Contract Document Instructions

(06.09.2023 REV)

City contract templates should be used for all City managed and funded projects with contractors and consultants, except when State or Federal contract forms are required. The City templates are located on the Supervisor Intranet page. The contracts require customization based on the type and scope of services provided.

The checklist on this page summarizes the necessary actions needed to administer a contract. Instructions beginning on Page 2 provide direction on contract customization.

Contract Administration Checklist	√
Pre-Contract Preparation	
Identify appropriate contract template for the project (Professional Services or Construction/Maintenance)	
Include City draft Contract document in the RFP or Bid. Ensure DRAFT watermark remains on the draft contract attached to the bid or RFP.	
Contact Allie Skurski to get the assigned contract number. Provide the title of the contract.	
Post-Approval Contract Administration	
Customize Contract based on selected contractor/consultant proposal and project specifications.	
Prepare one original copy for signature by the contractor/consultant and the City.	
Provide the original signed agreement from the contractor to the City Manager's Office.	
Collect Certificate of Insurance, naming City additional insured. Subcontractors should be included as insureds. (provided within 10 days of contract acceptance)	
Collect Insurance Endorsements (provided within 10 days of contract acceptance)	
Collect Performance Bond (if applicable) (provided within 10 days of contract acceptance)	
Collect Labor and Materials Payment Bond (if applicable) (provided within 10 days of contract acceptance)	
Receive submittals	
Contract Administration During Project	
Receive certified payrolls throughout project with payment requests	
Receive partial waiver of lien with payment request and final waiver of lien at project completion prior to final payout.	
Collect warranty and guarantee (if applicable)	

Contract Customization

1. Determine the type of contract template you need and the scope of your project.
There are two types of contract documents, one for professional services and the other for construction/maintenance projects. When determining the appropriate type of contact template to use, consider: *Does the project involve professional services (surveyor, auditor, engineer, architect, consultant) or the construction/maintenance of infrastructure? What is the scope of the project or services required?*

Professional Services (Consultant services including surveyor, auditor, engineer, architect, consultant). Professional services may be procured for a single project during a definable period or an ongoing, series of projects, not limited to a single project.

Template #1: Project Based Contract (page 4-9). This template is to be used for a single project during a definable period. Examples: perform an audit, develop engineering or architecture plans for a project, or prepare a property survey.

Template #2: Work Order Based Contract (page 4-9). Services rendered for a series of discrete projects/task, or for a project to be completed in separate phases. Examples: survey properties upon request, provide ongoing plan or site review based on separate individual projects, and develop marketing materials upon request, phased engineering services for a project.

Construction/Maintenance
Projects involving construction, renovation, repair or maintenance of public buildings and lands, infrastructure, and other physical or structural improvement.

Template #4: Simple Contract (page 10-12). This option is appropriate for medium-scale projects such as paving or reconstruction of roads, sidewalks, parking facilities, etc.; utility improvements and repairs; maintenance, repair, or upgrade of plumbing, electrical, and other building systems; structural repair and renovations.

General Guidance: This contract should generally be used for contracts under $25,000.

Template #5: Standard Contract (page 12). This option is appropriate for small-scale projects such as routine building and grounds maintenance, small-scale landscaping installation or maintenance, small renovations and repairs, installation of minor improvements such as park benches, trash cans, public art, etc.

General Guidance: This contract should generally be used for contracts over $25,000.

Long Form Construction Contract. This option is recommended for large-scale, complex and high cost projects. The long form contract has been removed from the Intranet. Legal review is required prior to execution of a long form contract with a contractor.

2. Contract Customization

Following the selection of the contract type, the contract will need to be customized to the project. Each area needing customization is highlighted in the document.

