

**ATTACHMENT 1 – PART I**  
**OUTSIDE PLANT – SAMPLE AGREEMENT**  
**CONTRACTUAL TERMS AND CONDITIONS**

**RFP 08-001**

SECTION 1. TERM. This Agreement is effective [EFFECTIVE DATE WILL BE LISTED], and will continue through (project completion).

SECTION 2. DOCUMENTS INCORPORATED BY REFERENCE.

2.1 Incorporation of Bid Proposal Documents. The IRHTP RFP 08-001 and the Vendor's bid proposal in response to this RFP, together with any clarifications, attachments, appendices, amendments or other writings of the IRHTP or the Vendor (collectively bid proposal) are incorporated into this Agreement by this reference as if fully set forth in this Agreement.

2.2 Contractual Obligations of Vendor. The terms and conditions of the bid proposal and of the RFP are made contractual obligations of the Vendor.

2.3 Contents of Agreement. The parties acknowledge that this Agreement consists of this document as well as the RFP and the bid proposal and that the parties are obligated to perform as set forth in the RFP and the bid proposal to the same extent that they are obligated to perform the specific duties set forth in this document.

2.3.1 Order of Preference. In the case of any inconsistency or conflict between the specific provisions of this document, the RFP or the bid proposal, any inconsistency or conflict shall be resolved as follows:

2.3.2 First, by giving preference to the specific provisions of this Agreement.

2.3.3 Second, by giving preference to the specific provisions of the RFP.

2.3.4 Third, by giving preference to the specific provisions of the bid proposal.

2.4 Intent of References to Bid Documents. The references to the parties' obligations, which are contained in this document, are intended to change, supplement or clarify the obligations as stated in the RFP and the bid proposal. The failure of the parties to make reference to the terms of the RFP or bid proposal in this document shall not be construed as creating a conflict and will not relieve the Vendor of the contractual obligations imposed by the terms of the RFP and the bid proposal. Terms offered in the bid proposal, which exceed the requirements of the RFP, shall not be construed as creating an inconsistency or conflict with the RFP or this document. The contractual obligations of the IRHTP cannot be implied from the bid proposal.

SECTION 3. DEFINITIONS. The following words shall have the meanings set forth below. Words in the singular shall be held to include the plural and vice versa, and words of gender shall be held to include the other gender as the context requires. For the purposes of this Contract, the following terms and all other terms defined in this Contract shall have the meanings so defined unless the context clearly indicates otherwise.

3.1 "IHA" shall mean the Iowa Hospital Association

3.2 "IRHTP" shall mean the Iowa Rural Health Telecommunications Program

3.3 "Vendor" shall mean [Vendor will be listed].

SECTION 4. SCOPE OF WORK.

Scope of Work. The fiber optic cable facility to be constructed pursuant to and as a result of this Agreement by the Vendor is described and attached hereto as Schedule A and made a part hereof by this reference.

The Vendor shall prepare and deliver specifications to the IRHTP which will detail the design, technical and functional capabilities, look and feel, and other attributes related to the project, all as more fully described in Schedule A.

Amendments to Scope of Services and Specifications. The parties agree that Schedule A, Scope of Services, and the specifications, may be revised, replaced, amended or deleted at any time during the term of this Agreement to reflect changes in service or performance standards upon the mutual written consent of the parties.

Industry Standards. Services rendered pursuant to this Agreement shall be performed in a professional and workmanlike manner in accordance with the terms of this Contract and with generally acceptable industry standards of performance for similar tasks and projects. In the absence of a detailed specification for the performance of any portion of this Agreement the parties agree that the applicable specification shall be the generally accepted industry standard. As long as the IRHTP notifies Vendor promptly of any services performed in violation of this standard, Vendor will re-perform the services, at no cost to IRHTP, such that the services are rendered in the above-specified manner.

Non-Exclusive Rights. This Agreement is not exclusive. The IRHTP reserves the right to select other Vendors to provide services similar or identical to the Scope of Services described in this Agreement during the term of this Agreement.

## SECTION 5. COMPENSATION.

### 5.1 Payment Terms – Progress Payments

5.1.1 USAC and IRHTP will disburse funds based on monthly submissions (*i.e.*, invoices) of actual incurred eligible expenses, and will respond to vendor invoices in accordance with its current bi-monthly invoicing payment plan. This invoice process will permit disbursement of funds to ensure that the selected Participants' network projects proceed, while allowing USAC and the FCC to monitor expenditures in order to ensure compliance with the program and prevent waste, fraud, and abuse.

5.1.2 Upon award of contract for a link-segment, the Vendor will assist the IRHTP project coordinator in the development of a USAC Network Cost Worksheet. (NCW) This work sheet will list the primary tasks to be completed for each link-segment. When specific line items are completed on each NCW, the Vendor may submit it for a progress payment. As soon as the line item completion is approved by the IRHTP project coordinator the vendor will be paid 15% of the line item amount by the specific HCP served by the link-segment. The Vendor will acknowledge receipt of the 15% payment and forward appropriate forms to USAC for payment of the remaining 85%. USAC will honor requests for payment twice each month.

The invoices when submitted must certify by signature that all construction specifications were met during the covered period on the specified segment and show the contract number and project/site number on each invoice. If the IRHTP disputes the amount of any invoice, the IRHTP will notify the Vendor of the dispute within 10 days of receipt of the invoice. IRHTP may withhold payment of the disputed amount until the dispute is resolved

5.1.2.1 Retainer - Payment tied to Performance. The IRHTP shall withhold 10% of the fee for the project until the IRHTP has provided Final Acceptance of the project and as-built drawings are received and approved by the IRHTP. Upon Final Acceptance, the Vendor shall submit an invoice to the IRHTP requesting payment of the remaining 10% of the fee for the project. The invoice shall contain appropriate documentation as necessary to support the fee included on the invoice and shall comply with all applicable rules concerning payment of such fees.

5.1.2.2 Monitoring. The IRHTP shall monitor the Vendor's compliance with the scope of work and deadlines established for the project.

5.1.2.3 Review. Once the IRHTP has verified 100% completion of the project, the IRHTP shall review the Vendor's performance history under the Agreement and shall submit the Vendor's Invoice to USAC for payment of the 10% retainer. The retainer will be paid only upon Final Approval of the project, satisfactory restoral of any infrastructure or landscape disturbed by the cable installation process, site and route cleanup, and receipt of the as-built drawings

5.2 Delay of Payment Due To Vendor's Failure. If the IRHTP in good faith determines that the Vendor has failed to perform or deliver any service or product as required by this Contract, the Vendor shall not be entitled to any compensation under this Contract until such service or product is completed or delivered. In the event of partial performance, the IRHTP may withhold that portion of the Vendor's compensation, which represents payment for the unsatisfactory services.

5.3 The IRHTP shall audit the invoices presented to the IRHTP to ensure that they are proper, current and correct. The Vendor has 30 days from the date of invoice to present and resolve any discrepancies with the IRHTP. The IRHTP shall notify the Vendor of any and all discrepancies that the audit(s) reveals.

## SECTION 6. INSURANCE.

6.1 Coverage Requirements. The Vendor, and any subcontractors performing the services required under this Agreement, shall maintain in full force and effect, with insurance companies of recognized responsibility, at its own expense, insurance covering its work during the entire term of this Agreement and any extensions or renewals thereof. The insurance shall be of the type and in the amounts as reasonably required by the IRHTP. The Vendor's insurance shall, among other things, insure against any loss or damage resulting from or related to the Vendor's performance of this Agreement. All such insurance policies should remain in full force and effect for the entire life of this Agreement and shall not be canceled or changed except with the advance written approval of the IRHTP.

6.2 Types of Coverage. Unless otherwise requested by the IRHTP, Vendor shall, at its sole cost, cause to be issued and maintained during the entire term of this Agreement (and any extensions or renewals thereof) the insurance coverage's set forth below, each naming the State of Iowa and the IRHTP additional insured or loss payees, as applicable:

| <i>Type</i>  | <i>Amount</i>           |
|--|-------------------------|
| WORKERS COMPENSATION AND EMPLOYER LIABILITY  | As Required By Iowa Law |
| GENERAL LIABILITY (including contractual liability) written on an occurrence basis                 |                         |
| GENERAL AGGREGATE  | \$3 million             |
| PRODUCT LIABILITY  | \$1 million             |
| PERSONAL INJURY  | \$1 million             |
| COMPREHENSIVE AGGREGATE  | \$1 million             |
| EACH OCCURRENCE  | \$1 million             |
| Automobile Liability, including any auto, hired autos and non owned autos<br>COMBINED SINGLE LIMIT | \$1 million             |

6.3 Coverage for HCP Property on ICN Controlled Premises. The policies shall provide coverage for damages to the HCP's property, or on premises under the control of the ICN and/or the State of Iowa.

6.4 Claims Made Coverage. All insurance policies required by this Agreement must provide coverage for all claims arising from activities occurring during the term of the policy regardless of the date the claim is filed or expiration of the policy.

6.5 Notice Regarding Cancellation. Certificates of insurance, which provide that the IRHTP will be notified at least thirty (30) days prior to cancellation of the coverage required by this Agreement must be provided by the Vendor and any subcontractors to the IRHTP at the time of execution of the Agreement or at a time mutually agreeable to the parties.

6.6 No Limitation of Liability. The receipt of insured certificates by the IRHTP does not constitute approval of the coverage contained in the certificates, and the Vendor remains responsible for determining that its insurance coverage meets each and every requirement of this Agreement. Acceptance of the insurance certificates by the IRHTP shall not act to relieve the Vendor of any obligation under this Agreement. Only companies authorized to transact business in the State of Iowa shall issue the insurance policies and certificates required by this Section. It shall be the responsibility of the Vendor to keep the respective insurance policies and coverages current and in force during the life of this Agreement.

6.7 Warranty. The Vendor warrants that it has examined its insurance coverage to determine that the State of Iowa and the IRHTP can be named as additional insured without creating an adverse effect on the Vendor's coverage.

6.8 Waiver of Subrogation Rights. The Vendor shall obtain a waiver of any subrogation rights that any of its insurance carriers might have against State of Iowa and the IRHTP. The waiver of subrogation rights shall be indicated on the certificates of insurance coverage supplied to the IRHTP.

#### SECTION 7. CONFIDENTIAL INFORMATION.

7.1 During the course of this Agreement each party may disclose, to the other either directly or indirectly, certain data that is proprietary which shall be referred to as "Confidential Information" of the disclosing party and which must remain confidential. Confidential Information may include without limitation, among other things, such items as security information, user information, data, knowledge, trade secrets and other proprietary information, methodologies, developments, software, software documentation, inventions, processes, and other nonpublic information in oral, graphic, written, electronic or machine readable form.

7.2 All written or electronic Confidential Information shall be clearly marked as Confidential Information by the party providing the Confidential Information at the time of disclosure to the other party.

7.3 If the Confidential Information is disclosed orally, and reduced to writing, the receiving party must treat the information as Confidential Information.

7.4 The Vendor shall limit such identification to information it reasonably believes it is entitled to confidential treatment pursuant to FCC, USAC or other applicable law.

7.5 The obligations of this Agreement do not apply to Confidential Information which:

7.5.1 Was rightfully in the possession of the receiving party from a source other than the disclosing party prior to the time of disclosure of the Confidential Information to receiving party.

7.5.2 Was known to the receiving party prior to the disclosure of the Confidential Information from the disclosing party;

7.5.3 Was disclosed to the receiving party without restriction by an independent third party having a legal right to disclose the Confidential Information;

7.5.4 Becomes public knowledge, other than through an act or failure to act by the disclosing Party;

7.5.5 Is publicly available or in the public domain when provided;

7.5.6 Is independently developed by the disclosing party; or

7.5.7 Is disclosed pursuant to law, subpoena or the order of a court or government authority.

7.6 The parties shall have the following duties relating to the Confidential Information:

7.6.1 The Vendor shall designate one individual who shall remain the responsible authority in charge of all data collected, used or disseminated by the Vendor in connection with the performance of this Agreement. The Vendor 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 and confidential data shall remain the property of the IRHTP at all times.

7.6.2 The Confidential Information of either party shall be held in strict confidence by the receiving party and shall not be disclosed or used by the receiving party without the prior written consent of the disclosing party, except as provided in this Agreement or as may be required by law pursuant to available confidentiality restrictions.

7.6.3 The parties shall use their best efforts to protect the Confidential Information in its possession.

7.6.4 The parties shall restrict disclosure of the Confidential Information solely to those of its employees, agents, consultants and attorneys with a need to know in order to accomplish the purpose of this Agreement.

7.6.5 The parties shall protect the Confidential Information from disclosure to or access by unauthorized persons.

7.6.6 The parties shall use the Confidential Information solely for the purpose of this Agreement and for no other purpose.

7.6.7 The parties shall not duplicate the Confidential Information in any form, except as may be necessary to accomplish the purpose of this Agreement.

7.6.8 The parties shall advise each of its employees, agents, consultants and attorneys who receive the Confidential Information of the obligations of confidentiality and restrictions on the use set forth herein.

7.6.9 The parties shall immediately return the Confidential Information and all copies thereof, to each other upon the earlier of the expiration of the need therefore or the termination of this Agreement in order to accomplish the purpose.

7.7 The provisions of this Agreement shall apply to all Confidential Information disclosed by the parties to each other over the course of this Agreement. The parties' obligations under this provision shall survive termination of this Agreement and shall be perpetual.

7.8 The Vendor shall indemnify the IRHTP for a violation of this Section. The Vendor shall notify the IRHTP prior to the destruction of these materials and shall provide the IRHTP with the opportunity for proper destruction of these materials.

7.9 No Confidential Information will be exported to any country in violation of the United States Export Administration Act and the regulations there under.

## SECTION 8. VENDOR WARRANTIES.

8.1 Construction of Warranties Expressed in this Agreement with Warranties Implied by Law. All warranties made by the Vendor in all provisions of this Agreement and the bid proposal by the Vendor, whether or not this Agreement specifically denominates the Vendor's promise as a warranty or whether the warranty is created only by the Vendor'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 IRHTP, 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 the Vendor.

8.2 The Vendor warrants that all the concepts, materials produced, the work product and the information, data, designs, processes, inventions, techniques, devices, and other such intellectual property furnished, used, or relied upon by the Vendor or the IRHTP will not infringe any copyright, patent, trademark, trade dress, or other intellectual property right of the Vendor or others. Any intellectual property provided to the IRHTP pursuant to the terms of this Agreement, shall be wholly original with the Vendor or the Vendor has secured all applicable interests, rights, licenses, permits, or other intellectual property rights in such concepts, materials and work.

8.3 The Vendor represents and warrants that the concepts, materials and the IRHTP's use of same and the exercise by the IRHTP of the rights granted by this Agreement shall not infringe upon any other work, other than material provided by the IRHTP to the Vendor 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.

8.4 The Vendor 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.

8.5 The Vendor warrants that the deliverables under this Agreement will operate in conformance with the terms and conditions of this Agreement.

8.6 The Vendor warrants that it has full authority to enter into this Agreement and that it has not granted and will not grant any right or interest to any person or entity that might derogate, encumber, or interfere with the rights granted to the IRHTP.

8.7 The Vendor warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Vendor pursuant to this Agreement are or will be fully satisfied by the Vendor so that the IRHTP will not have any obligations with respect thereto.

8.8 The Vendor warrants that it is the owner of or otherwise has the right to use and distribute the software, the materials owned by the Vendor and any other materials, and methodologies used in connection with providing the services contemplated by this Agreement.

8.9 The Vendor expressly warrants to the standards in the industry all aspects of the goods and services provided by it or used by the Vendor and the IRHTP in performance of this Agreement.

8.10 The Vendor unconditionally warrants that all equipment supplied and installed for the purpose of fulfilling its obligations under this Agreement are fit for the purpose intended, that it complies with industry standards and that the equipment is compatible with the State's equipment.

**SECTION 9. INDEMNIFICATION BY VENDOR.** The Vendor agrees to defend, indemnify and hold the IRHTP, and the State of Iowa, its employees, agents, board members, appointed officials and elected officials, harmless from any and all demands, debts liabilities, damages, loss, claims, suits or actions, settlements, judgments, costs and expenses, including the reasonable value of time expended by the Attorney General's Office, and the costs and expenses and attorney fees of other counsel required to defend the IRHTP or the State of Iowa related to or arising from:

9.1 Any violation or breach of this Agreement including, without limitation, any of the Vendor's representations or warranties; or

9.2 Any acts or omissions, including, without limitation, negligent acts or omissions or willful misconduct of Vendor, its officers, employees, agents, board members, contractors, subcontractors, or counsel employed

by Vendor in the performance of this Agreement, or any other reason in connection with the goods and services provided under this Agreement; or

9.3 Claims for any violation of any intellectual property right including but not limited to infringement of patents, trademarks, trade dress, trade secrets, or copyrights arising from the any of the goods or service performed in accordance with this Agreement; or

9.4 The Vendor's performance or attempted performance of this Agreement; or

9.5 Any failure by the Vendor to comply with all local, State and Federal laws and regulations; or

9.6 Any failure by the Vendor to make all reports, payments and withholdings required by Federal and State law with respect to social security, employee income and other taxes, fees or costs required by the Vendor to conduct business in the State of Iowa.

9.7 The Vendor's duty to indemnify as set forth in this Section shall survive the expiration or termination of this Agreement and shall apply to all acts taken in the performance of this Agreement regardless of the date any potential claim is made or discovered by the IRHTP.

