

City of Tipton, Iowa

Meeting: Tipton City Council Meeting
Place: Tipton Fire Station, 301 Lynn Street, Tipton, Iowa 52772
Date/Time: Thursday, February 17, 2022, 5:30 p.m.
Web Page: www.tiptoniowa.org
Posted: Wednesday, February 16, 2022 (Front door of City Hall & City Website)

Go to Meeting link:

Please join my meeting from your computer, tablet or smartphone.

<https://meet.goto.com/351851109>

You can also dial in using your phone.

United States (Toll Free): [1 877 309 2073](tel:18773092073)

United States: [+1 \(646\) 749-3129](tel:+16467493129)

Access Code: 351-851-109

Mayor: Bryan Carney

| | | | |
|-------------------------------|----------------------|---------------------------------|--------------------|
| Council at Large: | Abby Cummins-VanScoy | Council At Large: | Jason Paustian |
| Council Ward #1 | Ron Hembry | Council Ward #2 | Mike Helm |
| Council Ward #3 | Tim McNeill | City Attorney: | Lynch Dallas, P.C. |
| City Manager: | Brian Wagner | Gas Utilities Supt: | Adam Fitch |
| Finance Director: | Melissa Armstrong | Electric Utilities Supt: | Floyd Taber |
| City Clerk: | Amy Lenz | Water & Sewer Supt: | Brian Brennan |
| Dir. Of Public Works: | Steve Nash | Ambulance Svc Dir: | Brad Ratliff |
| Police Chief: | Lisa DuFour | Economic Dev. Dir. | Linda Beck |
| Park & Recreation: | Adam Spangler | Library Director: | Denise Smith |

- A. **Call to Order**
- B. **Roll Call**
- C. **Pledge of Allegiance**
- D. **Agenda Additions/Agenda Approval**
- E. **Communications:**

If you wish to address the City Council regarding an issue, whether on the agenda or something not on the agenda, please approach the lectern at this time and give your name and address for the public record before discussing your item. Scheduled communications are allowed to speak up to five minutes. Unscheduled communications are allowed to speak up to three minutes.

F. **Consent Agenda**

G. **City Business**

1. Discussion and Possible Action concerning the proposal from Origin Design for the greenspace splashpad project
2. Discussion and possible action concerning the engagement letter from Roberts, Stevens & Prendergas, PLLC
3. Discussion and possible action concerning authorizing the city manager to sign the "First Onsite Property Restoration Client Work Agreement" (paid by EMC Insurance) to coordinate hail damage repair work on various City roofs. *(EMC found at least \$68,000 in total damage.)*

4. Discussion Only – FY 2022-2023 Budget

H. Reports of Mayor/ Council/ Manager/ Department Heads

1. Mayor's Report
2. Council Reports
3. Committee Reports
4. City Manager's Report
5. Department Heads

I. Adjournment

Pursuant to §21.4(2) of the Code of Iowa, the City has the right to amend this agenda up until 24 hours before the posted meeting time.

If anyone with a disability would like to attend the meeting, please call City Hall at 886-6187 to arrange for accommodations/transportation.



February 16, 2022

Brian Wagner, City Manager
City of Tipton
407 Lynn Street
Tipton, IA 52772

RE: **Proposal for City of Tipton, Splashpad (Site Development)**
Project No.: 22055

Dear Mr. Wagner:

The City of Tipton has coordinated for an initial concept and funding for a Splashpad project located at the northwest corner of Cedar Street and 4th Street. We are grateful for the opportunity to contribute to this effort and look forward to partnering with you.

Origin Design firmly believes that working collaboratively with our clients is basis of our success over the years and the basis of every successful project. This commitment starts long before the project itself and as such, Origin Design submits this proposal to you as a working document open to the City of Tipton questions, ideas, revisions and additions.

