CONTRACT FOR CITY ENGINEER SERVICES

MASTER SERVICE AGREEMENT

This Contract approved on _____, 2024 and effective immediately, between the CITY OF COUNCIL BLUFFS, IOWA, a municipal corporation, 209 Pearl Street, Council Bluffs, Iowa 51503, hereinafter referred to as "CITY," and VEENSTRA & KIMM, INC., an Iowa corporation, hereinafter referred to as "ENGINEER".

1. CITY is a municipal corporation which needs certain services performed as more specifically set forth hereafter.

2. ENGINEER agrees to perform these services for City under the terms and conditions set forth in this Contract.

3. Regulation Compliance, Nondiscrimination and Information Requirements

   The ENGINEER agrees to comply within the requirements as described in Appendix A, attached hereto and incorporated within.

4. Services

   The ENGINEER shall provide engineering services to the CITY as requested. The scope of engineering services for any assignment shall be set forth in a separate written task order. The task order shall define scope and schedule for the project. The CITY retains the right at its sole discretion to determine what services will be provided by the ENGINEER under this Master Service Agreement.

5. Ownership of Work Product

   Any data, design, files, or other work products of this Agreement including electronic CADD and GIS files developed by the ENGINEER or received by the ENGINEER as a part of their services under this Agreement shall be the property of the CITY. The ENGINEER shall provide the work product to the CITY upon request at no cost. Nothing in this Agreement shall prevent the ENGINEERS from retaining a copy of any and all work product developed as a part of this Agreement or received by the ENGINEERS during the course of services under this Agreement.

6. Compensation

   The CITY will pay the ENGINEER professional fees, plus reimbursable expenses. The basis for compensation and the maximum or lump sum fee for any assignment shall be set forth in the written task order for that assignment.

When services are provided on an hourly rate basis services will be provided in accordance with the then current hourly fee schedule of the ENGINEER. The ENGINEER may adjust its standard hourly rates once each year by providing the CITY a copy of the adjusted standard hourly rate schedule.

Unless otherwise provided in the task order reimbursable expenses included within the allowed compensation includes all reasonable expenses incurred in good faith on behalf of the CITY included but not limited to copying, mailing, out of pocket per diem expenses, equipment rental and transportation at a rate not to exceed the then current IRS reimbursement rate.

Fees for services under this Agreement shall be billed monthly with a separate invoice for work under each task order.

7. Term

This Contract shall be in effect until such time that either CITY or ENGINEER terminates the contract in accordance with the terms and conditions set forth in this Contract.

8. Contractual Relationship

The parties intend that an Independent Contractor-employer relationship will be created by this Contract. CITY is interested only in the results to be achieved, and the conduct and control of the work will lie solely with ENGINEER. ENGINEER is not to be considered an agent or employee of CITY for any purpose, and neither ENGINEER nor any employees of ENGINEER are entitled to any of the benefits that CITY provides for City's employees. It is understood that CITY does not agree to use ENGINEER exclusively, and CITY in its sole discretion may contract with or use the services of any other person or entity for any type of engineering services at any time. It is further understood that ENGINEER is free to contract for similar services to be performed for other cities, persons or entities while it is under Contract with CITY. ENGINEER shall be fully responsible for all income, social security or other taxes or deductions, including but not limited to worker's compensation and unemployment deductions, relating to the services it performs for CITY.

9. Indemnification

The ENGINEER agrees to indemnify and save harmless the City, its officers, agents, and employees from and against any and all claims including reasonable attorneys' fees and defense costs arising out of the negligent acts, errors, or omissions of the ENGINEER, its officers, agents, and employees in the execution of the services specified in this Agreement.

In recognition of the relative risks and benefits of the project to both the City and ENGINEER, the risks have been allocated such that the City agrees, to the fullest extent permitted by law, to limit the liability of the ENGINEER and their sub-consultants to the OWNER and to all construction contractors and subcontractors on the project for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, so that the total aggregate liability of the ENGINEER and their sub-consultants to all those named shall not

exceed $3,000,000.00. Such claims and causes include negligence, professional errors or omissions, strict liability, breach of contract or warranty.

