

MUNICIPALITY OF ANCHORAGE CONTRACT TEMPLATE **INSTRUCTIONS**

These instructions are to ensure that the requirements of a Professional Services contract are met before submission for approval. While the commercial terms of a Professional Services contract are usually the outcome of a Request for Proposal and may be negotiated without approval from the Department of Law or Risk Management, any proposed deviations to either legal or insurance clauses in the below Sample Contract must be approved by the Department of Law or the Risk Management Department, respectively.

The goal is to have a contract that is ready for approval, having:

1. Clearly understood and agreed-to commercial terms between the parties;
2. Approved legal clauses.
3. Approved insurance for the application. The insurance requirements in the below Sample Contract are approved but may not be appropriate for a specific project or situation. Regardless, any proposed deviation requires approval from Risk Management.

CONTRACT BODY

Once the contract has been negotiated and an agreement has been reached, document the outcome using the below Sample Contract as a starting place. Always proof-read the contract completely through before submitting it for approval. Ensure that:

1. Both parties are properly identified with their legal names;
2. All appendices are properly listed, labeled, and included.
3. Commercial obligations and limitations of both parties are clearly understood;
4. The agreement does not violate Title 7 limitations;
5. It is complete – fill in all blanks;
6. It does not contain irrelevant information – remove all instructions, comments, footnotes, and unselected multiple choices;

COMMERCIAL, LEGAL, AND INSURANCE COMPONENTS

Commercial Terms

Commercial terms include contract amount, period of performance, scope of services, etc. These are mainly addressed under Part 1, Sections 1 – 4, and 10 in the below Sample Contract. Although they do not need approval from Law of Risk Management, they are still subject to approval by the contractor, the department, and the Purchasing Director.

Insurance Terms

Requirements are listed under Part 1, Section 7 of the below Sample Contract. Contractors may propose changes during negotiations, but any deviations from the listed insurance requirements must be approved by Risk Management prior to submittal for contract approval.

Legal Terms

Remaining clause not named above are under the “ownership” of Law. They are approved and cannot be changed without prior approval from the Department of Law.

CONTRACTOR'S SIGNATURE

It is very important that whoever signs the contract for the contractor has authority to do so, (i.e., authority to bind the contractor).

If the contractor is a corporation, only the corporation's president has the power to bind the corporation solely by virtue of his/her position. Thus, it is easiest and best if the president of a corporation signs the contract. However, others may sign for the corporation if they have one of the following:

1. A corporate resolution (from the corporation's board of directors) that says that the signer has the authority to sign this contract for the corporation (see Appendix 1);
2. A power of attorney from the president giving the signer authority to sign the contract for the president (see Appendix 2); or
3. A letter from the president authorizing the signer to sign for the president (see Appendix 3).

The above authorizations are set forth in the order of preference (i.e., a corporate resolution is preferred over a power of attorney which is preferred over a letter of authorization). The authorization must travel with the contract. If the Law Department does not have the authorization, the contract will be delayed until the Law Department sees the authorization.

If the contractor is a partnership, a general partner must sign for the partnership. In cases of a joint venture where one of the joint venturers is a corporation, the president of the corporation may sign for the joint venture as a general partner. If a contractor is a sole proprietorship, the owner must sign the contract.

Whoever signs the contract must set forth the capacity in which they are signing underneath their signature (i.e., president, general partner or owner). If this is not done, the Department of Law will have to hold the contract to verify the capacity of the signer.

CONTRACT AMENDMENTS

An amendment must be used whenever there is a need to change, alter, or modify the original contract.

1. Any change must identify the Section and paragraph that are being changed.
2. Any change must identify the action – Add, Delete, Replace.
3. Any addition or replacement must state the amended language.
4. When submitting a contract amendment for approval, a copy of the original contract, all previous amendments, and any previously approved Assembly Memorandum (AM) must also be provided.