Project Description

The splashpad will be constructed on a vacant City owned lot at 4th and Cedar. Proposed features include decorative fence, concrete splashpad, drains, water feature plumbing and nozzles, sidewalk, canopy, control panel, site equipment, pad for future restroom, landscaping, artificial turf or sod, and benches. Utility services including electric, water, sanitary sewer and storm sewer will be extended into the site and connected to appropriate features. A pad will be prepared for temporary sanitary facilities with a fence enclosure. Lighting will be by the city and will be served from the control panel. The sidewalk on 4th street will be replaced. Alley and street surfacing will be replaced where disturbed for utility connections. Construction is planned for summer 2022.

Origin Design's Basic Scope of Services

The following list of services will be provided by or under the direct personal supervision of a Professional Engineer or Landscape Architect licensed to practice in the State of Iowa. We are partnering with CRS Design LLC of Verona, Wisconsin who will provide the design of the splashpad and landscaping design features.

A. Concept Plan

1. Topographic Survey
2. Conceptual Layout
3. Meet with City of Tipton to discuss amenities and layout for approval
4. Follow up with budgetary cost estimate based on selected features
5. Submit Concept Plan to City for funding opportunities.

B. Site Plan

1. Prepare site plan
 - i. Existing conditions and removals
 - ii. Sidewalk/paving, decorative fence plans

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- iii. Storm sewer, sanitary sewer, water, lighting and electrical service utilities
 - iv. Water controls and system plans
 - v. Water feature equipment and canopy plans
 - vi. Landscaping plans
2. Prepare construction cost estimate
 3. Submit to City for review and meet with City to discuss
 4. Revise plans as necessary per comments
 5. Resubmit for final approval by City

C. Bidding

1. Assist City in obtaining construction bids
 - i. Prepare bid documents
 - ii. Advertise and submit to contractors
 - iii. Answer contractor questions
 - iv. Attend bid opening
 - v. Review and tabulate bids
 - vi. Recommend award of contract
 - vii. Administer contract documents between contractor and City

D. Graphical Exhibits for Funding and Presentation

1. Plan Rendering and 3D Modelling

E. Construction Administration and Observation

1. Not included in this scope of work

Client's Responsibilities

1. Designate a person to act as Client's representative with respect to the services to be rendered under this agreement. Such person shall have complete authority to transmit instructions, receive information, interpret, and define Client's policies and decisions with respect to Engineer's services for the project.
2. Provide all criteria and full information as to the Client's requirements for the project, including design objectives and constraints, performance requirements, and any budgetary limitations, and furnish copies of all design and construction standards which the Client will require to be included.
3. Assist Engineer by placing at Engineer's disposal all available information pertinent to the project including previous reports and any other data relative to design or construction of the project.
4. Furnish to Engineer, as required for performance of Engineer's Scope of Services (except to the extent provided otherwise under Scope of Services), all of which Engineer may use and rely upon in performing services under this agreement, the following:
 - a. Data prepared by or services of others including without limitation borings, probings, and subsurface explorations, hydrographic surveys, laboratory tests, and inspections of samples, materials, and equipment, as may be available;
 - b. Appropriate professional interpretations of all of the foregoing;
 - c. Environmental assessment and impact statements as may be available;
 - d. Property, boundary, easement, right-of-way, topographic, and utility surveys;
 - e. Property descriptions;
 - f. Zoning, deed, and other land use restrictions;
 - g. Other special data or consultations not covered in the scope of services;
5. Arrange for access to and make all provisions for the Engineer to enter upon public and private property as required for the engineer to perform his services under this agreement.



6. Examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by the Engineer, obtain advice of an attorney, insurance counselor, and other consultants as Client deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the Engineer.
7. Furnish approvals and permits as may be required from the Client.
8. Provide such accounting, independent cost estimating, and insurance counseling services as may be required for the project, such legal services as Client may require or Engineer may reasonably request with regard to legal issues pertaining to the project including any that may be raised by Contractor(s), such auditing service as Client may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as Client may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code, or order applicable to their furnishing and performing the work.
9. Give prompt written notice to Engineer whenever Client observes or otherwise becomes aware of any development that affects the scope or timing of Engineer's services, or any defect or nonconformance in the work of any Contractor.
10. Furnish or direct Engineer to provide Extra Services as stipulated in Items 1 through 12 of this agreement or other services as required.

