

AGREEMENT

For: The Provision of an Agreed Upon Procedure relating to Government Funds as set out by the City

The AGREEMENT, made and entered into this ____ day of _____ 2008, by and between the City of Lincoln, Nebraska, a Municipal Corporation of the State of Nebraska, hereafter referred to as "City" and HBE Becker Meyer Love, LLP, hereinafter referred to as "HBE".

WHEREAS, **HBE** has offered to provide the services and payment terms described in Exhibit A, Insurance requirements described in Exhibit B, subject to the General Conditions described in Exhibit C; and

WHEREAS, the City desires to engage **HBE** to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants and considerations herein contained, IT IS HEREBY AGREED by the parties hereto as follows:

1. The City employs **HBE** to perform the services hereinafter set forth.
2. Services. **HBE** represents that it is equipped, competent, and able to perform, and that it will perform all services hereinafter set forth in a diligent, competent, and workmanlike manner. **HBE** will perform all such services in accordance with the following provisions, incorporated into this Agreement as if set forth full herein: **HBE** Proposal and Payment Terms, attached hereto as Exhibit A; Insurance requirements, attached hereto as Exhibit B; and General Conditions, attached hereto as Exhibit C, and the letter of intent relating to engagement dated October 27, 2008, attached hereto as Exhibit D. If there are any conflicts between the exhibits, the City's documents shall control.
3. Amount Not To Exceed. It is expressly understood that in no event will the total compensation to be paid to **HBE** under the terms of this contract for the services set forth therein, and for reimbursement of authorized expenses, exceed the sum of Five Thousand Five Hundred Dollars (\$5,500.00) without a written agreement signed by the parties. If additional services are requested by the City, **HBE** will prepare and submit to the City an estimate of the total cost associated with such additional services. The City will review and approve in writing such cost estimate for additional services and the total compensation and reimbursement to be paid by the City to **HBE** for such approved additional services shall not exceed the approved amount. **HBE**'s fees for additional services shall be billed on an hourly basis as **HBE** current standard rates, which will in no event exceed the amount approved by the City in writing for such additional services.
4. The term of this Agreement shall be one (1) year from the date first written above.

5. This agreement shall be binding on the parties thereto only after it has been duly executed and approved by the City and HBE.

City of Lincoln, Nebraska

Mayor Chris Buntler

Date:

HBE Becker Meyer Love, LLP

Lanell Heink CPA

Title: Partner

Date: 12-02-08



EXHIBIT "A"

PROPOSAL FOR AGREED-UPON PROCEDURES

City of Lincoln

Lincoln, Nebraska

SUBMITTED BY:

Cynthia R. Love, Partner
HBE Becker Meyer Love LLP
5944 Vandervoort Drive
P.O. Box 23110
Lincoln, NE 65842
(402) 423-4343

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FIRM PROFILE: HBE BECKER MEYER LOVE LLP

HBE Becker Meyer Love LLP was founded in July, 1974. HBE Becker Meyer Love LLP was formerly known as Hanigan Bjorkman Ecklund LLP, CPAs and Gruntorad & Co. The firm has enjoyed continued growth since the organization date and presently has a staff of 20 accountants, 6 of whom are partners and 9 administrative support staff. The partners of the firm are Scott A. Becker, Stephen K. Bjorkman, Ronald L. Ecklund, Patrick A. Meyer, Cynthia R. Love, and Lanelle E. Herink. The assurance partner included in this proposal serves as one of the firm's experts in the governmental industry. The firm operates from one office located in Lincoln, Nebraska.

HBE Becker Meyer Love LLP provides a complete range of financial management services for businesses, non-profit and governmental organizations, and individuals. The services available include financial reporting, federal and state tax planning and tax return preparation, management advisory services, computer consulting and data processing, and personal financial planning.

HBE Becker Meyer Love LLP is a member of the Private Companies Practice Section (PCPS) of the American Institute of Certified Public Accountants (AICPA). As part of the membership requirements, the firm must undergo reviews by its peers every three years. All reviews showed that work performed by the firm meets the quality control standards of the AICPA. In addition, the firm has developed its own quality control document with some standards higher than those under the peer review program.

