

CONTRACT FOR FURNISHING COMPENSATION PROGRAM ANALYSIS FOR THE NAPERVILLE PARK DISTRICT

This agreement, made this XXth day of Month, 2024 between the Naperville Park District, Naperville, Illinois, hereinafter referred to as "Park District" and Contractor, hereinafter referred to as "Contractor." The Park District and the Contractor are sometimes hereinafter referred to as "Party" and collectively as "Parties."

WITNESSETH

That the Park District and Contractor, for the consideration hereinafter named, agree as follows:

Section I-Contract Documents

The Contract consists of this document together with the RFP issued by the Naperville Park District, and the completed proposal packet, including the completed RFP proposal form and any addenda thereto, all of which are attached hereto ("Contract Documents"). These documents represent the entire agreement between the parties, and no statement, promise or inducement made by either Party to the other that is not contained therein shall be binding. The terms or conditions of this Contract may not be modified, except in writing signed by all the parties.

Section II- Contract Work

The Contractor shall provide the materials, services, and equipment to fully execute the Work described in the Contract Documents. The Work shall be furnished and completed in accordance with the Contract Documents.

Section III- Date of Commencement and Final Completion

The Work shall commence upon issuance of Notice to Proceed, expected to be released in March 2024. and continue until _____ unless sooner terminated. Either party may terminate this agreement for cause upon 24 hours' written notice (written notice may be by email). Either party may terminate this agreement for convenience upon 30 days' written notice.

The Contractor shall be completed with the work by September 16, 2024.

Time is of the essence for all matters concerning this Contract.

Section IV- Contract Sum

The Park District agrees to pay the Contractor for the performance of the Contract Work in the manner set forth in the Contract Documents. The Contract Sum is: dollar amount in words (~~\$X,XXX.XX~~). Payment(s) shall be made to the Contractor by the Park District only after the Contractor has fully performed the Contract Work and fulfilled the terms of the Contract Documents.

Section V- Additional Terms

1. Contractor shall comply with all applicable laws, regulations, and rules promulgated by any Federal, State, County, Municipal and or other governmental unit or regulatory body now in effect during the performance of the work, and the orders and decrees of any courts or administrative bodies or

tribunals in any manner affecting the performance of this Contract. By way of example, the following are included within the scope of the laws, regulations and rules referred to in this paragraph, but in no way operate as a limitation on the laws, regulations and rules with which Contractor must comply: all applicable statutes and regulations concerning the delivery of professional services; all forms of Workers Compensation Laws, all terms of the Equal Employment Opportunity Clause of the Illinois Fair Employment Practices Commission, the Illinois Preference Act, the Social Security Act, Statutes relating to contracts let by units of government, all applicable Civil Rights and Anti-Discrimination Laws and Regulations, and traffic and public utility regulations.

2. Any and all documents and deliverables delivered under this Contract are, at all times, property of the Park District.
3. Contractor shall submit a Certificate of Insurance complying with the terms outlined in this contract prior to mobilization.

Section VI- Insurance

1. Contractor shall procure and maintain for the duration of this Contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of Work hereunder by the Contractor, Contractor's agents, representatives, employees or subcontractors. The cost of such insurance shall be borne by the Contractor.
2. Minimum Scope of Insurance.
Coverage shall be at least as broad as:
 - i. Professional Liability Insurance.
 - ii. Broad Form Comprehensive General Liability, or the most recent revision.
 - iii. Worker's Compensation insurance as required by statute and Employers Liability insurance.
3. Minimum Limits of Insurance.
Provider shall maintain limits no less than:
 - a. Professional Liability Insurance: CONTRACTOR shall obtain and maintain, at his own expense, CONTRACTOR's professional liability insurance in the amount of no less than Five Hundred Thousand Dollars (\$500,000.00) (including a broad form contractual liability coverage with all coverage retroactive to the earlier date of this Agreement of the commencement of CONTRACTOR's services in relation to the project) for each claim with respect to negligent acts, errors and omissions in connection with professional services to be provided under the contract with a deductible not to exceed \$50,000 without prior written approval. Said coverage shall be maintained for a period of three (3) years after the date of final payment.
 - b. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this location or the general aggregate limit shall be twice the required occurrence limit.
 - c. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by statute and Employers Liability limits of \$1,000,000 per accident and \$1,000,000 per disease.