GRANTS

The following language regarding prohibition on endorsement of candidates must be contained in all grants from the Municipality:

PROHIBITION ON ENDORSEMENT OF CANDIDATES

The contractor/grantee/donee agrees that it shall not expend any municipal funds for the support, opposition, or endorsement of candidates for any state or municipal office; and that it shall not endorse or oppose candidates for state or municipal office even if such endorsement or opposition does not require expenditure of funds. The contractor/grantee/donee understands that after a determination by the Municipality that a violation of this prohibition has occurred it shall result in forfeiture of all unexpended funds for the year in which the violation occurs. The contractor/grantee/donee understands it will also be ineligible for any municipal funds the following fiscal year.

WHEN ASSEMBLY APPROVAL IS REQUIRED

The Assembly needs to approve contracts more than \$150,000 and all sole source contracts in excess of \$30,000 (AMC 7.15.040). If Assembly approval is required, it must be obtained prior to contract submission for approval.

MISCELLANEOUS

The Department of Law requires that all corporations, domestic or foreign (both private and non-profit) be registered and in good standing with the State of Alaska. Very rarely, a company doing business with the Municipality would not be required to obtain a Certificate of Authority to transact business in the State of Alaska under AS 10.06 et seq.

CONTRACT FOR PROFESSIONAL SERVICES

WITH _____

In consideration of the mutual promises herein, ANCHORAGE and _____ agree as follows. This contract consists of:

- A. Part I, consisting of ___ sections of Special Provisions;
- B. Part II, consisting of ___ sections of General Provisions;

IF SCOPE OF SERVICES ATTACHED, PER § 2:

- C. Appendix A – Scope of Services, consisting of ___ pages; and

IF PAYMENT SCHEDULE ATTACHED, PER § 4:

- D. Appendix B – Fee Schedule, consisting of ___ pages.

**PART I
SPECIAL PROVISIONS**

Section 1. Definitions.

In this contract:

- A. "Administrator" means the _____ of the Department of _____ or his designee.
- B. "Anchorage" means the Municipality of Anchorage.
- C. "Contractor" means _____.

Section 2. Scope of Services.

SELECT ONE or MORE OF THE FOLLOWING PARAGRAPH As APPROPRIATE:

- A. The Contractor shall perform professional services in accordance with Appendix A, which is attached hereto and incorporated in this section by reference.
(A WELL DRAFTED SCOPE OF SERVICES IS VERY IMPORTANT. DO NOT ASSUME THAT YOUR IDEA OF WHAT A CONTRACTOR IS GOING TO DO AND HIS IDEA ARE THE SAME. TRY TO BE AS SPECIFIC AND DETAILED IN THIS AREA AS POSSIBLE TO AVOID AMBIGUITIES AND LATER MISUNDERSTANDINGS/PROBLEMS.)
- A. The Contractor shall perform the following professional services:
 - 1.
 - 2.

Contract with _____

MANDATORY for Term Contracts:

- B. A Purchase Order (P.O.) will be issued against this contract for each specific Statement of Work. No work is authorized nor may commence without receipt of a P.O. Once received, the Contractor shall perform the Professional Services required to complete the Statement of Work contained therein. Individual P.O.'s are not to exceed \$_____.

MANDATORY

- C. Anchorage shall not allow any claim for services other than those described in this section. However, the Contractor may provide, at its own expense, any other services that are consistent with this contract.

Section 3. Time for Performance.

SELECT ONE OF THE FOLLOWING PARAGRAPH As:

- A. This contract becomes effective when signed on behalf of Anchorage and shall remain in effect for ____ year(s) from the date of final signature.
- A. This contract becomes effective when signed on behalf of Anchorage and shall remain in effect through (date).

SELECT ONE OF THE FOLLOWING PARAGRAPH Bs:

- B. The Contractor shall commence performance of the work described in Part I Section 2 on _____, 20____, and complete that performance in accordance with the schedule set forth in Section 2.
- B. The Contractor shall commence performance of the work described in Part I Section 2 on _____, 20____, and complete that performance on or before _____, 20____.