Additional/Optional Professional Services

Often there are additional services outside of the requested items listed in our base proposal that can be helpful to our clients, depending on their needs and resources. At the client's request, Origin Design can perform any and all of the following items under a separate Proposal or as part of a revised base proposal, should Client request the addition of any of these items.

1. Irrigation system and design.
2. Preparation of any plats such as: easement plats, vacation of easements, or plats of survey.
3. Permit application preparation except for Notice of Intent for NPDES Coverage and the City Planning Application Form. The Client shall be responsible for the payment of all permit, publishing, and application fees.
4. Construction Staking.
5. Construction Administration including change orders, preparation of partial or final pay requests, and certification of substantial completion of the project.
6. Construction Inspection and Material Testing. This would include, but not be limited to, moisture and density control for grading, observation of utility installation, concrete testing for pavements, curb and gutters, and buildings.
7. Design of any retaining walls.
8. Design of and specifications for any required sewage handling pumps.
9. Any 4th Street reconstruction design except for sidewalk replacement or surface restoration for utility connections.
10. Footing details or masonry details along fence.
11. Entry sign design and plans.
12. Restroom design in addition to temporary pad and enclosure.

Compensation

Origin Design proposes to complete the Scope of Professional Services as follows:

- A. Concept Plan, Site Plan, and Bidding (items A, B, & C)** shall be a lump sum fee of \$30,600.00 (Thirty Thousand Six Hundred dollars and zero cents).

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- B. Graphical Exhibits for Funding and Presentation (item D)** shall be a lump sum fee of \$3,500.00 (Three Thousand Five Hundred dollars and zero cents).

Project Schedule

The Concept Plan and Estimate can be submitted to the City of Tipton for review by March 8, 2022. Construction plans and bidding documents will be submitted by June 15, 2022. This schedule assumes proposal approval on February 17, 2022.

General Terms and Conditions

The attached General Terms and Conditions are a part of this Proposal. This proposal is valid for 30 days from the date it was issued. If the services and fees defined in this proposal are acceptable, please return one signed copy to our office. I will be reaching out to you in the next few days to address any questions or concerns. If you'd like to speak to me in the meantime, please feel free to contact me at on my direct line 563-506-4274 or via email at jon.lutz@origindesign.com. Again, thank you for this opportunity to be of service.

Sincerely,
Origin Design Co.



Jon Lutz, PE
Senior Civil Engineer



Craig Geiser
Vice President & Survey Team Leader

I hereby accept this Proposal and General Terms and Conditions and authorize this work.

FOR: **City of Tipton**

Authorized Signature

Date

Typed or Printed Name



General Terms and Conditions

The following General Terms and Conditions shall apply to the attached Agreement for Professional Services between Origin Design Co., herein referred to as the Consultant, and the Client identified in the attached Agreement.

The Client shall provide all criteria and full information with regard to his or her requirements for the Project, and shall designate a person to act with authority on his or her behalf with respect to all aspects of the Project. This shall include, but not be limited to, review and approval of design issues in the schematic design phase, design development phase, and contract documents phase. These approvals shall include an authorization to proceed to the next phase.

Services beyond those outlined in the proposal may be required or be required as a result of unforeseen circumstances. The Consultant under terms mutually agreed upon by the Client and the Consultant may provide these services.

For the scope of services agreed upon, the Client agrees to pay the Consultant the compensation as stated. Invoices for the Consultant's services shall be submitted, at the Consultant's option, either upon completion of any phase of service or on a monthly basis. Invoices shall be payable when rendered and shall be considered past due if not paid within 30 days after the invoice date. A service charge will be charged at the rate of 1.5% (18% true annual rate) per month or the maximum allowed by law on the then outstanding balance of Past Due accounts. In the event any portion of an account remains unpaid 90 days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees.

The Consultant shall secure and endeavor to maintain professional liability insurance, commercial general liability insurance, and automobile liability insurance to protect the Consultant from claims for negligence, bodily injury, death, or property damage which may arise out of the performance of the Consultant's services under this Agreement, and from claims under the Worker's Compensation Acts. The Consultant shall, if requested in writing, issue a certificate confirming such insurance to the Client.