All accountants either have received CPA certificates or are working on the experience and examination requirements necessary to become certified.

The firm is proud of a commitment to continuing education which has consistently exceeded the standard of 40 hours per person per year set by the State of Nebraska and the AICPA.

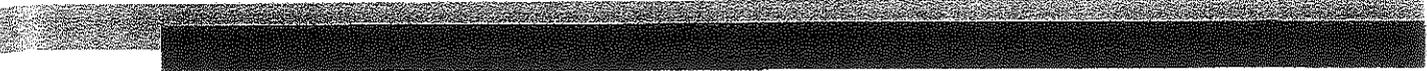
Our firm has provided professional services for profit, not-for-profit and governmental organizations. Our goal since organization in 1974 has been to service clientele primarily in Eastern Nebraska. This goal was intended and continues to be the ability to service our clients on short notice and be available in this service area at all times.

Our firm has had outstanding growth in clientele. This growth can be attributed to the unusually low turnover of professional staff. We believe the continued efforts in training personnel to handle our engagements, with continuity, have greatly enhanced the practice quality and is even more beneficial to our clients since they are not constantly trying to familiarize our staff with their accounting systems. This also enables us to have available professional staff that are familiar at all times for the answering of questions or in the assistance with problems which may arise on a day-to-day basis.

In August, 2005, HBE Becker Meyer Love LLP announced an affiliation with the BDO Seidman Alliance, a nationwide association of independently owned local and regional accounting and consulting firms. Included with this affiliation is membership in their not-for-profit industry group headquartered in Washington, DC and access to all the BDO Seidman resources, practice aids and nationally known experts.

The Alliance allows the firm to draw on BDO Seidman's resources and technical services in specialty areas while preserving its local ownership and operating philosophy. In today's ever changing business environment, clients face a wide range of business and financial issues on a local, national, and global scale. The BDO Seidman Alliance enables the firm to explore the network of alliance members to help meet client's expanding needs.

AGREED-UPON PROCEDURES ENGAGEMENTS



Recent experiences in similar type engagements include the following:

Lincoln Police Department
Thomas Cassidy, Chief of Police
402-441-7237

Union Title Company LLC
Brad Crain, CFO of Union Bank & Trust Co.
402-323-1783

Skellerup Masport, Inc.
Julie Milburn, CFO
402-466-8428

PERSONNEL TO BE ASSIGNED TO THE ENGAGEMENT

Resumes for the following professional staff are included on the following pages. For the performance of this agreed-upon procedures engagement, we anticipate that the following personnel would be assigned.

Cynthia R. Love	Partner
Lanelle E. Herink	Partner
Trina B. Burenheide	Senior

We reserve the right to assign other personnel to the engagement to achieve optimum staffing for timely completion of the engagement. We will choose another staff member to assist Trina on the engagement.

The City of Lincoln will be notified as soon as practical upon changes to the agreed-upon procedures engagement team. We do not anticipate any changes for the audit partners or senior.

CYNTHIA R. LOVE, CPA
5944 Vandervoort Drive
Lincoln, NE 68516
(402) 423-4343



PRESENT POSITION

Partner

EDUCATION AND CERTIFICATION

Bachelor of Science in Business Administration,
University of Nebraska-Lincoln, Major in Accounting.
Graduated, 1987. Received Nebraska CPA
certificate, 1991. Certificate Number 5043.

ACCOUNTING AND TAX EXPERIENCE

HBE Becker Meyer Love LLP, 1990 to present.
Admitted to partnership 1999. Cindy has over 20
years of experience serving governmental entities
with a particular emphasis in the areas of City and
Village audits and budgeting. Cindy performs over
300 hours of governmental audit work on an annual
basis.

ASSOCIATIONS

Member American Institute of Certified Public
Accountants.

Nebraska Society of Certified Public Accountants.

PROFESSIONAL EDUCATION

Has attended governmental and nonprofit auditing
classes in compliance with all GAO standards.
AICPA Certificate of Educational Achievement in
Governmental Accounting and Auditing.