## SECTION 10. TERMINATION.

10.1 Termination For Lack Of Authority or Funding. Notwithstanding anything in this Agreement to the contrary and subject to the limitations, conditions and procedures set forth below, the IRHTP shall have the right to terminate this Agreement without penalty and without any advance notice as a result of any of the following:

10.1.1 The Legislature or Governor fails, in the sole opinion of the IRHTP, to appropriate funds sufficient to allow the IRHTP, the HCP's, or any state agency or department charged with responsibility to perform any of the IRHTP's obligations under this Agreement, to either meet its obligations under this Agreement or to operate as required to fulfill its obligations under this Agreement; or

10.1.2 If funds are de-appropriated, not allocated or if the funds needed by the IRHTP, in the IRHTP's sole discretion, are insufficient for any other reason; or

10.1.3 If the IRHTP's, or USAC's authorization to conduct its business is withdrawn or there is a material alteration in the programs or any other program the IRHTP administers; or

10.1.4 If the IRHTP's duties are substantially modified.

10.1.5 Written Notice of Cancellation. The IRHTP shall provide Vendor with written notice of cancellation pursuant to this Section.

10.2 Termination for Cause. The IRHTP may terminate this Agreement upon written notice for the substantial breach by Vendor of any material term if such breach is not cured by Vendor within the time period specified in the IRHTP's notice of breach or any subsequent notice or correspondence delivered by the IRHTP to Vendor. If a cure is feasible and an opportunity to cure is provided, the notice shall specify the exact date by which the condition must be cured. Following expiration of the opportunity to cure or notice from the IRHTP, the IRHTP may seek any legal or equitable remedy authorized by this Agreement or by law. Substantial breach events include but are not limited to the following:

10.2.1 Vendor fails to perform as required by this Agreement.

10.2.2 Vendor fails to make substantial and timely progress toward performance or fails to meet any of the material specifications and requirements stated in this Agreement, including without limitation the warranties provided in this Agreement, in the RFP or in the Vendor's bid proposal.

10.3 Termination for Convenience. Following 30 days written notice, the IRHTP may terminate this Agreement in whole or in part for convenience without the payment of any penalty or incurring any further

obligation to the Vendor. Termination for Convenience can be for any reason or no reason at all if it is in the best interests of the IRHTP.

10.4 Immediate Termination. The IRHTP may terminate this Agreement effective immediately without advance notice and without penalty for any of the following reasons:

10.4.1 Vendor furnished any statement, representation, warranty or certification in connection with this Agreement, which is materially false, deceptive, incorrect or incomplete.

10.4.2 Vendor fails to perform, to the IRHTP's satisfaction, any material requirement of this Agreement or is in violation of any material provision of this Agreement, including, without limitation, the express warranties made by the Vendor.

10.4.3 The IRHTP determines that satisfactory performance of this Agreement is substantially endangered or that a default is likely to occur.

10.4.4 Vendor becomes subject to any bankruptcy or insolvency proceeding under Federal or State law to the extent allowed by applicable Federal or State law including bankruptcy laws.

10.4.5 Vendor terminates or suspends its business.

10.4.6 The IRHTP reasonably believes that Vendor has become insolvent or unable to pay its obligations as they accrue consistent with applicable Federal or State law.

10.4.7 It is alleged that Vendor's processes or materials violate any valid patent, trademark, copyright, other intellectual property right or contract, and the IRHTP reasonably believes that the allegation may impair Vendor's performance of this Agreement.

10.4.8 Vendor has failed to comply with all applicable Federal, State, and local laws, rules, ordinances, regulations and orders when performing within the scope of this Agreement.

10.4.9 Vendor has engaged in conduct that has or may expose the IRHTP to liability, as determined in the IRHTP's sole discretion.

10.4.10 Vendor has a conflict of interest that interferes with fair competition or conflicts with an interest of the IRHTP as determined in the IRHTP's sole discretion.

10.5 In the event of termination of this Agreement for any reason by USAC or the IRHTP, USAC and the IRHTP shall pay only the amounts, if any, due and owing to Vendor for services actually rendered up to and including the date of termination of the Agreement and for which the USAC and the IRHTP is obligated to pay pursuant to this Agreement. Payment will be made only upon submission of invoices and proper proof of Vendor's claim. This provision in no way limits the remedies available to USAC or the IRHTP in the event of a termination under this provision. However, the USAC or the IRHTP shall not be liable for any of the following costs:

10.5.1 The payment of Unemployment Compensation to Vendor's employees;

10.5.2 The payment of Workers' Compensation claims which occur during the Agreement or extend beyond the date on which the Agreement terminates.

10.5.3 Any costs incurred by Vendor in its performance of the Agreement including but not limited to startup costs, overhead or other costs associated with the performance of the Agreement.

10.5.4 Any taxes that may be owed by Vendor for the performance of this Agreement including but not limited to sales taxes, excise taxes, use taxes, income taxes or property.

10.6 Vendor Obligations upon Termination. Upon expiration or termination of this Agreement, or upon request of the IRHTP, the Vendor shall:

10.6.1 Immediately cease using and return to the IRHTP any personal property or material, whether tangible or intangible, provided by the IRHTP to the Vendor and in its, or any subcontractor's, control or possession;

10.6.2 Upon request from the IRHTP, destroy any personal property or material, whether tangible or intangible at no additional cost to the IRHTP, and verify in writing that the designated property or material has been destroyed;

10.6.3 Comply with the IRHTP's instructions for the timely transfer of active files and work being performed by Vendor under this Agreement to the IRHTP or the IRHTP's designee;

10.6.4 Protect and preserve property in the possession of the Vendor in which the IRHTP has an interest;

10.6.5 Stop work under this Agreement on the date specified in any notice of termination provided by the IRHTP;

10.6.6 Cooperate in good faith with the IRHTP, its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement Vendor.

10.7 Care of Property. The Vendor shall be responsible for the proper custody and care of any of the HCP or State owned tangible personal property furnished for the Vendor's use in connection with the performance of the Agreement, and the Vendor will reimburse the IRHTP or the State for such property's loss or damage caused by the Vendor, normal wear and tear excepted.

10.8 Reduction of Resources. If, during the Term, the IRHTP experiences a change in the scope, nature or volume of its business, or if the IRHTP elects to change the manner or method by which it does business (including, but not limited to, an election by Iowa Legislature to effect a sale or other disposition of material assets), which have or may have the effect of causing a decrease in the quantity or quality of the Services that will be needed by IRHTP, then IRHTP may request Vendor to reduce the level of Services and the annual Service charges to IRHTP under this Agreement. However any such reduction must not adversely impact upon Vendor's ability to reasonably perform its obligations under the Agreement.

## SECTION 11. CONTRACT ADMINISTRATION.

11.1 Independent Contractor. The status of the Vendor shall be that of an independent contractor. The Vendor, its employees, agents and any subcontractors performing under this Agreement are not employees or agents of IHA. Neither the Vendor nor its employees shall be considered employees of IHA or IRHTP for Federal or State tax purposes. IHA and IRHTP will not withhold taxes on behalf of the Vendor (unless required by law).

### 11.2 Compliance with the Law and Regulations.

11.2.1 Compliance with the Law and Regulations. Vendor shall comply with all applicable Federal, State, and local laws, rules, ordinances, regulations and orders when performing within the scope of this Agreement, including, without limitation, all laws applicable to the prevention of discrimination in employment, the administrative rules of the Iowa Department of Management or the Iowa Civil Rights Commission which pertain to equal employment opportunity and affirmative action, laws relating to prevailing wages, occupational safety and health standards, prevention of discrimination in employment, payment of taxes, gift laws, lobbying laws and laws relating the use of targeted small businesses as subcontractors or suppliers.

11.2.2 The Vendor 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, including, without limitation, laws governing State of Iowa procurement and contracting.

11.2.3 The Vendor shall give notice to any labor union with which it has a bargaining or other agreement of its commitment under this section of the Agreement. The Vendor shall make the provisions of this Section a part of its contracts with any subcontractors providing goods or services related to the fulfillment of this Agreement.

11.2.4 The Vendor shall comply with all of the reporting and compliance standards regarding equal employment.

11.2.5 The Vendor may be required to submit its affirmative action plan

11.2.6 The IRHTP may consider the failure of the Vendor to comply with any law or regulation as a material breach of this Agreement. In addition, the Vendor may be declared ineligible for future USAC contracts or be subjected to other sanctions for failure to comply with this Section.

11.3 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.

11.4 Third Party Beneficiaries. There are no third party beneficiaries to this Agreement. This Agreement is intended only to benefit IRHTP and the Vendor.

11.5 Choice of Law and Forum.

11.5.1 The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Agreement without regard to the choice of law provisions of Iowa law.

11.5.2 In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Agreement, the exclusive jurisdiction for the proceeding shall be brought in Polk County District Court for the State of Iowa, Des Moines, Iowa, or in the United States District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa wherever jurisdiction is appropriate.

11.5.3 This provision shall not be construed as waiving any immunity to suit or liability including, without limitation, sovereign immunity in State or Federal court, which may be available to the IRHTP or the State of Iowa.

11.6 Integration. This Agreement, including all the documents incorporated by reference, represents the entire Agreement between the parties and neither party is relying on any representation that may have been made which is not included in this Agreement. The parties agree that if a Schedule, Addendum, Rider or Exhibit or other document is attached hereto by the parties, and referred to herein, then the same shall be deemed incorporated herein by reference.

11.7 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/principal relationship) between the parties hereto. No party, unless otherwise specifically provided for herein, has the authority to enter into any agreement or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Agreement.

11.8 Consent to Service. The Vendor irrevocably consents to service of process by certified or registered mail addressed to the Vendor's designated agent. The Vendor appoints \_\_\_\_\_ at \_\_\_\_\_ as its agent to receive service of process. If for any reason the Vendor's agent for service is unable to act as such or the address of the agent changes, the Vendor shall immediately appoint a new agent and provide the IRHTP with written notice of the change in agent or address. Any change in the appointment of the agent or address will be effective only upon actual receipt by the IRHTP. Nothing in this provision will alter the right of the IRHTP to serve process in another manner permitted by law.

11.9 Supersedes Former Agreements. This Agreement supersedes all prior Agreements between the IRHTP and the Vendor for the services provided in connection with this Agreement.

11.10 Waiver. Any breach or default by either party shall not be waived or released other than in writing or by a written notice signed by the other party. 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.

11.11 Notices.

11.11.1 Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to each party as set forth as follows:

If to the IRHTP:

Mr. Art Spies  
Iowa Hospital Association  
100 East Grand Ave – Suite 100  
Des Moines, Iowa 50309

If to the Vendor:

[Vendor may provide one (1) contact]

11.11.2 Each such notice shall be deemed to have been provided:

11.11.2.1 At the time it is actually received; or,

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

11.11.2.3 Within five days after deposited the U.S. Mail in the case of registered U.S. Mail.

11.11.3 Copies of such notice to each party shall be provided separately.

11.11.4 From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

11.12 Cumulative Rights. The various rights, powers, options, elections and remedies of either party, provided in this Agreement, shall be construed as cumulative and no one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law. Nothing in this Agreement shall be construed as affecting, impairing or limiting the equitable or legal remedies to which either party may be entitled as a result of any breach of this Agreement.

11.13 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the invalid portion shall be severed from this Agreement. Such a determination shall not affect the validity or enforceability of any other part or provision of this Agreement.

11.14 *Express Warranties. The Vendor expressly warrants all aspects of the items and services provided by it or used by the Vendor and the IRHTP in performance of this Agreement.*

11.15 Warranty Regarding Solicitation. The Vendor warrants that no person or selling agency has been employed or retained to solicit and secure this Agreement upon an agreement or understanding for commission, percentage, brokerage or contingency except bona fide employees or selling agents maintained for the purpose of securing business.

11.16 Obligations of Joint Entities. If the Vendor is a joint entity consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the Agreement activities.

11.17 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 Vendor incurred or existing under this Agreement as of the date of expiration, termination or cancellation will survive the expiration, termination or cancellation of this Agreement.

11.18 Time is of the Essence. Time is of the essence with respect to the successful performance of the terms of this Agreement. The Vendor shall ensure that all personnel providing services to the IRHTP are responsive to the IRHTP's requirements in all respects.

11.19 Authorization. Each party to this Agreement represents and warrants to the other that it has the right, power and authority to enter into and perform its obligations under this Agreement and that it has taken all requisite action (corporate, statutory, or otherwise) to approve execution, delivery and performance of this Agreement. This Agreement constitutes a legal, valid and binding obligation upon the parties in accordance with its terms.

11.20 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.

11.21 Counterparts and Facsimile Signatures. The parties agree that this Agreement has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument. The parties further agree that the signatures on this Agreement or any amendment or schedule may be manual, scanned, or a facsimile signature of the person authorized to sign the appropriate document. All authorized scanned or facsimile signatures shall have the same force and effect as if manually signed.

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

11.23 Use of Third Parties/Prime Vendor Responsibilities. The IRHTP acknowledges that the Vendor may contract with third parties for the performance of any of the Vendor's obligations under this Agreement. All subcontracts shall be subject to advance written approval by the IRHTP. The Vendor may enter into these contracts to complete the project provided that the Vendor remains responsible for all services performed under this Agreement. All restrictions, obligations and responsibilities of the Vendor under this Agreement shall also apply to subcontractors. The IRHTP shall consider the Vendor to be the sole point of contact with regard to all matters related to this Agreement and is not required to initiate or maintain contact with any subcontractor. IRHTP may choose to deny use of any specific third party contractor at IRHTP's sole discretion, in which case the Vendor must obtain a different third party contractor.

11.24 Data Processing Warranty.

11.24.1 The Vendor warrants that each item of hardware, software, firmware, or a custom designed and developed software program or a system which is developed or delivered under, or used by Vendor in connection with its performance of this Agreement, shall accurately process data, including, but not limited to, calculating, comparing and sequencing, from, into, between and among the nineteenth, twentieth and twenty-first centuries, including leap year calculations, when used in accordance with the item(s) documentation provided by the Vendor.

11.24.2 If the items to be developed and delivered under this Agreement are to perform as a system with other hardware and/or software, then the warranty shall apply to the items developed and delivered as the items process, transfer, sequence data, or otherwise interact with other components or parts of the system. This warranty shall survive the term of this Agreement. The remedies available to the IRHTP for a breach of warranty includes, but is not limited to, repair or replacement of non-compliant items or systems.

11.24.3 Nothing in this warranty shall be construed to limit any rights or remedies of the IRHTP under this Agreement with respect to defects in the items other than the Data Processing Warranty.

11.25 Force Majeure. Neither Vendor nor the IRHTP shall be liable to the other for any delay or failure of performance of this Agreement; and no delay or failure of performance shall constitute a default or give rise to any liability for damages if, and only to the extent that, such delay or failure is caused by a "force majeure".

11.25.1 As used in this Agreement, "force majeure" includes acts of God, war, civil disturbance and any other causes which are beyond the control and anticipation of the party effected and which, by the exercise of reasonable diligence, the party was unable to anticipate or prevent. Failure to perform by a subcontractor or an agent of the Vendor shall not be considered a "force majeure" unless the subcontractor or supplier is prevented from timely performance by a "force majeure" as defined in this Agreement. "Force majeure" does not include: financial difficulties of the Vendor or any parent, subsidiary, affiliated or associated company of Vendor; claims or court orders which restrict Vendor's ability to deliver the goods or services contemplated by this Agreement.

11.25.2 If a "force majeure" delays or prevents Vendor's performance, the Vendor shall immediately commence to use its best efforts to directly provide alternate, and to the extent possible, comparable performance. Comparability of performance and the possibility of comparable performance shall be reasonably determined solely by the IRHTP.

11.25.3 During any such period, the Vendor shall continue to be responsible for all costs and expenses related to alternative performance.

11.25.4 This Section shall not be construed as relieving the Vendor of its responsibility for any obligation which is being performed by a subcontractor or supplier of services unless the subcontractor or supplier is prevented from timely performance by a "force majeure" as described here.

11.26 Records Retention and Access. The Vendor shall permit the Auditor of the State of Iowa or any authorized representative of the State or any authorized representative of the United States government, or USAC, to access and examine, audit, excerpt and transcribe any directly pertinent validation records, financial records, accounting records, books, documents, papers, electronic or optically stored and created records or other records of the Vendor relating to or created as a result of the performance of this Agreement. These records shall be made available to the State, its designees, the Auditor, or an authorized representative of the United States government, or USAC, at reasonable times and at no cost to the requesting organization during the term of this Agreement and for a period of at least (5) years following the termination, cancellation or expiration of this Agreement.

11.27 Taxes. IRHTP declares and Vendor acknowledges that the Vendor and its subcontractors may be subject to certain taxes including but not limited to sales tax, motor vehicle fuel tax, personal or corporate income tax or other taxes or assessments, and to licensing fees or other miscellaneous fees or charges which may be imposed by Federal, State or local law or ordinance. The Vendor and its subcontractors shall be solely responsible for the payment of such taxes. The Vendor shall promptly pay all such taxes, fees or charges when due. IRHTP is a tax-exempt entity and the Vendor shall not attempt to pass on any costs, including surcharges and fees, to the IRHTP that are attributable to federal, state, or local taxes, including sales tax, motor fuel tax, property tax, or personal or corporate income tax.

11.28 Further Assurances and Corrective Instruments. The Vendor agrees that it will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Agreement.