4. Deductibles and Self-Insured Retentions.

Any deductible or self-insured retentions must be declared to, and approved by, the Park District. At the option of the Park District, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Park District, its officers, elected and appointed officials, employees, volunteers, and agents; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

5. Other Insurance Provisions.

The policies are to contain, or be endorsed to contain, the following provisions in the General Liability Coverage:

- a. The Park District, its officers, elected and appointed officials, employees, volunteers and agents are to be covered as additional insureds as respects: liability arising out of premises owned, occupied, or used by the Contractor and/or arising out of activities performed on or on behalf of the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Park District, its officers, elected and appointed officials, employees, volunteers, or agents.
- b. The Contractor's insurance coverage shall be primary insurance as respects the Park District, its officers, elected and appointed officials, employees, volunteers, and agents. Any insurance or self-insurance maintained by the Park District, its officer, elected and appointed officials, employees, volunteers, or agents shall be excess of the Contractor's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Park District, its officers, elected and appointed officials, employees, volunteers, or agents.
- d. Coverage shall state that the Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. Worker's Compensation and Employers Liability Coverage.

The insurer shall agree to waive all rights of subrogation against the Park District, its officers, elected and appointed officials, employees, volunteers, and agents for losses arising from the use of the premises.

7. All Coverages.

Each insurance policy required by this clause shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt required, has been given to the Park District.

8. Acceptability of Insurers.

Insurance is to be placed with insurers licensed to do business in Illinois.

9. Verification of Coverage.

Contractor shall furnish the Park District with certificates of insurance and with original endorsements if applicable effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the Park District before the premises are occupied. The Park District reserves the right to require complete certified copies of all required policies, at any time.

10. Indemnification Clause.

Contractor shall, to the fullest extent permitted by law, waive any and all rights of contribution against the Park District and shall indemnify the Park District and its officers, elected and appointed officials, employees, volunteers and agents from and against all claims, damages, losses and expenses, including, but not limited to, legal fees (attorney's and paralegal's fees, expert fees and court costs) arising out of or resulting from the performance of the Contractor's work, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or injury to or destruction of property, other than the work itself, including the loss of use resulting therefrom, or is attributable to misuse or improper use of trademark or copyright protected material or otherwise protected intellectual property, to the extent it is caused by any wrongful or negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right to indemnity that the Park District would otherwise have. The Contractor shall similarly, protect, and indemnify the Park District, its officers, elected and appointed officials, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses, including, but not limited to, legal fees, incurred by reason of Contractor's breach of any of its obligations under, or Contractor's default of any provisions of the Contract. The indemnification obligations under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any subcontractor under Workers' Compensation or Disability Benefit Acts or Employee Benefit Acts. The rights and obligations of this Subsection shall survive the voluntary or involuntary termination of this Contract.

Section VII- Assignment

This Contract is nonassignable in whole or in part by either Party, and an assignment shall be void without the prior written consent of Park District, whose consent shall not be unreasonably withheld.

Section VIII- Contractor Status

Contractor acknowledges that it is an independent contractor; that it alone retains control of the manner of conducting its activities in furtherance of this Contract; that it as well as any persons or agents as it may employ are not employees of the Park District; and that neither this Contract, nor the administration thereof, shall operate to render or deem either party hereto the agent or employee of the other.

