

ARCHDIOCESE OF KANSAS CITY IN KANSAS

CONTRACT REVIEW POLICY

As an insured of the Catholic Mutual Group for basic property and liability insurance and as a member of CUP II for additional liability coverage, the Archdiocese is required to adopt a Contract Review Policy and procedure to meet their criteria for insurance coverage.

The principal purpose of this Review Policy is to insure that the liability under the contract is assumed by the proper party and in particular that the Archdiocese does not agree to any unnecessary hold harmless provisions.

The Contract Review Policy applies to all entities of the Archdiocese. It is in addition to and a part of existing Archdiocesan policies regarding legal and insurance matters. Included in these existing policies are:

- Expenditure of more than the established dollar amounts requires the written permission of the Ordinary.
- Such expenditures should be in the form of a written agreement signed by the appropriate persons.
- The form, of initial documents, is that which customarily meets professional standards, such as AIA Contract, Board of Realtor Contract, etc. and other Archdiocesan approved forms for special purposes.
- All such forms of agreement are to be presented to the Archdiocese with supporting documentation including recommendation from the pastor (or other administrator as applicable) and the appropriate advisor group.
- For all proposed agreements, the Archdiocese requires a formal review and opinion of the Archdiocesan Attorney. The Attorney will often find it necessary to modify standard forms to protect appropriately the equitable interest of the Church.
- All Deeds, Mortgages, Promissory Notes, Petitions for Zoning and other legal documents involving Real Estate should follow the same process of review and approval as Contracts.

Additionally, the following Contract Review Guidelines recommended by CUP II are minimum requirements and adopted as policy.

Contract Review Policy

- 1.** All Contracts, in excess of \$25,000, must be approved by the Archdiocesan Attorney and the Archbishop or his delegated or designated representative or agent.
- 2.** All building and equipment lease agreements should be received by the Archdiocese and reviewed by the Attorney.
- 3.** All contractors and service people are required to carry three types of insurance (regardless of size of contract):
 - Public Liability,
 - Workers' Compensation, and
 - Automobile Liability.

The insurance requirement may vary by the type of work the contractor performs. The specific amount will be determined in consultation with the Archdiocese, the Attorney and Catholic Mutual. (It should be remembered that the need for Workers' Compensation Insurance is the same for a small contractor as it is for a large one; and, that the auto liability is just as important for the person who cuts the grass as it is for the general contractor on a new building).

- 4.** Certificates of Insurance should be obtained verifying all three of the above types of insurance and naming the parish\institution and the Archdiocese as additional insureds.
- 5.** There is a standard contract recommended by CUP II (attached, Appendix A) which can be used for small construction jobs, including renovation, small additions, etc. This will help avoid making a different contract for each job and each contract. The provision for bond in that form of contract can be determined on a case by case basis.
- 6.** Professional Service Contracts should be used when contracting for the services of Architects, Engineers and other consulting professional. These contracts should require professional liability insurance to be provided to the Archdiocese.
- 7.** Attached (Appendix B) is a sample contract that could be used as a guide for contracts under the established dollar amounts which do not require review by the Attorney and approval of the Archbishop.
- 8.** Construction contracts are covered under the "Burgundy Binder" Guidelines for Construction and Major Renovation.
- 9.** Facilities leasing and rental is covered under Facilities Usage.

AGREEMENT BETWEEN OWNER AND CONTRACTOR

_____, hereinafter called the Owner, agrees to pay Parish/Institution (understood to include the Archdiocese of Kansas City in Kansas)

_____, hereafter called the Contractor, the sum of \$ _____ (_____) dollars for the following work:

Partial payment requests will be considered based on a maximum of 90% of materials on the job or in place and labor already accomplished.

The work shall be completed by _____, and the Contractor shall provide the following warranties or other documents prior to payment:

The Contractor shall begin the work within seven (7) days of the date of this contract unless other provisions have been made. He shall carry the work forward expeditiously with adequate, qualified workers and shall achieve substantial completion within the contract time.