11.29 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 party. For purposes of construing this clause, a transfer of a controlling interest in Vendor shall be considered an assignment. If the State, in its sole

discretion, determines that the Vendor's assignment of this Agreement to another person or entity is not in the State's best interests, the State may elect to terminate this Agreement with the Vendor without penalty upon thirty (30) days written notice to the Vendor.

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

#### SECTION 12. BUSINESS DOWNTURN.

12.1 In the event of a business downturn or budget difficulties beyond the control of the IRHTP, including budget difficulties of other HCP's or the IRHTP or significant restructuring or reorganization, any of which significantly reduces the volume of OSP plant required by the IRHTP, with the result that IRHTP will be unable to meet its revenue or volume commitments under this Agreement, Vendor and the IRHTP will cooperate in efforts to develop a mutually agreeable alternative.

#### SECTION 13. REDUCTION OF RESOURCES.

13.1 If, during the Term, the IRHTP or the HCP's experience a change in the scope, nature or volume of its business, or if the IRHTP elects to change the manner or method by which it does business, the Vendor will be asked to reduce the level of Services to IRHTP under this Agreement. However any such reduction must not adversely impact upon Vendor's ability to reasonably perform its obligations under the Agreement.

13.2 In such event, Vendor shall estimate, in writing and in good faith, the aggregate decreased charges to Vendor from IRHTP's ceasing to perform such Services and shall provide such written estimate to IRHTP, no later than 30 days from Vendor's receipt of IRHTP's notice. IRHTP, upon receipt of such estimate, may then elect by written notice given to Vendor within 15 days following receipt of Vendor's written estimate to:

13.3 Withdraw its request for a cessation of part of the Services;

13.4 Implement such partial cessation of Services based upon the estimate of Vendor; or

13.5 Request that Vendor negotiate with IRHTP regarding the aggregate reduction in the Contract Services due to Vendor from IRHTP hereunder as a result of the partial cessation of Services. If IRHTP shall elect to request Vendor to negotiate, the parties shall promptly negotiate in good faith regarding the amount.

#### SECTION 14. 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 HOSPITAL ASSOCIATION ON BEHALF OF IRHTP**

By:

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

Name: Mr. Art Spies

Title: Project Coordinator - IRHTP

**(Vendor Name to be placed HERE)**

By:

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

Name:

Title:

**ATTACHMENT 1 – PART II**  
**QUALITY ASSURANCE INSPECTION SERVICES**  
**CONTRACTUAL TERMS AND CONDITIONS**  
**RFP 08-001**

SECTION 1. TERM. This Agreement is effective [EFFECTIVE DATE WILL BE LISTED], and will continue through (project completion).

SECTION 2. DOCUMENTS INCORPORATED BY REFERENCE.

2.1 Incorporation of Bid Proposal Documents. The IRHTP RFP 08-001 and the Vendor's bid proposal in response to this RFP, together with any clarifications, attachments, appendices, amendments or other writings of the IRHTP or the Vendor (collectively bid proposal) are incorporated into this Agreement by this reference as if fully set forth in this Agreement.

2.2 Contractual Obligations of Vendor. The terms and conditions of the bid proposal and of the RFP are made contractual obligations of the Vendor.

2.3 Contents of Agreement. The parties acknowledge that this Agreement consists of this document as well as the RFP and the bid proposal and that the parties are obligated to perform as set forth in the RFP and the bid proposal to the same extent that they are obligated to perform the specific duties set forth in this document.

2.3.1 Order of Preference. In the case of any inconsistency or conflict between the specific provisions of this document, the RFP or the bid proposal, any inconsistency or conflict shall be resolved as follows:

2.3.5 First, by giving preference to the specific provisions of this Agreement.

2.3.6 Second, by giving preference to the specific provisions of the RFP.

2.3.7 Third, by giving preference to the specific provisions of the bid proposal.

2.4 Intent of References to Bid Documents. The references to the parties' obligations, which are contained in this document, are intended to change, supplement or clarify the obligations as stated in the RFP and the bid proposal. The failure of the parties to make reference to the terms of the RFP or bid proposal in this document shall not be construed as creating a conflict and will not relieve the Vendor of the contractual obligations imposed by the terms of the RFP and the bid proposal. Terms offered in the bid proposal, which exceed the requirements of the RFP, shall not be construed as creating an inconsistency or conflict with the RFP or this document. The contractual obligations of the IRHTP cannot be implied from the bid proposal.

SECTION 3. DEFINITIONS. The following words shall have the meanings set forth below. Words in the singular shall be held to include the plural and vice versa, and words of gender shall be held to include the other gender as the context requires. For the purposes of this Contract, the following terms and all other terms defined in this Contract shall have the meanings so defined unless the context clearly indicates otherwise.

3.1 "IHA" shall mean the Iowa Hospital Association

3.2 "IRHTP" shall mean the Iowa Rural Health Telecommunications Program

3.3 "Vendor" shall mean [Vendor will be listed].

SECTION 4. SCOPE OF WORK

4.1 Vendor shall provide the IRHTP Quality Assurance Inspection Services on an "as needed" basis, determined by the IRHTP, and shall work with the IRHTP Project Coordinator, Staff, and key managers.

4.2 The following is a list of the abilities, knowledge, services and/or support items the Vendor shall provide on an "as needed" basis, upon request of the IRHTP. All services shall be coordinated by Mr. Art Spies, (515) 288-1955 and [spiesa@ihaonline.org](mailto:spiesa@ihaonline.org).

4.2.1 (VENDOR) Quality Assurance General Requirements:

- 4.2.1.1 Shall be able to begin work immediately upon contract signature.
- 4.2.1.2 Work shall be completed within individual project guidelines as assigned.
- 4.2.1.3 Shall have a minimum of 5 years buried outside plant project experience, in telecommunications & technology.
- 4.2.1.4 Shall possess excellent customer services skills – able to communicate effectively.
- 4.2.1.5 Shall possess superior soft skills including the ability to work with clients, negotiate requirements between stake holders, work on a team, lead and facilitate meetings, and the ability to adapt to existing processes.
- 4.2.1.6 Shall complete assignments in a timely manner and submit weekly status reports indicating progress on assigned tasks, meet assigned project due dates, and identify and suggest resolutions for issues having a potential to adversely impact performance and/or the project.
- 4.2.1.7 Shall maintain a positive working relationship with coworkers, supervisors, and management, as well as present a positive team-oriented attitude and customer focus.
- 4.2.1.8 Shall adhere to IRHTP work rules and processes.
- 4.2.1.9 Shall produce written and verbal English language instructions.
- 4.2.1.10 Shall understand written and verbal English language, presentation materials, documentation, requirement statements, problem descriptions and other forms of communication for interaction with team members and managers.
- 4.2.1.11 Shall have knowledge of the current IRHTP Network design and/or similar or comparable networks.

4.2.2 (VENDOR) Quality Assurance Required Skill Sets:

- 4.2.2.1 Shall have an extensive knowledge of buried fiber optic networks.
- 4.2.2.2 Shall be able to coordinate personnel from various external groups to facilitate projects to successful completion.
- 4.2.2.3 Shall have a detailed understanding of the construction of each link-segment he is overseeing.

4.2.3 (VENDOR) Quality Assurance Tasks: (in no particular order)

- 4.2.3.1 Vendor is responsible to ensure all construction specifications outlined are continually followed and fully met by construction contractors. If it is determined at any time that construction practices are sub-standard, this shall be considered grounds for (VENDOR) contract termination, reduced compensation and/or other remedies available as described in the contract
- 4.2.3.2 This Contract will allow the (Vendor) to utilize the Quality Assurance Services (VENDOR) agrees to provide. The IRHTP shall have full approval of any personnel and/or services that (VENDOR) provides to the IRHTP.

4.2.3.3 Any or all services provided by (VENDOR) and/or their personnel shall become the property of the IRHTP. (VENDOR) shall not retain any rights to or copies of the works made for hire. All products, processes, items, programs, code, etc. and any and all other IRHTP items assisted by (VENDOR) personnel as part of this contract shall belong to and are the property of the IRHTP. (VENDOR) agrees that no item produced under this contract shall be retained by (VENDOR) and all computerized, paper copy, graphics file, or record in any format whatsoever of all items created under this contract shall NOT BE retained by (VENDOR) once the task or project is complete. All material must be turned over to IRHTP at end of project.

4.2.3.4 Following five (5) days written notice, the IRHTP may terminate this Agreement in whole or in part for convenience without the payment of any penalty or incurring any further obligation to Vendor. Termination for Convenience can be for any reason or no reason at all if it is in the best interests of the IRHTP. If contract is terminated prior to contract conclusion all items created up to termination date under this contract as denoted in the above paragraph shall be given to IRHTP and (VENDOR) shall certify that (VENDOR) or any of its employees has retained no item.

4.2.4 This contract may be amended in whole or in part by mutual agreement of both parties.

## SECTION 5. COMPENSATION.

### 5.1 Payment Terms – Progress Payments

5.1.1 USAC and IRHTP will disburse funds based on monthly submissions (*i.e.*, invoices) of actual incurred eligible expenses, and will respond to vendor invoices in accordance with its current bi-monthly invoicing payment plan. This invoice process will permit disbursement of funds to ensure that the selected Participants' network projects proceed, while allowing USAC and the FCC to monitor expenditures in order to ensure compliance with the program and prevent waste, fraud, and abuse.

5.1.2 Upon award of contract for a link-segment, the Vendor will assist the IRHTP project coordinator in the development of a USAC Network Cost Worksheet. (NCW) This work sheet will list the primary tasks to be completed for each link-segment. When specific line items are completed on each NCW, the Vendor may submit it for a progress payment. As soon as the line item completion is approved by the IRHTP project coordinator the vendor will be paid 15% of the line item amount by the specific HCP served by the link-segment. The Vendor will acknowledge receipt of the 15% payment and forward appropriate forms to USAC for payment of the remaining 85%. USAC will honor requests for payment twice each month.

The invoices when submitted must certify by signature that all construction specifications were met during the covered period on the specified segment and show the contract number and project/site number on each invoice. If the IRHTP disputes the amount of any invoice, the IRHTP will notify the Vendor of the dispute within 10 days of receipt of the invoice. IRHTP may withhold payment of the disputed amount until the dispute is resolved.

5.1.2.1 Retainer - Payment tied to Performance. The IRHTP shall withhold 10% of the fee for the project until the IRHTP has provided Final Acceptance of the project and all reports are received and approved by the IRHTP. Upon Final Acceptance, the Vendor shall submit an invoice to the IRHTP requesting payment of the remaining 10% of the fee for the project. The invoice shall contain appropriate documentation as necessary to support the fee included on the invoice and shall comply with all applicable rules concerning payment of such fees.

5.1.2.2 Monitoring. The IRHTP shall monitor the Vendor's compliance with the scope of work and deadlines established for the project.

5.1.2.3 Review. Once the IRHTP has verified 100% completion of the project, the IRHTP shall review the Vendor's performance history under the Agreement and shall submit the Vendor's Invoice to USAC for payment of the 10% retainer. The retainer will be paid only upon Final Approval of the project, satisfactory restoration of any infrastructure or landscape disturbed by the cable installation process, site and route cleanup, and receipt of the as-built drawings.

5.2 Delay of Payment Due To Vendor's Failure. If the IRHTP in good faith determines that the Vendor has failed to perform or deliver any service or product as required by this Contract, the Vendor shall not be entitled to any compensation under this Contract until such service or product is completed or delivered. In the event of partial performance, the IRHTP may withhold that portion of the Vendor's compensation, which represents payment for the unsatisfactory services.

5.3 The IRHTP shall audit the invoices presented to the IRHTP to ensure that they are proper, current and correct. The Vendor has 30 days from the date of invoice to present and resolve any discrepancies with the IRHTP. The IRHTP shall notify the Vendor of any and all discrepancies that the audit(s) reveals.

SECTION 6. INSURANCE.

6.1 Coverage Requirements. The Vendor, and any subcontractors performing the services required under this Agreement, shall maintain in full force and effect, with insurance companies of recognized responsibility, at its own expense, insurance covering its work during the entire term of this Agreement and any extensions or renewals thereof. The insurance shall be of the type and in the amounts as reasonably required by the IRHTP. The Vendor's insurance shall, among other things, insure against any loss or damage resulting from or related to the Vendor's performance of this Agreement. All such insurance policies should remain in full force and effect for the entire life of this Agreement and shall not be canceled or changed except with the advance written approval of the IRHTP.

6.2 Types of Coverage. Unless otherwise requested by the IRHTP, Vendor shall, at its sole cost, cause to be issued and maintained during the entire term of this Agreement (and any extensions or renewals thereof) the insurance coverage's set forth below, each naming the State of Iowa and the IRHTP additional insured or loss payees, as applicable:

| <i>Type</i>  | <i>Amount</i>           |
|--|-------------------------|
| Workers Compensation and Employer Liability  | As Required By Iowa Law |
| General Liability (including contractual liability) written on an occurrence basis                 |                         |
| GENERAL AGGREGATE  | \$3 million             |
| PRODUCT LIABILITY  | \$1 million             |
| PERSONAL INJURY  | \$1 million             |
| COMPREHENSIVE AGGREGATE  | \$1 million             |
| EACH OCCURRENCE  | \$1 million             |
| Automobile Liability, including any auto, hired autos and non owned autos<br>COMBINED SINGLE LIMIT | \$1 million             |
| Errors and Omissions liability insurance   | \$500,000               |

6.3 Coverage for HCP Property on ICN Controlled Premises. The policies shall provide coverage for damages to the HCP's property, or on premises under the control of the ICN and/or the State of Iowa.

6.4 Errors and Omissions Insurance. Prior to signing contract, the Vendor awarded the contract for Chapter 3 Part II will be required to procure "Errors and Omissions" liability insurance in the amount of not less than \$500,000, naming the IRHTP as one of the additional insured or loss payees.

6.4.1 A Performance Bond may be filed with the IRHTP in lieu of an "Errors and Omissions" Insurance policy as long as it names the IRHTP as one of the additional insured or loss payees.

6.4.2 No Bid Bond is required.

6.4.3 No Litigation Bond is required

6.5 Claims Made Coverage. All insurance policies required by this Agreement must provide coverage for all claims arising from activities occurring during the term of the policy regardless of the date the claim is filed or expiration of the policy.

6.6 Notice Regarding Cancellation. Certificates of insurance, which provide that the IRHTP will be notified at least thirty (30) days prior to cancellation of the coverage required by this Agreement must be provided by the Vendor and any subcontractors to the IRHTP at the time of execution of the Agreement or at a time mutually agreeable to the parties.

6.7 No Limitation of Liability. The receipt of insured certificates by the IRHTP does not constitute approval of the coverage contained in the certificates, and the Vendor remains responsible for determining that its insurance coverage meets each and every requirement of this Agreement. Acceptance of the insurance certificates by the IRHTP shall not act to relieve the Vendor of any obligation under this Agreement. Only companies authorized to transact business in the State of Iowa shall issue the insurance policies and certificates required by this Section. It shall be the responsibility of the Vendor to keep the respective insurance policies and coverages current and in force during the life of this Agreement.

6.8 Warranty. The Vendor warrants that it has examined its insurance coverage to determine that the State of Iowa and the IRHTP can be named as additional insured without creating an adverse effect on the Vendor's coverage.

6.9 Waiver of Subrogation Rights. The Vendor shall obtain a waiver of any subrogation rights that any of its insurance carriers might have against State of Iowa and the IRHTP. The waiver of subrogation rights shall be indicated on the certificates of insurance coverage supplied to the IRHTP.

SECTION 7. CONFIDENTIAL INFORMATION.

7.1 During the course of this Agreement each party may disclose, to the other either directly or indirectly, certain data that is proprietary which shall be referred to as "Confidential Information" of the disclosing party and which must remain confidential. Confidential Information may include without limitation, among other things, such items as security information, user information, data, knowledge, trade secrets and other proprietary information, methodologies, developments, software, software documentation, inventions, processes, and other nonpublic information in oral, graphic, written, electronic or machine readable form.

7.2 All written or electronic Confidential Information shall be clearly marked as Confidential Information by the party providing the Confidential Information at the time of disclosure to the other party.

7.3 If the Confidential Information is disclosed orally, and reduced to writing, the receiving party must treat the information as Confidential Information.

7.4 The Vendor shall limit such identification to information it reasonably believes it is entitled to confidential treatment pursuant to FCC, USAC or other applicable law.

7.5 The obligations of this Agreement do not apply to Confidential Information which:

7.5.1 Was rightfully in the possession of the receiving party from a source other than the disclosing party prior to the time of disclosure of the Confidential Information to receiving party.

7.5.2 Was known to the receiving party prior to the disclosure of the Confidential Information from the disclosing party;

7.5.3 Was disclosed to the receiving party without restriction by an independent third party having a legal right to disclose the Confidential Information;

7.5.4 Becomes public knowledge, other than through an act or failure to act by the disclosing party;

7.5.5 Is publicly available or in the public domain when provided;

7.5.6 Is independently developed by the disclosing party; or

7.5.7 Is disclosed pursuant to law, subpoena or the order of a court or government authority.

7.6 The parties shall have the following duties relating to the Confidential Information:

7.6.1 The Vendor shall designate one individual who shall remain the responsible authority in charge of all data collected, used or disseminated by the Vendor in connection with the performance of this Agreement. The Vendor 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 and confidential data shall remain the property of the IRHTP at all times.

