/Day
Geoprobe.....	\$85.00/Hour
Bentonite.....	\$18.00/Bag
Sand.....	\$10.00/Bag

TESTING SERVICES

Concrete Slump and Air Tests (ASTM C143 and ASTM C231)	At Labor
Concrete Cylinder Molds.....	\$2.00 Each
Concrete Cylinder Tests (ASTM C39, ASTM C617, and ASTM C31).....	\$18.00/Test + Labor
Concrete Cylinder Tests (ASTM C39, ASTM C617, and ASTM C31)..... Cured but not tested.....	\$10.00 Each + Labor
Moisture vs Density (Standard ASTM D698).....	\$200.00 Each
Atterberg Limits: (Plastic Limit, Liquid Limit & Plasticity Index - ASTM D4318).....	\$80.00 Each
Nuclear Density Tests In-Place (ASTM D2922, ASTM D2950, and ASTM D3017)	\$12.00 Each + Labor

ADDITIONAL SERVICES

Specialty Consultants.....	Cost + 15%
Laboratory Analysis.....	Cost + 15%
Aerial Photography.....	Cost + 15%
Custom Reproductions	Cost + 15%

Reimb Exp effective 07-01-16
Per diem

January 4, 2017

Mr. Nick MacGregor, Assistant City Manager for Public Works
City of Burlington
3510 Division St.
Burlington, IA 52601

RE: Engineering Services Agreement
Retaining Wall Design and Street Repair - 4th and North Street

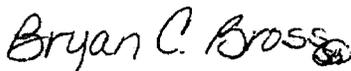
Dear Mr. MacGregor:

Enclosed is our engineering services agreement for the design of a retaining wall and street repair at the intersection of 4th and North Street.

If the agreement is acceptable, please sign and return one copy to our office. If you have any questions, please call. We look forward to working with you on this project.

Very truly yours,

KLINGNER & ASSOCIATES, P.C.



Bryan C. Bross, PE, RG
Vice President

BCB:sjb\IP:100000-PREPROJ\CITY OF BURLINGTON\2016-LANDSLIDES\20170104-NM-4TH-NORTH STREET-AGREE.DOCX

Enclosures: Engineering/Architectural Services Agreement (2 copies)

COUNCIL ITEM

TO: Jim Ferneau, City Manager
FROM: Bob Wright, City Engineering Manager
SUBJECT: Central Avenue Bridge Retaining Wall Rehabilitation
Professional Services Agreement with Stanley Consultants, Inc.

PREPARED FOR
COUNCIL MTG: January 16, 2017

DATE: January 4, 2017

BACKGROUND/DESCRIPTION:

Our Public Works team reported cracking and movement of retaining walls in the vicinity of the intersection of Central Avenue and Washington Street. The retaining walls were constructed in 2001 as part of a bridge on Central Avenue and Washington Street over Burlington Northern Santa Fe (BNSF) Railroad tracks.

We've asked Stanley Consultants, Inc. for a detailed scope of work and fee to perform structural analysis, a report documenting findings, opinion of probable construction costs, and meet with City staff to discuss alternative solutions.

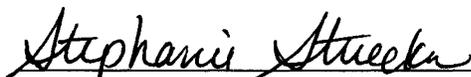
JUSTIFICATION/RECOMMENDATION:

We have reviewed the agreement and recommend that Council approve the attached resolution and authorize the Mayor to sign, on behalf of the City, a professional services agreement with Stanley Consultants, Inc. of Muscatine, Iowa.

BUDGET IMPLICATIONS:

FY17: \$16,700 (Not-To-Exceed)

Funding Source: Residential Street Improvements Activity 7122



Stephanie Stuecker, Director of Administrative Services



Exhibit "A"

PROFESSIONAL SERVICES AGREEMENT

THIS IS AN AGREEMENT made as of January 16, 2017, between CITY OF BURLINGTON (CLIENT) and STANLEY CONSULTANTS, INC. (CONSULTANT). CLIENT intends to develop concept for Central Avenue Retaining Wall Rehabilitation (hereinafter called "project").

CLIENT and CONSULTANT agree:

1. **Scope of Services.** CONSULTANT shall perform professional services as stated in Exhibit 1.
2. **Compensation.** CLIENT shall compensate CONSULTANT for CONSULTANT's services as stated in Exhibit 2.
3. **Terms and Conditions.** CONSULTANT shall provide professional services in accordance with the terms and conditions stated in Exhibit 3. If client issues a purchase order or other document to initiate the commencement of services hereunder, it is agreed that any terms and conditions appearing thereon shall have no application and only the provisions of this Agreement shall automatically apply.
4. CLIENT has provided or shall provide for payment from one or more lawful sources of all sums to be paid to CONSULTANT.
5. Following exhibits are attached to and made part of this Agreement:

- Exhibit 1 - Scope of Services
- Exhibit 2 - Compensation
- Exhibit 3 - Standard Terms and Conditions

IN WITNESS, WHEREOF, the parties below have executed this Agreement as of the day and year first above written.

STANLEY CONSULTANTS, INC.

CITY OF BURLINGTON

By: _____
Daniel R. Fullerton, PE
Client Service Manager

By: _____

Attest: _____
Sabrina J. Krichel

Attest: _____

Address for giving notices:
100 COURT AVENUE
SUITE 300
DES MOINES, IA 50309-2200

Address for giving notices:
400 WASHINGTON
BURLINGTON, IA 52601

If CLIENT is a public body, attach evidence of authority to sign and resolution or other document authorizing execution of AGREEMENT.

**CENTRAL AVE. RETAINING WALL REHABILITATION
BURLINGTON, IOWA**

The City of Burlington reported cracking and movement of retaining walls in the vicinity of the intersection of Central Avenue and Washington Street. The retaining walls were constructed in 2001 as part of a bridge on Central Avenue and Washington Street over Burlington Northern Santa Fe (BNSF) Railroad tracks.

The Scope of Services includes a site visit, structural analysis, report documenting findings, opinion of probable construction cost, and meetings with City staff to discuss the Project.

PART 1 - BASIC SERVICES

The CONSULTANT shall perform Basic Services consisting of those described in Paragraph 1.1.