LANELLE E. HERINK, CPA
5944 Vandervoort Drive
Lincoln, NE 68516
(402) 423-4343



PRESENT POSITION

Partner

EDUCATION AND CERTIFICATION

Bachelor of Science, UNMC, Omaha, Nebraska, Major in Medical Technology. Graduated, 1977.
Bachelor of Science in Business Administration, Wayne State College, Wayne, Nebraska. Major in Accounting. Graduated, 1988. Received Nebraska CPA certificate in 1988. Certificate Number 4717.

ACCOUNTING AND TAX EXPERIENCE

HBE Becker Meyer Love LLP, 2005 to present.
Lanelle has over 19 years experience on various profit, nonprofit and governmental organizations. Admitted to partnership January 2008.

ASSOCIATIONS

Member American Institute of Certified Public Accountants.

Nebraska Society of Certified Public Accountants.

PROFESSIONAL EDUCATION

Has attended various profit and nonprofit seminars.

TRINA R BURENDEIDE, CPA
5944 Vandervoort Drive
Lincoln, NE 68516
(402) 423-4343



PRESENT POSITION

Senior Accountant

EDUCATION AND CERTIFICATION

Bachelor of Arts in Business Administration, Benedictine College, Atchison KS, Major in Accounting and Business Administration. Graduated, 2003, Magna Cum Laude. Master of Professional Accountancy, 2004. Received Nebraska CPA certificate, 2007. Certificate Number 7599.

EXPERIENCE

HBE Becker Meyer Love LLP, 2005 to present. Trina has over 3 years experience on various nonprofit and governmental organizations including audits under OMB Circular A-133.

ASSOCIATIONS

Member American Institute of Certified Public Accountants.

Nebraska Society of Certified Public Accountants.

PROFESSIONAL EDUCATION

Has attended governmental and nonprofit auditing classes in compliance with all GAO standards.

UNDERSTANDING THE ENGAGEMENT

Agreed-Upon Procedures

Our agreed-upon procedures engagement will be made in accordance with attestation standards established by the American Institute of Certified Public Accounts. The sufficiency of the procedures is solely the responsibility of the City of Lincoln, the City's Audit Advisory Board and the City Council. Consequently, we will make no representation regarding the sufficiency of the procedures described in the request for proposals either for the purpose for which our report has been requested or for any other purpose.

Because the agreed-upon procedures listed in the request for proposals do not constitute an examination, we will not express an opinion on the financial and accounting records. In addition, we have no obligation to perform any procedures beyond those listed in the request for proposal.

We will submit a report, within 90 days of engagement, listing the procedures performed and our findings. This report is intended solely for the use of the City of Lincoln, the City's Audit Advisory Board and the City Council, and should not be used by anyone other than these specified parties. Our report will contain a paragraph indicating that had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

FEE SCHEDULE

Our fees for the agree-upon procedures engagement for the City of Lincoln, the City's Audit Advisory Board and the City Council are as follows (includes any out-of-pocket expenses):

Fiscal year 2006/2007	\$ 5,500
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Additional services not set forth in this proposal are subject to an hourly rate based on the experience and ability of the professional staff plus out-of-pocket expenses. Billing rates are subject to small changes without notice unless we have a written agreement with you which designates specific billing rates or the total fee to be charged. As of August 20, 2008, our hourly rates are as follows for the personnel we anticipate to be working on the engagement.

Cynthia R. Love	\$155 per hour
Lanelle E. Herink	\$130 per hour
Trina B. Burenheide	\$ 85 per hour
Staff Accountant	\$ 80 per hour
Word Processing	\$ 35 per hour

Fees will be billed periodically during the engagement.

