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## **MASTER AGREEMENT FOR GOVERNMENT REINVENTION AND PROJECT SERVICES**

This Master Agreement for Government Reinvention and Project Services, made and effective September 1, 2002, by and between the Department of Management, and The Public Strategies Group. The parties agree as follows:

### **SECTION 1. IDENTIFICATION OF THE PARTIES.**

**1.1** The Iowa Department of Management ("DOM") is a state department authorized to enter into this Agreement. DOM's address is State Capitol Building, Des Moines, Iowa 50319.

**1.2** The Public Strategies Group, Inc. ("PSG") is a Minnesota corporation authorized to do business in the State of Iowa. PSG's address is 275 East 4<sup>th</sup> Street, Suite 710, St. Paul, Minnesota 55101.

**SECTION 2. PURPOSE.** The parties have entered into this Master Agreement for the purpose of retaining the PSG to provide services and expertise to the State of Iowa to help the State improve, reinvent, restructure, revitalize, and/or energize state government in Iowa. These services and expertise will be referred to as "Reinvention Services" or "Project Services" in this Agreement.

### **SECTION 3. DEFINITIONS.**

**3.1** "Reinvention Services". Reinvention Services means the services described in Section 5 of this Master Agreement.

**3.2** "Project Services". Project Services means services provided as part of a Reinvention Project as described in Section 6 of this Master Agreement.

**3.3** "Reinvention Project". Reinvention Project means a project undertaken pursuant to a project-specific Addendum as described in Sections 4 and 6.5 of this Master Agreement.

**3.4** "Sponsor". Sponsor means the agency head, director, or manager of any Iowa department, agency, board, or commission designated by the State as the lead person on a Reinvention Project as described in Section 6 of this Master Agreement.

## **SECTION 4. SCOPE OF SERVICES.**

This Master Agreement describes the general terms and conditions under which the PSG will provide Reinvention Services and Project Services to the State of Iowa. Once the State and PSG have identified a particular project to improve government and agreed that it is appropriate to implement the project, the State and the PSG will execute a project-specific Addendum to the Master Agreement. The project-specific Addendum will include a more specific scope of services and list of deliverables for the particular identified project and will also provide the means that will be used to compensate the PSG for its work.

## **SECTION 5. REINVENTION SERVICES.**

**5.1** PSG will provide Reinvention Services to the State of Iowa to assist the State in becoming a government organization that increasingly:

**5.1.1** Plans, focuses, and manages strategically;

**5.1.2** Implements customer-driven service methods, quality, and quantity;

**5.1.3** Generates and captures cost savings at all levels across the enterprise of state government;

**5.1.4** Promotes and rewards improvement and the achievement of results by state government employees;

**5.1.5** Nurtures an entrepreneurial culture within state government and its individual agencies, divisions, boards, and commissions; and

**5.1.6** Streamlines government and shifts more decision making away from upper management and toward individual work units and governmental partners.

**5.2** PSG will work with the State, and in particular DOM, to provide Reinvention Services and Project Services, including but not limited to the following:

**5.2.1** Working with the State to identify opportunities for reform in state government, to reinvent particular aspects of state government, and to initiate new methods of doing the state's business to improve government efficiency and performance.

**5.2.2** Working with the State to diagnose and identify problems in the operation and management of state government and state agencies, including departments, divisions, boards, or commissions.

**5.2.3** Working with the State to identify solutions to the problems in the operation and management of state government and state agencies, including departments, divisions, boards, or commissions.

**5.2.4** Providing guidance to the State and state agencies, including departments, divisions, boards, or commissions on ways the State or its agencies, departments, divisions, boards, or commissions might improve operations, gain efficiencies in its operations, and improve performance.

**5.2.5** Working with the State to determine which proposed solutions are the most effective solutions for a particular identified problem.

**5.2.6** Working with the State to determine which proposed initiatives are the most effective ways to implement and capitalize on identified opportunities for reform or reinvention of a particular aspect of government.

**5.2.7** Working with the State to implement the solutions and initiatives to capitalize on identified opportunities for reform or reinvention of a particular aspect of government that the State and PSG agree are worthy of implementation pursuant to a project-specific Addendum.

