RESOLUTION 2015-049             PASSED: JUNE 22, 2015

AUTHORIZING THE CITY MANAGER TO SIGN A LOSS
CONTROL SERVICE AGREEMENT WITH CANNON
COCHRAN MANAGEMENT SERVICES, INC. (CCSMI) IN
THE AMOUNT OF $5,000.01 FOR LOSS CONTROL
SERVICES BEGINNING JULY 1, 2015 THROUGH APRIL
30, 2016.

BE IT RESOLVED BY THE CITY COUNCIL of the City of DeKalb, Illinois, as follows:

Section 1: That the City Council of the City of DeKalb hereby authorizes the City Manager to extend an agreement with Cannon Cochran Management Services, Inc. on terms and conditions acceptable to her, for the purpose of Loss Control Services in the amount of $5,000.01 beginning July 1, 2015 and terminating on April 30, 2016, without requiring further authorization or approval of City Council, provided that any costs or expenses to be incurred within the present budget year are within the scope of the then approved budget, and provided that any expenditures proposed to be incurred in future years shall require Council approval through passage of a future budget.

Section 2: That this Resolution shall become effective immediately upon its passage and recording by the City Clerk.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, at a regular meeting thereof held on the 22nd day of June, 2015 and approved by me as Mayor on the same day. Passed by Omnibus roll call vote of 8-0 on the Consent Agenda. Aye: Jacobson, Finucane, Marquardt, Snow, Noreiko, Baker, O’Leary, Rey. Nay: None. Absent: None

ATTEST:

JULIE ABRAHAM, Deputy City Clerk

JOHN A. REY, Mayor
LOSS CONTROL SERVICE AGREEMENT BETWEEN
CITY OF DEKALB AND
CANNON COCHRAN MANAGEMENT SERVICES, INC.

THIS SERVICE AGREEMENT is made and entered into this 1st day of July, 2015, by and
between City of DeKalb (the "Client"), and Cannon Cochran Management Services, Inc.
("CCMSI"), a Delaware corporation. It is agreed between the parties hereto as follows:

A. APPOINTMENT OF CCMSI. CCMSI will provide the Client loss control services upon
mutual agreement of the parties. The Client shall remain fully responsible for the
implementation and operation of its own safety programs and for the detection and
elimination of any unsafe conditions or practice. The Schedule of Loss Control Services
is attached hereto as Exhibit A.

B. BOOKS AND RECORDS. CCMSI or the Client shall not, during this Agreement, disclose
to any other person or entity or utilize in any way, any confidential information or
trade secrets of CCMSI or the Client, including but not limited to CCMSI's or the Client's
business methods and techniques, research data and financial information.

C. SOLICITATION OF EMPLOYEES. During the term of this Agreement and for two (2)
years thereafter, the Client and CCMSI mutually agree not to recruit, solicit or hire any
employee of the other without written permission.

D. TERM and TERMINATION.

1. Term of Agreement. The initial term of this Agreement shall be for ten (10) months
starting July 1, 2015 and terminating on April 30, 2016.

2. Termination of Agreement. This Agreement may be terminated:
(a) By mutual agreement of the parties hereto;
(b) Upon expiration of the current term of this Agreement if either party has
given the other at least ninety (90) days written notice of its intention to
terminate;

E. SERVICE FEE PAYMENTS. The Client shall pay to CCMSI a service fee as outlined in the
Fee and Payment Schedule, attached hereto as Exhibit A.

F. RELATIONSHIP OF PARTIES. Nothing in this Agreement shall be construed to create a
relationship of employer/employee, partners or joint venture between the Client and
CCMSI.

G. INDEMNIFICATION.

1. Indemnification by Client. The Client agrees that it will indemnify and hold
harmless CCMSI and CCMSI's directors, officers, employees, agents, shareholders,
subsidiaries and other affiliates from and against any and all claims, losses, liability,
costs, damages and reasonable attorneys' fees incurred by CCMSI as a
result of breach of this Agreement by the Client, or alleged misconduct, error or
omissions by the Client, or by any of the Client's trustees, directors, officers,
employees, agents, shareholders, subsidiaries or other affiliates in connection with the performance of this Agreement.

2. **Indemnification by CCMSI.** CCMSI agrees that it will indemnify and hold harmless the Client and the Client's trustees, directors, officers, employees, agents, shareholders, subsidiaries, members, or other affiliates from and against any and all claims, losses, liability, costs, damages and reasonable attorneys' fees incurred by the Client as the result of breach of this Agreement by CCMSI or alleged misconduct, error or omissions by CCMSI, or by any of CCMSI's directors, officers, employees, agents, shareholders, subsidiaries or other affiliates in connection with the performance of this Agreement.

**H. CHANGE IN CIRCUMSTANCES.** In the event the adoption of any statute, rule, or regulation materially changes the nature of the relationship between the parties hereto or the legal or economic premises upon which this Agreement is based, the parties hereto shall undertake good faith negotiations to amend the terms of this Agreement to account for such changes in a reasonable manner.