MANDATORY for Term Contracts:

- B. Upon receipt of a P.O. authorizing work, the Contractor shall commence performance of that work and complete that performance in accordance with the schedule contained therein.

Optional – if Option periods are used:

- D. This contract may be extended for ____ () ____-year option period(s) upon mutual consent of both parties.

MANDATORY:

Section 4. Compensation; Method of Payment.

SELECT ONE OF THE FOLLOWING PARAGRAPH As:

- A. Subject to the Contractor's satisfactory performance, Anchorage shall pay the Contractor no more than _____ DOLLARS (\$_____) in accordance with this section.

- A. Subject to the Contractor's satisfactory performance, Anchorage shall pay the Contractor no more than _____ DOLLARS (\$_____) in accordance with this section. Yearly amounts will be no more than those listed in the below chart, subject to appropriation.

Year:	Amount:
Year 1 20XX	\$
Year 2 20XX	\$
Year 3 20XX	\$
Year 4 20XX	\$
Year 5 20XX	\$
Total NTE Amount:	\$
	\$

If Option Periods are to be used:

- A. Subject to the Contractor's satisfactory performance, Anchorage shall pay the Contractor no more than _____ DOLLARS (\$_____) in accordance with this section. Option periods, if exercised, will be at the same yearly amount as the base amount.

- A. Subject to the Contractor's satisfactory performance, Anchorage shall pay the Contractor no more than _____ DOLLARS (\$_____) during the base period of the contract in accordance with this section. Should both parties agree to exercise option years, Anchorage shall pay no more than the amount per year stated in the below chart, subject to appropriation.

Year:	Amount:
Base 20XX	\$
Option 1 20XX	\$
Option 2 20XX	\$
Option 3 20XX	\$
Option 4 20XX	\$
Total NTE Amount:	\$

Contract with _____

SELECT ONE OR MORE AS APPROPRIATE:

- B. Anchorage shall pay the Contractor in accordance with the schedule of professional fees attached as Appendix B and incorporated herein by reference for services actually performed under this contract. Professional fees will be fixed for the term of the contract.

NOTE: Title 7 does not allow rate increases by amendment. Any future rate increases must be defined in the original contract.

- B. Anchorage shall pay the Contractor in accordance with the schedule of professional fees attached as Appendix B and incorporated herein by reference for services actually performed under this contract. Professional fees may be adjusted over the term of the contract based on the following formula/index/time frame: _____.
- B. Anchorage shall pay the Contractor \$ _____ per hour of time actually expended to perform under this contract.
- B. Anchorage shall pay the Contractor in accordance with the progress payment schedule attached hereto as Appendix B and incorporated herein by reference.
- B. Anchorage shall pay the Contractor one lump sum payment in the amount of _____ DOLLARS (\$ _____) after the Contractor satisfactorily completes all of its performance.
- B. Anchorage shall pay the Contractor by periodic payments as follows: _____
- B. Anchorage shall, in addition to the monetary compensation agreed to, provide the Contractor with _____ [(e.g.) office space, materials, office equipment, photocopying, etc., during the time the Contractor is in Anchorage].
- B. Anchorage shall pay the Contractor for actual costs reasonably incurred by the Contractor to perform under this contract. Cost plus a percentage of cost is not allowed. As used in this section "actual costs" means:

OPTIONAL RETAINAGE (not to be used if the contractor is going to be paid a flat fee):

- C. Anchorage shall retain _____ percent (____ %) of each payment due to the Contractor under this section and remit the retainage to the Contractor only when the Contractor has satisfactorily completed all of its performance.