**5.2.8** Providing monthly status reports to DOM about the status of its work under this Master Agreement. These reports will be referred to as "Iowa Reinvention Project Updates" and shall include summaries of the problems and opportunities PSG has helped the State to identify, possible solutions for the identified problems, and possible initiatives to capitalize on identified opportunities for reform, reinvention, or improvement of a particular aspect of state government. These reports may include suggestions for improvements in the implementation of the Master Agreement. These reports shall also identify and briefly summarize the status of projects that the State and PSG have agreed to implement pursuant to a project-specific Addendum. "Iowa Reinvention Updates" should not duplicate the monthly Reinvention Project reports required by Section 6.5.5. These reports will enable DOM to work closely with PSG to guide, consult with, and oversee activities across state government.

**5.2.9** Providing training to the State government and state employees as appropriate.

**5.2.10** Providing consulting services to the State as appropriate.

**5.2.11** Providing follow-up and trouble-shooting services to the State as appropriate.

## **SECTION 6. REINVENTION PROJECTS.**

**6.1** Activities that could be identified as Reinvention Projects will cover a wide range and variety of initiatives. Some may be contained in the implementation of actions of the last legislative session. Some may be new expenditures in Iowa's FY03 budget. Some may be on-going expenditures in Iowa's base budget. The Governor and Iowa State Legislature may initiate some. Some may originate from members of the Governor's Cabinet; others may originate from front line teams of state employees. And PSG may suggest some.

**6.2** PSG will have wide latitude in helping state government align its expenditures and one-time investments with results Iowa citizens most value. The Reinvention Services provided by PSG will create a framework for coordination of this wide range of activities.

**6.3 Criteria for Reinvention Projects.** Because government reinvention and improvement does not encompass every state activity and because the State may have the capacity to implement some Reinvention Projects without the assistance of PSG, the State will apply the following criteria for screening projects and determining when it is appropriate to utilize PSG's services pursuant to a project-specific Addendum:

**6.3.1** Projects that keep state government focused on what it does best, devolving other functions to local government, the private sector or non-profit organizations may be appropriate to implement pursuant to a project-specific Addendum.

**6.3.2** Projects that get state employees, local units of government that receive state money, state government contractors, and organizations that receive state aid, focused on producing measurable results and producing results that matter may be appropriate to implement pursuant to a project-specific Addendum.

**6.3.3** Projects that make customers of various state government services powerful through choice, competition, and redress may be appropriate to implement pursuant to a project-specific Addendum.

**6.3.4** Projects that devolve decision-making and flexibility to those closest to the customer may be appropriate to implement under a project-specific Addendum.

**6.3.5** Projects that create a culture in state government that promotes entrepreneurship, innovation, and creative problem solving may be appropriate to implement pursuant to a project-specific Addendum.

**6.4 Authorizing PSG's Involvement.** The State may authorize PSG's involvement in Reinvention Projects that meet one or more of the above criteria.

**6.4.1 Projects initiated through the Governor's Budget.** Some projects will be specifically identified as part of implementing decisions made in each legislative session. DOM may authorize PSG to support any such projects (a) that meet one or more of the above criteria; and (b) where PSG believes it can add value.

**6.4.2 Projects initiated by state agencies.** Various state agencies may have ongoing or newly initiated projects that are focused on improving performance that meet one or more of the screening criteria. If PSG believes it can add value, it may propose the idea and project outline to the appropriate state manager. If the state manager/sponsor agrees, the relevant agency, DOM, and PSG may enter into a project-specific Addendum for the Reinvention Project. If the sponsor disagrees, PSG has the opportunity to present the same idea and project outline to the Director of the Department of Management and the Governor who may authorize or deny PSG's involvement for any projects involving executive branch agencies that are not headed by an elected official.

**6.4.3 Projects initiated by PSG.** From time to time PSG may discover an activity that meets one or more of the criteria and that can benefit from support and coordination under this Master Agreement. In such instances, PSG may seek a state manager responsible as sponsor of the project. PSG would make a case for how it can add value. If the state sponsor agrees, the relevant agency, DOM, and PSG may enter into a project-specific Addendum. If the sponsor disagrees, PSG has the opportunity to make such a case to the Director of the Department of Management and the Governor who may also authorize PSG's involvement for any projects involving executive branch agencies that are not headed by an elected official.