1.1 Evaluation Report

- 1.1.1 Participate in an initial Kickoff Meeting in Burlington with CLIENT and visit the site to define and clarify requirements for the Project.
- 1.1.2 Review available existing drawings and Project records from the CLIENT.
- 1.1.3 Document the condition of the existing retaining walls located adjacent to four bridge abutments including photos and sketches.
- 1.1.4 Perform structural evaluation of retaining walls based on existing drawings, including but not limited to wall thickness and reinforcing.
- 1.1.5 Evaluate roadway drainage on bridge and approaches, including condition of:
 - 1.1.5.1 Abutment joints
 - 1.1.5.2 Macadam stone and gravel slope protection
 - 1.1.5.3 Bridge deck and approach paving drainage
- 1.1.6 Make recommendations for repairs including description and conceptual repair details. Recommendations will include three alternatives, defining low, middle and high cost range repair options.
- 1.1.7 Prepare an Opinion of Probable Construction Cost for conceptual repairs.
- 1.1.8 Participate in an Evaluation Report submittal review meeting with the CLIENT in Burlington.
- 1.1.9 Submit one Draft and one Final Evaluation Report. Deliverables to include electronic .pdf and two hard copies of reports.

PART 2 - ADDITIONAL SERVICES

The following Additional Services are not included in Basic Services and are at CLIENT'S option. These services, if exercised by CLIENT and agreed to by CONSULTANT, shall be paid for in addition to compensation for Basic Services. CONSULTANT is not authorized to proceed with performance of any Additional Services unless they are duly authorized, in writing, by CLIENT.

- 2.1 Prepare preliminary and final design and contract documents for construction.
- 2.2 Perform field survey for topography, right-of-way, soils or utility location.
- 2.3 Engineering during construction, construction administration and construction observation services.

**CENTRAL AVE. RETAINING WALL REHABILITATION
BURLINGTON, IOWA**

COMPENSATION FOR BASIC SERVICES

CONSULTANT shall be compensated for BASIC SERVICES included in Exhibit 1 – Scope of Services on an HOURLY basis for Labor plus Reimbursable Expenses in accordance with the prevailing “Hourly Fees and Charges Fiscal Year 2016-2017” (Form BC_C16-17) an amount NOT-TO-EXCEED Sixteen Thousand Seven Hundred Dollars (\$16,700.00).



Standard Terms and Conditions Exhibit 3

1. CLIENT'S RESPONSIBILITIES

1.1 Name CLIENT's representative with authority to receive information and transmit instructions for CLIENT.

1.2 Provide CLIENT's requirements for project, including objectives and constraints, design and construction standards, bonding and insurance requirements, and contract forms.

1.3 Provide available information pertinent to project upon which CONSULTANT may rely.

1.4 Arrange for access by CONSULTANT upon public and private property, as required.

1.5 Examine documents presented by CONSULTANT, obtain legal and other advice as CLIENT deems appropriate, and render written decisions within reasonable time.

1.6 Obtain consents, approvals, licenses, and permits necessary for project.

1.7 Advertise for and open bids when scheduled.

1.8 Provide services necessary for project but not within scope of CONSULTANT's services.

1.9 Indemnify CONSULTANT, its employees, agents, and consultants against claims arising out of CONSULTANT's design, if there has been a deviation from the design beyond the CONSULTANT's control or failure to follow CONSULTANT's recommendation and such deviation or failure caused the claims.

1.10 Promptly notify CONSULTANT when CLIENT learns of contractor error or any development that affects scope or timing of CONSULTANT's services.

1.11 Nothing in this agreement shall create a fiduciary duty between the parties.

2. PERIOD OF SERVICE

2.1 CONSULTANT is not responsible for delays due to factors beyond its control.

2.2 If CLIENT requests changes in project, compensation for and time of performance of CONSULTANT's services shall be adjusted appropriately.

3. CONSTRUCTION COST AND COST ESTIMATES

3.1 **Construction Cost.** Construction cost means total cost of entire project to CLIENT, except for CONSULTANT's compensation and expenses, cost of land, rights-of-way, legal and accounting services, insurance, financing charges, and other costs which

are CLIENT's responsibility as provided in this Agreement.

3.2 **Cost Estimates.** Since CONSULTANT has no control over cost of labor, materials, equipment or services furnished by others, over contractors' methods of determining prices, or over competitive bidding or market conditions, its estimates of project construction cost will be made on the basis of its employees' experience and qualifications and will represent their best judgment as experienced and qualified professionals, familiar with the construction industry. CONSULTANT does not guarantee that proposals, bids, or actual construction cost will not vary from its estimates of project cost.

4. GENERAL

4.1 Termination.

4.1.1 Either party may terminate their obligation to provide further services upon twenty (20) days' written notice, after substantial default by other party through no fault of terminating party.

4.1.2 CLIENT may terminate CONSULTANT's obligation to provide further services upon twenty (20) days' written notice if project is abandoned. In such event, progress payments due to CONSULTANT for services rendered plus unpaid reimbursable to expenses, shall constitute total compensation due.

4.2 Reuse of Documents.

4.2.1 All tangible items prepared by CONSULTANT are instruments of service, and CONSULTANT retains all copyrights. CLIENT may retain copies for reference, but reuse on another project without CONSULTANT's written consent is prohibited. CLIENT will indemnify CONSULTANT, its employees, agents, and consultants against claims resulting from such prohibited reuse. Said items are not intended to be suitable for completion of this project by others.

4.2.2 Submittal or distribution of items in connection with project is not publication in derogation of CONSULTANT's rights.

4.2.3 **Confidentiality.** Each party acknowledges that in connection with this Agreement it may receive certain confidential or proprietary technical and business information and materials of the other party ("Confidential Information"). Each party, its agents and employees shall hold and maintain in strict confidence all Confidential Information, shall not disclose Confidential Information to any third party, and shall not use any Confidential Information except as may be necessary to perform its obligations under the agreement except as may be required by a court or governmental authority. CLIENT and CONSULTANT shall keep all information and communications related



Standard Terms and Conditions Exhibit 3

to the project confidential in the same manner each party protects its own confidential information, to the extent that it is marked "proprietary" or "confidential" or with a similar label or which by the nature of the information generally would be regarded as proprietary or confidential. This clause shall not apply to information that is previously known by either party, lawfully becomes public knowledge, or is required to be disclosed by law or a court order.

4.3 Payment.

4.3.1 CONSULTANT shall submit a monthly statement for services rendered and reimbursable expenses incurred. CLIENT shall make prompt monthly payments.