CHOOSE ONE ITEM IN [] below:

- C. [Each month;] [At the conclusion of each phase of the work for which payment is due;] [Upon final acceptance of the work by the Administrator] the Contractor shall present a bill to the Administrator describing the work for which it seeks payment and documenting expenses and fees to the satisfaction of the Administrator. If any payment is withheld because the Contractor's performance is unsatisfactory, the Administrator must, within _____ days of the payment denial, notify the Contractor

Contract with _____

of the payment denial and set forth, with reasonable specificity, what was unsatisfactory and why.

MANDATORY:

- D. The Contractor is not entitled to any compensation under this contract, other than is expressly provided for in this section.
- E. As a condition of payment, the Contractor shall have paid all municipal taxes currently due and owing by the Contractor.

MANDATORY:

Section 5. Termination of the Contractor's Services.

The Contractor's services under Section 2 may be terminated:

- A. By mutual consent of the parties.
- B. For the convenience of Anchorage, provided that Anchorage notifies the Contractor in writing of its intent to terminate under this paragraph at least 10 days prior to the effective date of the termination.
- C. For cause, by either party where the other party fails in any material way to perform its obligations under this contract. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefor, and the other party fails to cure the default within thirty (30) days after receiving the notice.

MANDATORY , EXCEPT PARAGRAPH F WHICH IS OPTIONAL:

Section 6. Duties Upon Termination.

- A. If Anchorage terminates the Contractor's services for convenience, Anchorage shall pay the Contractor for its actual costs reasonably incurred in performing before termination. Payment under this subsection shall never exceed the total compensation allowable under Section 4. All finished and unfinished documents and materials prepared by the Contractor shall become the property of Anchorage.
- B. If the Contractor's services are terminated for cause, Anchorage shall pay the Contractor the reasonable value of the services satisfactorily rendered prior to termination less any damages suffered by Anchorage because of the Contractor's failure to perform satisfactorily. The reasonable value of the services rendered shall never exceed the contract rate for such services, and payment under this subsection shall not exceed ninety percent (90%) of the total compensation allowable under Section 4. Any finished or unfinished documents or materials prepared by the Contractor under this contract shall become the property of Anchorage at its option.

- C. If the Contractor receives payments exceeding the amount to which it is entitled under subsections A or B of this section, he shall remit the excess to the Administrator within thirty (30) days of receiving notice to do so.
- D. The Contractor shall not be entitled to any compensation under this section until the Contractor has delivered to the Administrator all documents, records, work product, materials and equipment owned by Anchorage and requested by the Administrator.
- E. If the Contractor's services are terminated, for whatever reason, the Contractor shall not claim any compensation under this contract, other than that allowed under this section.
- F. Except as provided in this section, termination of the Contractor's services under Section 5 does not affect any other right or obligation of a party under this contract.

OPTIONAL:

- G. If a final audit has not been performed before the Contractor's services are terminated, Anchorage may recover any payments for costs disallowed as a result of the final audit.

MANDATORY:

Section 7. Insurance.

- A. The Contractor shall maintain in good standing, for the entire period of the contact, the insurance described in subsection B of this section. Before rendering any services under this contract, the Contractor shall furnish the Administrator with a Certificate of Insurance in accordance with subsection B of this section in a form acceptable to the Risk Manager for Anchorage.
- B. The Contractor shall provide the following insurance:
 - 1.) \$500,000 Employers Liability and Workers Compensation as required by Alaska Law.
 - 2.) Commercial Automobile Liability in the amount of \$1,000,000 combined single limit to include: owned, hired, and non-owned.
 - 3.) Commercial General Liability including:

\$2,000,000 General Aggregate
 \$2,000,000 Products/Completed Operations
 \$1,000,000 Personal & Advertising Injury
 \$1,000,000 Each Occurrence
 \$5,000 Medical Payments