The Client and the Consultant each agree to indemnify and hold the other harmless, and their respective officers, employees, agents, and representatives, from and against any and all claims, damages, losses and expenses (including reasonable attorney's fees) to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors, or omissions. In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of Client and Consultant, they shall be borne by each party in proportion to its negligence.

In recognition of the relative risks, rewards and benefits of the Project to both the Client and the Consultant, the risks have been allocated such that the Client agrees that, to the fullest extent permitted by the law, the Consultant's total liability to the Client for any and all injuries, claims, losses, expenses, damages or claim expenses rising out of this Agreement, from any cause or causes, shall not exceed the amount of the Consultant's fee or other amount agreed upon. Such causes include, but are not limited to, the Consultant's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.

Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

The Client and Consultant agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement to

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mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association effective as of the date of this agreement.

All documents including calculations, computer files, drawings, and specifications prepared by the Consultant pursuant to this Agreement are instruments of professional service intended for the one time use in construction of this project. They are and shall remain the property of the Consultant. Any reuse without written approval or adaptation by the Consultant shall be at the Client's sole risk and the Client agrees to indemnify and hold the Consultant harmless from all claims, damages, and expenses, including attorney's fees, arising out of such reuse of documents by the Client and by others acting through the Client.

Copies of documents that may be relied upon by the Client are limited to the printed copies (also known as hard copies) that are signed or sealed by the Consultant. Files in electronic media format or text, data, graphic, or of other types that are furnished by the Consultant to the Client are only for convenience of the Client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, the Consultant makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the Consultant at the beginning of this project.

The delivery of electronic information to Contractors is for the benefit of the Owner for whom the design services have been performed. Nothing in the transfer should be construed to provide any right of the Contractor to rely on the information provided or that the use of the electronic information implies the review and approval by the Design Professional of the information. Electronic information is drawings, data, modeled data, or computational models. It is our professional opinion that this electronic information provides design information current as of the date of its release. Any use of this information is at the sole risk and liability of the user who is also responsible for updating the information to reflect any changes in the design following the preparation date of this information. The transfer of electronic information is subject to the approval of the Design Professional. Depending upon the type of information requested, and the format, a fee may be required for acquisition of the data, payable to the Design Professional. Contractors are required to submit a request in writing to the Design Professional indicating the type and format of the information requested. The Design Professional will make a reasonable effort to determine whether or not the information can be provided as requested, and the fee for providing the information.

If this Agreement provides for any construction phase services by the Consultant, it is understood that the Contractor, not the Consultant, its agents, employees, or sub-consultants, is responsible for the construction of the project, and that the Consultant is not responsible for the acts or omissions of any contractor, subcontractor, or material supplier; for safety precautions, programs, or enforcement; or for construction means, methods, techniques, sequences, and procedures employed by the Contractor.

When included in the Consultant's scope of services, opinions of probable construction cost are prepared on the basis of the Consultant's experience and qualifications and represent the Consultant's judgment as a professional generally familiar with the industry. However, since the Consultant has no control over the cost of labor, materials, equipment, or services furnished by others; over contractor's methods of determining prices, or over competitive bidding or market conditions, the Consultant cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from the Consultant's opinions of probable construction cost.

The Client and the Consultant each binds himself or herself, partners, successors, executors, administrators, assigns, and legal representative to the other party of this Agreement and to the

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partners, successors, executors, administrators, assigns, and legal representative of such other party in respect to all covenants, agreements, and obligations of this Agreement.

Neither the Client nor the Consultant shall assign, sublet or transfer any rights under or interest in (including but without limitations, monies that may be due or monies that are due) this Agreement, without the written consent of the other, except as stated in the paragraph above, and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assigner from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent the Consultant from employing such independent consultants, associates, and sub-contractors, as he or she may deem appropriate to assist in the performance of services hereunder.