4.3.2 If CLIENT fails to make payment within thirty (30) days after receipt of statement, interest at maximum legal rate or at a rate of 18%, whichever is less, shall accrue; and, in addition, CONSULTANT may, after giving seven (7) days' written notice, suspend services until it has been paid in full all amounts due it.

4.3.3 CLIENT has provided or shall provide for payment from one or more lawful sources of all sums to be paid to CONSULTANT.

4.3.4 CONSULTANT's compensation shall not be reduced on account of any amounts withheld from payments to contractors.

4.3.5 If services performed by CONSULTANT are subject to state or local sales taxes, said taxes will be reflected in the invoices and remitted according to state law. If CLIENT claims a status that would make the transaction exempt, then CLIENT shall provide appropriate proof of exempt status to CONSULTANT.

4.4 **Controlling Law.** Agreement shall be governed by Iowa law, excluding its choice of law rules.

4.5 Successors and Assigns.

4.5.1 The parties bind themselves, their successors, and legal representatives to the other party and to successors and legal representatives of such other party, in respect to all covenants and obligations of this Agreement.

4.5.2 Neither party shall assign, sublet, or transfer any interest in this Agreement without written consent of the other, provided CONSULTANT may employ such independent consultants, associates, and subcontractors as it may deem appropriate.

4.5.3 Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the parties.

4.6 **CONSULTANT's Accounting Records.** Records of CONSULTANT's personnel time, reimbursable expenses, and accounts between parties shall be kept on a generally-recognized accounting basis.

4.7 **Separate Provisions.** If any provisions of this Agreement shall be held to be invalid or unenforceable, remaining provisions shall be valid and binding.

4.8 **Waiver.** No waiver shall constitute a waiver of any subsequent breach.

4.9 Warranty.

4.9.1 CONSULTANT shall use reasonable care to reflect requirements of all applicable laws, rules, or regulations of which CONSULTANT has knowledge or about which CLIENT specifically advises in writing, which are in effect on date of Agreement. CONSULTANT INTENDS TO RENDER SERVICES IN ACCORDANCE WITH GENERALLY ACCEPTED PROFESSIONAL STANDARDS, BUT NO OTHER WARRANTY IS EXTENDED, EITHER EXPRESS OR IMPLIED, IN CONNECTION WITH SUCH SERVICES. CLIENT's rights and remedies in this Agreement are exclusive.

4.9.2 CONSULTANT shall not be responsible for contractors' construction means, methods, techniques, sequences, or procedures, or for contractors' safety precautions and programs, or for contractors' failure to perform according to contract documents.

4.9.3 The CONSULTANT believes that any computer software provided under this Agreement is suitable for the intended purpose, however, it does not warrant the suitability, merchantability, or fitness for a particular purpose of this software.

4.9.4 Subject to the standard of care set forth in Paragraph 4.9.1, CONSULTANT and its Subconsultants may use or rely upon design elements, work, and information ordinarily or customarily furnished by others, including, but not limited to, CLIENT or his authorized representatives, public record, specialty contractors, manufacturers, suppliers, and publishers of technical standards.

4.10 **Period of Repose.** Any applicable statute of limitations or repose shall commence to run and any alleged cause of action shall be deemed to have accrued not later than completion of services to be performed by CONSULTANT.

4.11 **Indemnification.** To the fullest extent permitted by law, CONSULTANT shall indemnify and hold harmless CLIENT, CLIENT's officers, directors, partners, employees, and agents from and against any and all third party claims for bodily injury and for damage to tangible property to the extent caused by the negligent acts or omissions of CONSULTANT or



Standard Terms and Conditions Exhibit 3

CONSULTANT's officers, directors, partners, employees, agents, and CONSULTANT's consultants in the performance and furnishing of CONSULTANT's services under this Agreement. Any indemnification shall be limited to the terms and amounts of coverage of the CONSULTANT's insurance policies and Section 4.12, Limitation of Liability.

To the fullest extent permitted by law, CLIENT shall indemnify and hold harmless CONSULTANT, CONSULTANT's officers, directors, partners, employees, and agents and CONSULTANT's consultants from and against any and all third party claims for bodily injury and for damage to tangible property to the extent caused by the negligent acts or omissions of CLIENT or CLIENT's officers, directors, partners, employees, agents, and CLIENT's consultants with respect to this Agreement on the Project. In addition to the indemnity provided under this section, and to the fullest extent permitted by law, CLIENT shall indemnify and hold harmless CONSULTANT and its officers, directors, partners, employees, and agents and CONSULTANT's consultants from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) caused by, arising out of, or relating to the presence, discharge, release, or escape of asbestos, PCBs, petroleum, hazardous waste, or radioactive material at, on, under, or from the Project site.

4.12 Limitation of Liability. TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE TOTAL LIABILITY, IN THE AGGREGATE, OF THE CONSULTANT (INCLUDING ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND SUBCONSULTANTS), TO CLIENT AND ANYONE CLAIMING BY, THROUGH OR UNDER CLIENT, FOR ANY AND ALL CLAIMS, LOSSES, COSTS, OR DAMAGES WHATSOEVER ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATED TO THE PERFORMANCE OF SERVICES UNDER THIS AGREEMENT FROM ANY CAUSES, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, PROFESSIONAL ERRORS OR OMISSIONS, OR WARRANTIES EXPRESSED OR IMPLIED, OF CONSULTANT OR CONSULTANT'S CONSULTANTS, SHALL NOT EXCEED \$300,000.00 OR THE TOTAL COMPENSATION RECEIVED BY CONSULTANT, WHICHEVER IS GREATER. THIS LIMITATION INCLUDES LIABILITY UNDER SECTION 4.11. IN NO EVENT SHALL CONSULTANT BE LIABLE TO CLIENT FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT. CONSULTANT SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL OR

INDIRECT DAMAGES THAT ARISE OUT OF ITS PERFORMANCE ON THIS PROJECT.

4.13 Extent of Agreement. This Agreement represents the entire agreement between the parties and may be amended only by written instrument signed by both parties.

4.14 INSURANCE. CONSULTANT shall purchase and maintain insurance for the coverages and for not less than the limits of liability set forth below:

(a) Workers' Compensation: workers' compensation insurance as required by the laws of the states or countries with jurisdiction of the services to be performed, including employer's liability insurance, with a limit of \$1,000,000 per accident.