Neither the final certificate of payment, nor any provisions in the contract, nor partial or entire use of the project by the Owner shall constitute an acceptance thereof if not in accordance with the contract or relieve the Contractor of liability in respect to any express warranties or faulty workmanship/materials within a period of one year.

The Contractor shall indemnify and hold harmless the Owner, its agents, and employees from and against all claims, damages, losses, and expenses, including, but not limited to, attorneys' fees arising out of or resulting from the performance of the work, which is caused in whole or in part by the negligent act or omission of the Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them. In case any action is brought therefore against the Owner or any of its agents, employees or Subcontractors, the Contractor shall assume full responsibility for the defense thereof; upon Contractor's failure to do so on proper notice, the Owner reserves the right to defend such action and to charge all costs thereof to the Contractor. The carrying of the insurance required herein shall not relieve the Contractor of the duty of indemnity in the event that such insurance shall be inadequate, for any reason, to protect the Owner in full.

The Contractor shall at all times carry the following insurance coverage:

- A. Workers' Compensation insurance on all his/her employees; he/she will also require all the Subcontractors to carry Worker's Compensation on all their employees. Contractor will indemnify the Owner against any claims

made by any employees, Subcontractors, or anyone employed directly or indirectly by any of them. This indemnification is not limited to compensation paid under any Worker's Compensation policy.

- B. General liability insurance in an amount of not less than \$2,000,000 per occurrence. Such insurance shall include the Owner, all Subcontractors, and anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Said general liability insurance shall include claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees, claims for damages insured by usual personal injury liability coverage which are sustained by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor or by any other person, and claims for damages, other than to work itself, because of injury to or destruction of tangible property, including loss of use resulting there from.
- C. Automobile liability insurance, covering any and all kinds of motor vehicles, in an amount of not less than \$2,000,000 per occurrence. Such insurance shall include any and all claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of a motor vehicle.

Each of the above listed policies will contain a requirement that, in the event of change or cancellation, ten (10) days' prior written notice will be sent by mail to the Owner.

The contractor shall provide Owner with bonds covering faithful performance of the contract and payment of obligations arising thereunder. The amount of each bond shall be equal to 100% of the contract sum.

Said bond must be executed by a company authorized to do business in the State of Kansas. The bond will be given to the Owner prior to any work being started.

The contractor will present a list of all the Subcontractors prior to beginning construction. At the conclusion of the job, the Contractor will provide lien waivers from his/her company and from each of the Subcontractors. If any Subcontractor refuses to sign the lien waiver, then the Contractor will provide an invoice from the Subcontractor. This invoice must show that it is the total balance owed on the job and be signed by both the Contractor and the Subcontractor. The Owner will then issue a check payable jointly to the Contractor and the Subcontractor and deduct the amount from the balance owed to the Contractor.

The Contractor shall be responsible for initiating, maintaining, planning, and supervising all safety precautions and programs in connection with the work.

The Contractor will not discriminate against any employee, applicant for employment, or Subcontractor because of race, creed, color, sex, handicap, or national origin.

If the Contractor:

- is adjudged a bankrupt;
- makes a general assignment for the benefit of his creditors;
- has a receiver appointed on account of his insolvency;
- persistently or repeatedly refuses or fails, except in cases for which extension of time is provided to supply enough properly skilled workers or proper materials;
- fails to make prompt payment to Subcontractors or for materials or labor,
- persistently disregards laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction;
- or otherwise is guilty of a substantial violation of a provision of the Contract documents,

then the Owner may, without prejudice to any right or remedy, and after giving the Contractor and his surety, if any, seven days' written notice, terminate the employment of the Contractor and the contract will be deemed null and void.

Miscellaneous Provisions:

Owner	Date	Contractor	Date
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ADDENDUM TO SERVICE CONTRACT

Typically, when organizations are entering into a contract with a **servicing vendor** or having a **small construction project** completed, a written contract or agreement is signed with the contractor/service provider. Many of these contracts are clearly written in favor of the service provider or small contractor. Unfavorable language typically restricts your and Catholic Mutual's right to recover damages when the loss or damage was directly caused by the negligence of the contractor/service provider.