7.6.2 The Confidential Information of either party shall be held in strict confidence by the receiving party and shall not be disclosed or used by the receiving party without the prior written consent of the disclosing party, except as provided in this Agreement or as may be required by law pursuant to available confidentiality restrictions.

7.6.3 The parties shall use their best efforts to protect the Confidential Information in its possession.

7.6.4 The parties shall restrict disclosure of the Confidential Information solely to those of its employees, agents, consultants and attorneys with a need to know in order to accomplish the purpose of this Agreement.

7.6.5 The parties shall protect the Confidential Information from disclosure to or access by unauthorized persons.

7.6.6 The parties shall use the Confidential Information solely for the purpose of this Agreement and for no other purpose.

7.6.7 The parties shall not duplicate the Confidential Information in any form, except as may be necessary to accomplish the purpose of this Agreement.

7.6.8 The parties shall advise each of its employees, agents, consultants and attorneys who receive the Confidential Information of the obligations of confidentiality and restrictions on the use set forth herein.

7.6.9 The parties shall immediately return the Confidential Information and all copies thereof, to each other upon the earlier of the expiration of the need therefore or the termination of this Agreement in order to accomplish the purpose.

7.7 The provisions of this Agreement shall apply to all Confidential Information disclosed by the parties to each other over the course of this Agreement. The parties' obligations under this provision shall survive termination of this Agreement and shall be perpetual.

7.8 The Vendor shall indemnify the IRHTP for a violation of this Section. The Vendor shall notify the IRHTP prior to the destruction of these materials and shall provide the IRHTP with the opportunity for proper destruction of these materials.

7.9 No Confidential Information will be exported to any country in violation of the United States Export Administration Act and the regulations there under.

## SECTION 8. VENDOR WARRANTIES.

8.1 Construction of Warranties Expressed in this Agreement with Warranties Implied by Law. All warranties made by the Vendor in all provisions of this Agreement and the bid proposal by the Vendor, whether or not this Agreement specifically denominates the Vendor's promise as a warranty or whether the warranty is created only by the Vendor'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 IRHTP, 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 the Vendor.

8.2 The Vendor warrants that all the concepts, materials produced, the work product and the information, data, designs, processes, inventions, techniques, devices, and other such intellectual property furnished, used, or relied upon by the Vendor or the IRHTP will not infringe any copyright, patent, trademark, trade dress, or other intellectual property right of the Vendor or others. Any intellectual property provided to the IRHTP pursuant to the terms of this Agreement, shall be wholly original with the Vendor or the Vendor has secured all applicable interests, rights, licenses, permits, or other intellectual property rights in such concepts, materials and work.

8.3 The Vendor represents and warrants that the concepts, materials and the IRHTP's use of same and the exercise by the IRHTP of the rights granted by this Agreement shall not infringe upon any other work, other than material provided by the IRHTP to the Vendor 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.

8.4 The Vendor 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.

8.5 The Vendor warrants that the deliverables under this Agreement will operate in conformance with the terms and conditions of this Agreement.

8.6 The Vendor warrants that it has full authority to enter into this Agreement and that it has not granted and will not grant any right or interest to any person or entity that might derogate, encumber, or interfere with the rights granted to the IRHTP.

8.7 The Vendor warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Vendor pursuant to this Agreement are or will be fully satisfied by the Vendor so that the IRHTP will not have any obligations with respect thereto.

8.8 The Vendor warrants that it is the owner of or otherwise has the right to use and distribute the software, the materials owned by the Vendor and any other materials, and methodologies used in connection with providing the services contemplated by this Agreement.

8.9 The Vendor expressly warrants to the standards in the industry all aspects of the goods and services provided by it or used by the Vendor and the IRHTP in performance of this Agreement.

8.10 The Vendor unconditionally warrants that all equipment supplied and installed for the purpose of fulfilling its obligations under this Agreement are fit for the purpose intended, that it complies with industry standards and that the equipment is compatible with the State's equipment.

**SECTION 9. INDEMNIFICATION BY VENDOR.** The Vendor agrees to defend, indemnify and hold the IRHTP, and the State of Iowa, its employees, agents, board members, appointed officials and elected officials, harmless from any and all demands, debts liabilities, damages, loss, claims, suits or actions, settlements, judgments, costs and expenses, including the reasonable value of time expended by the Attorney General's Office, and the costs and expenses and attorney fees of other counsel required to defend the IRHTP or the State of Iowa related to or arising from:

9.1 Any violation or breach of this Agreement including, without limitation, any of the Vendor's representations or warranties; or

9.2 Any acts or omissions, including, without limitation, negligent acts or omissions or willful misconduct of Vendor, its officers, employees, agents, board members, contractors, subcontractors, or counsel employed

by Vendor in the performance of this Agreement, or any other reason in connection with the goods and services provided under this Agreement; or

9.3 Claims for any violation of any intellectual property right including but not limited to infringement of patents, trademarks, trade dress, trade secrets, or copyrights arising from the any of the goods or service performed in accordance with this Agreement; or

9.4 The Vendor's performance or attempted performance of this Agreement; or

9.5 Any failure by the Vendor to comply with all local, State and Federal laws and regulations; or

9.6 Any failure by the Vendor to make all reports, payments and withholdings required by Federal and State law with respect to social security, employee income and other taxes, fees or costs required by the Vendor to conduct business in the State of Iowa.

9.7 The Vendor's duty to indemnify as set forth in this Section shall survive the expiration or termination of this Agreement and shall apply to all acts taken in the performance of this Agreement regardless of the date any potential claim is made or discovered by the IRHTP.

## SECTION 10. TERMINATION.

10.1 Termination For Lack Of Authority or Funding. Notwithstanding anything in this Agreement to the contrary and subject to the limitations, conditions and procedures set forth below, the IRHTP shall have the right to terminate this Agreement without penalty and without any advance notice as a result of any of the following:

10.1.1 The Legislature or Governor fails, in the sole opinion of the IRHTP, to appropriate funds sufficient to allow the IRHTP, the HCP's, or any state agency or department charged with responsibility to perform any of the IRHTP's obligations under this Agreement, to either meet its obligations under this Agreement or to operate as required to fulfill its obligations under this Agreement; or

10.1.2 If funds are de-appropriated, not allocated or if the funds needed by the IRHTP, in the IRHTP's sole discretion, are insufficient for any other reason; or

10.1.3 If the IRHTP's, or USAC's authorization to conduct its business is withdrawn or there is a material alteration in the programs or any other program the IRHTP administers; or

10.1.4 If the IRHTP's duties are substantially modified.

10.1.5 Written Notice of Cancellation. The IRHTP shall provide Vendor with written notice of cancellation pursuant to this Section.

10.2 Termination for Cause. The IRHTP may terminate this Agreement upon written notice for the substantial breach by Vendor of any material term if such breach is not cured by Vendor within the time period specified in the IRHTP's notice of breach or any subsequent notice or correspondence delivered by the IRHTP to Vendor. If a cure is feasible and an opportunity to cure is provided, the notice shall specify the exact date by which the condition must be cured. Following expiration of the opportunity to cure or notice from the IRHTP, the IRHTP may seek any legal or equitable remedy authorized by this Agreement or by law. Substantial breach events include but are not limited to the following:

10.2.1 Vendor fails to perform as required by this Agreement.

10.2.2 Vendor fails to make substantial and timely progress toward performance or fails to meet any of the material specifications and requirements stated in this Agreement, including without limitation the warranties provided in this Agreement, in the RFP or in the Vendor's bid proposal.

10.3 Termination for Convenience. Following 30 days written notice, the IRHTP may terminate this Agreement in whole or in part for convenience without the payment of any penalty or incurring any further

obligation to the Vendor. Termination for Convenience can be for any reason or no reason at all if it is in the best interests of the IRHTP.

10.4 Immediate Termination. The IRHTP may terminate this Agreement effective immediately without advance notice and without penalty for any of the following reasons:

10.4.1 Vendor furnished any statement, representation, warranty or certification in connection with this Agreement, which is materially false, deceptive, incorrect or incomplete.

10.4.2 Vendor fails to perform, to the IRHTP's satisfaction, any material requirement of this Agreement or is in violation of any material provision of this Agreement, including, without limitation, the express warranties made by the Vendor.

10.4.3 The IRHTP determines that satisfactory performance of this Agreement is substantially endangered or that a default is likely to occur.

10.4.4 Vendor becomes subject to any bankruptcy or insolvency proceeding under Federal or State law to the extent allowed by applicable Federal or State law including bankruptcy laws.

10.4.5 Vendor terminates or suspends its business.

10.4.6 The IRHTP reasonably believes that Vendor has become insolvent or unable to pay its obligations as they accrue consistent with applicable Federal or State law.

10.4.7 It is alleged that Vendor's processes or materials violate any valid patent, trademark, copyright, other intellectual property right or contract, and the IRHTP reasonably believes that the allegation may impair Vendor's performance of this Agreement.

10.4.8 Vendor has failed to comply with all applicable Federal, State, and local laws, rules, ordinances, regulations and orders when performing within the scope of this Agreement.

10.4.9 Vendor has engaged in conduct that has or may expose the IRHTP to liability, as determined in the IRHTP's sole discretion.

10.4.10 Vendor has a conflict of interest that interferes with fair competition or conflicts with an interest of the IRHTP as determined in the IRHTP's sole discretion.

10.5 In the event of termination of this Agreement for any reason by USAC or the IRHTP, USAC and the IRHTP shall pay only the amounts, if any, due and owing to Vendor for services actually rendered up to and including the date of termination of the Agreement and for which the USAC and the IRHTP is obligated to pay pursuant to this Agreement. Payment will be made only upon submission of invoices and proper proof of Vendor's claim. This provision in no way limits the remedies available to USAC or the IRHTP in the event of a termination under this provision. However, the USAC or the IRHTP shall not be liable for any of the following costs:

10.5.1 The payment of Unemployment Compensation to Vendor's employees;

10.5.2 The payment of Workers' Compensation claims which occur during the Agreement or extend beyond the date on which the Agreement terminates.

10.5.3 Any costs incurred by Vendor in its performance of the Agreement including but not limited to startup costs, overhead or other costs associated with the performance of the Agreement.

10.5.4 Any taxes that may be owed by Vendor for the performance of this Agreement including but not limited to sales taxes, excise taxes, use taxes, income taxes or property.

10.6 Vendor Obligations upon Termination. Upon expiration or termination of this Agreement, or upon request of the IRHTP, the Vendor shall:

10.6.1 Immediately cease using and return to the IRHTP any personal property or material, whether tangible or intangible, provided by the IRHTP to the Vendor and in its, or any subcontractor's, control or possession;

10.6.2 Upon request from the IRHTP, destroy any personal property or material, whether tangible or intangible at no additional cost to the IRHTP, and verify in writing that the designated property or material has been destroyed;

10.6.3 Comply with the IRHTP's instructions for the timely transfer of active files and work being performed by Vendor under this Agreement to the IRHTP or the IRHTP's designee;

10.6.4 Protect and preserve property in the possession of the Vendor in which the IRHTP has an interest;

10.6.5 Stop work under this Agreement on the date specified in any notice of termination provided by the IRHTP;

10.6.6 Cooperate in good faith with the IRHTP, its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement Vendor.

10.7 Care of Property. The Vendor shall be responsible for the proper custody and care of any of the HCP or State owned tangible personal property furnished for the Vendor's use in connection with the performance of the Agreement, and the Vendor will reimburse the IRHTP or the State for such property's loss or damage caused by the Vendor, normal wear and tear excepted.

10.8 Reduction of Resources. If, during the Term, the IRHTP experiences a change in the scope, nature or volume of its business, or if the IRHTP elects to change the manner or method by which it does business (including, but not limited to, an election by Iowa Legislature to effect a sale or other disposition of material assets), which have or may have the effect of causing a decrease in the quantity or quality of the Services that will be needed by IRHTP, then IRHTP may request Vendor to reduce the level of Services and the annual Service charges to IRHTP under this Agreement. However any such reduction must not adversely impact upon Vendor's ability to reasonably perform its obligations under the Agreement.

## SECTION 11. CONTRACT ADMINISTRATION.

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

### 11.2 Compliance with the Law and Regulations.

11.2.1 Compliance with the Law and Regulations. Vendor shall comply with all applicable Federal, State, and local laws, rules, ordinances, regulations and orders when performing within the scope of this Agreement, including, without limitation, all laws applicable to the prevention of discrimination in employment, the administrative rules of the Iowa Department of Management or the Iowa Civil Rights Commission which pertain to equal employment opportunity and affirmative action, laws relating to prevailing wages, occupational safety and health standards, prevention of discrimination in employment, payment of taxes, gift laws, lobbying laws and laws relating the use of targeted small businesses as subcontractors or suppliers.

11.2.2 The Vendor 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, including, without limitation, laws governing State of Iowa procurement and contracting.

11.2.3 The Vendor shall give notice to any labor union with which it has a bargaining or other agreement of its commitment under this section of the Agreement. The Vendor shall make the

provisions of this Section a part of its contracts with any subcontractors providing goods or services related to the fulfillment of this Agreement.

11.2.4 The Vendor shall comply with all of the reporting and compliance standards regarding equal employment.

11.2.5 The Vendor may be required to submit its affirmative action plan

11.2.6 The IRHTP may consider the failure of the Vendor to comply with any law or regulation as a material breach of this Agreement. In addition, the Vendor may be declared ineligible for future USAC contracts or be subjected to other sanctions for failure to comply with this Section.

11.3 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.

11.4 Third Party Beneficiaries. There are no third party beneficiaries to this Agreement. This Agreement is intended only to benefit IRHTP and the Vendor.

11.5 Choice of Law and Forum.

11.5.1 The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Agreement without regard to the choice of law provisions of Iowa law.

11.5.2 In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Agreement, the exclusive jurisdiction for the proceeding shall be brought in Polk County District Court for the State of Iowa, Des Moines, Iowa, or in the United States District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa wherever jurisdiction is appropriate.

11.5.3 This provision shall not be construed as waiving any immunity to suit or liability including, without limitation, sovereign immunity in State or Federal court, which may be available to the IRHTP or the State of Iowa.

*11.6 Integration. This Agreement, including all the documents incorporated by reference, represents the entire Agreement between the parties and neither party is relying on any representation that may have been made which is not included in this Agreement. The parties agree that if a Schedule, Addendum, Rider or Exhibit or other document is attached hereto by the parties, and referred to herein, then the same shall be deemed incorporated herein by reference.*

11.7 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/principal relationship) between the parties hereto. No party, unless otherwise specifically provided for herein, has the authority to enter into any agreement or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Agreement.

11.8 Consent to Service. The Vendor irrevocably consents to service of process by certified or registered mail addressed to the Vendor's designated agent. The Vendor appoints \_\_\_\_\_ at \_\_\_\_\_ as its agent to receive service of process. If for any reason the Vendor's agent for service is unable to act as such or the address of the agent changes, the Vendor shall immediately appoint a new agent and provide the IRHTP with written notice of the change in agent or address. Any change in the appointment of the agent or address will be effective only upon actual receipt by the IRHTP. Nothing in this provision will alter the right of the IRHTP to serve process in another manner permitted by law.

11.9 Supersedes Former Agreements. This Agreement supersedes all prior Agreements between the IRHTP and the Vendor for the services provided in connection with this Agreement.

11.10 Waiver. Any breach or default by either party shall not be waived or released other than in writing or by a written notice signed by the other party. 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.

#### 11.11 Notices.

11.11.1 Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to each party as set forth as follows:

If to the IRHTP:

Mr. Art Spies  
Iowa Hospital Association  
100 East Grand Ave – Suite 100  
Des Moines, Iowa 50309

If to the Vendor:

[Vendor may provide one (1) contact]

11.11.2 Each such notice shall be deemed to have been provided:

11.11.2.1 At the time it is actually received; or,

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

11.11.2.3 Within five days after deposited the U.S. Mail in the case of registered U.S. Mail.

11.11.3 Copies of such notice to each party shall be provided separately.

11.11.4 From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

11.12 Cumulative Rights. The various rights, powers, options, elections and remedies of either party, provided in this Agreement, shall be construed as cumulative and no one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law. Nothing in this Agreement shall be construed as affecting, impairing or limiting the equitable or legal remedies to which either party may be entitled as a result of any breach of this Agreement.

11.13 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the invalid portion shall be severed from this Agreement. Such a determination shall not affect the validity or enforceability of any other part or provision of this Agreement.

*11.14 Express Warranties. The Vendor expressly warrants all aspects of the items and services provided by it or used by the Vendor and the IRHTP in performance of this Agreement.*

11.15 Warranty Regarding Solicitation. The Vendor warrants that no person or selling agency has been employed or retained to solicit and secure this Agreement upon an agreement or understanding for commission, percentage, brokerage or contingency except bona fide employees or selling agents maintained for the purpose of securing business.

11.16 Obligations of Joint Entities. If the Vendor is a joint entity consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the Agreement activities.

11.17 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 Vendor incurred or existing under this Agreement as of the date of expiration, termination or cancellation will survive the expiration, termination or cancellation of this Agreement.

11.18 Time is of the Essence. Time is of the essence with respect to the successful performance of the terms of this Agreement. The Vendor shall ensure that all personnel providing services to the IRHTP are responsive to the IRHTP's requirements in all respects.

