



## **CITY OF CRAIG CONTRACT FOR PROVISION OF SERVICES**

THIS CONTRACT, made December 10, 2018 by and between City of Craig, Colorado, 300 West 4<sup>th</sup> Street, Craig, CO 81625, (hereinafter called the “City”) and ProVelocity, 2536 Rimrock Ave - Suite 400-387, Grand Junction, CO 81505 (hereinafter called the “Contractor”) to perform the following work: City of Craig IT Services.

- I. Term of Contract: The term of this Contract is from January 1, 2019 to December 31, 2019. At the expiration of the initial term, the contract may be **extended for five (5) additional terms of one (1) year** by the express written consent of both parties.
- II. Contractor’s Obligations. **Contractor shall provide 24x7x365 support services for all of the City’s computer and server technology. This includes, but may not be limited to, computers, servers and networks to include complex application, database, messaging, web and other servers and associated hardware, software, communications, and operating systems necessary for the quality, security, performance, availability, recoverability and reliability of the system.**
- III. Compensation and Expenses, Invoicing, Payment and Offset. The City shall compensate Contractor for its services in accordance with the Project Budget and Schedule set out in Paragraph II. It is expressly understood and agreed that in no event will the total compensation and reimbursement to be paid hereunder exceed the sum of twenty thousand six hundred forty dollars and zero cents (\$20,640.00) for all services rendered. By contract or amendment, the City and Contractor may reallocate the budget among project tasks if the total budget amount remains unchanged. Contractor shall invoice for the project monthly based on hours worked, with payment expected within thirty (30) days of invoice. Any payment by the City may be offset by any amount the Contractor owes the City for any reason.
- IV. City’s Exclusive Ownership of Work Product. Drawings, specifications, guidelines and other documents prepared by Contractor in connection with this Contract shall be the property of the City. However, Contractor shall have the right to utilize such documents in the course of its marketing, professional presentations, and for other business purposes. Contractor assigns to City the copyrights to all work prepared, developed, or created pursuant to this Contract, including the right to: 1) reproduce the

work; 2) prepare derivative works; 3) distribute copies to the public; 4) perform the works publicly; and 5) to display the work publicly. Contractor shall have right to use materials produced in the course of this Contract for marketing purposes and professional presentations, articles, speeches and other business purposes.

- V. City of Craig's Obligations. City of Craig shall administer this Contract through a City Representative. Peter Brixius, City Manager will manage the project as the City's Representative. In the event that **Error! Reference source not found.** is not available, an authorized designee shall assume the City Representative's duties. The services provided and products delivered by the Contractor under this Contract will be subject to review by the City's Representatives, or a designee, for compliance with Contractor's obligations prior to final payment.
- VI. Termination Prior to Expiration of Contract Term. The City has the right to terminate this Contract, with or without cause, by giving written notice to the Contractor of such termination and specifying the effective date thereof. Such notice shall be given at least thirty (30) days before the effective date of such termination. In such event all finished or unfinished documents, data, studies and reports prepared by the Contractor pursuant to this Contract shall become the City's property. Contractor shall be entitled to receive compensation in accordance with the Contract for any satisfactory work completed pursuant to the terms of this Contract prior to the date of termination. Notwithstanding the above, Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Contract by the Contractor.
- VII. Independent Contractor Status.
- A. The parties to this Contract intend that the relationship between them contemplated by the Contract is that of independent contractor. Contractor, and any agent, employee, or servant of Contractor shall not be deemed to be an employee, agent, or servant of City of Craig.
  - B. Contractor is not required to offer services exclusively to City of Craig under this Contract. Contractor may choose to work for other individuals or entities during the term of this Contract, provided that the basic services and deliverable products required under this Contract are submitted in the manner and on the schedule defined under this Contract.
  - C. Contractor warrants that all work produced will conform to all applicable industry standard of care, skill and diligence in the performance of Contractor's obligations under this Contract.
  - D. Contractor shall not attempt to oversee or supervise the work or actions of any City of Craig employee, servant or agent in the course of completing work under this Contract.