Template #1 and #2: Professional Services Contract Customization

Title

Section	Instructions
CITY OF CRYSTAL LAKE **PROFESSIONAL SERVICES AGREEMENT (Project Based)** **FOR *[DESCRIPTION OF SERVICES]*** **THIS AGREEMENT** (the "***Agreement***") is dated as of the ____ day of _____, 20___ ("***Effective Date***") and is by and between the **CITY OF CRYSTAL LAKE**, an Illinois home rule municipality (***"City"***) and *[FULL NAME OF CONSULTANT]*, a *[TYPE OF ENTITY]* (***"Consultant"***).	In the title and first paragraph insert the description, the date of the agreement and the parties involved.

Section 1

Section	Instructions
A. Engagement of Consultant. The City desires to engage the Consultant to provide all necessary professional services and to perform the work described herein in connection with the project identified below: *[Insert brief summary of the services to be performed.]* (the "***Project***").	Insert a summary of the services provided.

Section 2

Section	Instructions
SECTION 2. SCOPE OF SERVICES. C. **Commencement; Time of Performance.** The Consultant shall commence the Services immediately upon *[the Effective Date]* **– OR –** *[receipt of a written notice to proceed issued by the City]*. After commencing the Services as provided herein, the Consultant shall diligently and continuously prosecute the Services throughout the Term of this Agreement (***"Time of Performance"***).	Complete the commencement section for Template #1 Project Based Contract. The project commencement for Template #2 Work Order Based Contracts will depend upon the contractor receiving a work order from the City, not a specific date.

Section 4

Section	Instructions
SECTION 4. PERSONNEL; SUBCONTRACTORS. **A. Key Project Personnel.** *[The following individuals: _____]* **– OR –** *[The individuals identified as key personnel in Exhibit A]* are hereby designated as key project personnel for the Services (the "***Key Project Personnel***") and shall be primarily responsible for carrying out the Services on behalf of the Consultant. The Key Project Personnel shall not be changed without the City's prior written approval.	Complete this section for Template #1 Project Based Contract and Template #2 Work Order Based Contracts.

Section 6 – Indemnification

Section	Instructions
SECTION 6. WARRANTY; INDEMNIFICATION; INSURANCE; LIABILITY. **B. Indemnification**	For all contacts use the language provided in the base document. If the contractor finds the language unacceptable, the City may offer a variation of the original language based on the risk exposure to the City. The two alternate indemnification clauses are shown on page 6 of these instructions. Alternative #1 limits the contractor's liability and may be appropriate for small projects with limited risk to the City. Alternative #2 provides mutual indemnification and should only be used in situations where the City's actions could put the contractor at risk of liability. The contractor may request the limitation of their liability as shown on page 7. This can only be approved in consultation with the City's legal counsel.

Indemnification Alternatives

Base	**Alternative #1—Allocates less risk to the Consultant. This alternative may be appropriate for smaller contracts where the Consultant's work does not pose significant liability risks to the City:**	**Alternative #2—Mutual indemnification. This alternative may be appropriate where the City's performance of (or failure to perform) its obligations under the Agreement could put the Contractor at risk of liability.**