(b) Commercial General Liability: commercial general liability, including coverage for all premises, operations, operations of independent contractors, products and completed operations, and contractual liability. Coverage shall have limits of not less than \$1,000,000 for each occurrence and aggregate.

(c) Commercial Automobile Liability: commercial automobile liability covering the use of all owned, non-owned, and hired automobiles with minimum combined single limits of \$1,000,000.

(d) Professional Liability: professional liability insurance for claims arising out of performance of professional services caused by any negligent error, omission, or act for which the insured is legally liable, with a minimum limit of \$1,000,000, to be kept in force for two (2) years after completion of project.

CONSULTANT shall provide certificates or other evidence from insurance carriers of the required insurance coverages, if requested by CLIENT in writing within 30 days of start of performance. All insurance except workers' compensation and professional liability shall designate CLIENT as additional insured.

4.15 Subrogation Waiver. The parties waive all rights against each other, and against contractors, consultants, agents, and employees of the other for damages covered by any property insurance during construction, and each shall require similar waivers from their contractors, consultants, and agents.

4.16 Force Majeure. Parties will not be liable for delays in delivery or for failure to perform obligations, other than payment, due to causes beyond their reasonable control, including, but not limited to, product allocations, material shortages, labor disputes, transportation delays, unforeseen circumstances, acts of God, acts or omissions of other parties, acts or omissions of civil or military authorities, government priorities, fire, strikes, floods, epidemics, quarantine restrictions, riots, terrorists acts, or war. CONSULTANT's time for delivery or performance will be automatically extended by the period of such delay or CONSULTANT may, at its option, cancel any



Standard Terms and Conditions Exhibit 3

services, in whole or in part, without liability by giving notice to CLIENT.

4.17 EQUAL EMPLOYMENT OPPORTUNITY CLAUSE. When applicable, the CONSULTANT and SUBCONSULTANT shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a), 60-741.5(a) and Appendix A of Subpart A of 29 CFR 471. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime CONSULTANTS and SUBCONSULTANTS take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

Prepared by: City of Burlington, City Hall, 400 Washington Street, Burlington, IA 52601
Eric Tysland, Development & Parks Director (319) 753-8158

RESOLUTION NO. _____

Meeting No. _____

Paper No. _____

Introduced by: _____ Ayes: _____

Seconded by: _____ Nays: _____

**RESOLUTION APPROVING THE RELEASE AND TERMINATION OF EASEMENTS
LOCATED AT 3001 WINEGARD DRIVE, BURLINGTON, IOWA**

WHEREAS, a Recreational Easement as described on the attached release forms in Exhibit "A" currently exist, and

WHEREAS, these easements are no longer necessary or required for the property as described, and

WHEREAS, it has been requested by the current property owner to terminate these described easements.

NOW, THEREFORE, BE IT RESOLVED BY THE BURLINGTON CITY COUNCIL: that the easements as described in Exhibit "A" are hereby released and terminated and the Mayor is authorized to sign these documents.

APPROVED and ADOPTED this _____ day of _____, 2017.

Shane A. McCampbell – Mayor

ATTEST:

Kathleen P. Salisbury, MMC – City Clerk

Exhibit "A"

RELEASE AND TERMINATION OF EASEMENT RIGHTS

THIS RELEASE AND TERMINATION OF EASEMENT RIGHTS (this "Release") is entered into as of the _____ day of _____, 2016, by and between The CITY OF BURLINGTON, hereinafter called the "City", and Huckleberry Entertainment, LLC., an Iowa limited liability company, hereinafter referred to as "Huckleberry".

RECITALS

WHEREAS, Huckleberry is the owner of a man-made lake in Burlington, Des Moines County, Iowa further described in attached Exhibit "A" hereafter the "Lake"; and

WHEREAS, on May 12th, 2006 the parties entered into a Recreational Easement Agreement that was subsequently recorded with the Des Moines County Recorder on January 29, 2009 and located at 2009-000442 that dedicated a Recreational Easement to the Lake to the City for public recreational use, hereinafter "Recreational Easement" legally described in attached Exhibit "B"; and

WHEREAS, the Code of Iowa no longer requires a recreational lake as part of the necessary licensing of a casino facility, and that Catfish Bend Casino in Burlington, Iowa is currently licensed as a gambling structure under Section 99F.4 (D) of the Code of Iowa, and

WHEREAS, Huckleberry seeks to redevelop its property, which will result in the Lake being no longer be accessible for recreational uses.

NOW THEREFORE, in consideration of mutual promises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. The recitals set forth above are hereby incorporated into this Release.
2. The City does hereby forever release, relinquish and terminate any and all rights that it has or may have under the Recreational Easement in the property legally described in attached Exhibits "A" and "B", or any temporary easement established related thereto that is located over, upon, around and across the the Lake. Huckleberry does hereby accept and consent to such release, relinquishment and termination by City, and both parties hereby agree that any and all rights of the City in the Lake or any portion described in the Recreational Easement located over, upon, and across the Lake are terminated and shall be of no further force or effect.

IN WITNESS WHEREOF, the parties hereto have set their respective hands, affixed their individual seals and delivered these presents as of the date first set forth above.

CITY OF BURLINGTON:

By: _____, Mayor

ATTEST:

BY: _____
City Clerk

Huckleberry Entertainment, LLC

By: _____
Gary L. Hoyer, CEO

STATE OF IOWA)
) SS:
COUNTY OF DES MOINES)

On this ____ day of _____, 2016, before me, the undersigned, a Notary Public in and for said State of Iowa, personally appeared, Gary L. Hoyer, to me personally known, who, being duly sworn, did say that he is the Chief Executive Officer of said limited liability company; that said instrument was signed on behalf of said limited liability company by authority of its Board of Managers; and said Gary L. Hoyer as such officer acknowledged the execution of said instrument to be the voluntary act and deed of said company, by it and by him voluntarily executed.