**6.5 Project Services.** Once the State and PSG have identified problems/opportunities and potential solutions, and agree that a particular Reinvention Project should be implemented with PSG's assistance, the State and PSG will execute an Addendum to the Master Agreement for that particular Reinvention Project. Services provided under a project-specific Addendum are referred to in this Contract as "Project Services." Each project-specific Addendum will include, at a minimum, the following components:

**6.5.1** Milestones, performance measures, or minimum outputs/deliverables for PSG to meet described in the particular Addendum.

**6.5.2** An agreement on a formula or other mechanism for compensation on each project under an Addendum that is based on PSG's performance and meeting the performance measures identified in the Addendum. (See also Section 7.)

**6.5.3** An agreement that specifies what, if any, compensation PSG will be entitled to receive for the Reinvention Project if the Master Agreement is terminated before the Reinvention Project is complete. This provision shall also address how PSG's compensation will be calculated in the event the Master Agreement is terminated before the Reinvention Project is complete. Any agreement regarding compensation PSG is entitled to receive after the Master Agreement has been terminated shall comply with all relevant provisions of Iowa law, including without limitation Article VII, Sections 2 & 5 of the Iowa Constitution. (See also Section 11.)

**6.5.4** Project management and monitoring provisions that describe methods for monitoring PSG's performance under the Addendum and the progress of the project. The project management and monitoring provisions will identify project managers for the State and for PSG who will be responsible for overseeing the project.

**6.5.5** A reporting requirement that requires PSG to provide monthly status reports to the State's project manager for the project and to DOM. Reports shall include accomplishments related to agreed-upon milestones, measures, tasks planned, deadlines, timing, and budget matters. These reports will play a role in determining the amount of compensation to be paid to PSG for the project and will enable DOM to work closely with PSG to guide, consult with and oversee activities across State government.

**6.5.6** PSG's expectations of the State in terms of information, support, or other forms of collaboration provided by State employees.

**6.5.7** A project plan that outlines who will do what, when, and provides a template for monitoring the project's progress.

**6.5.8** The specific individuals who will compose PSG's team assigned to complete the project as well as the specific individual in State government to whom the PSG team will be accountable.

**6.5.9** How PSG's unique knowledge and skills will be transferred to Iowa state employees.

**6.5.10** Termination provisions that address the circumstances under which the parties to the project-specific Addendum may terminate the project-specific Addendum. The termination provisions shall also address how PSG's compensation will be calculated in the event the project-specific Addendum is terminated. Any agreement regarding PSG's compensation in the event of termination of the project-specific Addendum shall comply with all relevant provisions of Iowa law, including without limitation Article VII, Sections 2 and 5 of the Iowa Constitution.

**6.6 Signatures.** Each project-specific Addendum shall be signed by PSG, DOM, the Sponsor, and any other party that will become financially responsible for payment terms under the project-specific Addendum.

## **SECTION 7. COMPENSATION.**

**7.1** PSG's direct compensation for the Reinvention Services provided under this Master Agreement will be zero (\$0). Reinvention Services are PSG's investment in creating opportunities for government improvement in Iowa state government. PSG anticipates capturing a return on this investment through Project Services.

**7.2** PSG will only be compensated through Project Services. PSG will be compensated according to the formula or other mechanism for compensation described under each project-specific Addendum executed in accordance with this Master Agreement. Any formula for compensation may also include recovery of a portion of its Reinvention Services. Both parties expect that PSG will receive a return on PSG's Reinvention Services through compensation for Project Services.

**SECTION 8. NATURE OF PSG'S RELATIONSHIP.**

**8.1** In return for receiving PSG's investment of Reinvention Services, PSG will have the right-of-first-refusal to act as the State's agent to produce or broker Reinvention Projects during the term of this Contract. If PSG declines to participate in a proposed plan or project, or the State determines that it is in the best interests of the State for PSG not to be involved in a proposed plan or project, the State of Iowa will be able to pursue it without PSG's involvement or compensation, including entering into a contract with a third party to assist the State of Iowa implement the plan or project.

**8.2** DOM will not enter into, on behalf of the State of Iowa, an arrangement similar to that described in this Master Agreement during the term of this Master Agreement or extensions thereof.