It is acknowledged by both parties that the Consultant's scope of services does not include any services related to the presence at the site of asbestos, PCB's, petroleum, hazardous waste, or radioactive materials. The Client acknowledges that the Consultant is performing professional services for the Client and the Consultant is not and shall not be required to become an "arranger", "operator", "generator", or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA).

The Client may terminate this Agreement with seven days (7) prior written notice to the Consultant for convenience or cause. The Consultant may terminate this Agreement for cause with seven (7) days prior written notice to the Client. The Client is obligated to pay for all services rendered up to the date the Consultant receives the written notice of intent to terminate. Failure of the Client to make payments when due shall be cause for suspension of services or ultimately termination, unless and until the Consultant has been paid in all full amounts due for services, expenses, and other related charges.

This Agreement supersedes all terms and conditions contained on a purchase order typically procuring products. It is understood by both parties upon execution of this agreement that if a purchase order is issued, it is for accounting purposes only. Purchase order terms and conditions are void and are not a part of our agreement.

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Roberts, Stevens & Prendergast, PLLC

Heather A. Prendergast *(also licensed in Illinois, Kansas & Missouri)*

February 10, 2022

Brian Wagner
City Manager for City of Tipton, Iowa
Email: citymanager@tiptoniowa.org

Re: Agreement for Legal Services for 28E Agreement

Dear Brian:

Thank you for selecting my firm to represent the City of Tipton in connection with the 28E Agreement which they currently have with the Tipton Community Schools.

Client. My client in this matter will be the City of Tipton (“The City”).

Scope of Representation. We have agreed that our engagement is limited to solely matters involving the 28E Agreement with Tipton Community Schools and it’s impact, consequences and/or potential litigation regarding said agreement with the City.

Because I am not the City’s general counsel, my acceptance of this engagement does not involve an undertaking to represent the City or its interests in any other matter. In particular, my present engagement does not include responsibility for review of your insurance policies to determine the possibility of coverage for claims that may be asserted related to this matter, for notification of your insurance carriers about the matter or for advice to you about your disclosure obligations concerning the matter under any applicable law.

We may limit or expand the scope of our representation from time to time, provided that any substantial expansion must be agreed to by us. If the scope of my engagement changes, the terms set out in this letter will apply to the expanded engagement unless we enter into a further agreement modifying or superseding this one. This scope of representation expressly excludes appearing on behalf of the City in any administrative or legal matter going forward. If assistance on such a matter arises, we can address that in a separate engagement letter.

I understand Brian Wagner, the City Manager, is designated as the authorized representative and contract person for this matter.

Conflict of Interest Check. To also ensure mutuality of trust and avoid conflicts of interest, we maintain a database of former and current clients. The Rules of Professional Conduct define whether a past or present relationship with any other party prevents us from representing you as the client in this matter. Based upon the information that has been provided to me so far, there are not entities or individuals that pose any conflicts of interest. Because we have cleared our conflicts of interest, we are pleased to be able to represent you in this matter.

Client Responsibilities. You agree to pay our statements for services and expenses as provided below. To enable us to represent you effectively, you agree to cooperate fully with us on all matters relating to this representation, and to fully and accurately disclose to us all facts and documents that may be relevant to the representation or that we may otherwise request. You will provide us with current contact for you and your representatives as needed.

E-Mail Consent. We will transmit to you and receive information from time to time by e-mail, secure or non-secure Internet, or other electronic communication. While we strive to maintain a secure email system, you acknowledge you have been advised that there is a risk of interception of such information and there is a risk that someone may argue that the confidences transmitted are not protected by the attorney-client privilege as they are intended to be. We can make no guarantee that an interception by a third party will not occur or that the attorney-client privilege will be upheld. With full understanding of these risks, you consent to the transmission of information by e-mail, secure or non-secure Internet, or other electronic communication, and accept the risk of diminished confidentiality. This consent will apply to all information or material unless you advise us in writing not to transmit specified information or material by e-mail, secure or non-secure Internet, or other electronic communication.

Advice About Possible Outcomes. Either at the commencement or during the course of our representation, we may express opinions or beliefs concerning the representation and results that might be anticipated. Any such statement made by us is intended to be an expression of opinion only, based on information available to us at the time, and should not be construed by you as a promise or guarantee.