Notary Public in and for said county and State

STATE OF IOWA)
) SS

COUNTY OF DES MOINES)

On this ____ day of _____, 2016, before me, the undersigned,
Notary Public Olin and for State of Iowa, personally
appeared _____, to me known, who ,
being by me duly sworn , did say that they are the City Clerk and Mayor,
respectively of said City; (that the seal affixed thereto is the seal of the City); that
said document was signed of behalf of the City by authority of its City Council;
and said _____, as such officers
acknowledge the execution of said instrument to be the voluntary act and deed of
said City, by it and by them voluntarily executed

Notary Public in and for said county and State

DESCRIPTION FOR RECREATION EASEMENT:

PART OF VACATED LOT 6 IN MATTESON AND WOODBURN'S SUBDIVISION AND PART OF THE EAST 100' OF LOT 6 IN MATTESON AND WOODBURN'S SUBDIVISION IN THE NORTHWEST 1/4 OF SECTION 31, T70N, R2W OF THE 5TH P.M., CITY OF BURLINGTON, DES MOINES COUNTY, IOWA AS PER PLAT RECORDED DECEMBER 27, 1865 IN PLAT BOOK 2, PAGE 10 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER;

PART OF VACATED LOT 7 IN MATTESON AND WOODBURN'S SUBDIVISION IN THE NORTHWEST 1/4 OF SECTION 31, T70N, R2W OF THE 5TH P.M., CITY OF BURLINGTON, DES MOINES COUNTY, IOWA AS PER PLAT RECORDED DECEMBER 27, 1865 IN PLAT BOOK 2, PAGE 10 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER;

PART OF LOTS 1 AND 2 IN KENNETH L. VELHARTICKY SUBDIVISION IN THE CITY OF BURLINGTON, DES MOINES COUNTY, IOWA AS PER PLAT RECORDED FEBRUARY 8, 1985 IN PLAT BOOK 13, PAGE 276 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER;

PART OF LOT 2 IN REPLAT LOT 1 KENNETH L. VELHARTICKY SUBDIVISION IN THE CITY OF BURLINGTON, DES MOINES COUNTY, IOWA AS PER PLAT RECORDED FEBRUARY 5, 1988 IN PLAT BOOK 13, PAGE 389 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER;

ALL OF THE ABOVE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 1 IN FUN CITY SUBDIVISION AS PER PLAT RECORDED AUGUST 23, 2005 AS DOCUMENT NUMBER 2005-005066 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER;
THENCE S89°32'53"E 213.97' ALONG THE NORTH LINE OF LOT 1 IN SAID FUN CITY SUBDIVISION;
THENCE N00°27'07"E 142.31' TO THE PLACE OF BEGINNING;
THENCE CONTINUING N00°27'07"E 182.67';
THENCE S88°59'38"E 306.89';
THENCE S12°22'36"E 71.54';
THENCE S09°19'51"W 84.93';
THENCE S21°59'48"W 78.47';
THENCE N69°22'40"W 136.17';
THENCE N89°32'53"W 153.02' TO THE PLACE OF BEGINNING, CONTAINING 1.38 ACRES MORE OR LESS.

NOTE: A PORTION OF THIS EASEMENT IS LOCATED BENEATH THE EXISTING BUILDING.

PART OF THE WEST HALF OF LOT NUMBER 5 IN MATTESON AND WOODBURN'S SUBDIVISION IN THE NORTHWEST 1/4 OF SECTION 31, T70N, R2W OF THE 5TH P.M., CITY OF BURLINGTON, DES MOINES COUNTY, IOWA, AS PER PLAT RECORDED DECEMBER 27, 1865 IN PLAT BOOK 2, PAGE 10 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER;

PART OF VACATED LOT 6 IN MATTESON AND WOODBURN'S SUBDIVISION AND PART OF THE EAST 100' OF LOT 6 IN MATTESON AND WOODBURN'S SUBDIVISION IN THE NORTHWEST 1/4 OF SECTION 31, T70N, R2W OF THE 5TH P.M., CITY OF BURLINGTON, DES MOINES COUNTY, IOWA, AS PER PLAT RECORDED DECEMBER 27, 1865 IN PLAT BOOK 2, PAGE 10 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER;

PART OF VACATED LOT 7 IN MATTESON AND WOODBURN'S SUBDIVISION IN THE NORTHWEST 1/4 OF SECTION 31, T70N, R2W OF THE 5TH P.M., CITY OF BURLINGTON, DES MOINES COUNTY, IOWA, AS PER PLAT RECORDED DECEMBER 27, 1865 IN PLAT BOOK 2, PAGE 10 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER;

ALL OF LOTS 1 AND 2 IN KENNETH L. VELHARTICKY SUBDIVISION IN THE CITY OF BURLINGTON, DES MOINES COUNTY, IOWA AS PER PLAT RECORDED FEBRUARY 8, 1985 IN PLAT BOOK 13, PAGE 278 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER;

ALL OF LOTS 1 AND 2 IN REPLAT LOT 1 KENNETH L. VELHARTICKY SUBDIVISION IN THE CITY OF BURLINGTON, DES MOINES COUNTY, IOWA AS PER PLAT RECORDED FEBRUARY 5, 1988 IN PLAT BOOK 13, PAGE 389 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER;