- E. Contractor is not entitled to any Workers' Compensation benefits through City of Craig and is responsible for payment of any federal, state, FICA and other income taxes.
- VIII. Assignability. This Contract is not assignable by either party. Any use of subcontractors by the Contractor for performance of this Contract must be accepted in writing by the City.
- IX. Severability. In the event that any provision of this Contract shall be held to be invalid or unenforceable, the remaining provisions of this Contract shall remain valid and binding upon the parties hereto.
- X. Integration and Modification.
- A. This Contract represents the entire and integrated Contract between the City and the Contractor and supersedes all prior negotiations, representations, or contract, either written or oral. This Contract may be amended only by written contract signed by both the City and the Contractor.
  - B. The City may, from time to time, request changes in the scope of services of the Contractor to be performed hereunder. Such changes, including the increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon between the City and the Contractor, shall be in writing and upon execution shall become part of this Contract.
- XI. Indemnity.
- A. The Contractor agrees to indemnify, hold harmless and, not excluding the City's right to participate, defend the City, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns, its elected officials, trustees, employees, agents, volunteers, and any jurisdiction or agency issuing permits for any work included in the project, hereinafter referred to as indemnitee, from all suits and claims, including attorney's fees and cost of litigation, actions, loss, damage, expense, cost or claims of any character or any nature arising out of the work done in fulfillment of the terms of this Contract or on account of any act, claim or amount arising or recovered under workers' compensation law or arising out of the failure of the Contractor to conform to any statutes, ordinances, regulation, law or court decree. It is agreed that the Contractor will be responsible for primary loss investigation, defense and judgment costs where this Contract of indemnity applies. In consideration of the award of this Contract, the Contractor agrees to waive all rights of subrogation against the City its subsidiary, parent, associated and/or affiliated entities, successors, or assigns, its elected officials, trustees, employees, agents, and volunteers for losses arising from the work performed by the Contractor for the City.
  - B. The Contractor further shall investigate, process, respond to, adjust, provide defense for and defend, pay or settle all claims, demands, or lawsuits related hereto

at its sole expense and shall bear all other costs and expenses related thereto, even if the claim, demand or lawsuit is groundless, false or fraudulent.

- XII. Insurance. Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The policies shall include, or be endorsed to include, the following provision: On insurance policies where the City is named as an additional insured, the City shall be an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.

The City in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees, or subcontractors. The Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverages. The Contractor is not relieved of any liability or other obligations assumed or pursuant to the Contract by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. Commercial General Liability Completed Operations coverage must be kept in effect for up to three (3) years after completion of the project.

A. Coverage and Limits of Insurance. Contractor shall provide coverage with limits of liability requirements provided that the coverage is written on a “following form” basis.

- 1) Statutory Workers’ Compensation: Colorado statutory minimums
  - a. Policy shall contain a waiver of subrogation against the City.
  - b. This requirement shall not apply when a contractor or subcontractor is exempt under Colorado Workers’ Compensation Act **AND** when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

Minimum Limits:

Coverage A (Workers’ Compensation)	Statutory
Coverage B (Employers Liability)	\$ 500,000
	\$ 500,000
	\$ 500,000

- 2) Commercial General Liability – ISO 1CG 0001 form or equivalent.  
*(With City named as an additional insured)*

Minimum Limits:

General Aggregate	\$	2,000,000
Products/Completed Operations Aggregate	\$	2,000,000
Each Occurrence Limit	\$	1,000,000
Personal/Advertising Injury	\$	1,000,000
Fire Damage (Any One Fire)	\$	50,000
Medical Payments (Any One Person)	\$	5,000

Coverage to include:

- Premises and Operations
  - Explosions, Collapse and Underground Hazards
  - Personal / Advertising Injury
  - Products / Completed Operations
  - Liability assumed under an Insured Contract (including defense costs assumed under contract)
  - Independent Contractors
  - Designated Construction Project(s) General Aggregate Limit, ISO CG 2503 (1997 Edition or equivalent)
  - Additional Insured—Owners, Lessees or Contractors Endorsement, ISO Form 2010 (2004 Edition or equivalent)
  - Additional Insured—Owners, Lessees or Contractors Endorsement, ISO CG 2037 (2004 Edition or equivalent)
  - The policy shall be endorsed to include the following additional insured language on the Additional Insured Endorsements specified above: “City, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns, its elected officials, trustees, employees, agents, and volunteers named as an additional insured with respect to liability and defense of suits arising out of the activities performed by, or on behalf of the Contractor, including completed operations”.
- 3) Auto Liability: Bodily injury and property damage for any owned, hired and non-owned vehicles used in the performance of this Contract.