EXHIBIT B

INSURANCE REQUIREMENTS FOR ALL CITY CONTRACTS

1. GENERAL PROVISIONS

- A. **Indemnification.** The Contractor shall indemnify and save harmless the City of Lincoln, Nebraska from and against all losses, claims, damages, and expenses, including attorney's fees, arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Contractor, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Contractor to indemnify or hold harmless the City of Lincoln for any losses, claims, damages, and expenses arising out of or resulting from the sole negligence of the City of Lincoln, Nebraska.
- B. **Approved Coverage Prior to Commencing Work/Subcontractors Included.** Contractor shall purchase and maintain in place insurance to protect Contractor and City against all liabilities and hazards as provided in this article throughout the duration of the Contract. Contractor shall not commence work under this contract until the Contractor has obtained all insurance required under this Section and such insurance has been approved by the City Attorney for the City of Lincoln, nor shall the Contractor allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor has been so obtained and approved.
- C. **Occurrence Basis Coverage.** All insurance shall be provided on an **occurrence basis** and not on a claims made basis, except for hazardous materials, errors and omissions, or other coverage not reasonably available on an occurrence basis; provided that all such claims made coverage is subject to the prior written approval of the City Attorney and must be clearly indicated as such in any certificate showing coverage.
- D. **Authorized and Rated Insurers Required.** All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted by the City Attorney.
- E. **Certificates Showing Coverage.** All certificates of insurance shall be filed with the City Attorney, and may utilize an appropriate standard ACORD Certificate of Insurance form showing the specific limits of insurance coverage required by this Article; provided that restrictions, qualifications or declarations inconsistent with the requirements of this Article shall not relieve the Contractor from providing insurance as required herein. Such certificates shall show the City of Lincoln as additional insured, including by specific endorsement where necessary, as indicated in the following requirements. Such certificate shall specifically state that the related insurance policies are to be endorsed to require the insurer to provide the City of Lincoln thirty days, notice of cancellation, non-renewal or any material reduction in the stated amounts or limits of insurance coverage.
- F. **Terminology.** The terms "insurance," "insurance policy," or "coverage" as used in this article are used interchangeably and shall have the same meaning as "insurance" unless the context clearly requires otherwise. References to "ISO®" forms are merely for convenience and ease of reference, and an equivalent or better form as determined acceptable by the City Attorney may be used. (Note: ISO® is a registered trademark of ISO Properties, Inc.)

2. INSURANCE REQUIREMENTS

- A. **Scope of Required Coverage.** The Contractor shall take out and maintain during the life of Contract such insurance in the forms and minimum amounts as specified in this Article and as will protect Contractor and City from the following claims arising out of or resulting from or in connection

with the Contractor's operations, undertakings or omissions directly or indirectly related to the Contract, whether by the Contractor or any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- (1) Claims under workers' compensation, disability benefit, or other employee benefit acts;
- (2) Claims arising out of bodily injury, occupational sickness or disease, or death of an employee or any other person;
- (3) Claims customarily covered under personal injury liability coverage;
- (4) Claims other than to the work itself arising out of an injury to or destruction of tangible property, including the loss of use resulting therefrom;
- (5) Claims arising out of ownership, maintenance or use of any motor vehicle;
- (6) Railroad protective liability coverage in the event the contract involves work to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing.

B. Worker's Compensation Insurance and Employer's Liability Insurance. The Contractor shall provide applicable statutory Worker's Compensation Insurance with minimum limits as provided below covering all Contractor's employees, and in the case of any subcontracted work, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for Subcontractor's employees.

The Contractor shall provide Employer's Liability Insurance with minimum limits as provided below placed with an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each Subcontractor similarly to maintain Employer's Liability Insurance on the Subcontractor's employees.

Coverage	Listing	Min Amt	Notes
Worker's Comp.			
	State	Statutory	
	Applicable Federal	Statutory	
Employer's Liability			
	Bodily Injury by accident	\$500,000	each accident
	Bodily Injury by disease	\$500,000	each employee
	Bodily Injury	\$500,000	policy limit

C. Commercial General Liability Insurance.

- (1) The Contractor shall provide Commercial General Liability Insurance in a policy form providing no less comprehensive and no more restrictive coverage than provided under the ISO® form CG00010798 or newer with standard exclusions "a" through "o" and with minimum limits as provided below. Any other exclusions that operate to contradict or materially alter the standard exclusions shall be specifically listed on the certificate of insurance and shall be subject to the prior written approval of the City Attorney.