ALL OF THE ABOVE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 1 IN FIRST ADDITION TO FUN CITY SUBDIVISION AS PER PLAT RECORDED MARCH 1, 2007 AS DOCUMENT NUMBER 2007-001171 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER;
THENCE S86°13'10"E 389.03' TO THE WEST LINE OF SAID LOT 5 IN MATTESON AND WOODBURN'S SUBDIVISION;
THENCE N00°01'46"W 272.48' ALONG THE WEST LINE OF SAID LOT 5;
THENCE N00°01'08"W 187.38' ALONG THE WEST LINE OF SAID LOT 5 TO THE SOUTH RIGHT OF WAY LINE OF MT. PLEASANT STREET;
THENCE S86°13'38"E 172.13' ALONG SAID SOUTH RIGHT OF WAY LINE TO THE NORTHWEST CORNER OF LOT 1 IN BOSS COMPANY SUBDIVISION AS SHOWN ON PLAT RECORDED JANUARY 21, 1991 IN PLAT BOOK 13, PAGE 540 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER;
THENCE S00°01'08"W 930.87' ALONG THE WEST LINE OF LOTS 1 AND 2 IN SAID BOSS COMPANY SUBDIVISION;
THENCE S00°01'42"W 310.24' TO THE NORTH RIGHT OF WAY LINE OF WINEGARD DRIVE;
THENCE N86°25'46"W 171.19' ALONG SAID NORTH RIGHT OF WAY LINE OF WINEGARD DRIVE AND ALONG THE NORTH LINE OF VACATED WINEGARD DRIVE TO THE SOUTHWEST CORNER OF SAID LOT 5 IN MATTESON AND WOODBURN'S SUBDIVISION;
THENCE N78°49'27"W 101.91' ALONG SAID NORTH RIGHT OF WAY LINE OF VACATED WINEGARD DRIVE TO THE SOUTHEAST CORNER OF SAID LOT 2 IN KENNETH L. VELHARTICKY SUBDIVISION;
THENCE N78°37'27"W 118.88' ALONG SAID NORTH RIGHT OF WAY LINE OF VACATED WINEGARD DRIVE;
THENCE N89°32'51"W 109.66' ALONG SAID NORTH RIGHT OF WAY LINE OF VACATED WINEGARD DRIVE TO THE SOUTHWEST CORNER OF SAID LOT 2 IN KENNETH L. VELHARTICKY SUBDIVISION;
THENCE CONTINUING N89°32'51"W 248.40' ALONG SAID NORTH RIGHT OF WAY LINE OF VACATED WINEGARD DRIVE TO THE SOUTHWEST CORNER OF SAID LOT 1 IN KENNETH L. VELHARTICKY SUBDIVISION AND THE EAST RIGHT OF WAY LINE OF THE ROOSEVELT AVENUE FRONTAGE ROAD;
THENCE N00°11'38"E 100.34' ALONG SAID EAST RIGHT OF WAY LINE;
THENCE N14°40'16"E 79.82' ALONG SAID EAST RIGHT OF WAY LINE;
THENCE N00°08'52"E 148.31' ALONG SAID EAST RIGHT OF WAY LINE;
THENCE N12°51'47"W 1.80' ALONG SAID EAST RIGHT OF WAY LINE TO THE SOUTHWEST CORNER OF LOT 2 IN SAID FIRST ADDITION TO FUN CITY SUBDIVISION;
THENCE S88°47'20"E 117.00' ALONG THE SOUTH LINE OF SAID LOT 2 IN FIRST ADDITION TO FUN CITY SUBDIVISION;
THENCE N00°12'40"E 122.57' ALONG THE EAST LINE OF SAID LOT 2 IN FIRST ADDITION TO FUN CITY SUBDIVISION;
THENCE S88°47'20"E 45.16' ALONG THE LINE OF SAID LOT 2 TO A CORNER THEREOF;
THENCE N00°12'40"E 182.58' ALONG THE EAST LINE OF SAID LOTS 2 AND 1 IN FIRST ADDITION TO FUN CITY SUBDIVISION TO THE SOUTH CORNER OF PARCEL E AS PER PLAT RECORDED MARCH 15, 2007 AS DOCUMENT NUMBER 2007-001449 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER;
THENCE ALONG THE EAST LINE OF SAID PARCEL E 80.17' ALONG THE ARC OF A 200.58' RADIUS CURVE CONCAVE SOUTHEASTERLY WITH A 59.94' CHORD BEARING N21°37'36"E (SAID CURVE HAVING A CENTRAL ANGLE OF 171°14') TO THE NORTHEAST CORNER OF SAID PARCEL E AND THE SOUTH CORNER OF PARCEL F AS PER PLAT RECORDED MARCH 15, 2007 AS DOCUMENT NUMBER 2007-001449 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER;
THENCE ALONG THE EAST LINE OF SAID PARCEL F 40.10' ALONG THE ARC OF A 200.58' RADIUS CURVE CONCAVE SOUTHEASTERLY WITH A 40.03' CHORD BEARING N35°56'52"E (SAID CURVE HAVING A CENTRAL ANGLE OF 112°7'18") TO THE NORTHEAST CORNER OF SAID PARCEL F;
THENCE N56°01'18"W 28.12' TO THE NORTHWEST CORNER OF SAID PARCEL F AND THE EAST LINE OF SAID LOT 1 IN FIRST ADDITION TO FUN CITY SUBDIVISION;
THENCE N00°12'40"E 63.38' ALONG THE EAST LINE OF SAID LOT 1 IN FIRST ADDITION TO FUN CITY SUBDIVISION TO THE PLACE OF BEGINNING, CONTAINING 13.16 ACRES MORE OR LESS, SUBJECT TO EASEMENTS, AGREEMENTS OR RESTRICTIONS OF RECORD.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TRACT:

LOT 1 IN HOTH SUBDIVISION AS PER PLAT RECORDED JANUARY 19, 1990 IN PLAT BOOK 13, PAGE 485 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 1 IN FIRST ADDITION TO FUN CITY SUBDIVISION AS PER PLAT RECORDED MARCH 1, 2007 AS DOCUMENT NUMBER 2007-001171 IN THE OFFICE OF THE DES MOINES COUNTY RECORDER;
THENCE S86°13'10"E 239.73';
THENCE S00°25'18"W 105.86';
THENCE N89°35'34"W 29.08';
THENCE S00°24'40"W 44.92' TO THE NORTHWEST CORNER OF LOT 1 IN SAID HOTH SUBDIVISION AND THE PLACE OF BEGINNING;
THENCE S88°31'36"E 39.85' TO THE NORTHEAST CORNER OF LOT 1 IN SAID HOTH SUBDIVISION;
THENCE S00°21'10"W 57.88' TO THE SOUTHEAST CORNER OF LOT 1 IN SAID HOTH SUBDIVISION;
THENCE N88°50'50"W 39.91' TO THE SOUTHWEST CORNER OF LOT 1 IN SAID HOTH SUBDIVISION;
THENCE N00°24'40"E 57.87' TO THE PLACE OF BEGINNING, CONTAINING 0.05 ACRES MORE OR LESS, SUBJECT TO EASEMENTS, AGREEMENTS OR RESTRICTIONS OF RECORD.

NOTE: THE NORTH LINE OF LOT 1 IN FIRST ADDITION TO FUN CITY SUBDIVISION IS ASSUMED TO BEAR S86°13'10"E.