11.19 Authorization. Each party to this Agreement represents and warrants to the other that it has the right, power and authority to enter into and perform its obligations under this Agreement and that it has taken all requisite action (corporate, statutory, or otherwise) to approve execution, delivery and performance of this Agreement. This Agreement constitutes a legal, valid and binding obligation upon the parties in accordance with its terms.

11.20 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.

11.21 Counterparts and Facsimile Signatures. The parties agree that this Agreement has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument. The parties further agree that the signatures on this Agreement or any amendment or schedule may be manual, scanned, or a facsimile signature of the person authorized to sign the appropriate document. All authorized scanned or facsimile signatures shall have the same force and effect as if manually signed.

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

11.23 Use of Third Parties/Prime Vendor Responsibilities. The IRHTP acknowledges that the Vendor may contract with third parties for the performance of any of the Vendor's obligations under this Agreement. All subcontracts shall be subject to advance written approval by the IRHTP. The Vendor may enter into these contracts to complete the project provided that the Vendor remains responsible for all services performed under this Agreement. All restrictions, obligations and responsibilities of the Vendor under this Agreement shall also apply to subcontractors. The IRHTP shall consider the Vendor to be the sole point of contact with regard to all matters related to this Agreement and is not required to initiate or maintain contact with any subcontractor. IRHTP may choose to deny use of any specific third party contractor at IRHTP's sole discretion, in which case the Vendor must obtain a different third party contractor.

11.24 Not Used

11.25 Force Majeure. Neither Vendor nor the IRHTP shall be liable to the other for any delay or failure of performance of this Agreement; and no delay or failure of performance shall constitute a default or give rise to any liability for damages if, and only to the extent that, such delay or failure is caused by a "force majeure".

11.25.1 As used in this Agreement, "force majeure" includes acts of God, war, civil disturbance and any other causes which are beyond the control and anticipation of the party effected and which, by the exercise of reasonable diligence, the party was unable to anticipate or prevent. Failure to perform by a subcontractor or an agent of the Vendor shall not be considered a "force majeure" unless the subcontractor or supplier is prevented from timely performance by a "force majeure" as defined in this Agreement. "Force majeure" does not include: financial difficulties of the Vendor or any parent, subsidiary, affiliated or associated company of Vendor; claims or court orders which restrict Vendor's ability to deliver the goods or services contemplated by this Agreement.

11.25.2 If a "force majeure" delays or prevents Vendor's performance, the Vendor shall immediately commence to use its best efforts to directly provide alternate, and to the extent possible,

comparable performance. Comparability of performance and the possibility of comparable performance shall be reasonably determined solely by the IRHTP.

11.25.3 During any such period, the Vendor shall continue to be responsible for all costs and expenses related to alternative performance.

11.25.4 This Section shall not be construed as relieving the Vendor of its responsibility for any obligation which is being performed by a subcontractor or supplier of services unless the subcontractor or supplier is prevented from timely performance by a "force majeure" as described here.

*11.26 Records Retention and Access. The Vendor shall permit the Auditor of the State of Iowa or any authorized representative of the State or any authorized representative of the United States government, or USAC, to access and examine, audit, excerpt and transcribe any directly pertinent validation records, financial records, accounting records, books, documents, papers, electronic or optically stored and created records or other records of the Vendor relating to or created as a result of the performance of this Agreement. These records shall be made available to the State, its designees, the Auditor, or an authorized representative of the United States government, or USAC, at reasonable times and at no cost to the State during the term of this Agreement and for a period of at least (5) years following the termination, cancellation or expiration of this Agreement.*

11.27 Taxes. IRHTP declares and Vendor acknowledges that the Vendor and its subcontractors may be subject to certain taxes including but not limited to sales tax, motor vehicle fuel tax, personal or corporate income tax or other taxes or assessments, and to licensing fees or other miscellaneous fees or charges which may be imposed by Federal, State or local law or ordinance. The Vendor and its subcontractors shall be solely responsible for the payment of such taxes. The Vendor shall promptly pay all such taxes, fees or charges when due. IRHTP is a tax-exempt entity and the Vendor shall not attempt to pass on any costs, including surcharges and fees, to the IRHTP that are attributable to federal, state, or local taxes, including sales tax, motor fuel tax, property tax, or personal or corporate income tax.

11.28 Further Assurances and Corrective Instruments. The Vendor agrees that it will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Agreement.

11.29 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 party. For purposes of construing this clause, a transfer of a controlling interest in Vendor shall be considered an assignment. If the State, in its sole discretion, determines that the Vendor's assignment of this Agreement to another person or entity is not in the State's best interests, the State may elect to terminate this Agreement with the Vendor without penalty upon thirty (30) days written notice to the Vendor.

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

## SECTION 12. BUSINESS DOWNTURN.

12.1 In the event of a business downturn or budget difficulties beyond the control of the IRHTP, including budget difficulties of other HCP's or the IRHTP or significant restructuring or reorganization, any of which significantly reduces the volume of OSP plant required by the IRHTP, with the result that IRHTP will be unable to meet its revenue or volume commitments under this Agreement, Vendor and the IRHTP will cooperate in efforts to develop a mutually agreeable alternative.

## SECTION 13. REDUCTION OF RESOURCES.

13.1 If, during the Term, the IRHTP or the HCP's experience a change in the scope, nature or volume of its business, or if the IRHTP elects to change the manner or method by which it does business, the Vendor will be asked to reduce the level of Services to IRHTP under this Agreement. However any such reduction must not adversely impact upon Vendor's ability to reasonably perform its obligations under the Agreement.

13.2 In such event, Vendor shall estimate, in writing and in good faith, the aggregate decreased charges to Vendor from IRHTP's ceasing to perform such Services and shall provide such written estimate to IRHTP, no later than 30 days from Vendor's receipt of IRHTP's notice. IRHTP, upon receipt of such estimate, may then elect by written notice given to Vendor within 15 days following receipt of Vendor's written estimate to:

13.3 Withdraw its request for a cessation of part of the Services;

13.4 Implement such partial cessation of Services based upon the estimate of Vendor; or

13.5 Request that Vendor negotiate with IRHTP regarding the aggregate reduction in the Contract Services due to Vendor from IRHTP hereunder as a result of the partial cessation of Services. If IRHTP shall elect to request Vendor to negotiate, the parties shall promptly negotiate in good faith regarding the amount.

**SECTION 14. 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 HOSPITAL ASSOCIATION ON BEHALF OF IRHTP**

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

Name: Mr. Art Spies

Title: Project Coordinator - IRHTP

[VENDOR will be listed]:

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

Name:

Title:

**ATTACHMENT 2**  
**BID PROPOSAL COMPLIANCE FORM**  
**RFP 08-001**

Vendor affirms that the information contained in the bid proposal is true and accurately portrays all aspects of the goods or services or both contemplated by this RFP. The Vendor is aware that any substantive misinformation or misrepresentation may disqualify the bid proposal from further consideration.

Vendor hereby certifies total compliance with all other terms, conditions and specifications of this RFP except as expressly stated below:

Chapter 1, Administrative Issues

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Chapter 2, Contractual Terms & Conditions (includes Attachment 1)

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Chapter 3, Technical Specifications

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Chapter 4, Evaluation Criteria

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I certify that I have the authority to bind the Vendor indicated below to the specific terms and conditions imposed in this RFP and offered in this bid proposal, and that by my signature on this document I specifically agree to all of the waivers, restrictions and requirements of this RFP as conditions precedent to submitting this proposal. I further state that in making this bid proposal that the Vendor has not consulted with others for the purpose of restricting competition or violating State or Federal anti-trust laws and has not knowingly made any false statements in this proposal.

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Business Name: \_\_\_\_\_

Address: \_\_\_\_\_

Federal ID Number: \_\_\_\_\_

USAC SPIN: \_\_\_\_\_

**ATTACHMENT 3**

**AUTHORIZATION TO RELEASE INFORMATION**

**RFP 08-001**

\_\_\_\_\_ (Name of Vendor) hereby authorizes any person or entity, public or private, having any information concerning the Vendor's background, including but not limited to its performance history regarding its prior rendering of services similar to those detailed in this RFP, to release such information to the IRHTP.

The Vendor acknowledges that it may not agree with the information and opinions given by such person or entity in response to a reference request. The Vendor acknowledges that the information and opinions given by such person or entity may hurt its chances to receive contract awards from the IRHTP or may otherwise hurt its reputation or operations. The Vendor is willing to take that risk. The Vendor agrees to release all persons, entities, and the IRHTP from any liability whatsoever that may be incurred in releasing this information or using this information.

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

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

\_\_\_\_\_  
Date

**ATTACHMENT 4 – PART I  
OUTSIDE PLANT FIBER INSTALLATION  
BID PROPOSAL SUBMITTAL FORM  
RFP 08-001**

This bid proposal submittal form is comprised of SIX pages!

**By submitting this bid, Vendor acknowledges it can comply and will comply with all specifications detailed in Chapter 3.**

**Note: Vendors must submit all SIX of the following cost sheet pages of Attachment 4 regardless of how many sites are bid! The Vendor’s authorized agent must sign each sheet.**

Vendors desiring to be awarded a complete merged area(s) contract must list a cost for each and every site within that merged Area(s). If the vendor is submitting a bid for the entire statewide project, the vendor must list a cost for each and every site listed on each cost sheet.

Any cost sheets for an award of the total statewide project or complete merged area(s) response not listing all of the sites in the respective merged area(s) will be considered only as a site-by-site bid.

Vendors bidding a complete merged area or the total statewide project may offer a discount off the total cost for the specific merged area(s) or the complete statewide project.

|  |    |
|--|----|
| Discount in Dollars, if awarded all sites in Merged Area One       | \$ |
| Discount in Dollars, if awarded all sites in Merged Area Two       | \$ |
| Discount in Dollars, if awarded all sites in Merged Area Three     | \$ |
| Discount in Dollars, if awarded all sites in Merged Area Four      | \$ |
| Discount in Dollars, if awarded all sites in Merged Area Five      | \$ |
| Discount in Dollars, if awarded all sites in Merged Area Six       | \$ |
| Discount in Dollars, if awarded all sites in Merged Area Seven     | \$ |
| Discount in Dollars, if awarded all sites in Merged Area Eight     | \$ |
| Discount in Dollars, if awarded all sites in Merged Area Nine      | \$ |
| Discount in Dollars, if awarded all sites in Merged Area Ten       | \$ |
| Discount in Dollars, if awarded all sites in Merged Area Eleven    | \$ |
| Discount in Dollars, if awarded all sites in Merged Area Twelve    | \$ |
| Discount in Dollars, if awarded all sites in Merged Area Thirteen  | \$ |
| Discount in Dollars, if awarded all sites in Merged Area Fourteen  | \$ |
| Discount in Dollars, if awarded all sites in Merged Area Fifteen   | \$ |
| Discount in Dollars, if awarded all sites in Merged Area Sixteen   | \$ |
| Discount in Dollars, if awarded all sites in Merged Area Seventeen | \$ |

|   |    |
|---|----|
| <i>Discount in Dollars if awarded all sites in IRHTP RFP 08-001</i> | \$ |
|---|----|

Vendor’s Authorized Agent Signature: \_\_\_\_\_

Sheet One of Six Sheets



**RFP 08-001**  
**BID SHEET – PART I**

| Line | Merged Area | SID  | A Location - Hospital                     | City         | Z Location - Endpoint      | City         | Notes                   | Construction Bid Price | Alternate Bid (IRU+Build) |
|------|-------------|------|---|--------------|----------------------------|--------------|-------------------------|------------------------|---------------------------|
| 1    | 1           | 1.1  | Mitchell County Regional Health Center    | Osage        | Osage Community HS         | Osage        |                         |                        |                           |
| 2    | 1           | 1.2  | Floyd County Memorial Hospital            | Charles City | Northern Iowa Area CC      | Charles City |                         |                        |                           |
| 3    | 1           | 1.3  | Ellsworth Municipal Hospital              | Iowa Falls   | Ellsworth CC               | Iowa Falls   |                         |                        |                           |
| 4    | 1           | 1.4  | Franklin General Hospital                 | Hampton      | Hampton-Dumont HS          | Hampton      |                         |                        |                           |
| 5    | 1           | 1.5  | Belmond Medical Center                    | Belmond      | Clarion-Goldfield MS       | Clarion      |                         |                        |                           |
| 6    | 1           | 1.5a | Belmond Medical Center                    | Belmond      | Belmond-Klemme HS          | Belmond      | Alternate Lateral Build |                        |                           |
| 7    | 1           | 1.5a | Belmond-Klemme HS                         | Belmond      | Hampton-Dumont HS          | Hampton      | Alternate Link/IRU Cost |                        |                           |
| 8    | 1           | 1.6  | Hancock County Memorial Hospital          | Britt        | Garner Hayfield HS         | Garner       |                         |                        |                           |
| 9    | 1           | 1.6a | Hancock County Memorial Hospital          | Britt        | West Hancock HS            | Britt        | Alternate Lateral Build |                        |                           |
| 10   | 1           | 1.6a | West Hancock HS                           | Britt        | Garner-Hayfield HS         | Garner       | Alternate Link/IRU Cost |                        |                           |
| 11   | 1           | 1.7  | Mercy Medical Center-North Iowa           | Mason City   | Northern Iowa Area CC      | Mason City   |                         |                        |                           |
| 12   | 1           | 1.7a | Mercy Medical Center-North Iowa           | Mason City   | Iowa National Guard Armory | Mason City   | Alternate Build         |                        |                           |
| 13   | 2           | 2.1  | Regional Health Services of Howard County | Cresco       | Howard - Winneshiek HS     | Cresco       |                         |                        |                           |
| 14   | 2           | 2.2  | Winneshiek Medical Center                 | Decorah      | Luther College             | Decorah      |                         |                        |                           |
| 15   | 2           | 2.3  | Central Community Hospital                | Elkader      | AEA 1 Elkader              | Elkader      |                         |                        |                           |
| 16   | 2           | 2.4  | Palmer Lutheran Health Center             | West Union   | Splice B110-4              | West Union   |                         |                        |                           |
| 17   | 2           | 2.5  | Mercy Medical Center-New Hampton          | New Hampton  | New Hampton HS             | New Hampton  |                         |                        |                           |
| 18   | 2           | 2.6  | Veterans Memorial Hospital                | Waukon       | Waukon HS                  | Waukon       |                         |                        |                           |
| 19   | 3           | 3.1  | Mercy Medical Center-Dubuque              | Dubuque      | ICN Dubuque City POP       | Dubuque      |                         |                        |                           |
| 20   | 3           | 3.1a | Mercy Medical Center-Dubuque              | Dubuque      | ICN Dubuque City POP       | Dubuque      | Alternate Link/IRU Cost |                        |                           |
| 21   | 3           | 3.2  | Regional Medical Center                   | Manchester   | West Delaware HS           | Manchester   |                         |                        |                           |
| 22   | 3           | 3.3  | Mercy Medical Center-Dyersville           | Dyersville   | Northeast Iowa CC          | Peosta       |                         |                        |                           |
| 23   | 3           | 3.3a | Mercy Medical Center-Dyersville           | Dyersville   | Beckman HS                 | Dyersville   | Alternate Lateral Build |                        |                           |
| 24   | 3           | 3.3a | Beckman HS                                | Dyersville   | Northeast Iowa CC          | Peosta       | Alternate Link/IRU Cost |                        |                           |
| 25   | 4           | 4.1  | Waverly Health Center                     | Waverly      | Waverly Shellrock HS       | Waverly      |                         |                        |                           |
| 26   | 4           | 4.2  | Buchanan County Health Center             | Independence | Independence HS            | Independence |                         |                        |                           |
| 27   | 5           | 5.1  | Virginia Gay Hospital                     | Vinton       | Kirkwood Learning Center   | Vinton       |                         |                        |                           |
| 28   | 5           | 5.2  | Mercy Medical Center                      | Cedar Rapids | Link Splice 39C            | Cedar Rapids |                         |                        |                           |
| 29   | 5           | 5.3  | Radiology Consultants of Iowa             | Cedar Rapids | Towne Center               | Cedar Rapids | Cross Connect           |                        |                           |