Coverage	Min Amt	Notes
General	\$2,000,000	Aggregate
Products and Completed Operations	\$2,000,000	Aggregate
Personal and Advertising Injury	\$1,000,000	
Each Occurrence	\$1,000,000	
Fire Damage Limit	\$ 100,000	any one fire
Medical Damage Limit	\$ 10,000	any one person

(2) The required Commercial General Liability Insurance shall also include the following:

- Coverage for all premises and operations
- Endorsement to provide the general aggregate per project endorsement
- Personal and advertising injury included
- Operations by independent contractors included
- Contractual liability coverage included
- X.C.U. Coverage including coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below the surface of ground.
- Any fellow employee exclusions shall be deleted
- Coverage shall not contain an absolute pollution exclusion, and applicable remaining coverage shall apply for pollution exposures arising from products and completed operations.
- Coverage for products and completed operations maintained for duration of work and shall be maintained for a minimum of three years after final acceptance under the Contract or the warranty period for the same whichever is longer, unless modified in any Special Provisions.
- Contractual Liability coverage shall include contractually assumed defense costs in addition to any policy limits.

(3) If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing, Railroad Contractual Liability Endorsement (ISO® form CG24170196 or newer).

(4) City may at its sole option, and in lieu of being additional insured on the Contractor's policy, by written requirement in the Special Provisions or by written change order, require Contractor to provide a separate Owner's Protective liability policy. The premium cost to obtain such insurance shall be as paid as provided in the Special Provision or change order, with any related cost savings as reasonably determined by the City being reimbursed or paid to the City.

D. Vehicle liability insurance coverage.

- The Contractor shall provide reasonable insurance coverage for all owned, non-owned, hired and leased vehicles with specific endorsements to include contractual liability coverage and delete any fellow employee exclusion.
- If specifically required in the Special Provisions, the required coverage shall also include an endorsement for auto cargo pollution (ISO® form CA 99 48).

E. Railroad Protective Liability. If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise

required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with

minimum limits for bodily injury and property damage of \$2,000,000 per occurrence, \$6,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City Attorney's office prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

- F. **Umbrella or Excess Insurance.** The Contractor shall provide Umbrella or Excess insurance coverage with minimum coverage limits of \$3,000,000 each occurrence and aggregate.
- G. **City included as Insured on Contractor's Policy – Endorsements required.**
The Contractor shall provide adequate written documentation, including applicable ACORD certificates, declarations pages or other acceptable policy information demonstrating that the City is included as an additional insured along with the Contractor with respect to all of the coverages required in this "Section 2A Insurance Requirements," except for applicable Worker's Compensation coverage, to include all work performed for the City and specifically including, but not limited to, any liability caused or contributed to by the act, error, or omission of the Contractor, including any related subcontractors, third parties, agents, employees, officers or assigns of any of them. The documentation or endorsement shall specifically include the city as an additional insured for purposes of Products and Completed Operations. The inclusion of the City as additional insured shall be for coverage only on a primary basis for liability coverage, and no coverage shall contain a policy or other restriction or attempt to provide restricted coverage for the City, whether on an excess, contributory or other basis regardless of any other insurance coverage available to the City.

3. **CONTRACTOR'S INDEMNITY – CONTRACTUAL LIABILITY INSURANCE**

- A. To the same extent as specified for minimum coverage requirements in Section 2 above, the required insurance shall include contractual liability coverage to include indemnification and hold harmless agreements and provisions in the related Contract Documents, specifically including the following provision:
- (1) To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the City, its officers, agents, employees, volunteers and consultants from and against any and all claims, damages, losses, costs, and expenses, including but not limited to attorney's fees and costs arising out of or related to the Contract or the Contractor's activities, errors, or omissions related to the Contract including liabilities or penalties imposed by applicable law, rule or regulation in connection therewith; provided that such claims, damages, losses, costs, and expenses, including but not limited to attorney's fees and costs:
- is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use therefrom, and
 - is caused in whole or in part by any act or omission of the Contractor, any subcontractor, agent, officer, employee, or assigns of the same or by anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in whole or in part by a party indemnified hereunder.
- (2) Such indemnification shall not be construed to negate, abridge, limit or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section.
- B. In any and all claims by any employee (whether an employee of the Contractor or subcontractor, or their respective agents or assigns by anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable as an employer) in whole or in part against the City, its officers, agents, employees, volunteers or consultants, the above indemnification shall not be limited in any way by the amount of damages, compensation, benefits or other contributions payable by or on behalf of a the employer under Worker's Compensation statutes, disability benefit acts, or any other employee benefit or payment acts as the case may be.