In an effort to reduce your exposure to loss or damage caused by a negligent contractor/service provider, the Addendum to Service Contract should be attached to contracts or agreements with contractors/service providers performing work at your facilities. The Addendum to Service Contract should be utilized in the following situations:

1. When your organization enters into an agreement or contract for small contractor jobs that are under \$25,000 (or the threshold of your Archdiocesan Construction Contract Review Policy). It is also important that your organization verify that these contractors/service providers have liability insurance covering their operations.
2. When your organization enters into an agreement or contract with a company providing maintenance services for fire extinguishers, hood systems, sprinkler systems, elevators, fire alarm systems, security systems, heating/cooling equipment, etc.
3. When your organization enters into an agreement or contract with a soda/snack machine vendor that has machines located in your facilities.
4. When your organization enters into an agreement or contract with a company providing regular maintenance on business equipment such as copy machines, fax machines, computer equipment, etc.
5. Any other agreement similar to those listed above.

By attaching the Addendum to Service Contract to the agreement/contract, you will satisfy needed insurance requirements. If the Addendum to Service Contract is not attached to the agreement or contract with a contractor/service provider, the wording of the addendum should be incorporated into the contract developed by the parish and the contractor/service provider. It is important to always verify that the contractor/service provider has provided a certificate of insurance showing evidence of general liability coverage.

Should you have any questions regarding this information or have questions regarding a specific contract or service agreement, please contact Catholic Mutual at 1-800-228-6108.

ADDENDUM TO SERVICE CONTRACT

GENERAL LIABILITY INSURANCE: While CONTRACTOR/SERVICE PROVIDER is performing operations at PARISH, CONTRACTOR/SERVICE PROVIDER shall maintain general liability insurance in the amount of not less than one million dollars (\$1,000,000) per occurrence. It is further agreed that the CONTRACTOR/SERVICE PROVIDER agrees to protect, defend, indemnify, and hold harmless the PARISH against and from any claim or cause of action arising out of or from any negligence or other actionable fault of the CONTRACTOR/SERVICE PROVIDER, or its employees, agents, members, or officers.

WORKER’S COMPENSATION INSURANCE: CONTRACTOR/SERVICE PROVIDER shall maintain worker’s compensation insurance as required by law.

EVIDENCE OF INSURANCE: CONTRACTOR/SERVICE PROVIDER agrees to provide evidence of the above insurance coverage to the PARISH.

NO WAIVER OF SUBROGATION: PARISH does not waive or limit any rights of recovery against the CONTRACTOR/SERVICE PROVIDER for any damages resulting from the negligent acts of the CONTRACTOR/SERVICE PROVIDER associated with the contract. PARISH and CONTRACTOR/SERVICE PROVIDER agree that CONTRACTOR/SERVICE PROVIDER’S financial responsibility is limited to the amount of CONTRACTOR/SERVICE PROVIDER’S liability insurance in the event CONTRACTOR/SERVICE PROVIDER causes damage or loss to PARISH.

CONTRACT OVERRIDE AND SEVERABILITY PROVISION: CONTRACTOR/SERVICE PROVIDER and PARISH agree that this addendum overrides any and all portions of previous agreements between CONTRACTOR/SERVICE PROVIDER and PARISH that contain language in contradiction with this contract. If any portion of this Addendum to Service Contract is deemed or is determined to be in conflict with local or state or national statutes, both CONTRACTOR/SERVICE PROVIDER and PARISH agree that the portion of the Addendum to Service Contract which is in conflict with the statute will be stricken from the Addendum to Service Contract with the remainder of the Addendum to Service Contract remaining binding for both parties.

CONTRACTOR/SERVICE PROVIDER:

PARISH:

(PARISH is understood to include the Archdiocese of Kansas City in Kansas)

BY:

NAME

BY:

NAME

DATE

DATE

START DATE OF CONTRACT (Understood to be date signed if left blank): _____

Instruction to Parish (Parish Use Only): This Addendum to Service Contract stands on its own as a legal contract between PARISH and CONTRACTOR/SERVICE PROVIDER

should this addendum not be incorporated or attached to a contract.

(Revised 03/09)