- 4.) Professional Liability insurance with limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.
 - 5) Cyber/Privacy Liability insurance with limits not less than \$3,000,000. The Cyber coverage shall include, but not be limited to, claims involving invasion of privacy violations (including HIPAA), Information theft, and release of private information. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses.
- C. Policies written on a "claims-made basis" must have a two (2) year tail of coverage, or an unbroken continuation of coverage for two (2) years from the completion of the contract requirements.
 - D. Each policy of insurance required by this section shall provide for advance notice to the MOA/Contract Administrator prior to cancellation in accordance with the policy. If the insurer does not notify the MOA on policy cancellation it shall be the contractor's responsibility to notify the MOA of such cancellation.
 - E. With the exception of Workers Compensation and Professional Liability each policy shall name The Municipality as an "additional insured" and the actual policy endorsement shall accompany each Certificate of Insurance.
 - F. General Liability, Workers Compensation, and Automobile policies shall be endorsed to waive all rights of subrogation against the Municipality of Anchorage by reason of any payment made for claims under the above coverage. This policy endorsement shall accompany each Certificate of Insurance.
 - G. All policies for general liability shall be primary and noncontributing with any insurance that may be carried by the Municipality.
 - H. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Municipality requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Municipality.
 - I. Contractor shall require and verify that all subcontractors maintain insurance meeting all requirements stated herein, and Contractor shall ensure that the Municipality is an additional insured on insurance required from subcontractors.

MANDATORY:

Section 8. Assignments.

Unless otherwise allowed by this contract or in writing by the Administrator, any assignment by the Contractor of its interest in any part of this contract or any delegation of duties under this contract shall be void, and an attempt by the Contractor to assign any part of its interest or delegate duties under this contract shall give Anchorage the right immediately to terminate this contract without any liability for work performed.

Section 9. Ownership; Publication, Reproduction and Use of Material.

- A. Except as otherwise provided herein, all data, documents and materials produced by the Contractor under this contract shall be the property of Anchorage, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright.

For contracts with Architectural/Engineering firms for Design add the following:

- B. Should Anchorage elect to reuse Work products provided under this Contract for other than the original project and/or purpose, Anchorage will not hold Contractor liable for any damages resulting from Anchorage's reuse of work products for an unintended purpose. Additionally, any reuse of design drawings or specifications provided under this Contract must be limited to conceptual or preliminary use for adaptation and the original Constructor's or subcontractor's signature, professional seals and dates removed. Such reuse of drawings and specifications, which require professional seals and dates removed, will be signed, sealed, and dated by the professional who is in direct supervisory control and responsible for adaptation.
- C. Equipment purchased by the Contractor with designated contract funds shall be the sole property of Anchorage marked and inventoried as such with a copy of the inventory forwarded to Anchorage.

Section 10. Notices.

Any notice required pertaining to the subject matter of this contract shall be either sent via facsimile (FAX) or mailed by prepaid first class registered or certified mail, return receipt requested to the following addresses:

Anchorage: Municipality of Anchorage
Department of _____
P.O. Box 196650
Anchorage, AK 99519-6650

Contractor: _____

Notices are effective upon the earlier of receipt, proof of good transmission (facsimiles only), or five (5) days after proof of proper posting.

OPTIONAL SPECIAL CONTRACT PROVISIONS

Section 11. Contract Budget.

In connection with its performance under this contract the Contractor shall not make expenditures other than as provided in line items in the contract budget.

Section 12. Force Majeure.

- A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.
- B. As used in this contract, force majeure is an act or event of substantial magnitude, beyond the control of the delayed party, which delays the completion of this contract, including without limitation:
 - 1. Any interruption, suspension or interference resulting solely from the act of the Municipality or negligent act(s) of the Municipality not otherwise governed by the terms of this contract.
 - 2. Strikes or work stoppages.
 - 3. Any interruption, suspension or interference with the project caused by acts of God, or acts of a public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances or similar occurrences.
 - 4. Order of court, administrative agencies or governmental officers other than the Municipality.

Contract with _____

Section 13. Financial Management System.