- C. The obligations of indemnification herein shall not include or extend to:
- (1) Any outside engineer's or architect's professional errors and omissions involving the approval or furnishing of maps, drawings, opinions, reports, surveys, change orders, designs or specifications within the scope of professional services provided to the City and related to the Contract; and
 - (2) Any claims arising out of the negligence of the City to the extent the same is the sole and proximate cause of the injury or damage so claimed.
- D. In the event of any litigation of any such claims shall be commenced against the City, Contractor shall defend the same at Contractor's sole expense upon notice thereof from the City. Contractor shall notify the insuring company that the City reserves and does not waive any statutory or governmental immunity and neither Contractor, nor Contractor's counsel whether employed by Contractor or by an insurer on behalf of the Contractor shall waive such defenses or enter into any settlement or other disposition requiring waiver of any defenses or immunity of the City without the express written consent of the City.

4. CONTRACTOR'S INSURANCE FOR OTHER LOSSES.

- A. Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools owned, rented or used in connection with the Contract including any tools, machinery, equipment, storage devices, containers, sheds, temporary structures, staging structures, scaffolding, fences, forms, braces, jigs, screens, brackets, vehicles and the like owned or rented by Contractor, or Contractor's agents, subcontractors, suppliers, or employees.
- B. In connection with the above, Contractor shall cause or require any applicable insurance related to physical damage of the same to provide a waiver of a right of subrogation against the City.

5. NOTIFICATION IN EVENT OF LIABILITY OR DAMAGE.

- A. The Contractor shall promptly notify the City in writing and provide a copy of all claims and information presented to any of Contractor's insurance carrier/s upon any loss or claim or upon any occurrence giving rise to any liability or potential liability related to the Contract or related work. The notice to the City shall include pertinent details of the claim or liability and an estimate of damages, names of witnesses, and other pertinent information including the amount of the claim, if any.
- B. In the event the City receives a claim or otherwise has actual knowledge of an any loss or claim arising out of the Contract or related work and not otherwise known to or made against the Contractor, the City shall promptly notify the Contractor of the same in writing, including pertinent details of the claim or liability; Provided, however the City shall have no duty to inspect the project to obtain such knowledge, and provided further that the City's obligations, if any, shall not relieve the Contractor of any liability or obligation hereunder.

6. PROPERTY INSURANCE/ BUILDER'S RISK.

- A. The Contractor shall provide property insurance (a/k/a Builder's Risk or installation Floater) on all Projects involving construction or installation of buildings or structures and other projects where provided in the Special Provisions. Such insurance shall be provided in the minimum amount of the total contract sum and in addition applicable modifications thereto for the entire work on a replacement cost basis. Such insurance shall be maintained until the City completes final acceptance of the work as provided in the Contract. Such insurance shall be written and endorsed, where applicable, to include the interests of the City, Contractor, Subcontractors, Sub-subcontractors in the related work. The maximum deductible for such insurance shall be \$5,000 for each occurrence, which deductible shall be the responsibility of the Contractor. Such insurance shall contain a "permission to occupy" endorsement.

- B. All related Property Insurance shall be provided on a "Special Perils" or similar policy form and shall at a minimum insure against perils of fire including extended coverage and physical loss or damage including without limitation or duplication of coverage: flood, earthquake, theft, vandalism, malicious mischief, collapse, and debris removal, including demolition whether occasioned by the loss or by enforcement of applicable legal or safety requirements including compensation or costs for City's related costs and expenses (as owner) including labor required as a result of such loss.
- C. All related Property Insurance shall include coverage for falsework, temporary buildings, work stored off-site or in-transit to the site, whether in whole or in part. Coverage for work off-site or in-transit shall be a minimum of 10% of the amount of the policy.
- D. The Contractor's Property Insurance shall be primary coverage for any insured loss related to or arising out of the Contract and shall not be reduced by or coordinated with separate property insurance maintained by the City.

