CONSTRUCTION CONTRACT DRAFTING INITIATIVE

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The International Municipal Lawyers Association (IMLA) is a non-profit, professional organization that has been an advocate and resource for local government attorneys since 1935.
PRESENTATION GOALS

- Discuss IMLA’s Construction Contract Drafting Initiative
- Overview of Documents Available
- Highlight significant legal issues affecting municipal owners
- Get involved
IDENTIFICATION OF NEED

• Need for construction documents designed for municipal owners is identified and working group is formed
• AIA documents are very common; however, tend to be pro-architect rather than pro-owner
• Note that AIA copyright must be respected
• Revisions to AIA documents are for consideration purposes
• Revisions could also be used in non-AIA architect and engineer contracts
OVERVIEW

• After the 2012 Annual Conference in Austin, TX, IMLA formed a work group to exchange information and documents to revise design and construction contracts for municipal owners

• 2013 work group analyzed and revised the AIA A201–2007™ General Conditions of the Contract for Construction and presented the revisions at the annual conference in San Francisco, CA

• 2014 work group analyzed and revised the AIA B101–2007™ (formerly B151-1997), Standard Form of Agreement Between Owner and Architect and presented the revisions at the annual conference in Baltimore, MD
OVERVIEW

• 2015 work group drafted and analyzed a design-build construction contract and presented the template at the annual conference in Las Vegas.

• 2016 work group drafted, analyzed and revised various horizontal construction contracts to be presented in San Diego.

• 2017 Comparative Program: Canada vs. United States.

• 2018 work group is currently drafting and analyzing AIA A-133 (Construction Manager at Risk delivery method).
AIA A201–2007™

AIA A201–2007 General Conditions of the Contract for Construction

KEY PROVISIONS

Art. 1 - General Provisions
Art. 2 - Owner
Art. 3 - Contractor
Art. 4 - Architect
Art. 5 - Subcontractors
Art. 7 - Changes in Work

Art. 8 - Delays and Extensions of Time
Art. 9 - Payments and Completion
Art. 10 - Protection of Persons and Property
Art. 11 - Insurance and Bonds
Art. 12 - Uncovering and Correction of Work
Art. 14 - Termination or Suspension of Contract
Art. 15 - Claims and Disputes
B101–2007™

B101–2007™ (formerly B151-1997), Standard Form of Agreement Between Owner and Architect

KEY PROVISIONS

Art. 1- Initial Information
Art. 2- Architect's Responsibilities
Art. 3- Architect’s Basic Services
Art. 4- Additional Services
Art. 5- Owner’s Responsibilities

Art. 6- Cost of the Work
Art. 7- Copyrights and Licenses
Art. 8- Claims and Disputes
Art. 9- Termination of Suspension
Art. 10- Miscellaneous Provisions
Art. 11- Compensation
Art. 12- Special Terms and Conditions
Art. 13- Scope of the Agreement
DESIGN BUILD

Ideal for:

• Projects with expedited schedule
• Minimum ROW acquisition and utility location
• Well-defined scope for all parties
• Projects with room for innovation in design and/or construction effort

• Low risk of unforeseen conditions
• Low possibility for significant change during all phases of work
• Well-defined, non-complex environmental permitting requirements
Areas Covered:

- Prosecution and Progress, Limitations on Operations, CPM Scheduling Specifications
- Differing Site Conditions
- Third Party Impacts
- Insurance and Bonds
- Changes in the Work
- Electronically Stored Information, Records Retention, and Audits
- Dispute Resolution
2017- COMPARATIVE PROGRAM

- Preferred Contracting Methodologies:
  - Design-Bid-Build
  - Design-Build
  - P3
  - Dispute Resolution
  - Procurement

- Preferred Contracting Methodologies:
  - P3
  - CCDC
  - Dispute Resolution
    - Jury Trials
  - Procurement
    - Contract-based approach
    - Risk Allocation/ Duty of Honest Contractual Performance
Construction Manager at Risk
Call dates:
• July 11
• August 9
• September 6

*Contact ccutchin@imla.org if you would like to be added to our call list and Dropbox folder.
QUESTIONS?

- Contact Caitlin Cutchin - ccutchin@imla.org to get involved in this year’s CCDI project or to request a copy of materials from past years.
- Note that in order to use many of the documents IMLA offers, you must also purchase a “bench” license from AIA. Please respect AIA copyright.
- Visit https://www.aiacontracts.org/ for more information about how to purchase AIA contract documents.
THANK YOU!