**SECTION 9. TERM.** The initial term of this Agreement shall be from September 1, 2002, to August 31, 2005, unless earlier terminated in accordance with this Agreement. DOM shall have the option to renew this Agreement for three additional one year terms by giving PSG written notice of exercise of the option at least sixty (60) days prior to the expiration of the initial term or renewal term.

**SECTION 10. DATA PRIVACY.**

**10.1** PSG's employees and agents may have access to private or confidential data maintained by the DOM to the extent necessary to carry out its responsibilities under the Agreement. PSG must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by PSG in connection with the performance of the Agreement. PSG shall accept responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the terms of this Agreement. The private or confidential data shall remain the property of the State at all times.

**10.2** No private or confidential data collected, maintained, or used in the course of performance of the Agreement shall be disseminated except as authorized by statute, either during the period of the Agreement or thereafter. Any data supplied to or created by PSG shall be considered the property of the State. PSG must return any and all data collected, maintained, created, or used in the course of the performance of the Agreement in whatever form it is maintained promptly at the request of the State. PSG shall indemnify the State in conformance with Section 12 for a violation of this section.



## **SECTION 11. TERMINATION.**

**11.1 Termination Upon Notice.** Either party may terminate this Agreement without cause and for any reason by providing written notice to the other party fourteen (14) days in advance of the termination.

**11.2 Notice of Default.** If there is a default event by PSG, DOM shall provide written notice to PSG requesting that the breach or noncompliance be immediately remedied provided that cure of said breach or noncompliance is feasible or practicable. In the event that the breach or noncompliance continues to be evidenced ten (10) days beyond the date of the written notice, DOM may either:

**11.2.1** Immediately terminate the Agreement without additional written notice; or,

**11.2.2** Enforce the terms and conditions of the Agreement and seek any legal or equitable remedies.

**11.3 Remedies of PSG In Event Of Termination.** Termination of this Agreement for any reason by the State or DOM shall not preclude PSG from being entitled to the amounts specified in each Project-Specific Addendum executed in accordance with this Master Agreement. Payment will be made only upon submission of invoices and proper proof of PSG's claim, as required by the project-specific Addendum. This provision in no way limits the remedies available to the State or the DOM under this Agreement in the event of termination. However, the State and the DOM shall not be liable for any of the following costs:

**11.3.1** The payment of unemployment compensation to PSG's employees;

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

**11.3.3** Any costs incurred by PSG in its performance of the Master Agreement or any project-specific Addendum, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Master Agreement or any project-specific Addendum;

**11.3.4** Any taxes that may be owed by PSG in connection with the performance of this Master Agreement or any project-specific addendum, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

**11.4 Remedies of the State in the Event of Termination.** Upon receipt of notice of termination or upon request of the DOM, PSG shall:

**11.4.1** Cease all work under this Master Agreement and any project-specific Addendum and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within 30 days of the date of notice of termination, describing the status of all work under the Agreement, including, without limitation, results accomplished, conclusions resulting therefrom, and such other matters as the DOM may require.

**11.4.2** Immediately cease using and return to the State any personal property or materials, whether tangible or intangible, provided by the DOM to PSG.

**11.4.3** Comply with the DOM's instructions for the timely transfer of any active files and work product produced by PSG under this Master Agreement.

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

**11.4.5** Immediately return to the State any payments made by the State for services that were not rendered by PSG.

## **SECTION 12. INDEMNIFICATION.**

**12.1** By PSG. PSG agrees to indemnify and hold the State of Iowa and DOM harmless from any and all liabilities, damages, settlements, judgments, costs and expenses, related to or arising from:

**12.1.1** Any violation of this Agreement; or

**12.1.2** Any negligent acts or omissions of PSG; or

**12.1.3** PSG's performance or attempted performance of this Agreement; or

**12.1.4** Any failure by PSG to comply with all local, state and federal laws and regulations; or

**12.1.5** Any failure by PSG to make all reports, payments and withholdings required by Federal and State law with respect to social security, employee income

and other taxes, fees or costs required by PSG to conduct business in the State of Iowa; or

**12.1.6** Any infringement of any copyright, trademark, patent, trade dress, or other intellectual property right.

**12.2 By DOM.** Consistent with Article VII, Section 1 of the Iowa Constitution and Iowa Code Chapter 669, DOM agrees to indemnify PSG and hold it harmless against any and all losses, costs, damages, expenses, claims, demands, causes of action, judgments and settlements arising out of DOM's negligence or wrongful acts or omissions in the performance of this Agreement. PSG shall be responsible for all damages to persons or property that occurs as a result of PSG's fault, negligence, gross negligence, bad faith, fraud or other wrongful acts in the performance of this Agreement.