EXHIBIT C

CITY OF LINCOLN, NEBRASKA GENERAL TERMS AND CONDITIONS

I. Termination for Convenience

The City has the right to terminate this agreement for any reason for the City's own convenience. If the City terminates this agreement for convenience, the City shall provide a written notice of the same to Contractor. Upon termination, the City shall pay Contractor for any Contractor Services completed up to the date of termination.

II. Duties Generally

Contractor agrees as follows:

- A. To timely and professionally complete the Contractor Services as described in the Agreement, and to furnish all labor, materials, and pay all costs, including any taxes, to complete the Contractor Services.
- B. To furnish everything reasonably necessary to complete the Contractor Services unless specifically provided otherwise in this agreement.
- C. To apply for and obtain any and all necessary permits, certifications, licenses, variances, and approvals required by any applicable law or regulations that relate to Contractor or the Contractor Services.
- D. To conduct all activities related to the Contractor Services in a lawful manner.

III. Insurance and Indemnification

Contractor agrees to maintain such insurance as will fully protect both Contractor and City from any and all claims and agrees to provide the insurance requirements in the City's document, INSURANCE REQUIREMENTS FOR ALL CITY CONTRACTS.

IV. Independent Contractor

The City is interested only in the results produced by this agreement. Contractor has sole and exclusive charge and control of the manner and means of performance. Contractor shall perform as an independent contractor and it is expressly understood that Contractor is not an employee of the City and is not entitled to any City employee benefits including, but not limited to, overtime, retirement benefits, worker's compensation, sick leave, or injury leave.

V. Equal Employment

Equal employment opportunity in connection with the performance of work under this agreement, Contractor agrees that it shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, national origin, age, or marital status. In the employment of persons, Contractor shall fully comply with the provisions of Chapter 11.08 of the Lincoln Municipal Code and shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, disability, national origin, age, or marital status.

VI. Ownership Rights

- A. Contractor transfers all rights, including those of a property or copyright nature in any works or materials produced under the terms of this agreement to the City. Contractor agrees that Contractor retains no interest or other rights in such works or materials under the copyright protections of 17 USC § 106 or any other law.
- B. The City has unrestricted rights of ownership of such works or materials and may freely copy, reproduce, broadcast or otherwise utilize such works or materials as the City deems appropriate. The City shall also retain all such rights for any derivative works based on such works or materials.

VII. Services to be Confidential

All services, including reports, opinions, and information to be furnished under this agreement shall be considered confidential and shall not be divulged, in whole or in part, to any person other than to duly authorized representatives of the City, without the prior written approval of the City.

VIII. Copyrights, Royalties & Patents

Without exception, Contractor represents the consideration for this agreement includes Contractor's payment for any and all royalties or costs arising from patents, trademarks, copyrights, and other similar intangible rights in any way involved with or related to this agreement. Further, Contractor shall pay all related royalties, license fees, or other similar fees for any such intangible rights. Contractor shall defend suits or claims for infringement of any patent, copyright, trademark, or other intangible rights in any way related to this agreement.

IX. Copyright – Contractor's Warranty

- A. Contractor warrants that all material, processes, or other protected rights to be used in the Contractor Services have been duly licensed or authorized by the appropriate parties for such use.
- B. Contractor agrees to furnish the City, upon demand, written documentation of such license or authorization. If unable to do so, Contractor agrees that the City may withhold a reasonable amount from Contractor's compensation herein to defray any associated costs to secure such license or authorization or defend any infringement claim.

X. Nebraska Law

This agreement shall be governed and interpreted by the laws of the State of Nebraska.

XI. Integration and Conflicts

This agreement represents the entire agreement between the parties and all prior negotiations and representations are hereby expressly excluded from this agreement. If there are any conflicts between Contractor's documents or proposed terms and conditions and the City's documents, the terms and conditions of the City's documents shall control.

XII. Amendment

This agreement may be amended or modified only in writing signed by both the City and Contractor.

XIII. Severability

If any provision of this agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

XIV. Waiver of Contractual Right

The failure of either party to enforce any provision of this agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this agreement.

XV. Assignability

The Contractor shall not assign any interest in this agreement, delegate any duties or work required under this agreement, or transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to Contractor from City under this agreement may be assigned without such approval, but notice of any such assignment shall be furnished promptly to the City.