Vendor's Authorized Agent Signature: \_\_\_\_\_

Sheet Two of Six Sheets



**RFP 08-001**  
**BID SHEET – PART I**

| Line | Merged Area | SID  | A Location - Hospital                    | City          | Z Location - Endpoint       | City          | Notes   | Construction Bid Price | Alternate Bid (IRU+Build) |
|------|-------------|------|--|---------------|-----------------------------|---------------|---|------------------------|---------------------------|
| 30   | 6           | 6.1  | University of Iowa Hospitals and Clinics | Iowa City     | On net - (Lindquist Center) | Iowa City     | No Construction Required                        |                        |                           |
| 31   | 6           | 6.2  | Mercy Iowa City                          | Iowa City     | U of I (Lindquist Center)   | Iowa City     |   |                        |                           |
| 32   | 6           | 6.3  | Washington County Hospital and Clinics   | Washington    | Iowa National Guard Armory  | Washington    |   |                        |                           |
| 33   | 6           | 6.4  | Marengo Memorial Hospital                | Marengo       | Splice B1004-1              | Williamsburg  |   |                        |                           |
| 34   | 6           | 6.4a | Marengo Memorial Hospital                | Marengo       | Iowa Valley HS              | Marengo       | Alternate Lateral Build                         |                        |                           |
| 35   | 6           | 6.4a | Iowa Valley HS                           | Marengo       | Kirkwood CC                 | Williamsburg  | Alternate Link/IRU Cost                         |                        |                           |
| 36   | 7           | 7.1  | Mercy Medical Center                     | Clinton       | Eastern Iowa CC             | Clinton       | Intercept Abandoned Fiber Franciscan University |                        |                           |
| 37   | 7           | 7.2  | Not Used                                 |               |                             |               |   |                        |                           |
| 38   | 7           | 7.3  | Genesis Medical Center-East Campus       | Davenport     | Saint Ambrose University    | Davenport     |   |                        |                           |
| 39   | 7           | 7.4  | Genesis Plaza                            | Bettendorf    | Link 901                    | Bettendorf    |   |                        |                           |
| 40   | 7           | 7.5  | Genesis imaging Center                   | Bettendorf    | Link 901                    | Bettendorf    |   |                        |                           |
| 41   | 7           | 7.6  | Unity Healthcare                         | Muscatine     | Eastern Iowa CC             | Muscatine     |   |                        |                           |
| 42   | 7           | 7.7  | Genesis Health System-Dewitt             | Dewitt        | Clinton CC                  | Clinton       |   |                        |                           |
| 43   | 7           | 7.7a | Genesis Health System-Dewitt             | Dewitt        | Central HS                  | Dewitt        | Alternate Lateral Build                         |                        |                           |
| 44   | 7           | 7.7a | Central HS                               | Dewitt        | Maquoketa HS                | Maquoketa     | Alternate Link/IRU Cost                         |                        |                           |
| 45   | 8           | 8.1  | Great River Medical Center               | W. Burlington | South Eastern CC            | W. Burlington |   |                        |                           |
| 46   | 8           | 8.2  | Fort Madison Community Hospital          | Fort Madison  | Fort Madison HS             | Fort Madison  |   |                        |                           |
| 47   | 8           | 8.3  | Keokuk Area Hospital                     | Keokuk        | Abandon Stritch HS – Vault  | Keokuk        |   |                        |                           |
| 48   | 8           | 8.4  | Henry County Health Center               | Mt Pleasant   | Iowa Wesleyan College       | Mt Pleasant   |   |                        |                           |
| 49   | 9           | 9.1  | Mahaska Health Partnership               | Oskaloosa     | Splice 1511                 | Oskaloosa     |   |                        |                           |
| 50   | 9           | 9.2  | Keokuk County Health Center              | Sigourney     | Sigourney HS                | Sigourney     |   |                        |                           |
| 51   | 9           | 9.3  | Jefferson County Hospital                | Fairfield     | Fairfield HS                | Fairfield     |   |                        |                           |
| 52   | 9           | 9.4  | Van Buren County Hospital                | Keosauqua     | Van Buren Community HS      | Keosauqua     |   |                        |                           |
| 53   | 9           | 9.5  | Davis County Hospital                    | Bloomfield    | Davis County Community HS   | Bloomfield    |   |                        |                           |
| 54   | 9           | 9.6  | Ottumwa Regional Health Center           | Ottumwa       | On Net                      | Ottumwa       | No Construction Required                        |                        |                           |
| 55   | 9           | 9.7  | Mercy Medical Center-Centerville         | Centerville   | On Net                      | Centerville   | No Construction Required                        |                        |                           |
| 56   | 9           | 9.8  | Wayne County Hospital                    | Corydon       | On Net                      | Corydon       | No Construction Required                        |                        |                           |
| 57   | 9           | 9.9  | Lucas County Health Center               | Chariton      | Chariton HS                 | Chariton      |   |                        |                           |
| 58   | 9           | 9.91 | Monroe County Hospital                   | Albia         | Albia HS                    | Albia         |   |                        |                           |

Vendor's Authorized Agent Signature: \_\_\_\_\_

Sheet Three of Five Sheets



**RFP 08-001**  
**BID SHEET – PART I**

| Line | Merged Area | SID   | A Location - Hospital                      | City            | Z Location - Endpoint      | City            | Notes                   | Construction Bid Price | Alternate Bid (IRU+Build) |
|------|-------------|-------|--|-----------------|----------------------------|-----------------|-------------------------|------------------------|---------------------------|
| 59   | 10          | 10.1  | Mercy Medical Center-Des Moines            | Des Moines      | On Net (Campus rework)     | Des Moines      |                         |                        |                           |
| 60   | 10          | 10.2  | Skiff Medical Center                       | Newton          | DMACC Polytechnical        | Newton          |                         |                        |                           |
| 61   | 10          | 10.3  | Marshalltown Medical & Surgical Center     | Marshalltown    | Slack loop Location tbd    | Marshalltown    |                         |                        |                           |
| 62   | 10          | 10.4  | Pella Regional Health Center               | Pella           | Central College            | Pella           |                         |                        |                           |
| 63   | 10          | 10.5  | Knoxville Hospital & Clinics               | Knoxville       | Iowa National Guard Armory | Knoxville       |                         |                        |                           |
| 64   | 10          | 10.6  | Madison County Health Care System          | Winterset       | On Net                     | Winterset       | No Construction         |                        |                           |
| 65   | 10          | 10.7  | Mercy West Lakes                           | Des Moines      | On Net                     | Des Moines      | No Construction         |                        |                           |
| 66   | 10          | 10.8  | Iowa Hospital Association                  | Des Moines      | On Net                     | Des Moines      | No Construction         |                        |                           |
| 67   | 10          | 10.9  | Dallas County Hospital                     | Perry           | Perry HS                   | Perry           |                         |                        |                           |
| 68   | 11          | 11.1  | Adair County Memorial Hospital             | Greenfield      | Greenfield HS              | Greenfield      |                         |                        |                           |
| 69   | 11          | 11.2  | Decatur County Hospital                    | Leon            | Lamoni HS                  | Lamoni          |                         |                        |                           |
| 70   | 11          | 11.2a | Decatur County Hospital                    | Leon            | Lamoni HS                  | Lamoni          | Alternate Link/IRU Cost |                        |                           |
| 71   | 11          | 11.3  | Ringgold County Hospital                   | Mt Ayr          | Mount Ayr HS               | Mt Ayr          |                         |                        |                           |
| 72   | 11          | 11.4  | Alegent Heath Mercy Hospital               | Corning         | Corning HS                 | Corning         |                         |                        |                           |
| 73   | 11          | 11.5  | Montgomery County Memorial Hospital        | Red Oak         | Southwestern CC            | Red Oak         |                         |                        |                           |
| 74   | 11          | 11.6  | Audubon County Memorial Hospital           | Audubon         | Audubon HS                 | Audubon         |                         |                        |                           |
| 75   | 12          | 12.1  | Grape Community Hospital                   | Hamburg         | Sidney HS                  | Sidney          |                         |                        |                           |
| 76   | 12          | 12.1a | Grape Community Hospital                   | Hamburg         | Hamburg HS                 | Hamburg         | Alternate Lateral Build |                        |                           |
| 77   | 12          | 12.1a | Hamburg HS                                 | Hamburg         | Sidney HS                  | Sidney          | Alternate Link/IRU Cost |                        |                           |
| 78   | 12          | 12.2  | Clarinda Regional Health Center            | Clarinda        | Iowa Western CC            | Clarinda        |                         |                        |                           |
| 79   | 12          | 12.3  | Shenandoah Medical Center                  | Shenandoah      | Iowa National Guard Armory | Shenandoah      |                         |                        |                           |
| 80   | 12          | 12.4  | Alegent Health Community Memorial Hospital | Missouri Valley | Missouri Valley HS         | Missouri Valley |                         |                        |                           |
| 81   | 12          | 12.5  | Jennie Edmundson Hospital                  | Council Bluffs  | Iowa Western CC            | Council Bluffs  |                         |                        |                           |
| 82   | 12          | 12.6  | Alegent Heath Mercy Hospital               | Council Bluffs  | Jennie Edmundson Hospital  | Council Bluffs  |                         |                        |                           |

Vendor's Authorized Agent Signature: \_\_\_\_\_

Sheet Four of Six Sheets

RFP 08-001



**BID SHEET – PART I**

| Line | Merged Area | SID    | A Location - Hospital              | City         | Z Location - Endpoint      | City         | Notes                   | Constructio n Bid Price | Alternate Bid (IRU+Build) |
|------|-------------|--------|------------------------------------|--------------|----------------------------|--------------|-------------------------|-------------------------|---------------------------|
| 83   | 13          | 13.1   | Horn Memorial Hospital             | Ida Grove    | Western Iowa Tech CC       | Ida Grove    |                         |                         |                           |
| 84   | 13          | 13.2   | Cherokee Regional Medical Center   | Cherokee     | Washington HS              | Cherokee     |                         |                         |                           |
| 85   | 3           | 13.3   | Crawford County Memorial Hospital  | Denison      | Intercept Splice - Temp    | Denison      |                         |                         |                           |
| 86   | 13          | 13.4   | Burgess Health Center              | Onawa        | Iowa National Guard Armory | Mapleton     |                         |                         |                           |
| 87   | 13          | 13.4a  | Burgess Health Center              | Onawa        | West Monona HS             | Onawa        | Alternate Lateral Build |                         |                           |
| 88   | 13          | 13.4.a | West Monona HS                     | Onawa        | Mapleton Valley HS         | Mapleton     | Alternate Link/IRU Cost |                         |                           |
| 89   | 13          | 13.5   | Mercy Medical Center-Sioux City    | Sioux City   | Sioux City Transport Ctr.  | Sioux City   |                         |                         |                           |
| 90   | 13          | 13.6   | Floyd Valley Hospital              | Le Mars      | Gahlen Catholic HS         | Le Mars      |                         |                         |                           |
| 91   | 14          | 14.1   | Story County Medical Center        | Nevada       | Maint Splice 1107F-A       | Ames         |                         |                         |                           |
| 92   | 14          | 14.1a  | Story County Medical Center        | Nevada       | Meet Point                 | Nevada       | Alternate Lateral Build |                         |                           |
| 93   | 14          | 14.1a  | Meet Point                         | Nevada       | Maint Splice 1107F-A       | Ames         | Alternate Link/IRU Cost |                         |                           |
| 94   | 14          | 14.2   | Manning Regional Healthcare Center | Manning      | St. Anthony Regional Hosp  | Carroll      |                         |                         |                           |
| 95   | 14          | 14.2a  | Manning Regional Healthcare Center | Manning      | Manning HS                 | Manning      | Alternate Lateral Build |                         |                           |
| 96   | 14          | 14.2a  | Manning HS                         | Manning      | DMACC Campus               | Carroll      | Alternate Link/IRU Cost |                         |                           |
| 97   | 14          | 14.3   | Saint Anthony Regional Hospital    | Carroll      | DMACC Campus               | Carroll      |                         |                         |                           |
| 98   | 14          | 14.4   | Boone County Hospital              | Boone        | DMACC Campus               | Boone        |                         |                         |                           |
| 99   | 15          | 15.1   | Osceola Community Hospital         | Sibley       | Sibley HS                  | Sibley       |                         |                         |                           |
| 100  | 15          | 15.2   | Orange City Area Health System     | Orange City  | Northwestern College       | Orange City  |                         |                         |                           |
| 101  | 15          | 15.3   | Baum-Harmon Mercy Hospital         | Primghar     | Northwest Iowa CC          | Sheldon      |                         |                         |                           |
| 102  | 15          | 15.3a  | Baum-Harmon Mercy Hospital         | Primghar     | South O'Brien HS           | Paullina     | Alternate Lateral Build |                         |                           |
| 103  | 15          | 15.3a  | South O'Brien HS                   | Paullina     | Northwest Iowa CC          | Sheldon      | Alternate Link/IRU Cost |                         |                           |
| 104  | 15          | 15.4   | Sanford Sheldon Medical Center     | Sheldon      | Iowa National Guard Armory | Sheldon      |                         |                         |                           |
| 105  | 15          | 15.5   | Hawarden Community Hospital        | Hawarden     | AEA 4                      | Sioux Center |                         |                         |                           |
| 106  | 15          | 15.5a  | Hawarden Community Hospital        | Hawarden     | Hawarden Library           | Hawarden     | Alternate Lateral Build |                         |                           |
| 107  | 15          | 15.5a  | Hawarden Library                   | Hawarden     | AEA 4                      | Sioux Center | Alternate Link/IRU Cost |                         |                           |
| 108  | 15          | 15.6   | Sioux Center Community Hospital    | Sioux Center | Iowa National Guard Armory | Sioux Center |                         |                         |                           |

Vendor's Authorized Agent Signature: \_\_\_\_\_

Sheet Five of Six Sheets



**RFP 08-001**  
**BID SHEET – PART I**

| Line | Merged Area | SID   | A Location - Hospital               | City            | Z Location - Endpoint    | City          | Notes                   | Construction Bid Price | Alternate Bid (IRU+Build) |
|------|-------------|-------|-------------------------------------|-----------------|--------------------------|---------------|-------------------------|------------------------|---------------------------|
| 109  | 15          | 15.7  | Hegg Memorial Health Center         | Rock Valley     | AEA 4                    | Sioux Center  |                         |                        |                           |
| 110  | 15          | 15.7a | Hegg Memorial Health Center         | Rock Valley     | Rock Valley HS           | Rock Valley   | Alternate Lateral Build |                        |                           |
| 111  | 15          | 15.7a | Rock Valley HS                      | Rock Valley     | AEA 4                    | Sioux Center  | Alternate Link/IRU Cost |                        |                           |
| 112  | 15          | 15.8  | Merrill Pioneer Community Hospital  | Rock Rapids     | Central Lyon MS          | Rock Rapids   |                         |                        |                           |
| 113  | 15          | 15.91 | Avera Data Center                   | Sioux Falls, SD | IRU                      | Sheldon       |                         |                        |                           |
| 114  | 15          | 15.92 | Sanford Hospital                    | Sioux Falls, SD | IRU                      | Sheldon       |                         |                        |                           |
| 115  | 16          | 16.1  | Lakes Regional Healthcare           | Spirit Lake     | Spirit Lake HS/AEA 8     | Spirit Lake   |                         |                        |                           |
| 116  | 16          | 16.2  | Palo Alto County Hosp               | Emmetsburg      | Iowa Lakes CC            | Emmetsburg    |                         |                        |                           |
| 117  | 16          | 16.3  | Avera Holy Family                   | Estherville     | Link Splice 69           | Estherville   |                         |                        |                           |
| 118  | 16          | 16.4  | Kossuth Regional Health Center      | Algona          | Iowa Lakes CC            | Algona        |                         |                        |                           |
| 119  | 16          | 16.4a | Kossuth Regional Health Center      | Algona          | Bishop Garrigan HS       | Algona        | Alternate Lateral Build |                        |                           |
| 120  | 16          | 16.4a | Bishop Garrigan HS                  | Algona          | Iowa Lakes CC            | Algona        | Alternate Link/IRU Cost |                        |                           |
| 121  | 16          | 16.5  | Spencer Hospital                    | Spencer         | Iowa Lakes CC            | Spencer       |                         |                        |                           |
| 122  | 17          | 17.1  | Hamilton Hospital                   | Webster City    | Link Splice 30           | Webster City  |                         |                        |                           |
| 123  | 17          | 17.2  | Stewart Memorial Community Hospital | Lake City       | Rockwell City HS         | Rockwell City |                         |                        |                           |
| 124  | 17          | 17.2a | Stewart Memorial Community Hospital | Lake City       | Southern Cal HS          | Lake City     | Alternate Lateral Build |                        |                           |
| 125  | 17          | 17.2a | Southern Cal HS                     | Lake City       | Rockwell City –Lytton HS | Rockwell City | Alternate Link/IRU Cost |                        |                           |
| 126  | 17          | 17.3  | Wright Medical Center               | Clarion         | Iowa Central CC          | Eagle Grove   |                         |                        |                           |
| 127  | 17          | 17.3a | Wright Medical Center               | Clarion         | Clarion-Goldfield MS     | Clarion       | Alternate Lateral Build |                        |                           |
| 128  | 17          | 17.3a | Clarion-Goldfield MS                | Clarion         | Iowa Central CC          | Eagle Grove   | Alternate Link/IRU Cost |                        |                           |

Vendor's Authorized Agent Signature: \_\_\_\_\_

Sheet Six of Six Sheets



**ATTACHMENT 4 – PART II**  
**QUALITY ASSURANCE INSPECTION SERVICES**  
**BID PROPOSAL SUBMITTAL FORM**  
**RFP 08-001**

This bid proposal submittal form is comprised of SIX pages!

**By submitting this bid, Vendor acknowledges it can comply and will comply with all specifications detailed in Chapter 3 Part II.**

**Firm Fixed Price**

The Vendor providing the Quality Assurance Inspection Services shall submit one firm fixed price for the quality control oversight inspection services of the 94 sites as shown in Chapter III, Annex A & D of this IRHTP RFP 08-001; Various sites will be installed over a three-year period ending Dec 31, 2011. For the purpose of this response, the vendor shall assume all 94 sites will be built. In the event sites are added or dropped, IRHTP will negotiate adjustments with the winning vendor.

The firm fixed price must include not only the firm fixed fee, but all other costs such as, but not limited to: travel, lodging, meals, communications, office supplies, and other specific resources to do the job.

Bid responses containing only an hourly rate “plus expenses” will not be considered by the IRHTP. The bid response must contain the total three year costs and expenses for each site.