The Contractor shall establish and maintain a financial management system that:

- A. Provides accurate, current, and complete disclosure of all financial transactions relating to the contract;
- B. Maintains separate accounts by source of funds for all revenues and expenditures and identifies the source and application of funds for the Contractor's performance under this contract, including information pertaining to subcontracts, obligations, unobligated balances, assets, liabilities, outlays and income;
- C. Effectively controls and accounts for all municipal funds and contract property;
- D. Compares actual expenditures with budgeted amounts and relates financial information to performance or productivity data including unit cost information where applicable;
- E. Allocates administrative costs to direct service delivery units;
- F. Minimizes the time between receipt of funds from Anchorage and their disbursement by the Contractor;
- G. Provides accounting records supported by source documentation; and
- H. Provides a systematic method assuring the timely and appropriate resolution of audit findings and recommendations.

Section 14. Funding Requirements.

In the event that any funding source for this contract should impose additional requirements upon Anchorage for the use of those funds, the Contractor agrees to abide by those additional requirements immediately upon receipt of written notice thereof from Anchorage.

Section 15. Subcontracts.

The Contractor may enter into subcontracts for the purchase of goods and services necessary for the performance of this contract, provided:

- A. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid therefore.
- B. Every subcontract under which the Contractor delegates the provision of services shall be subject to review and approval by the Administrator before it is executed by the Contractor.
- C. Every subcontract in an amount exceeding \$1,000.00 shall require reasonable access to business records of the subcontractor relating to the purchase of goods or services pursuant to the subcontract.

THE ENTIRE "GENERAL CONTRACT PROVISIONS" SECTION IS MANDATORY.

PART II

GENERAL CONTRACT PROVISIONS

Section 1. Relationship of Parties.

The Contractor shall perform its obligations hereunder as an independent contractor of Anchorage. Anchorage may administer the contract and monitor the Contractor's compliance with its obligations hereunder. Anchorage shall not supervise or direct the Contractor other than as provided in this section.

Section 2. Nondiscrimination.

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, or marital status, or who is a "qualified individual with a disability", as that phrase is defined in the Americans With Disabilities Act of 1990. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, mental or physical disability, sexual orientation or gender identity. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- B. The Contractor shall state, in all solicitations or advertisements for employees to work on contract jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, marital status, or mental or physical disability.
- C. The Contractor shall comply with any and all reporting requirements that may apply to it which the Anchorage Office of Equal Employment Opportunity Contract Compliance may establish by regulation. The contract compliance officer may accept the contractor's compliance with federal requirements or the contractor's federal reporting documents in lieu of reporting under this section.
- D. The Contractor shall include the provisions of subsections A through C of this section in every subcontract or purchase order under this contract, so as to be binding upon every such subcontractor or vendor of the Contractor under this contract. The contract compliance officer may accept the contractor's compliance with federal requirements or the contractor's federal reporting documents in lieu of reporting under this section.

Contract with _____

- E. The Contractor shall comply with all applicable federal, state and municipal laws concerning the prohibition of discrimination including, but not limited to Title 5 and Title 7, Chapter 7.50 of the Anchorage Municipal Code.

Section 3. Permits, Laws and Taxes.

The Contractor shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this contract. All actions taken by the Contractor under this contract shall comply with all applicable statutes, ordinances, rules and regulations. The Contractor shall pay all taxes pertaining to its performance under this contract.

Section 4. Nonwaiver.

The failure of either party at any time to enforce a provision of this contract shall in no way constitute a waiver of the provision, nor in any way affect the validity of this contract or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

Section 5. Amendment.

- A. This contract shall only be amended, modified or changed by a writing, executed by authorized representatives of the parties, with the same formality as this contract was executed.
- B. For the purposes of any amendment modification or change to the terms and conditions of this contract, the only authorized representatives of the parties are:

Contractor:

(title of position)

Anchorage: **Mayor, Municipal Manager or Approved Designee**

- C. Any attempt to amend, modify, or change this contract by either an unauthorized representative or unauthorized means shall be void.

Section 6. Jurisdiction; Choice of Law.