The Consultant shall, to the fullest extent permitted by law and without regard to the availability or unavailability of any insurance either of the City or the Consultant, indemnify, save, hold harmless, and defend the City, and its officials, officers, employees, agents, attorneys, and representatives against any and all injuries, lawsuits, claims, suits, demands, damages, liabilities, judgments, losses, costs, and expenses, arising or alleged to have arisen out of, as a consequence of, or in relation to the Consultant's performance of, or failure to perform, the Services, or any part thereof, or any other obligation of Consultant under this Agreement (including without limitation, review of plans and other technical documents, construction inspection services, and/or failure to meet any representations, warranties, or certifications of Consultant set forth in this Agreement), including attorneys' fees, litigation or defense costs, and expenses, except to the extent caused by the City's sole negligence.	The Consultant shall, to the fullest extent permitted by law and without regard to the availability or unavailability of any insurance either of the City or the Consultant, indemnify, save, hold harmless, and defend the City, and its officials, officers, employees, agents, attorneys, and representatives against any and all third-party lawsuits, claims, demands, suits, damages, liabilities, injuries, judgments, losses, costs, and expenses, arising or alleged to have arisen out of the Consultant's gross negligence, willful misconduct, or fraudulent behavior in the performance of, or failure to perform, the Services or any part thereof or any other obligation of Consultant under this Agreement (including without limitation, review of plans and other technical documents, construction inspection services, and/or failure to meet any representations, warranties, or certifications of Consultant set forth in this Agreement), including attorneys' fees, litigation or defense costs, and expenses, except to the extent caused by the City's sole negligence.	i. The Consultant shall, to the fullest extent permitted by law and without regard to the availability or unavailability of any insurance either of the City or the Consultant, indemnify, save, hold harmless, and defend the City, and its officials, officers, employees, agents, attorneys, and representatives against any and all third-party lawsuits, claims, demands, suits, damages, liabilities, judgments, losses, costs, and expenses, arising or alleged to have arisen out of or in relation to the Consultant's performance of, or failure to perform, the Services, or any part thereof, or any other obligation of Consultant under this Agreement (including without limitation, review of plans and other technical documents, construction inspection services, and/or failure to meet the representations, warranties, or certifications of Consultant set forth in this Agreement), including attorneys' fees, litigation or defense costs, and expenses, except to the extent caused by the City's negligence. ii. The City shall, to the fullest extent permitted by law and without regard to the availability or unavailability of any insurance either of the City or the Consultant, indemnify, save, hold harmless, and defend the Consultant and its owners, managers, members, officers, directors, beneficiaries, shareholders, employees, agents, attorneys, and representatives, against any and all third-party lawsuits, claims, demands, suits, damages, liabilities, judgments, losses, costs, and expenses, arising or alleged to have arisen out of or in relation to the City's performance of, or failure to perform, any obligation of the City under this Agreement (including without limitation failure to meet the representations, warranties, or certifications of the City set forth in this Agreement), including attorneys' fees, litigation or defense costs, and expenses, except to the extent caused by the Consultant's negligence.

Limitation of Liability

Section	Instructions
Limitation of Liability. To the extent allowed under applicable law, the aggregate liability (including attorney's fees and all other costs) of either Party to the other Party related to or arising out of this Agreement shall not exceed the fees paid to Consultant for the Services, except to the extent finally determined to have resulted from the gross negligence, willful misconduct, or fraudulent behavior of the at-fault Party. Additionally, in no event shall either Party be liable for any lost profits, lost business opportunity, lost data, consequential, special, incidental, exemplary, or punitive damages, delays, or interruptions arising out of or related to this Agreement even if the other Party has been advised of the possibility of such damages.	Provision may be added if desired to limit the consultants' maximum potential financial liability to each other. Although the provision is mutual, in most circumstances it will have the practical effect of allocating greater risk to the City. Therefore, this provision would only be appropriate for contracts where the Consultant's work does not pose significant liability risks to the City or third parties, and it should be used with caution.

Section 6 – Insurance

Section	Instructions
SECTION 6. WARRANTY; INDEMNIFICATION; INSURANCE; LIABILITY. **C. Insurance.**	Insurance requirements and limits are depicted in Exhibit C for all contracts. The supplemental insurance coverages listed on page 8 could be included when appropriate. The following conditions may trigger the need for the supplemental insurance coverage: • *The project is a large construction project involving many subcontractors.* • *The contract is with a general contractor who manages numerous sub-contractors.* • *The contract involves managing, coordinating, transporting, storing, or using chemicals that could be environmentally hazardous.* • *The consultant must maintain, store or process City information, some may be sensitive, on a computer information system.*