XVI. Living Wage & Audit

- A. The Contractor agrees to pay all employees in the performance of this contract, a base wage not less than the City Living Wage per Chapter 2.81 of the Lincoln Municipal Code. This wage is subject to change every July.
- B. Contractor agrees that if asked, Contractor shall make available to the City's contract auditor copies of all financial and performance related records and materials in compliance with Chapter 4.66 of the Lincoln Municipal Code.



Scott A. Becker, Partner
Stephen K. Bjorkman, Partner
Ronald L. Ecklund, Partner
Lanelle Herink, Partner
Cynthia R. Love, Partner
Patrick A. Meyer, Partner

EXHIBIT "D"

John J. Hanigan
Kristine B. Locke
Kevin G. Lora
James D. Schulz
Krystal L. Siebrandt
Bryce J. Wilson
Elizabeth A. Wood

October 27, 2008

City of Lincoln
Attn: Vince Mejer - Purchasing
440 S. 8th Street
Lincoln, NE 68508

We are pleased to confirm our understanding of the nature and limitations of the services we are to provide for the City of Lincoln.

We will apply the agreed-upon procedures which the City of Lincoln has specified, listed in the attached schedule, to the Government Funds schedule of the City of Lincoln, Finance Department for fiscal year 2007. This engagement is solely to assist the City of Lincoln in testing the accuracy of its Government Funds schedule. Our engagement to apply agreed-upon procedures will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described in the attached schedule either for the purpose for which this report has been requested or for any other purpose. If, for any reason, we are unable to complete the procedures, we will describe any restrictions on the performance of the procedures in our report, or will not issue a report as a result of this engagement.

Because the agreed-upon procedures listed in the attached schedule do not constitute an examination, we will not express an opinion on the Governmental Funds schedule. In addition, we have no obligation to perform any procedures beyond those listed in the attached schedule.

We will submit a report listing the procedures performed and our findings. This report is intended solely for the use of the City of Lincoln, the City's Audit Advisory Board, and the City Council, and should not be used by anyone other than these specified parties. Our report will contain a paragraph indicating that had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

You are responsible for establishing and maintaining internal control, including monitoring ongoing activities; for the proper presentation of the Governmental Funds schedule; and for selecting the criteria and determining that such criteria are appropriate for your purposes. You are responsible for management decisions and functions; for designating an individual with suitable skill, knowledge and/or experience to oversee the services we provide; and for evaluating the adequacy and results of those services and accepting responsibility for such services.

City of Lincoln
Lincoln, NE 68508

At the conclusion of our engagement, we will require a representation letter from management that, among other things, will confirm management's responsibility for the Government Funds schedule.

Our fees for these services will be \$5,500. The fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

We appreciate the opportunity to assist you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter and the attached summary, please sign the original letter and return it to us. The copy is for your permanent files. If the need for additional procedures arises, our agreement with you will need to be revised. It is customary for us to enumerate these revisions in an addendum to this letter. If additional specified parties of the report are added, we will require that they acknowledge in writing their responsibility for the sufficiency of procedures.

HBE Becker Meyer Howe LLP

Response: This letter correctly sets forth the understanding of the City of Lincoln.

By: _____

Title: _____

Date: _____

City of Lincoln
Agreed Upon Procedures
Procedure Summary

1. Verify the accuracy of the Government Funds schedule.
2. For any funds in which the fund balance represents more than three months of operating expenditures, obtain an explanation/justification for the balance from management.
3. If the representation regarding the fund balance indicates amounts that may be in excess of operational needs, obtain additional representation about potential options to either reduce or lapse any excess fund balance.
4. For any funds in which the fund balance is less than zero, obtain an explanation/justification for the balance from management.
5. For any fund with a designation for debt service, determine whether the designation for debt service is in excess of the actual outstanding debt. If it is, obtain an explanation/justification for the designation from management.
6. Inquire of management whether there is any information that would lead management to believe the fiscal year 2007 fund balance designations are not appropriate. If so, obtain further explanations from management.
7. Meet with the City's Audit Advisory Board and the City Council to present the report.