ACREAGE TABULATION:

13.16 AC± TOTAL
- 0.05 AC± (LOT 1 HOTH SUBDIVISION)
13.11 AC± NET (NORTH OF WINEGARD DRIVE AND NORTH OF VACATED WINEGARD DRIVE)

EXHIBIT "B"

Prepared by: City of Burlington
Eric Tysland, Development & Parks Director

400 Washington St, Burlington, IA 52601
(319) 753-8158

RESOLUTION NO. _____

Meeting No. _____

Paper No. _____

Introduced By: _____ AYES: _____

Seconded By: _____ NAYS: _____

**RESOLUTION AMENDING FEES AND CHARGE SCHEDULE AT
FLINT HILLS MUNICIPAL GOLF COURSE**

WHEREAS, all daily fees and charges and season passes at FHGC are evaluated for changes on an annual basis to ensure a proper balance of revenues and expenditures and a competitiveness of fees with area courses, and

WHEREAS, upon consideration and evaluation, the daily and seasonal fees and charges have been recommended to change as shown in Exhibit "A".

NOW THEREFORE, BE IT RESOLVED: that the City Council does hereby approve the change in the schedule of fees at Flint Hills Municipal Golf Course as attached hereto in Exhibit "A" and made a part thereof by reference, to become effective upon approval of this resolution.

APPROVED and ADOPTED this ____ day of _____, 2017.

Shane A. McCampbell – Mayor

ATTEST:

Kathleen P. Salisbury, MMC - City Clerk

Exhibit "A"

Passes and Leases	New Fee	Increase	Cash Discount	Increase
7 Day Adult Pass	\$650.00	\$10.00	\$630.00	\$10.00
7 Day Senior Pass	\$590.00	\$10.00	\$570.00	\$10.00
7 Day College Student Pass	\$340.00	\$0.00	\$325.00	\$0.00
7 Day Junior Pass	\$130.00	\$5.00	\$120.00	\$5.00
7 Day Family/Couple Season Pass*	\$1,010.00	\$10.00	\$990.00	\$10.00
*Dependant	\$85.00	\$0.00	\$80.00	\$0.00
Season Trail Fee	\$430.00	\$5.00	\$420.00	\$5.00
Season Trail Fee and Outdoor Storage	\$565.00	\$10.00	\$555.00	\$5.00
Season Trail Fee and Indoor Storage (gas)	\$810.00	\$5.00	\$795.00	\$5.00
Season Trail Fee and Indoor Storage (electric)	\$830.00	\$5.00	\$810.00	\$5.00
Single Season Cart Lease	\$620.00	\$0.00	\$605.00	\$0.00
Couples/2 Person Cart Lease	\$905.00	\$0.00	\$880.00	\$0.00

Daily Rates	New	Increase	New + Cart	Increase
Weekday Special: 18 w/ cart			\$ 30.00	\$ 1.00
Senior Weekday Special: 18 w/ cart			\$ 27.00	\$ 1.00
9 HOLE WEEKDAY SPECIAL/CART			\$ 22.00	
Juniors (17 & under): 9 w/ cart			\$ 12.50	\$ -
Adults: 18	\$ 19.00	\$ -	\$ 34.00	\$ 1.00
Seniors (62 and over): 18	\$ 17.00	\$ -	\$ 32.00	\$ 0.50
Adults: 9	\$ 15.00	\$ -	\$ 24.00	\$ -
Fall Special: 18 hole w/ cart weekday			\$ 25.00	\$ 1.00
Fall Special: 18 hole w/ cart weekend			\$ 29.00	\$ 1.00

Winter Purchase Special

Sign up by February 14, 2017 for Concession Merchandise Gift Card	\$25 gift card for season pass and \$25 for cart lease or storage \$45 gift card for couple season pass and \$45 for couple cart lease Max \$50 for individual Max \$90 for couple/family
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RESOLUTION NO. _____

Resolution to fix a date for public hearing on general obligation loan agreement in a principal amount not to exceed \$7,300,000 and approving preliminary official statement for General Obligation Refunding Bonds, Series 2017A

WHEREAS, the City of Burlington (the “City”), in Des Moines County, State of Iowa, proposes to enter into a General Obligation Loan Agreement (the “Refunding Loan Agreement”) in a principal amount not to exceed \$7,300,000 pursuant to the provisions of Section 384.24A of the Code of Iowa, for the purpose of refunding the outstanding balance of the City’s General Obligation Corporate Purpose Bonds, Series 2011, and it is necessary to fix a date of meeting of the City Council at which it is proposed to take action to hold a hearing and enter into the Refunding Loan Agreement and to give notice thereof as required by such law; and

WHEREAS, the City intends to enter into the Refunding Loan Agreement and to issue General Obligation Refunding Bonds in an amount not to exceed \$7,300,000 (the “Series 2017A Bonds”); and

WHEREAS, a preliminary official statement (the “Preliminary Official Statement”) has been prepared in connection with the sale of the Series 2017A Bonds, and it is now necessary to make provision for the approval of the Preliminary Official Statement and to authorize its use by Piper Jaffray & Co.;

NOW, THEREFORE, Be It Resolved by the City Council of the City of Burlington, Iowa, as follows:

Section 1. The City Council shall meet on the 6th day of February, 2017, at the Thomas J. Smith Council Chambers, Burlington, Iowa, at 5:30 o’clock p.m., at which time and place a hearing will be held and proceedings will be instituted and action taken to enter into the Refunding Loan Agreement.

Section 2. The City Clerk is hereby directed to give notice of the proposed action on the Refunding Loan Agreement setting forth the amount and purpose thereof, the time when and place where the meeting will be held by publication at least once and not less than 4 nor more than 20 days before the meeting, in a legal newspaper which has a general circulation in the City. The notice shall be in substantially the following form:

NOTICE OF PUBLIC HEARING ON LOAN AGREEMENT IN A PRINCIPAL AMOUNT
NOT TO EXCEED \$7,300,000

(GENERAL OBLIGATION REFUNDING)

The City Council of the City of Burlington, Iowa, will meet on the 6th day of February, 2017, at the Thomas J. Smith Council Chambers, Burlington, Iowa, at 5:30 o'clock p.m., for the purpose of holding a public hearing on a loan agreement (the "Refunding Loan Agreement") in a principal amount not to exceed \$7,300,000 for the purpose of refunding the outstanding balance of the City's General Obligation Corporate Purpose Bonds, Series 2011.

The Refunding Loan Agreement is proposed to be entered into pursuant to authority contained in Section 384.24A of the Code of Iowa and will constitute a general obligation of the City.

At that time and place, oral or written objections may be filed or made to the proposal to enter into the Refunding Loan Agreement. After receiving objections, the City may determine to enter into the Refunding Loan Agreement, in which case, the decision will be final unless appealed to the District Court within fifteen (15) days thereafter.