Any civil action rising from this contract shall be brought in the Superior Court for the Third Judicial District of the State of Alaska at Anchorage. The law of the State of Alaska shall govern the rights and obligations of the parties under this contract.

Section 7. Severability.

Any provision of this contract decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the contract.

Contract with _____

Section 8. Integration.

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

Section 9. Liability.

The Contractor shall indemnify, defend, save and hold Anchorage(or Municipality) harmless from any and all claims, lawsuits or liability, including attorney fees and costs, allegedly arising out of loss, damage or injury to persons or property or from any wrongful or negligent act, error or omission of Contractor, Contractor's agents, employees, subcontractors or invitees, occurring during the course of, or as a result of the Contractor's, Contractor's agents, employees, contractors, subcontractors or invitees performance pursuant to this contract.

OR

To be used when contracting with architects and engineers:

- A. The Contractor shall indemnify, defend, save, and hold Anchorage harmless from any claims, lawsuits or liability, including reasonable attorneys' fees and costs, arising from any wrongful or negligent act, error or omission of the Contractor or any subcontractor as a result of the Contractor's or any subcontractor's performance pursuant to this contract.
- B. The Contractor shall not indemnify, defend, save and hold Anchorage harmless from claims, lawsuits, liability, including reasonable attorneys' fees and costs arising from a wrongful or negligent act, error or omission solely of Anchorage occurring during the course of or as a result of Anchorage's performance pursuant to this contract.
- C. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Anchorage and the Contractor, the Contractor shall indemnify, defend, save and hold Anchorage harmless from only that portion of claims, lawsuits or liability, including attorneys' fees and costs, which result from the Contractor's or any subcontractor's wrongful or negligent acts occurring as a result of the Contractor's performance pursuant to this contract.

Section 10. Inspection and Retention of Records.

The Contractor shall, at any time during normal business hours and as often as Anchorage may deem necessary, make available to Anchorage, for examination, all of its records with respect to all matters covered by this contract for a period ending three years after the date the Contractor is to complete performance in accordance with Section 2 of the Special

Provisions. Upon request, and within a reasonable time, the Contractor shall submit such other information and reports relating to its activities under this contract, to Anchorage, in such form and at such times as Anchorage may reasonably require. The Contractor shall permit Anchorage to audit, examine and make copies of such records, and to make audits of all invoices, materials, payrolls, records of personnel and other data relating to all matters covered by this contract. Anchorage may, at its option, permit the Contractor to submit its records to Anchorage in lieu of the retention requirements of this section.

Section 11. Availability of Funds.

Payments under this contract require funds from future appropriations and are subject to future appropriations. If sufficient funds are not appropriated for payments required under this contract, this contract shall terminate without penalty to Anchorage and Anchorage shall not be obligated to make payments under this contract beyond those which have previously been appropriated.

Section 12. Conflict of Interest. **LEGAL SERVICES ONLY:**

The Contractor may not represent or assist private or public clients in connection with other claims, litigation, or other legal matters where such representation would constitute or appear to constitute a conflict of interest in the opinion of the Municipal Attorney. The Contractor shall comply with all relevant provisions of the Alaska Bar Rules and the Code of Professional Responsibility of the American Bar Association concerning the prohibition of conflicts of interest among clients. For purposes of applying these standards, Anchorage shall be regarded as though it were a private corporate client. The Contractor shall not accept any employment and shall not render any professional services to other parties if such action might be inconsistent with the above-referenced standards unless the prior written approval of the Municipal Attorney has been obtained.

IN WITNESS WHEREOF, the parties have executed this contract on the date and at the place shown below.

MUNICIPALITY OF ANCHORAGE

CONTRACTOR NAME

Mayor, Municipal Manager or Approved Designee

Title:

Date: _____

Date: _____

IRS Tax Identification No. _____

Tax Status: Taxable [] Non-Taxable []

RECOMMEND FOR APPROVAL:

Name

Title: _____

Date: _____