**I. SOFTWARE ACCESS.** The Client may be provided with the right to use one or more CCMSI Applications in connection with the services provided by CCMSI in this Agreement. CCMSI Applications Include ICE, MyReports, Loss Control ASAP, Loss Control Resources and ICEBAR. The right to use CCMSI Applications is non-exclusive, limited to the term of this Agreement per paragraph H.1., non-transferable and is solely for the internal business use of Client. If Client wants access to any CCMSI application after expiration of the term of this Agreement, the minimum annual fee will be $25,000.

CCMSI owns and reserves all rights, title, and interest in and to the CCMSI Applications. Client has no right to receive a copy of the object code or source code to the CCMSI Applications. Client may not attempt to:

1. License, sell, lease or otherwise make the CCMSI Applications available to any other party. Client will not provide any access, passwords or other information regarding the CCMSI Applications to any third parties and/or competitors of CCMSI without the prior written consent of CCMSI;
2. Use the CCMSI Applications in any way that violates any law, regulation or mandate, or the term of this Agreement; or
3. Take any action that jeopardizes confidential or proprietary information held by CCMSI.

Client is responsible for any confidential or proprietary information accessed or downloaded by Client from the CCMSI Applications, including the implementation of appropriate information security controls surrounding such information.

Except as expressly provided in this Agreement, CCMSI Applications are provided “as-is”. CCMSI disclaims all other warranties, express, implied, or statutory, including the implied warranties of merchantability, satisfactory quality, title, fitness for a particular purpose, non-infringement, compatibility, security, quiet enjoyment, or accuracy. Without limiting the foregoing, CCMSI does not warrant that access to or use of the
CCMSI Applications will be uninterrupted or error-free. CCMSI will provide support for the CCMSI Applications in the two most recent two versions of the Internet Explorer, Chrome, Firefox and Safari browsers.

J. MISCELLANEOUS.

1. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois without regard to principles of conflicts of law.

2. Timing of Services. CCMSI may exercise its own judgment, within the parameters set forth herein, as to the time and manner in which it performs the services required hereunder.

3. Successors in Interest. This Agreement shall be binding upon, and inure to the benefit of, the successors in interest and permitted assigns of the parties hereto.

4. Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if the invalid or unenforceable provision had been revised to the minimum extent necessary to make it valid and fully enforceable under applicable law.

5. Paragraph Headings. All paragraph headings in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

6. Waiver. The failure of any party to enforce any provisions of this Agreement shall not constitute a waiver by such party of any provision. A past waiver of a provision by either party shall not constitute a course of conduct or a waiver in the future with respect to that same provision.

7. Notice Provision. All notices, requests and other communications required under this Agreement shall be in writing and delivered by hand or mailed, registered or certified, return receipt requested, postage paid, or sent via a nationally recognized overnight courier to the other party at the following address.

   Client: City Manager
   City of DeKalb
   200 S. 4th Street
   DeKalb, IL 60115

   CCMSI: Cannon Cochran Management Services, Inc.
   2 E. Main Street, Suite 208
   Danville, IL 61832
   Attn: Chief Operating Officer

8. Entire Agreement/Amendment. This Agreement sets forth the full and final understanding of the parties hereto with respect to the matters described herein, and supersedes any and all prior agreements and understandings
between them, whether written or oral. This Agreement may be amended only by written document executed by the Client and CCMSI.

9. **Confidential Information.** Confidential Information includes nonpublic information that is exchanged between the Client and CCMSI, including, without limitation, information relating to the business, financials, personnel, customer data and operating procedures. Confidential Information includes information whether in written, electronic, or oral form created related to services provided under the Agreement. All Confidential Information is proprietary. Client and CCMSI may use the other party's Confidential Information only for the purpose of this Agreement and will limit its disclosure to only those persons reasonably necessary to perform under the Agreement. CCMSI will share nonpersonal bulk claim data with the IDS National Database unless the Client directs otherwise.

10. **Information Security.** CCMSI is responsible for the protection of the confidentiality, availability, privacy and integrity of Client information in our custody. CCMSI has implemented an Information Security Policy that has been developed to comply with applicable federal and state laws or regulations and industry best practices. The Information Security Policy applies to all CCMSI personnel, including temporary employees, independent contractors and vendors with access to CCMSI systems.

    Executed this 22nd day of June, 2015.

CANNON COCHRAN MANAGEMENT SERVICES, INC.

By: ________________
   Robey J. Golden

Its: Senior Vice President, Chief Operations Officer

CITY OF DEKALB

By: ________________
   Mayor
EXHIBIT A

7/1/15-4/30/16 SERVICE PLAN

CCMSI will provide five (5) days of loss control services to the City of DeKalb.

The fee for the above services is $5,000. Additional services are available at the rate of $125 per hour subject to ½ day minimum of $500.

The fee for the initial service period July 1, 2015 to May 1, 2016 (10 months) is payable in three (3) installments of $1,666.67 each as of July 1, 2015, October 1, 2015, and January 1, 2016.

Note: Inspections and recommendations made by CCMSI are advisory and designated to assist the Client in the establishment and maintenance of their own safety activities. CCMSI assumes no responsibility for the management or control of these activities, nor for the correction of the conditions pointed out herein.

Executed this 30th day of June, 2015.

CANNON COCHRAN MANAGEMENT SERVICES, INC.

By: [Signature]

Rudy J. Golden

Its: Senior Vice President, Chief Operations Officer

CITY OF DEKALB

By: [Signature]

Its: Mayor