The undersigned submits this total as our firm fixed price for the Part II Quality Assurance Inspection Services:

Total three year costs: \$\_\_\_\_\_

***Note: The Vendor’s authorized agent must sign this sheet.***

*Name of Vendor:*

*Address:*

*By*

\_\_\_\_\_  
Vendor’s Authorized Agent Signature:

Sheet One of Six Sheet



**RFP 08-001**  
**BID SHEET – PART II**

| Line | Merged Area | SID  | A Location - Hospital                     | City         | Z Location - Endpoint      | City         | Notes                   | QA Bid Price |
|------|-------------|------|---|--------------|----------------------------|--------------|-------------------------|--------------|
| 1    | 1           | 1.1  | Mitchell County Regional Health Center    | Osage        | Osage Community HS         | Osage        |                         |              |
| 2    | 1           | 1.2  | Floyd County Memorial Hospital            | Charles City | Northern Iowa Area CC      | Charles City |                         |              |
| 3    | 1           | 1.3  | Ellsworth Municipal Hospital              | Iowa Falls   | Ellsworth CC               | Iowa Falls   |                         |              |
| 4    | 1           | 1.4  | Franklin General Hospital                 | Hampton      | Hampton-Dumont HS          | Hampton      |                         |              |
| 5    | 1           | 1.5  | Belmond Medical Center                    | Belmond      | Clarion-Goldfield MS       | Clarion      |                         |              |
| 6    | 1           | 1.5a | Belmond Medical Center                    | Belmond      | Belmond-Klemme HS          | Belmond      | Alternate Lateral Build |              |
| 7    | 1           | 1.5a | Belmond-Klemme HS                         | Belmond      | Hampton-Dumont HS          | Hampton      | Alternate Link/IRU Cost |              |
| 8    | 1           | 1.6  | Hancock County Memorial Hospital          | Britt        | Garner Hayfield HS         | Garner       |                         |              |
| 9    | 1           | 1.6a | Hancock County Memorial Hospital          | Britt        | West Hancock HS            | Britt        | Alternate Lateral Build |              |
| 10   | 1           | 1.6a | West Hancock HS                           | Britt        | Garner-Hayfield HS         | Garner       | Alternate Link/IRU Cost |              |
| 11   | 1           | 1.7  | Mercy Medical Center-North Iowa           | Mason City   | Northern Iowa Area CC      | Mason City   |                         |              |
| 12   | 1           | 1.7a | Mercy Medical Center-North Iowa           | Mason City   | Iowa National Guard Armory | Mason City   | Alternate Build         |              |
| 13   | 2           | 2.1  | Regional Health Services of Howard County | Cresco       | Howard - Winneshiek HS     | Cresco       |                         |              |
| 14   | 2           | 2.2  | Winneshiek Medical Center                 | Decorah      | Luther College             | Decorah      |                         |              |
| 15   | 2           | 2.3  | Central Community Hospital                | Elkader      | AEA 1 Elkader              | Elkader      |                         |              |
| 16   | 2           | 2.4  | Palmer Lutheran Health Center             | West Union   | Splice B110-4              | West Union   |                         |              |
| 17   | 2           | 2.5  | Mercy Medical Center-New Hampton          | New Hampton  | New Hampton HS             | New Hampton  |                         |              |
| 18   | 2           | 2.6  | Veterans Memorial Hospital                | Waukon       | Waukon HS                  | Waukon       |                         |              |
| 19   | 3           | 3.1  | Mercy Medical Center-Dubuque              | Dubuque      | ICN Dubuque City POP       | Dubuque      |                         |              |
| 20   | 3           | 3.1a | Mercy Medical Center-Dubuque              | Dubuque      | ICN Dubuque City POP       | Dubuque      | Alternate Link/IRU Cost |              |
| 21   | 3           | 3.2  | Regional Medical Center                   | Manchester   | West Delaware HS           | Manchester   |                         |              |
| 22   | 3           | 3.3  | Mercy Medical Center-Dyersville           | Dyersville   | Northeast Iowa CC          | Peosta       |                         |              |
| 23   | 3           | 3.3a | Mercy Medical Center-Dyersville           | Dyersville   | Beckman HS                 | Dyersville   | Alternate Lateral Build |              |
| 24   | 3           | 3.3a | Beckman HS                                | Dyersville   | Northeast Iowa CC          | Peosta       | Alternate Link/IRU Cost |              |
| 25   | 4           | 4.1  | Waverly Health Center                     | Waverly      | Waverly Shellrock HS       | Waverly      |                         |              |
| 26   | 4           | 4.2  | Buchanan County Health Center             | Independence | Independence HS            | Independence |                         |              |
| 27   | 5           | 5.1  | Virginia Gay Hospital                     | Vinton       | Kirkwood Learning Center   | Vinton       |                         |              |
| 28   | 5           | 5.2  | Mercy Medical Center                      | Cedar Rapids | Link Splice 39C            | Cedar Rapids |                         |              |
| 29   | 5           | 5.3  | Radiology Consultants of Iowa             | Cedar Rapids | Towne Center               | Cedar Rapids | Cross Connect           |              |

Vendor's Authorized Agent Signature:

Sheet Two of Six Sheets



**RFP 08-001**  
**BID SHEET – PART II**

| Line | Merged Area | SID  | A Location - Hospital                    | City          | Z Location - Endpoint       | City          | Notes   | QA Bid Price |
|------|-------------|------|--|---------------|-----------------------------|---------------|---|--------------|
| 30   | 6           | 6.1  | University of Iowa Hospitals and Clinics | Iowa City     | On net - (Lindquist Center) | Iowa City     | No Construction Required                        |              |
| 31   | 6           | 6.2  | Mercy Iowa City                          | Iowa City     | U of I (Lindquist Center)   | Iowa City     |   |              |
| 32   | 6           | 6.3  | Washington County Hospital and Clinics   | Washington    | Iowa National Guard Armory  | Washington    |   |              |
| 33   | 6           | 6.4  | Marengo Memorial Hospital                | Marengo       | Splice B1004-1              | Williamsburg  |   |              |
| 34   | 6           | 6.4a | Marengo Memorial Hospital                | Marengo       | Iowa Valley HS              | Marengo       | Alternate Lateral Build                         |              |
| 35   | 6           | 6.4a | Iowa Valley HS                           | Marengo       | Kirkwood CC                 | Williamsburg  | Alternate Link/IRU Cost                         |              |
| 36   | 7           | 7.1  | Mercy Medical Center                     | Clinton       | Eastern Iowa CC             | Clinton       | Intercept Abandoned Fiber Franciscan University |              |
| 37   | 7           | 7.2  | Not Used                                 |               |                             |               |   |              |
| 38   | 7           | 7.3  | Genesis Medical Center-East Campus       | Davenport     | Saint Ambrose University    | Davenport     |   |              |
| 39   | 7           | 7.4  | Genesis Plaza                            | Bettendorf    | Link 901                    | Bettendorf    |   |              |
| 40   | 7           | 7.5  | Genesis imaging Center                   | Bettendorf    | Link 901                    | Bettendorf    |   |              |
| 41   | 7           | 7.6  | Unity Healthcare                         | Muscatine     | Eastern Iowa CC             | Muscatine     |   |              |
| 42   | 7           | 7.7  | Genesis Health System-Dewitt             | Dewitt        | Clinton CC                  | Clinton       |   |              |
| 43   | 7           | 7.7a | Genesis Health System-Dewitt             | Dewitt        | Central HS                  | Dewitt        | Alternate Lateral Build                         |              |
| 44   | 7           | 7.7a | Central HS                               | Dewitt        | Maquoketa HS                | Maquoketa     | Alternate Link/IRU Cost                         |              |
| 45   | 8           | 8.1  | Great River Medical Center               | W. Burlington | South Eastern CC            | W. Burlington |   |              |
| 46   | 8           | 8.2  | Fort Madison Community Hospital          | Fort Madison  | Fort Madison HS             | Fort Madison  |   |              |
| 47   | 8           | 8.3  | Keokuk Area Hospital                     | Keokuk        | Abandon Stritch HS – Vault  | Keokuk        |   |              |
| 48   | 8           | 8.4  | Henry County Health Center               | Mt Pleasant   | Iowa Wesleyan College       | Mt Pleasant   |   |              |
| 49   | 9           | 9.1  | Mahaska Health Partnership               | Oskaloosa     | Splice 1511                 | Oskaloosa     |   |              |
| 50   | 9           | 9.2  | Keokuk County Health Center              | Sigourney     | Sigourney HS                | Sigourney     |   |              |
| 51   | 9           | 9.3  | Jefferson County Hospital                | Fairfield     | Fairfield HS                | Fairfield     |   |              |
| 52   | 9           | 9.4  | Van Buren County Hospital                | Keosauqua     | Van Buren Community HS      | Keosauqua     |   |              |
| 53   | 9           | 9.5  | Davis County Hospital                    | Bloomfield    | Davis County Community HS   | Bloomfield    |   |              |
| 54   | 9           | 9.6  | Ottumwa Regional Health Center           | Ottumwa       | On Net                      | Ottumwa       | No Construction Required                        |              |
| 55   | 9           | 9.7  | Mercy Medical Center-Centerville         | Centerville   | On Net                      | Centerville   | No Construction Required                        |              |
| 56   | 9           | 9.8  | Wayne County Hospital                    | Corydon       | On Net                      | Corydon       | No Construction Required                        |              |
| 57   | 9           | 9.9  | Lucas County Health Center               | Chariton      | Chariton HS                 | Chariton      |   |              |
| 58   | 9           | 9.91 | Monroe County Hospital                   | Albia         | Albia HS                    | Albia         |   |              |

Vendor's Authorized Agent Signature: \_\_\_\_\_

Sheet Three of Five Sheets



**RFP 08-001**  
**BID SHEET – PART II**

| Line | Merged Area | SID   | A Location - Hospital                      | City            | Z Location - Endpoint      | City            | Notes                   | QA Bid Price |
|------|-------------|-------|--|-----------------|----------------------------|-----------------|-------------------------|--------------|
| 59   | 10          | 10.1  | Mercy Medical Center-Des Moines            | Des Moines      | On Net (Campus rework)     | Des Moines      |                         |              |
| 60   | 10          | 10.2  | Skiff Medical Center                       | Newton          | DMACC Polytechnical        | Newton          |                         |              |
| 61   | 10          | 10.3  | Marshalltown Medical & Surgical Center     | Marshalltown    | Slack loop Location tbd    | Marshalltown    |                         |              |
| 62   | 10          | 10.4  | Pella Regional Health Center               | Pella           | Central College            | Pella           |                         |              |
| 63   | 10          | 10.5  | Knoxville Hospital & Clinics               | Knoxville       | Iowa National Guard Armory | Knoxville       |                         |              |
| 64   | 10          | 10.5a | Knoxville Hospital & Clinics               | Knoxville       | VA Hospital                | Knoxville       | Alt Construction        |              |
| 65   | 10          | 10.6  | Madison County Health Care System          | Winterset       | On Net                     | Winterset       | No Construction         |              |
| 66   | 10          | 10.7  | Mercy West Lakes                           | Des Moines      | On Net                     | Des Moines      | No Construction         |              |
| 67   | 10          | 10.8  | Iowa Hospital Association                  | Des Moines      | On Net                     | Des Moines      | No Construction         |              |
| 68   | 10          | 10.9  | Dallas County Hospital                     | Perry           | Perry HS                   | Perry           |                         |              |
| 69   | 11          | 11.1  | Adair County Memorial Hospital             | Greenfield      | Greenfield HS              | Greenfield      |                         |              |
| 70   | 11          | 11.2  | Decatur County Hospital                    | Leon            | Lamoni HS                  | Lamoni          |                         |              |
| 71   | 11          | 11.2a | Decatur County Hospital                    | Leon            | Lamoni HS                  | Lamoni          | Alternate Link/IRU Cost |              |
| 72   | 11          | 11.3  | Ringgold County Hospital                   | Mt Ayr          | Mount Ayr HS               | Mt Ayr          |                         |              |
| 73   | 11          | 11.4  | Alegent Heath Mercy Hospital               | Corning         | Corning HS                 | Corning         |                         |              |
| 74   | 11          | 11.5  | Montgomery County Memorial Hospital        | Red Oak         | Southwestern CC            | Red Oak         |                         |              |
| 75   | 11          | 11.6  | Audubon County Memorial Hospital           | Audubon         | Audubon HS                 | Audubon         |                         |              |
| 76   | 12          | 12.1  | Grape Community Hospital                   | Hamburg         | Sidney HS                  | Sidney          |                         |              |
| 77   | 12          | 12.1a | Grape Community Hospital                   | Hamburg         | Hamburg HS                 | Hamburg         | Alternate Lateral Build |              |
| 78   | 12          | 12.1a | Hamburg HS                                 | Hamburg         | Sidney HS                  | Sidney          | Alternate Link/IRU Cost |              |
| 79   | 12          | 12.2  | Clarinda Regional Health Center            | Clarinda        | Iowa Western CC            | Clarinda        |                         |              |
| 80   | 12          | 12.3  | Shenandoah Medical Center                  | Shenandoah      | Iowa National Guard Armory | Shenandoah      |                         |              |
| 81   | 12          | 12.4  | Alegent Health Community Memorial Hospital | Missouri Valley | Missouri Valley HS         | Missouri Valley |                         |              |
| 82   | 12          | 12.5  | Jennie Edmundson Hospital                  | Council Bluffs  | Iowa Western CC            | Council Bluffs  |                         |              |
| 83   | 12          | 12.6  | Alegent Heath Mercy Hospital               | Council Bluffs  | Jennie Edmundson Hospital  | Council Bluffs  |                         |              |

Vendor's Authorized Agent Signature: \_\_\_\_\_

Sheet Four of Six Sheets



**RFP 08-001**  
**BID SHEET – PART II**

| Line | Merged Area | SID    | A Location - Hospital              | City         | Z Location - Endpoint      | City         | Notes                   | QA Bid Price |
|------|-------------|--------|------------------------------------|--------------|----------------------------|--------------|-------------------------|--------------|
| 84   | 13          | 13.1   | Horn Memorial Hospital             | Ida Grove    | Western Iowa Tech CC       | Ida Grove    |                         |              |
| 85   | 13          | 13.2   | Cherokee Regional Medical Center   | Cherokee     | Washington HS              | Cherokee     |                         |              |
| 86   | 3           | 13.3   | Crawford County Memorial Hospital  | Denison      | Intercept Splice - Temp    | Denison      |                         |              |
| 87   | 13          | 13.4   | Burgess Health Center              | Onawa        | Iowa National Guard Armory | Mapleton     |                         |              |
| 88   | 13          | 13.4a  | Burgess Health Center              | Onawa        | West Monona HS             | Onawa        | Alternate Lateral Build |              |
| 89   | 13          | 13.4.a | West Monona HS                     | Onawa        | Mapleton Valley HS         | Mapleton     | Alternate Link/IRU Cost |              |
| 90   | 13          | 13.5   | Mercy Medical Center-Sioux City    | Sioux City   | Sioux City Transport Ctr.  | Sioux City   |                         |              |
| 91   | 13          | 13.6   | Floyd Valley Hospital              | Le Mars      | Gahlen Catholic HS         | Le Mars      |                         |              |
| 92   | 14          | 14.1   | Story County Medical Center        | Nevada       | Maint Splice 1107F-A       | Ames         |                         |              |
| 93   | 14          | 14.1a  | Story County Medical Center        | Nevada       | Meet Point                 | Nevada       | Alternate Lateral Build |              |
| 94   | 14          | 14.1a  | Meet Point                         | Nevada       | Maint Splice 1107F-A       | Ames         | Alternate Link/IRU Cost |              |
| 95   | 14          | 14.2   | Manning Regional Healthcare Center | Manning      | St. Anthony Regional Hosp  | Carroll      |                         |              |
| 96   | 14          | 14.2a  | Manning Regional Healthcare Center | Manning      | Manning HS                 | Manning      | Alternate Lateral Build |              |
| 97   | 14          | 14.2a  | Manning HS                         | Manning      | DMACC Campus               | Carroll      | Alternate Link/IRU Cost |              |
| 98   | 14          | 14.3   | Saint Anthony Regional Hospital    | Carroll      | DMACC Campus               | Carroll      |                         |              |
| 99   | 14          | 14.4   | Boone County Hospital              | Boone        | DMACC Campus               | Boone        |                         |              |
| 100  | 15          | 15.1   | Osceola Community Hospital         | Sibley       | Sibley HS                  | Sibley       |                         |              |
| 101  | 15          | 15.2   | Orange City Area Health System     | Orange City  | Northwestern College       | Orange City  |                         |              |
| 102  | 15          | 15.3   | Baum-Harmon Mercy Hospital         | Primghar     | Northwest Iowa CC          | Sheldon      |                         |              |
| 103  | 15          | 15.3a  | Baum-Harmon Mercy Hospital         | Primghar     | South O'Brien HS           | Paullina     | Alternate Lateral Build |              |
| 104  | 15          | 15.3a  | South O'Brien HS                   | Paullina     | Northwest Iowa CC          | Sheldon      | Alternate Link/IRU Cost |              |
| 105  | 15          | 15.4   | Sanford Sheldon Medical Center     | Sheldon      | Iowa National Guard Armory | Sheldon      |                         |              |
| 106  | 15          | 15.5   | Hawarden Community Hospital        | Hawarden     | AEA 4                      | Sioux Center |                         |              |
| 107  | 15          | 15.5a  | Hawarden Community Hospital        | Hawarden     | Hawarden Library           | Hawarden     | Alternate Lateral Build |              |
| 108  | 15          | 15.5a  | Hawarden Library                   | Hawarden     | AEA 4                      | Sioux Center | Alternate Link/IRU Cost |              |
| 109  | 15          | 15.6   | Sioux Center Community Hospital    | Sioux Center | Iowa National Guard Armory | Sioux Center |                         |              |