Fees. Our fees will be based primarily on the amount of time spent on your behalf. Each lawyer and legal assistant has an hourly billing rate based generally on experience and special knowledge. The rate multiplied by the time expended on your behalf, measured in quarter of an hour, will be the initial basis for determining the fee. My time is billed at \$150.00 an hour. Time devoted by paralegals is charged at the rate of \$80.00 an hour. Our billing rates are adjusted from time to time. Any estimate of fees and costs that we may have discussed represents only an estimate of such fees and costs. It is not a binding budget or guarantee. It is also expressly understood that payment of the firm's fees and costs is in no way contingent on any outcome.

Cost and Expenses. The firm typically incurs costs in connection with legal representation. These costs may include such matters as long distance telephone charges, special postage, delivery charges, and related expenses, travel expenses, meals and use of other service providers, such as printers or experts.

Given the common use of computers in the course of business, as well as the volume of other documents or data that may need to be managed, reviewed or produced, it may be necessary for the firm to retain a third party vendor to assist it with the management of electronic data or other documents. These vendor services may also need to include assistance in identifying and preserving potentially relevant electronically stored information. The expenses incurred in connection with the services shall be the responsibility of the client. In addition, it is possible that we may provide your information gathered in the course of this matter to a third party vendor for the purpose of maintaining a document database.

You also authorize us to retain any investigators, consultants or experts necessary in our judgment to represent your interests. ~~We will consult with you before retaining~~ such persons. At our option, we may forward third-party charges in excess of \$500.00 directly to you for payment. The firm reserves the right to require the client to deposit in advance an amount sufficient to pay for any expected costs.

Payment of Statements. Statements will be rendered monthly for work performed and expenses recorded on our books during the previous month. Payment is due promptly upon receipt of our statement. If any statement remains unpaid for more than 30 days, we may suspend performing services for you until arrangements satisfactory to us have been made for payment of outstanding statements and the payment of future fees and expenses.

Termination of Representation. Unless previously terminated, our representation will terminate upon our sending you our final statement for services rendered in this matter.

You may terminate our representation at any time by notifying us in writing. Your termination of our services will not affect your responsibility for payment of outstanding statements and accrued fees and expenses incurred before termination or incurred thereafter in connection with an orderly transition of the matter.

We may withdraw from representation at any time if you fail to fulfill your obligations under this agreement, including your obligation to pay our fees and expenses, or as permitted or required under any applicable standards of professional conduct or rules of court, or upon our reasonable notice to you. If the permission of a court is required for withdrawal of representation, you agree not to oppose any motion to withdraw.

Retention and Disposition of Documents. The firm may maintain in its system in an electronic format any and all hard copy documents received from you or others relating to this matter. You agree that the firm may dispose of the hard copy version of any such documents once maintained, unless original documents. After termination of representation, any of your original papers and property will be returned to you upon receipt of payment for outstanding fees and costs. Our own files pertaining to the matter will be retained. These firm files include, for example, firm administrative records, time and expense reports, personnel and staffing materials, and credit and accounting records, and internal lawyers' work-product, such as drafts, notes, internal memoranda, and legal and factual research, including investigative reports, prepared by or for the internal use of lawyers.

For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to destroy or otherwise dispose of any such documents or other materials retained by us within a reasonable time after the termination of the engagement without further notice to you.

Advance Waiver of Conflicts. You understand and agree that this is not an exclusive agreement and you are free to retain any other counsel of your choosing. We recognize that we shall be disqualified from representing any other client with interests materially and directly adverse to yours (i) in any matter which is substantially related to our representation of you, and (ii) with respect to any matter where there is a reasonable probability that confidential information you furnished to us could be used to your disadvantage. You understand and agree that, with those exceptions, we are free to represent other clients, including clients whose interests may conflict with yours in litigation and other disputes, business transactions, or other legal matters. You agree that our representing you in this matter will not prevent or disqualify us from representing clients adverse to you in other matters and that you consent in advance to our undertaking such adverse representations.