### **SECTION 13. INSURANCE.**

**13.1 Insurance Requirements.** PSG shall maintain in effect, with insurance companies of recognized responsibility, at its expense, insurance covering its work of the type and in amounts required by this Agreement. PSG's insurance shall, among other things, insure against any loss or damage resulting from PSG's performance of this Agreement. All such insurance policies shall remain in full force and effect for the entire life of this Agreement and shall not be canceled or changed except after thirty (30) days written notice to DOM.

**13.2 Amounts of Insurance Required.** Unless otherwise requested by DOM, PSG shall, at its sole cost, cause to be issued and maintained during the entire term of this Agreement not less than the insurance coverages set forth below, each naming the State of Iowa, and DOM as additional insureds or loss payees, as applicable:

TYPE OF INSURANCE	LIMIT	AMOUNT
General Liability (including contractual liability) written on an occurrence basis	General Aggregate	\$2 Million
	Prod./Comp. Aggregate	\$1 Million
	Personal Injury	\$1 Million
	Each Occurrence	\$1 Million

TYPE OF INSURANCE	LIMIT	AMOUNT
Automobile Liability (including any auto, hired autos, and non-owned autos)	Combined Single Limit	\$1 Million
Excess Liability, Umbrella Form	Each Occurrence	\$1 Million
	Aggregate	\$1 Million
Workers Compensation and Employer Liability	As required by Iowa law	As required by Iowa law
Property Damage	Each Occurrence	\$1 Million
	Aggregate	\$1 Million

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

**13.4 Certificates of Coverage.** Certificates of the insurance described above shall be submitted to DOM within thirty (30) days after the effective date of this Agreement and shall be subject to approval by DOM. PSG shall provide certificates for the insurance required. The insurer shall state in the certificate that no cancellation of the insurance will be made without at least thirty (30) days prior written notice to DOM.

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

#### **SECTION 14. INTELLECTUAL PROPERTY, PATENT AND COPYRIGHT.**

**14.1 Definition of Works.** Unless otherwise specified in this Agreement or a project-specific Addendum executed in accordance with this Master Agreement, all work

performed hereunder, including but not limited to, the development, modification or enhancement of systems, programs, design concepts, processes, techniques, devices, solutions, opportunities, and all tangible or intangible material or property developed or prepared for the State or DOM or otherwise provided in connection with this Agreement (including, but not limited to, all documentation, information, data, reports, notes, forms, images, flow charts, studies, object code, source code, diagrams, designs, drawings, specifications and other tangible and intangible material of any nature whatsoever produced by or as a result of any services provided under this Agreement and including all information, works or materials incorporating, based upon, or derived from the foregoing), together with all modifications, revisions, changes, copies, translations, compilations, partial copies with modifications, and derivative works shall hereinafter be referred to collectively as "Works".

**14.2 Right to Use Ideas Generated.** The State and DOM shall have the right to use any and all ideas generated during this Agreement. PSG shall only be entitled to receive compensation for ideas generated and its contributions to the process as specified in project-specific Addenda.

**14.3 License in Works.** PSG hereby grants the State and DOM a perpetual, irrevocable, non-exclusive license to use and copy the Works. As the holder of an irrevocable, non-exclusive license to use and copy the the Works, the DOM may, without limitation:

**14.3.1** Adapt, change or edit or use the Works in combination with the works of others and may publish the Works in any medium throughout the world whether now known or later devised including but not limited to any digital or optical medium; and

**14.3.2** Make, use, sell, license, sublicense, publish, or lease the Works and/or the State's or DOM's intellectual property rights therein without the payment of additional consideration by the DOM.