Section IX- Waiver of Terms

Waiver of any of the terms of this Contract shall not be valid unless it is in writing and signed by all Parties. The failure of claimant to enforce the provisions of this Contract or require performance by opponent of any of the provisions shall not be construed as a waiver of such provisions or affect the right of claimant to thereafter enforce the provisions of this Contract. Waiver of any breach of this Contract shall not be held to be a waiver of any other or subsequent breach of the Contract.

Section X- Compliance with Freedom of Information Act.

Contractor agrees to maintain, without charge to the Park District, all records and documents for projects of the Park District in compliance with the Freedom of Information Act ("FOIA"), 5 ILCS 140/1 et seq. In addition, Contractor shall timely produce records which are responsive to a request received by the Park District under

FOIA so that the Park District may provide records to those requesting them within the required statutory time frames. If additional time is necessary to compile records in response to a request, then Contractor must timely notify the Park District and if possible, the Park District will request an extension so as to comply with FOIA. In the event that the Park District is found to have not complied with FOIA due to Contractor's failure to produce documents or otherwise timely or appropriately respond to a request under FOIA, then Contractor shall indemnify and hold the Park District harmless, and pay all amounts determined to be due including but not limited to fines, costs, attorneys' fees and penalties.

Section XI – Human Rights Act (if project financed by funds from State of Illinois)

Pursuant to Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.) ("Rights Act"), all Contractors/Vendors and Subcontractors must have in force and effect a written sexual harassment policy which includes at a minimum the following provisions:

1. a statement of illegality of sexual harassment;
2. the definition of sexual harassment under Illinois law;
3. a description of sexual harassment utilizing examples;
4. an internal complaint process, including penalties;
5. the legal resource, investigative and complaint process available through the Illinois Department of Human Rights ("Department") and the Illinois Human Rights Commission ("Commission");
6. directions on how to contact the Department and the Commission; and
7. protection against retaliation as provided by Section 6-101 of the Rights Act.

The Contractor understands, represents and warrants to the Park District that Contractor and its subcontractors (for which the Contractor takes responsibility to ensure that they comply with the Rights Act) are in compliance with Section 2-105 of the Rights Act and will remain in compliance with Section 2-105 of the Rights Act for the entirety of the work. A violation of Section 2-105 is cause for the immediate cancellation of this Contract. However, any forbearance or delay by the Park District in canceling this Contract shall not be construed as, and does not constitute, either the Park District's consent to such violation or a waiver of any rights the Park District may have, including without limitation, cancellation of this Contract.

Section XII - Other Applicable Laws

This contract shall be governed by the laws of the State of Illinois, which are incorporated herein. Any suit brought to enforce the provisions of this suit shall be filed in the Eighteenth Judicial Circuit, DuPage County, Illinois, but only after exhausting all possible administrative remedies. In any suit or action arising under this Contract, the prevailing party shall be entitled to an award of reasonable attorney's fees and costs of litigation. No suit or action shall be maintained by the Contractor, its successors or assigns, against the Park District on any claim based upon or arising out of this Contract or out of anything done in connection with this Contract unless such action shall be commenced within one year of the voluntary or involuntary termination of this Contract.

Section XIII – Further Assurances

Contractor agrees to sign, execute and deliver, or cause to be signed, executed and delivered, and to do or make, or cause to be done or made, upon written request of the Park District, all agreements, instruments, papers, acts or things, supplemental, confirmatory or otherwise, as may be reasonably required by the Park District for the purpose of or in connection with goods and services described in the Contract.

IT IS MUTUALLY UNDERSTOOD AND AGREED that the Contractor shall have the full control of the ways and means of performing the work referred to above and that the Contractor or its employees, representatives or subcontractors are in no sense employees of the District, it being specifically agreed that the Contractor bears the relationship of an independent contractor to the District.

IN WITNESS WHEREOF the parties hereto have set their respective hands and seals the day and year first above written.

NAPERVILLE PARK DISTRICT

By: _____
Mary Gibson, President, Park Board of Commissioners
Naperville Park District

CONTRACTOR

By: _____
Company

SAMPLE