Post-Engagement Matters. You are engaging the firm to provide legal services in connection with a specific matter identified above. After completion of the matter, changes may occur in the applicable laws or regulations that could have an impact upon your future rights and liabilities. Unless you engage us after completion of the matter to provide additional advice on issues arising from the matter or other circumstances, the firm has no continuing obligation to advise you with respect to future legal developments.

Subsequent New Matters. When we are engaged by a new client on a particular matter, we are often later asked to work on additional matters. Such new matters may be subject to a new, signed retainer agreement, but if no revised agreement is executed, the terms set forth herein shall apply for all future matters unless revised in writing. Similarly, unless specifically noted in this agreement, this agreement does not cover and is not a commitment by either of us to undertake any appeals or other future phases of representation.

Entire Agreement. This letter represents the entire agreement between you and the firm and supersedes any prior agreements. There are no other representations or agreements between the parties other than those set forth herein. No other person other than the Client is relying or is entitled to rely on any representations contained herein. In addition, no changes may be made to this agreement without the written consent of all parties.

Dispute Resolution. In the event of any dispute relating to our representation, any proceeding will be venued in Black Hawk County, Iowa, and the relationship between you and the firm and all issues relating to this engagement will be governed by Iowa law and rules of professional ethics without regard to conflicts of law principles. You and the firm agree to waive the right to a trial by jury.

Please review this letter carefully and if it meets with your approval, please sign as indicated below and return a copy of this letter with your signature to me.

Please call me if you have any questions.

Very truly yours,



Heather A. Prendergast
heather@neialaw.com

Duly authorized Representative of the City of Tipton

Signature

Date



First Onsite Property Restoration CLIENT WORK AGREEMENT

This Client Work Agreement ("Agreement") is made on January 14, 2022, by and between City of Tipton ("Client") and First Onsite Property Restoration ("First Onsite"), to mobilize, commence, and perform the Work (as defined below) at: 200 W 4th St, Tipton, IA 52772 (the "Property").

Property Owner Name (if different from Client): _____ Telephone: (563) 886-6187
Property Owner Address (if different from the Property address):
407 Lynn St, Tipton, IA 52772

The Work shall include, without limitation: EMC approved Scope of Work.

All Work shall be billed according to the following:

Check Applicable: [if not checked, Work will be billed per First Onsite's Time and Materials Rate Schedule]

- Attached Scope of Work/Estimate/Xactimate, "Attachment A"
- First Onsite Time and Materials Rate Schedule, "Attachment B"
- Lump sum amount of: _____

The Down Payment (33% of estimated Work total of the selected pricing method) is a material consideration of this Work Order. First Onsite reserves the right to terminate the Work if this material consideration is not received within 7 days of the commencement of the Work. In such event, Client agrees to pay all sums due for the Work provided to the date of termination.

1. **Nature of Work.** The Work shall include, all labor, materials, and equipment utilized to estimate or perform the Work, which may include, without limitation, emergency services, restoration, cleaning, drying, water and sewer extraction, repair(s), removal, storage, testing, damage appraisal and consulting and return of inventoried personal property, renovations, and other mitigations and improvements to the Property. The First Onsite Time and Materials Rate Schedule (Attachment B) and Scope of Work/Estimate/Xactimate (Attachment A) do not include applicable taxes, fees, or prevailing wage requirements, all of which shall be invoiced separately. All Work shall be completed in conformity with standards of the applicable trade industry best practices by licensed contractors, as required by state law, using materials reasonably calculated to approximate the finish and quality prior to the damage, including deletion of certain items deemed not necessary to First Onsite. Copies of the licenses will be provided to the Client upon request.