**14.4 PSG Right to Use Works.** As the owner of the Works, PSG may, without limitation:

**14.4.1** Adapt, change or edit or use the Works in combination with the works of others and may publish the Works in any medium throughout the world, whether now known or later devised including but not limited to any digital or optical medium; and

14.4.2 Make, use, sell, license, sublicense, publish, or lease the Works without paying consideration to the State or DOM.

**14.5 Warranty Regarding Intellectual Property Rights.** PSG warrants that, in the performance of this Agreement, the Works, including, but not limited to, any software in object and source code formats, and all intellectual property developed, prepared, furnished, used or relied upon by PSG or DOM do not and shall not infringe upon any copyright, patent, trademark, trade dress or other intellectual property right of PSG or of any person or entity. PSG shall inform the DOM in writing, in advance, if PSG's performance, development, preparation, furnishing, use or reliance could reasonably be deemed to infringe any patent, copyright, trademark, trade dress or other such intellectual property right of PSG or others. PSG shall indemnify, defend and hold harmless the DOM, the State of Iowa and their officers, employees, officials and agents as provided in the Indemnification section of this Agreement. If such a claim or action arises, or in the DOM's opinion is likely to arise, PSG shall, at the DOM's sole discretion, either procure for the DOM the right or license to use the intellectual property at issue or replace or modify the allegedly infringing Works as necessary and appropriate to obviate the infringement claim. This remedy of the DOM shall be in addition to and not exclusive of other remedies provided by this Agreement or by law and shall survive termination of the Agreement.

## **SECTION 15. WARRANTIES.**

**15.1 Construction of Warranties Expressed in this Agreement with Warranties Implied by Law.** All warranties made by PSG in all provisions of this Agreement and by PSG, whether or not this Agreement specifically denominates PSG's promise as a warranty or whether the warranty is created only by PSG's affirmation or promise, or is created by a description of the materials and services to be provided, or by provision of samples to the DOM, shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties which arise through course of dealing or usage of trade. The warranties expressed in this Agreement are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the goods and services provided by PSG. The provisions of this Section apply during the term of this Agreement and any extension or renewals thereof.

**15.2** PSG represents and warrants that all the concepts, materials and Works produced, or provided to the DOM pursuant to the terms of this Agreement shall be wholly original with PSG or that PSG has secured all applicable interests, rights, licenses, permits or other intellectual property rights in such concepts, materials and Works.

**15.3** PSG represents and warrants that the concepts, materials and Works and the DOM's use of same and the exercise by the DOM of the rights granted by this Agreement shall not infringe upon any other work, other than material provided by the Agreement to PSG to be used as a basis for such materials, or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm or corporation and that the

concepts, materials and works will not infringe upon the copyright, trademark, trade name, literary, dramatic, statutory, common law or any other rights of any person, firm or corporation or other entity.

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

**15.5** PSG represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by PSG pursuant to this Agreement are or will be fully satisfied by PSG so that the DOM will not have any obligations with respect thereto.

## **SECTION 16. CONTRACT ADMINISTRATION.**

**16.1 Compliance With The Law and Regulations.** PSG shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders when performing the services under this Agreement, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or suppliers. PSG declares that it has complied with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work to be performed under this Agreement.

**16.2 Independent Contractor.** The status of PSG shall be that of an independent contractor. Neither PSG nor any of its staff are eligible for any State of Iowa employee benefits, including but not limited to, retirement benefits, insurance coverage or the like. PSG and its staff shall not be considered employees of the State of Iowa, or DOM for federal or state tax purposes. DOM and the Department shall not withhold taxes on behalf of PSG (unless required by law). PSG shall be responsible for payment of all taxes in connection with any income earned from performing this Agreement. Nothing in this Master Agreement shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto.

**16.3 Amendments.** This Agreement may be amended in writing from time to time by mutual consent of the parties. All amendments to this Agreement must be fully executed by the parties.

**16.4 Third Party Beneficiaries.** There are no third party beneficiaries to this Agreement. This Agreement is intended only to benefit DOM, the Department, and PSG.

**16.5 Choice of Law and Forum.** The terms and provisions of this Agreement shall be construed in accordance with the laws of the State of Iowa. Any and all litigation or actions commenced in connection with this Agreement shall be brought in Des Moines, Iowa, Polk County Court for the State of Iowa.