10. Insurance

The ENGINEER shall maintain insurance to protect the ENGINEER from claims under Worker's Compensation Acts; claims due to personal injury or death of any employees or any other person; claims due to injury or destruction of property; and claims arising out of errors, omissions, or negligent acts for the ENGINEER is legally liable. The amounts and extent of such insurance is as follows:

1.	Professional Liability -	$3,000,000 each claim; $3,000,000 aggregate
2.	Vehicle Coverage Bodily Injury -	$1,000,000 combined single limit (each accident)
3.	Worker's Compensation -	$1,000,000 Statutory Benefits Coverage B
4.	General Liability -	$1,000,000 each occurrence and $2,000,000 aggregate
5.	Excess Liability for Items 2. and 4. above (Umbrella) -	$8,000,000 each occurrence and $8,000,000 aggregate

11. Arbitration

Any controversy or claim arising out of this Agreement may, if both parties agree, be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association.

The cost of the arbitration, if any, will be divided equally between the OWNER and the ENGINEER.

12. Engineer's Responsibility

The ENGINEER shall be responsible for the professional quality and technical accuracy of all services furnished by the ENGINEER under this Agreement, except for that work provided by OWNER. The ENGINEER shall, without additional compensation, correct or revise any error or deficiencies in his work. Approval of the OWNER of any such work shall not in any way relieve the ENGINEER of responsibility for the technical accuracy and adequacy of said services. The OWNER's review, approval or acceptance of, or payment for any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

13. Assignability

ENGINEER shall not assign, delegate, or transfer any interest in this Contract nor the performance of any ENGINEER'S obligations hereunder, without the prior written consent of the CITY.

14. Miscellaneous

As used in this Contract, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

15. Notices

Any notices to be sent pursuant to this Contract shall be directed to CITY at 209 Pearl Street, Council Bluffs, Iowa 51503, and to ENGINEER at 3000 Westown Parkway, West Des Moines, Iowa 50266, or at such other address as each party shall give the other in writing from time to time, and notices shall be deemed received at the time of personal delivery or three (3) working days after being placed in the United States Mail, postage prepaid, certified mail, return receipt requested.

16. Termination

This Agreement may be terminated as follows:

A. For Cause. Either party may terminate this Contract for cause as follows:

1 The party electing to terminate shall give the other party written notice of termination at least seven (7) days prior to the termination date, setting forth very specifically the grounds for termination, the specific provisions of the Contract that has been violated, and a full statement of the facts surrounding the violation(s).

2 If the terminated party so elects, the parties shall meet promptly and make good faith efforts to resolve the violation(s) in a mutually agreeable way.

3 If any such violation cannot be resolved by the parties at such meeting, or at any mutually agreed extension(s) of such meeting, the termination shall proceed.

4 If the violation(s) have not been resolved, the terminating party may proceed with termination, and with retaining other person(s) or entities to provide engineering services, if the terminating party is the City.

B. Without Cause. Either party may terminate the Contract at any time without cause upon at least sixty (60) days prior written notice to the other party.

17. Equal Opportunity

ENGINEER shall insure that its policies and practices provide equal opportunity to all applicants and employees without regard to race, color, creed, sex, age, religion, ancestry, citizenship, national origin, handicap, mental condition, veteran or marital status, and in addition, ENGINEER must comply with the Americans with Disabilities Act.

IN WITNESS WHEREOF, the parties have executed this Contract at Council Bluffs, Iowa, the day and year first above written.

CITY OF COUNCIL BLUFFS, IOWA

By: _____
Mayor

Attest:

_____

_____
Print Name and Title

VEENSTRA & KIMM, INC.

By: _____
Forrest Aldrich, President

Attest:

_____
Jacob Lucas, P.E., Project Manager
Print Name and Title

APPENDIX "A"

During the performance of this contract, the engineer, for itself, its assignees and successors in interest (hereinafter referred to as the "Engineer") agrees as follows:

1. Compliance with Regulations: The Engineer shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination: The Engineer, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix "B" of the Regulations.

3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of the Engineer 's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.

4. Information and Reports: The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Council Bluffs, the Iowa Department of Transportation or Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of an engineer is in the exclusive possession of another who fails or refuses to furnish this information, the Engineer shall so certify to the City of Council Bluffs, the Iowa Department of Transportation or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the Engineer's noncompliance with the nondiscrimination provisions of this contract, the City of Council Bluffs shall impose such contract sanctions as it, the Iowa Department of Transportation or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

a. withholding of payments to the Engineer under the contract until the Engineer complies; and/or,
b. cancellation, termination or suspension of the contract, in whole or in part.

6. Incorporation of Provisions: The Engineer shall include the provisions of Paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Engineer shall take such action with respect to any subcontract or procurement as the City of Council Bluffs, the Iowa Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that, in the event an engineer becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Engineer may request the City of Council Bluffs or the Iowa Department of Transportation to enter into such litigation to protect the interests of the City of Council Bluffs or the Iowa Department of Transportation; and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.