Supplemental Insurance Coverages

Optional Insurance Line	*When Required?*	*Limits*
Owners and Contractors Protective Liability (OCP) Policy with the City of Crystal Lake as insured.	Very large construction projects involving many subcontractors. Only provides coverage for two risks: vicariously liability for hiring contractor and general supervision on the job site	$1,000,000 combined single limit per occurrence for bodily injury and property damage.
Builder Risk Property Coverage with the City of Crystal Lake as loss payee	If general contractor is responsible for construction of a large property structure	Shall insure against "All Risk" of physical damage, including water damage (flood and hydrostatic pressure not excluded), on a completed replacement cost basis.
Environmental Impairment/ Pollution Liability Coverage for pollution incidents as a result of a claim for bodily injury, property damage or remediation costs from an incident at, on or migrating beyond the contracted work site. Coverage shall be extended to Non-Owned Disposal sites resulting from a pollution incident at, on or mitigating beyond the site; and provide coverage for incidents occurring during transportation of pollutants.	Projects which contain an exposure to risks of environmental impairment/ pollution liability arising from the project.	$1,000,000 combined single limit per occurrence for bodily injury, property damage and remediation costs.
Cyber Liability/Response Coverage to respond to the duties and obligations as is undertaken by Consultant shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.	Projects with an exposure to risks of computer information systems breaches and damages.	limits not less than $1,000,000 per occurrence and breach response services of not less than $250,000.

Section 7

	Instructions
SECTION 7. CONSULTANT AGREEMENT GENERAL PROVISIONS. **N. Safety / Loss Prevention.** The Consultant shall be responsible for implementing and maintaining a worksite safety and loss prevention program consistent with the minimum standards set forth in Exhibit A. Upon request of the City, or as specified in Exhibit A, Consultant shall provide documentation of completed employee safety training in a form acceptable to the City.	*This section is not included in the base agreement and should be placed in the agreement if applicable*. Safety/loss prevention requirements are recommended by IRMA and should be included if applicable to the Services. If applicable, the program requirements should be addressed in the Consultant's proposal (Exhibit A).

Section 7

	Instructions
SECTION 7. CONSULTANT AGREEMENT GENERAL PROVISIONS. **L. Records; Ownership; Intellectual Property.** ….Notwithstanding Subsection L.1, Consultant will maintain all ownership right, title and interest to all of Consultant's Knowledge. For purposes of this Agreement "Consultant's Knowledge" means Consultant's proprietary programs, modules, products, inventions, designs, data, or other information, including all copyright, patent, trademark and other intellectual property rights related thereto, that are (1) owned or developed by Consultant prior to the Effective Date of this Agreement ("Consultant's Preexisting Knowledge") (2) developed or obtained by Consultant after the Effective Date, that are reusable from client to client and project to project, where the City has not paid for such development; and (3) extensions, enhancements, or modifications of Consultant's Preexisting Knowledge which were not developed solely in connection with the Services and which do not include or incorporate the City's Confidential Information. To the extent that any Consultant Knowledge is incorporated into the Documents, Consultant grants to the City a non-exclusive, paid up, perpetual, royalty-free worldwide license to use such Consultant Knowledge in connection with the Documents, and for no other purpose without the prior written consent of Consultant.	This language can be added if requested by the contractor. This may be added to the end of Section 7. Paragraph L if necessary to protect the Consultant's intellectual property interests in proprietary information, software, systems, data, etc. that were not developed for the City.

Contract Template #4 Short Form Construction Contract Customization

This option is appropriate for medium-scale projects such as paving or reconstruction of roads, sidewalks, parking facilities, etc.; utility improvements and repairs; maintenance, repair, or upgrade of plumbing, electrical, and other building systems; structural repair and renovations.

The first two pages should be completed with the name of the contractor and the date of the contract. Following the insertion of basic information, the following modifications should be made:

Section 7.8 Notices

Section	Instructions
Notices and communications to Contractor shall be addressed to, and delivered at, the following address: ***[NAME OF SUCCESSFUL BIDDER]*** ***[ADDRESS OF SUCCESSFUL BIDDER]*** _____ _____	Insert information regarding notices and communication with the contractor.