**16.6 Assignment and Delegation.** This Agreement may not be assigned, transferred or conveyed in whole or in part without the prior written consent of the other parties. For purposing of construing this clause, a transfer of a controlling interest in PSG shall be considered an assignment.

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

**16.8 Express Warranties.** PSG expressly warrants, within the standards of care used within the industry, all aspects of the services provided or used by it in the performance of this Agreement. PSG further expressly warrants and represents that PSG and its principals: (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency; (b) have not within a three year period preceding the effective date of this Agreement been convicted of, or had a civil judgment rendered against them for commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of antitrust statutes or commission of embezzlement, theft, forgery, falsification or destruction of records, making false statements, or receiving stolen property; (c) are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in (b); and (d) have not within a three year period preceding the effective date of this Agreement had one or more public transactions (Federal, State, or local) terminated for cause or default.

**16.9 Integration.** This Agreement represents the entire Agreement between the parties and none of the parties are relying on any representation that may have been made which is not included in this Agreement.



**16.10 Headings or Captions.** The paragraph headings or captions are for identification purposes only and do not limit or construe the contents of the paragraphs.

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

**16.12 Supersedes Former Agreements.** This Agreement supersedes all prior Agreements between DOM and PSG for the services provided in connection with this Agreement.

**16.13 Waiver.** Except as specifically provided for in a waiver signed by duly authorized representatives of DOM and PSG, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Agreement shall not be construed as affecting any subsequent breach or the right to require performance with respect thereto or to claim a breach with respect thereto.

**16.14 Notices.** Notices under this Agreement shall be in writing and delivered to the representative of the party to receive notice (identified below) at the address of the party to receive notice as it appears below or as otherwise provided for by proper notice hereunder. The effective date for any notice under this Agreement shall be the date of delivery of such notice (not the date of mailing) which may be effected by certified U.S. Mail return receipt requested with postage prepaid thereon or by recognized overnight delivery service, such as Federal Express or UPS. Failure to accept "receipt" shall constitute delivery.

If to DOM:                   Iowa Department of Management  
                                  Attention: Director  
                                  State Capitol Building  
                                  Des Moines, Iowa 50319

If to PSG:                   The Public Strategies Group, Inc.  
                                  Attention: Jeff Zlonis  
                                  275 East 4<sup>th</sup> Street, Suite 710  
                                  St. Paul, Minnesota 55101

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

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

**16.17 Time is of the Essence.** Time is of the essence with respect to the performance of the terms of this Agreement.

**16.18 Authorization.** Each party to this Agreement represents and warrants to the other parties that:

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

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

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

**16.20 Record Retention And Access.** PSG shall maintain books, records, and documents which sufficiently and properly document and calculate all charges billed to DOM throughout the term of this Agreement for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. PSG shall permit the Auditor of the State of Iowa or any authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of PSG relating

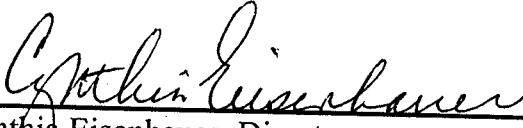
to orders, invoices, or payments or any other documentation or materials pertaining to this Agreement. PSG shall not impose a charge for audit or examination of PSG's books and records.

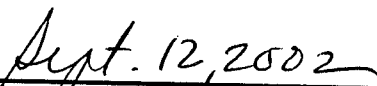
**16.21 Obligations Beyond Agreement Term.** This Agreement shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to this Agreement. All obligations of the DOM and PSG incurred or existing under this Agreement as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of this Agreement.

**SECTION 17. EXECUTION.**

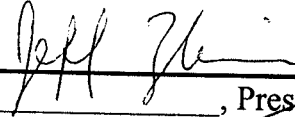
IN WITNESS WHEREOF, in consideration of the mutual covenants set forth above and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties have entered into the above Agreement and have caused their duly authorized representatives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


IOWA DEPARTMENT OF MANAGEMENT

  
\_\_\_\_\_  
Cynthia Eisenhauer, Director

  
\_\_\_\_\_  
Date

THE PUBLIC STRATEGIES GROUP, INC.

  
\_\_\_\_\_  
Jeff Zlonis, Chief Operating Officer

  
\_\_\_\_\_  
Date