2. **Payment.** For Work, where the estimated duration is greater than 30 days, First Onsite will invoice the Client every 30 days. For Work, where the estimated duration is less than 30 days, First Onsite will invoice Client every 15 days. Client shall pay First Onsite's invoicing no later than 30 days following First Onsite submitting to Client an invoice. If Client uses a consultant to audit the Work's billing, then First Onsite agrees to allow Client to retain 10% of each invoice, until all audit related issues are reasonably resolved. At the time of final walk-through, Client shall have paid to First Onsite all amounts due and owing, except for the 10% retainage; and such retainage amount shall be paid within 10 days of completion of any punch list items. Client agrees to pay interest at the maximum lawful rate or 1.5% a month, whichever is lower upon all amounts due, as well as reasonable costs and attorneys' fees incurred by First Onsite in and enforcement of collection of the same. To the extent the Client requests an audit of First Onsite's project billing, any such request must be made, if at all, in writing and no later than 120 days from Client's receipt of the final Work invoice. Unless otherwise agreed to, the Work shall not include applicable taxes, fees, or prevailing wage requirements, all of which shall be invoiced separately. Within 3 days of commencement of the Work, Client shall notify First Onsite of any particular conditions, which may materially affect Work costs including, without limitation, whether prevailing wages are required. Client further acknowledges that First Onsite may require a down payment of 33% of the estimated total and Client agrees to pay the same within 7 days of the commencement of the Work. Client represents and warrants that it has arranged for, has or will receive insurance proceeds and/or sufficient financing and/or has sufficient funds to comply with this Agreement and pay for the Work. To enable First Onsite to perform the Work in the best and most expeditious manner, Client agrees to make timely payments in accordance with requirements of the Agreement. Client agrees to pay for all Work regardless of whether the same is covered by any insurance.

3. **Authority and Approval.** The undersigned Client signatory represents and warrants to First Onsite that he/she: (i) is the person properly authorized to enter into this Work Agreement; (ii) is doing so on behalf of the Client and all Property owners/insureds with their express knowledge and approval; (iii) will communicate the contents of this Client Work Agreement, including representations made herein, to the Client and Property owner; and (iv) authorizes First Onsite to proceed with the Work. In the event that the Property is occupied by one or more tenant, the undersigned Client represents and warrants that they are empowered and duly authorized to represent and bind any such tenant to the terms of this Authorization.

4. **State Specific Contract Terms.** "Attachment C," if applicable, shall contain any jurisdictionally required contract language. If attached hereto, Attachment C is incorporated fully into this Client Work Agreement.

5. **Substantial Completion.** Substantial Completion shall mean the time when the Work is sufficiently complete. First Onsite agrees to diligently pursue Substantial Completion of the Work but shall not be liable for delays due to late deliveries, weather, or any other event outside of First Onsite's control. Client shall not delay the Work and agrees to avoid interrupting, interfering with, or casually visiting with First Onsite's employees while they are performing the Work.

6. **Additional Terms and Conditions.** Client acknowledges that Additional Terms and Conditions contained on First Onsite's website www.FirstOnsite.com/terms-and-conditions are fully incorporated herein. Client further acknowledges that Client has had the opportunity to review such Terms and Conditions and agrees that the same are fully incorporated herein.

First Onsite Property Restoration

- Interstate Restoration, LLC
- Perfection Property Restoration, Inc.
- RoyIn, LLC
- Super Restoration Service Co., LLC
- Interstate Restoration Hawaii, LLC
- Trilink Restoration Services, LLC

Client _____

Signature: _____

Print Name: Drew Forster

Title: Project Director

Email: drew.forster@firstonsite.com

Date: 1/14/2022

Signature: _____

Print Name: _____

Title: _____ Phone: _____

Email: _____

Date: _____



*Attachment A – Draw Schedule

| | | |
|-----------------------|-----------------------|----------------------------------|
| Contract Total | \$ EMC Approved Scope | Date: 1/14/2022 |
| 1 st Draw | \$ | Due: Project Walk |
| 2 nd Draw | \$ | Due: 50% Scope Completion |
| 3 rd Draw | \$ | Due: |
| 4 th Draw | \$ | Due: |
| 5 th Draw | \$ | Due: |
| Final Draw | \$ | Due: 90% Scope Completion |

Contractor Signature: _____

Owner Signature: _____

Print Name: Drew Forster

Print Name: _____

Date: _____

Date: _____

*All terms and conditions apply from the original signed Client Work Agreement