Contractor Certification

The highlighted information should be completed and then signed by the contractor.

Attachments

Section	Instructions
Attachment A	Complete the following: 1. Project: Insert Project Description 2. Work Site: Describe area where work will be conducted. 3. Permits, Licenses, Approvals and Authorizations: Identify if there are any permits that the contractor *is not required* to obtain. 4. Commencement Date: Specify the contract's commencement. 5. Completion Date: Specify the project's completion date. 6. Insurance Coverages: (12.) Identify, if any, other groups need to be named as additional insured. (13.) Identify, if any, supplemental insurance policies are needed.* 7. Contract Price: In this section you will identify if the contract is a "lump sum contract" or per "unit price contract"; or a combination of the two. Information in

	this section will be from the contractor's proposal/bid submittal. 8. Progress Payments: This section needs no modification unless other payment terms are identified in the request for proposal or bid document.
Attachment B	Include City issued specifications that were used by the contractor to supply pricing.
Attachment C	Include City issued drawings or plans that were used by the contractor to supply pricing.
Attachment D	Include any special requirements of the contractor.

* Supplemental insurance coverages could be included when appropriate. The following conditions may trigger the need for the supplemental insurance coverage:

- *The project is a large construction project involving many subcontractors.*
- *The contract is with a general contractor who manages numerous sub-contractors.*
- *The contract involves managing, coordinating, transporting, storing, or using chemicals that could be environmentally hazardous.*
- *The consultant must maintain, store or process City information, some may be sensitive, on a computer information system.*

Supplemental Insurance Coverages

Optional Insurance Line	*When Required?*	*Limits*
Owners and Contractors Protective Liability (OCP) Policy with the City of Crystal Lake as insured.	Very large construction projects involving many subcontractors. Only provides coverage for two risks: vicariously liability for hiring contractor and general supervision on the job site	$1,000,000 combined single limit per occurrence for bodily injury and property damage.
Builder Risk Property Coverage with the City of Crystal Lake as loss payee	If general contractor is responsible for construction of a large property structure	Shall insure against "All Risk" of physical damage, including water damage (flood and hydrostatic pressure not excluded), on a completed replacement cost basis.
Environmental Impairment/ Pollution Liability Coverage for pollution incidents as a result of a claim for bodily injury, property damage or remediation costs from an incident at, on or migrating beyond the contracted work site. Coverage shall be extended to Non-Owned Disposal sites resulting from a pollution incident at, on or mitigating beyond the site; and provide coverage for incidents occurring during transportation of pollutants.	Projects which contain an exposure to risks of environmental impairment/ pollution liability arising from the project.	$1,000,000 combined single limit per occurrence for bodily injury, property damage and remediation costs.

Cyber Liability/Response Coverage to respond to the duties and obligations as is undertaken by Consultant shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.	Projects with an exposure to risks of computer information systems breaches and damages.	limits not less than $1,000,000 per occurrence and breach response services of not less than $250,000.

Contract Template #5 Condensed Form Construction Contract. This option is appropriate for small-scale projects such as routine building and grounds maintenance, small-scale landscaping installation or maintenance, small renovations and repairs, installation of minor improvements such as park benches, trash cans, public art, etc.

The first page should be completed with the name of the contractor and contact information.

Attachments

Section	Instructions
Attachment A	I. Project: Insert project description. II. Work Site: Insert work site location. V. Completion Date: Insert completion date or expectations regarding completion. VI. Project Specifications: You may either use the suggested outline in the template or refer to the specifications from the proposal. VII. Contract Bonds: Identify whether a Performance Bond and/or a Labor and Material Payment Bond is required.
Attachment B	Include City issued specifications that were used by the contractor to supply pricing and time of payment.
Attachment C	Have the contractor complete the contractor's certification and sign.