By order of the City Council of the City of Burlington, Iowa.

Kathleen Salisbury
City Clerk

Section 3. The use by Piper Jaffray & Co. of the Preliminary Official Statement relating to the Series 2017A Bonds, in substantially the form as has been presented to and considered by the City Council, is hereby approved, and Piper Jaffray & Co. is hereby authorized to prepare and use a final Official Statement for the Series 2017A Bonds substantially in the form of the Preliminary Official Statement, but with such changes therein as are required to conform the same to the terms of the Series 2017A Bonds and the resolution, when adopted, providing for the issuance of the Series 2017A Bonds, and the City Clerk is hereby authorized and directed to execute a final Official Statement for the Series 2017A Bonds, if requested. The Preliminary Official Statement as of its date is deemed final by the City within the meaning of Rule 15(c)(2)-12 of the Securities and Exchange Commission.

Section 4. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Passed and approved January 16, 2017.

Mayor

Attest:

City Clerk

RESOLUTION NO. _____

Resolution to fix a date for public hearing on general obligation loan agreement in a principal amount not to exceed \$7,800,000 and approving preliminary official statement for General Obligation Corporate Purpose Bonds, Series 2017B

WHEREAS, the City of Burlington (the “City”), in Des Moines County, State of Iowa, proposes to enter into a General Obligation Loan Agreement (the “Corporate Purpose Loan Agreement”) in a principal amount not to exceed \$7,800,000 pursuant to the provisions of Section 384.24A of the Code of Iowa, for the purpose of financing the construction of flood protection improvements and the construction of street improvements, and it is necessary to fix a date of meeting of the City Council at which it is proposed to take action to hold a hearing and enter into the Corporate Purpose Loan Agreement and to give notice thereof as required by such law; and

WHEREAS, pursuant to a referendum held on November 3, 2015, the City received authorization to enter into a loan agreement and issue \$2,200,000 General Obligation Bonds for the purpose of financing a building for use as a police station (the “Police Station Loan Agreement”); and

WHEREAS, the City intends to enter into the Corporate Purpose Loan Agreement and the Police Station Loan Agreement and to issue General Obligation Corporate Purpose Bonds in an amount not to exceed \$10,000,000 (the “Series 2017B Bonds”); and

WHEREAS, a preliminary official statement (the “Preliminary Official Statement”) has been prepared in connection with the sale of the Series 2017B Bonds, and it is now necessary to make provision for the approval of the Preliminary Official Statement and to authorize its use by Piper Jaffray & Co.;

NOW, THEREFORE, Be It Resolved by the City Council of the City of Burlington, Iowa, as follows:

Section 1. The City Council shall meet on the 6th day of February, 2017, at the Thomas J. Smith Council Chambers, Burlington, Iowa, at 5:30 o'clock p.m., at which time and place a hearing will be held and proceedings will be instituted and action taken to enter into the Corporate Purpose Loan Agreement.

Section 2. The City Clerk is hereby directed to give notice of the proposed action on the Corporate Purpose Loan Agreement setting forth the amount and purpose thereof, the time when and place where the meeting will be held by publication at least once and not less than 4 nor more than 20 days before the meeting, in a legal newspaper which has a general circulation in the City. The notice shall be in substantially the following form:

NOTICE OF PUBLIC HEARING ON LOAN AGREEMENT IN A PRINCIPAL AMOUNT
NOT TO EXCEED \$7,800,000

(GENERAL OBLIGATION CORPORATE PURPOSE)

The City Council of the City of Burlington, Iowa, will meet on the 6th day of February, 2017, at the Thomas J. Smith Council Chambers, Burlington, Iowa, at 5:30 o'clock p.m., for the purpose of holding a public hearing on a loan agreement (the "Corporate Purpose Loan Agreement") in a principal amount not to exceed \$7,800,000 for the purpose of financing the construction of flood protection improvements and the construction of street improvements.

The Corporate Purpose Loan Agreement is proposed to be entered into pursuant to authority contained in Section 384.24A of the Code of Iowa and will constitute a general obligation of the City.

At that time and place, oral or written objections may be filed or made to the proposal to enter into the Corporate Purpose Loan Agreement. After receiving objections, the City may determine to enter into the Corporate Purpose Loan Agreement, in which case, the decision will be final unless appealed to the District Court within fifteen (15) days thereafter.

By order of the City Council of the City of Burlington, Iowa.

Kathleen Salisbury
City Clerk

Section 3. The use by Piper Jaffray & Co. of the Preliminary Official Statement relating to the Series 2017B Bonds, in substantially the form as has been presented to and considered by the City Council, is hereby approved, and Piper Jaffray & Co. is hereby authorized to prepare and use a final Official Statement for the Series 2017B Bonds substantially in the form of the Preliminary Official Statement, but with such changes therein as are required to conform the same to the terms of the Series 2017B Bonds and the resolution, when adopted, providing for the issuance of the Series 2017B Bonds, and the City Clerk is hereby authorized and directed to execute a final Official Statement for the Series 2017B Bonds, if requested. The Preliminary Official Statement as of its date is deemed final by the City within the meaning of Rule 15(c)(2)-12 of the Securities and Exchange Commission.

Section 4. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Passed and approved January 16, 2017.

Mayor

Attest:

City Clerk

RESOLUTION NO. _____

Meeting No. Paper No. Seconded By: _____

_____ _____ AYES: _____

NAYS: _____

Introduced By:

A RESOLUTION SETTING DATE FOR HEARING ON A PROPOSED ORDINANCE
AMENDING SECTION 170.75 SIGNS OF CHAPTER 170 ZONING CODE OF THE
BURLINGTON MUNICIPAL CODE, AND DIRECTED NOTICE THEREOF

RESOLVED: That a Public Hearing will be held on February 6, 2017 at 5:30 p.m. in the Council Chambers, City Hall, to consider a proposed ordinance: AN ORDINANCE AMENDING SECTION 170.75 SIGNS OF CHAPTER 170 ZONING CODE OF THE BURLINGTON MUNICIPAL CODE.

BE IT FURTHER RESOLVED: That the City Clerk be directed to publish notice of said hearing in The Hawk Eye newspaper as prescribed by law and the rules of the Council.

APPROVED and ADOPTED this 16th day of January, 2017.

ATTEST:

Kathleen P. Salisbury, MMC
City Clerk

Shane A. McCampbell
Mayor