Vendor's Authorized Agent Signature: \_\_\_\_\_

Sheet Five of Six Sheets



**RFP 08-001**  
**BID SHEET – PART II**

| Line | Merged Area | SID   | A Location - Hospital               | City            | Z Location - Endpoint    | City          | Notes                   | QA Bid Price |
|------|-------------|-------|-------------------------------------|-----------------|--------------------------|---------------|-------------------------|--------------|
| 110  | 15          | 15.7  | Hegg Memorial Health Center         | Rock Valley     | AEA 4                    | Sioux Center  |                         |              |
| 111  | 15          | 15.7a | Hegg Memorial Health Center         | Rock Valley     | Rock Valley HS           | Rock Valley   | Alternate Lateral Build |              |
| 112  | 15          | 15.7a | Rock Valley HS                      | Rock Valley     | AEA 4                    | Sioux Center  | Alternate Link/IRU Cost |              |
| 113  | 15          | 15.8  | Merrill Pioneer Community Hospital  | Rock Rapids     | Central Lyon MS          | Rock Rapids   |                         |              |
| 114  | 15          | 15.91 | Avera Data Center                   | Sioux Falls, SD | IRU                      | Sheldon       |                         |              |
| 115  | 15          | 15.92 | Sanford Hospital                    | Sioux Falls, SD | IRU                      | Sheldon       |                         |              |
| 116  | 16          | 16.1  | Lakes Regional Healthcare           | Spirit Lake     | Spirit Lake HS/AEA 8     | Spirit Lake   |                         |              |
| 117  | 16          | 16.2  | Palo Alto County Hosp               | Emmetsburg      | Iowa Lakes CC            | Emmetsburg    |                         |              |
| 118  | 16          | 16.3  | Avera Holy Family                   | Estherville     | Link Splice 69           | Estherville   |                         |              |
| 119  | 16          | 16.4  | Kossuth Regional Health Center      | Algona          | Iowa Lakes CC            | Algona        |                         |              |
| 120  | 16          | 16.4a | Kossuth Regional Health Center      | Algona          | Bishop Garrigan HS       | Algona        | Alternate Lateral Build |              |
| 121  | 16          | 16.4a | Bishop Garrigan HS                  | Algona          | Iowa Lakes CC            | Algona        | Alternate Link/IRU Cost |              |
| 122  | 16          | 16.5  | Spencer Hospital                    | Spencer         | Iowa Lakes CC            | Spencer       |                         |              |
| 123  | 17          | 17.1  | Hamilton Hospital                   | Webster City    | Link Splice 30           | Webster City  |                         |              |
| 124  | 17          | 17.2  | Stewart Memorial Community Hospital | Lake City       | Rockwell City HS         | Rockwell City |                         |              |
| 125  | 17          | 17.2a | Stewart Memorial Community Hospital | Lake City       | Southern Cal HS          | Lake City     | Alternate Lateral Build |              |
| 126  | 17          | 17.2a | Southern Cal HS                     | Lake City       | Rockwell City –Lytton HS | Rockwell City | Alternate Link/IRU Cost |              |
| 127  | 17          | 17.3  | Wright Medical Center               | Clarion         | Iowa Central CC          | Eagle Grove   |                         |              |
| 128  | 17          | 17.3a | Wright Medical Center               | Clarion         | Clarion-Goldfield MS     | Clarion       | Alternate Lateral Build |              |
| 129  | 17          | 17.3a | Clarion-Goldfield MS                | Clarion         | Iowa Central CC          | Eagle Grove   | Alternate Link/IRU Cost |              |

Vendor's Authorized Agent Signature: \_\_\_\_\_

Sheet Six of Six Sheets



**ATTACHMENT 5 – PART I**  
**INDEFEASIBLE RIGHT OF USE**  
**RFP 08-001**

**1.0 "Indefeasible Right to Use" or "IRU"** shall mean the exclusive, unrestricted, and indefeasible right to use the relevant Capacity (including equipment, fibers or capacity) for any legal purpose. The granting of such IRU does not convey title or legal ownership of any fibers on Vendors Network. The IRU shall convey an interest that notwithstanding the occurrence of a breach by the receiving party of any legal duty or obligation imposed by any contract, by the law of torts (including simple or gross negligence, strict liability or willful misconduct), or by federal or state laws, rules, regulations, orders, standards or ordinances, during the Term, the granting party shall have no right to revoke or restrict in any manner or to any degree whatsoever, through injunctive relief or otherwise, the use of the IRU granted to the receiving party, it being understood and agreed that each such breach shall be compensable, if at all, by a remedy at law and not at equity.

In locations where Vendors have existing fiber capacity, the IRHTP will consider the costs of a 20-year "Indefeasible Right to Use Agreement" for two dark fibers in lieu of a bid for construction.

The IRHTP is not bound to accept the offer of an IRU. The offered price will be considered against the costs of construction and how the inclusion of the IRU will affect the overall cost of a complete merged area or statewide bid award.

Each IRU shall be for one pair (2 dark fibers)

**2.0 Vendor Information.** Vendor shall furnish the following information pertaining to each IRU with its bid:

- 2.1 Closest point of entry for both the near end and the far end of each site-by-site segment being bid.
- 2.2 Cost of construction to connect IRU fiber terminations to near end and far end Fiber distribution panels (FDPs) or fiber termination bulkheads.
- 2.3 Total db loss for each IRU segment.
- 2.4 Vendor's agreement to specified hours for maintenance windows for future work to be done on fiber bundles containing IRU fibers, or where bundles are not separated, the whole sheath.
- 2.5 Vendor shall describe how service will be restored in the event of a fiber cut.
- 2.6 Vendor shall identify any known hazards along the IRU fiber route such as stream crossings or etc.
- 2.7 A copy of the Vendor's IRU contract document.
- 2.8 Vendor shall stipulate as to whether additional pairs of fibers are available on the same route.

**ATTACHMENT 6**  
**USAC RURAL HEALTH CARE PILOT PROGRAM PROCESS**  
**RFP 08-001**

**Competitive Bidding Requirement Overview**

The RHCPP Selection Order requires the selected participants to conduct a competitive bidding process to select the most cost-effective vendor for design, evaluation, and deployment of the broadband network. To satisfy the competitive bidding requirement, among other things, selected participants must submit an FCC Form 465 that includes a description of services for which the health care provider(s) is seeking support and wait at least 28 days from the date on which this information is posted on USAC's website before making commitments with the selected service provider.

Please also see the [Wireline Competition Bureau's Letter to Program Participants on December 20, 2007](#).

Please feel free to address any concerns to [RHCPilot@usac.org](mailto:RHCPilot@usac.org) or call 800-229-5476.

**Vendor Eligibility**

All vendors that provide services or equipment eligible for funding under the Pilot Program may submit bids for Pilot Program projects. To receive RHCPP support, vendors also need to obtain a Service Provider Identification Number (SPIN) from USAC.

All telecommunications providers, Internet service providers, and other vendors may receive up to 85% of eligible Pilot Program costs. Network design firms and various types of construction companies may also participate. Project participants may choose to self-provision for these services and/or equipment in that they may do their own design work and/or network deployment, subject to the FCC's competitive bidding requirements. This program will refer to all of these entities collectively as Vendors.

Eligible Pilot Program costs include, but are not limited to:

- the non-recurring costs for design, engineering, materials, and construction of fiber facilities and other broadband infrastructure;
- the non-recurring costs of engineering, furnishing (i.e., as delivered from the manufacturer), and installing network equipment;
- the recurring and non-recurring costs of operating and maintaining the constructed network once the network is operational; and
- carrier-provided transmission services and the costs for subscribing to such facilities and services.

All vendors that supply these services or equipment may submit bids for Pilot Program projects. Vendors interested in submitting bids should familiarize themselves with the [2007 Rural Health Care Pilot Program Selection Order](#), which details the RHCPP network components eligible and ineligible for support. Additional information concerning the Pilot Program is available on the [FCC's Rural Health Care Pilot Program page](#).

All vendors (including self-provisioning project entities) must have a Service Provider Identification Number (SPIN), issued by USAC, to receive support for providing discounted service and equipment to eligible RHCPP project participants. If a vendor already has a SPIN, this number is good for all USF programs including the RHCPP. Vendors must ensure they have completed Box 8 of FCC Form 498. Vendors may edit this form if they have already obtained a SPIN. For questions concerning eligibility, please call the Rural Health Care Call Center at 1-800-229-5476. For questions about obtaining a SPIN, please contact

Client Services Bureau at 1-888-641-8722. Vendors that need to apply for a SPIN can go to USAC's E-File page.

**Prior to receiving any RHCPP support, all vendors must complete a certification stating they will comply with RHCPP rules and use funding only for the purposes intended. A sample template of this certification is available for download. This certification should be submitted to the Project Coordinator.**

#### **Searching service requests or Request for Proposal (Online)**

To search for and view Pilot Program service requests (e.g., RFP) postings, vendors will go directly to the RHCPP website search postings page.

#### **Rural Health Care Pilot Program Project Detail**

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Vendors may view the posted service requests (e.g., RFP) and associated documents on the Search Postings page of the RHCPP website. Posted information includes:

- Services requested in PDF Format (e.g., RFP)
- Participating entities/HCPs
- Project Coordinator's name, location, and contact information
- Date Posted to USAC website
- Allowable Contract Date

#### **Provide bids for requested service**

After USAC posts a RHCPP Project's *Description of Services Requested & Certification Form* (Form 465) and associated supporting information, all vendors may view the information and provide bids.

The open competitive bidding process is a minimum of 28 days from the date USAC posts a Form 465 on USAC's website. During this minimum 28-day window, vendors may contact the Project Coordinator (or alternate point of contact (POC), if specified) to submit a bid for their service needs. RHCPP Participants must evaluate all bids and select the most cost-effective service or facility provider available. In selecting the most cost-effective bid, in addition to price, the FCC's 2007 Rural Health Care Pilot Program Selection Order requires Participants to consider non-cost evaluation factors that include prior experience, including past performance; personnel qualifications, including technical excellence; management capability, including solicitation compliance; and environmental objectives (if appropriate). Additional discussion of the cost effective standard can be found in paragraphs 78 to 79 of the 2007 Rural Health Care Pilot Program Selection Order. Project Coordinators may conduct bidding rounds that exceed 28 days and may have multiple rounds of selection.

Vendors can search for requests for services on the RHCPP Search Postings page.

**NOTE: Vendors or service providers participating in the competitive bid process are prohibited from assisting with or filling out a selected participants' service request (e.g., FCC Form 465 and related materials).**

#### **Sign a contract for service**

Vendors may enter into a contract with Participants after the minimum 28-day posting requirement has been met.

It is the Participant's responsibility to determine the most cost-effective service and select an eligible vendor before signing a contract. **Participants that enter into an agreement before completion of the 28-day posting requirement are in violation of the FCC's competitive bidding rules for the Rural Health Care Pilot Program and will not receive support.**

**In addition:**

- (1) Vendors participating in competitive bidding process are prohibited from assisting or filling out the RHCPP Participant's Form 465 – see footnote 281 of the 2007 RHCPP Selection Order.
- (2) Vendors must complete an RHCPP certification. This requirement is found in paragraph 93 of the 2007 RHCPP Selection Order. The template for this certification is available for download.
- (3) Vendors must retain records for 5 years. This requirement is stated in footnote 277 of the 2007 RHCPP Selection Order.

**Receive Funding Commitment Letter**

When USAC has approved a request for service support (the *Internet Service Funding Request and Certification Form 466-A*, and associated attachments), USAC will send the Project Coordinator and the vendor a Funding Commitment Letter (FCL).

The FCL indicates that the project is eligible for the support specified in the letter contingent upon submitting a *Connection Certification Form* (Form 467).

**Funding Commitment Letter Contents**

The FCL includes the following information:

- Health Care Provider (HCP) Number, a unique five-digit code assigned to each Pilot project
- HCP Contact Name (person designated as the Project Coordinator)
- HCP Name and Address of the project location supported
- Service Provider Identification Number (SPIN)
- Vendor Name
- Funding Year
- Copy of Approved Network Cost Worksheet
- List of sites where service is being provided
- Type of Service Agreement (e.g., contract, tariff)
- Eligible Support Start Date: first date the project can receive support based on the *Description of Services Requested & Certification Form* (Form 465)
- Support End Date, last day service is eligible for support during the funding year
- Estimated Months of Support
- Non-Recurring Support Amount
- Monthly Recurring Support Amount
- Estimated Total Support Amount
- Funding Request Number, a unique five-digit code assigned by USAC for each project, vendor, and service combination.
- Approved Network Cost Worksheet Items

**What to Do When You Receive the FCL**

Vendors should validate the SPIN on the FCL. This ensures that future support provided by the vendor is credited to the correct SPIN. If the SPIN is incorrect, please contact the Rural Health Care Pilot Program at 1-800-229-5476.

Health care provider support can only be provided after the vendor receives the Support Acknowledgement Letter from USAC.

### **Receive Support Acknowledgement Letter**

USAC sends a Support Acknowledgment Letter to the Project Coordinator (PC) and vendor.

After receiving the *Connection Certification Form* (Form 467), USAC creates a Support Acknowledgement Letter, which is sent to the PC and vendor.

The Support Acknowledgement Letter provides a detailed report of the approved service(s) and support information.

### **Health Care Provider (HCP) Support Acknowledgement Letter Contents**

The HCP Support Acknowledgement Letter includes the following information:

- Funding Year: 2007, 2008, etc.
- Pilot Project Number (Also known as a HCP Number): unique five-digit number assigned to each Pilot Project
- Funding Request Number: a unique five-digit code assigned by USAC for each Pilot Project, vendor and service combination.
- Billing Account Number: account code for a Pilot Project credited with USF support
- Pilot Project Name: name of project being supported
- Pilot Project Address: address of the project being supported
- Pilot Project Mailing Organization and Address if different than above
- Service Provider Identification Number (SPIN) – number issued by USAC to a vendor
- Vendor name: name of vendor providing service or equipment to project
- Service: type of service or equipment provided
- Support Start Date: first date HCP can receive support based on the *Description of Services Requested & Certification Form* (Form 465)
- Support End Date: last day service is eligible for support during the funding year
- Support Date: month and year for support amount
- Support Amount: support for the month (\$)
- Total: total support for the funding year (\$)

This letter verifies that a Form 467 has been received. The support is credited to the Billing Account Number shown on the Support Acknowledgement Letter. A sample [Support Acknowledgement Letter](#) is available for download.

### **What to Do When You Receive the Support Acknowledgement Letter**

The Support Acknowledgement Letter will be sent to the PC and vendor when the *Connection Certification Form* (FCC Form 467) is processed by USAC.

Once the vendor receives the letter, it can bill the project for services completed. The entity that receives the bill and pays for the service is defined as the "billed entity."

USAC requests that vendors check the SPIN on the Support Acknowledgement Letter to make sure it is correct.

Participants should check that the service provided was actually working or installed and is being billed for the time period on the Support Acknowledgement Letter. Be sure that the Billing Account Number listed on the letter is the same Billing Account Number attached to the service and PC location or PC mailing organization and address. This ensures support is credited to the entity paying for the service. If you are unsure whether the Billing Account Number is correct or if you find an error on the Support Acknowledgement Letter, please contact the Rural Health Care Pilot Program at 1-800-229-5476 and do not start applying program discounts.

#### **Send invoice to USAC**

Once the vendor provides the service and invoices the project, the Project Coordinator (PC) for each Pilot Project is responsible for approving invoices for the vendor's use. These invoices are based on the approved Funding Commitment Letter. The vendor then signs and returns these pre-filled invoices to USAC.

The Project Coordinator shall also confirm and demonstrate to USAC that the selected participant's 15 percent minimum funding contribution has been provided to the service provider for each invoice. USAC also will review invoices to ensure network deployments are proceeding according to the Participants' network plans.

#### **Where and When to Send Invoices**

Project Coordinators can mail or fax USAC a copy of the RHCPP Invoice:

Universal Service Administrative Company  
Rural Health Care Program  
100 S. Jefferson Road  
Whippany, NJ 07981

**Fax Number:** 973-599-6514 (to the attention of the project coach)

#### **Bi-Monthly Invoicing Cycle**

Invoices received from the 1st through the 15th of the month will be processed by the 20th of the month. Invoices received from the 16th through the 31st of the month will be processed by the 5th of the following month.

#### **Example**

If an invoice is received January 29 it will be processed during the first five days of February. If an invoice is received February 1, it will be processed by February 20. The date the invoice is received by USAC will be used to determine when the invoice will be processed, not the date mailed by the project coordinator. Once an invoice is processed by USAC, it will take about 10 days to issue payment. If payment has not been received within 45 days of invoicing USAC, please call 1-800-229-5476 to be sure the invoice was received and is being processed.

#### **Invoice Formatting**

USAC has designed a sample invoice format that project coordinators and vendors may use in the RHCPP. The RHCPP Invoice consists of a header and individual invoice line items for each Pilot Program service credited. Support amounts are based on monthly submissions of actual incurred expenses.

#### **Note**

USAC has developed an administrative process to streamline the invoice submission and approval process. Please contact the Project Coordinator for additional information on this process.