Minimum Limits:

	Statutory
Coverage Bodily/Property Damage (Each Accident)	\$ 1,000,000

- 4) Special Coverages (*check as appropriate and insert amount*):
- a.  Performance Bond \$ \_\_\_\_\_
  - b.  Professional Errors and Omissions
  - c.  Aircraft Liability
  - d.  Owner’s Protective
  - e.  Builder’s Risk

- f.  Boiler and Machinery
- g.  Loss of Use Insurance
- h.  Pollution Liability
- i.  Crime, including Employee Dishonesty Coverage, or Fidelity Bond

B. Proof of Insurance:

- 1) Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the City, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. If the insurance carrier will not provide the required notice, the Consultant/Contractor and or its insurance broker shall notify the City of any cancellation, or reduction in coverage or limits of any insurance within seven (7) days of receipt of insurers' notification to that effect. Simultaneously with the Certificates of Insurance, the Contractor shall file with the Project Lead a certified statement as to claims pending against the required coverages, reserves established on account of such claims, defense costs expended and amounts remaining on policy limits.
- 2) In addition, these Certificates of Insurance shall contain the following clauses:
  - a. The contractor's insurance shall be primary and non-contributory with any insurance or self-insurance purchased by the City.
  - b. The insurance companies issuing the policy or policies hereunder shall have no recourse against the City of Craig for payment of any premiums or for assessments under any form of policy.
  - c. Any and all deductibles or self-insured retentions in the above-described insurance policies shall be assumed by and be for the amount of, and at the sole expense of the Contractor.
  - d. Location of operations shall be: "all operations and locations at which work for the referenced Project is being done."
- 3) Certificates of Insurance for all renewal policies shall be delivered to the City's Representative at least fifteen (15) days prior to a policy's expiration date except for any policy expiring on the expiration date of this Contract or thereafter.
- 4) The City reserves the right to request and receive a copy of any policy and any policy endorsement at any time during the term of this Contract.

XIII. Exemptions and Preferences. All purchases of construction or building or any other materials for this Contract shall not include Federal Excise Taxes or Colorado State or local sales or use taxes.

- XIV. Records. The Contractor shall maintain comprehensive, complete and accurate books, records, and documents concerning its performance relating to this Contract for a period of three (3) years after final payment under the Contract and the City shall have the right within the three (3) year period to inspect and audit these books, records and documents, upon demand, in a reasonable manner and at reasonable times, for the purpose of determining, by accepted accounting and auditing standards, compliance with all provisions of the Contract and applicable law.
- XV. Contract Made in Colorado. The parties agree that this Contract was made in accordance with the laws of the State of Colorado and shall be so construed. Venue is agreed to be exclusively in the courts of City of Craig, Colorado.
- XVI. Attorney's Fees. In the event that legal action is necessary to enforce any of the provisions of this Contract, the substantially prevailing party shall be entitled to its costs and reasonable attorney's fees.
- XVII. Governmental Immunity. Contractor agrees and understands that City of Craig is relying on and does not waive, by any provision of this Contract, the monetary limitations or terms (presently \$150,000 per person and \$600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, 24-10-101, *et seq.*, C.R.S., as from time to time amended, or otherwise available to the City of Craig or any of its officers, agents or employees. Further, nothing in this Contract shall be construed or interpreted to require or provide for indemnification of the Contractor by the City for any injury to any person or any property damage whatsoever which is caused by the negligence or other misconduct of the City or its agent or employees.
- XVIII. Current Year Obligations. The parties acknowledge and agree that any payments provided for hereunder or requirements for future appropriations shall constitute only currently budgeted expenditures of the City of Craig. The City of Craig's obligations under this Contract are subject to City of Craig's annual right to budget and appropriate the sums necessary to provide the services set forth herein. No provisions of the Contract shall constitute a mandatory charge or requirement in any ensuing fiscal year beyond the then current fiscal year of City of Craig. No provision of the Contract shall be construed or interpreted as creating a multiple-fiscal year direct or indirect debt or other financial obligation of City of Craig within the meaning of any constitutional or statutory debt limitation. This Contract shall not directly or indirectly obligate City of Craig to make any payments beyond those appropriated for City of Craig's then current fiscal year. No provisions of this Contract shall be construed to pledge or create a lien on any class or source of City of Craig's moneys, nor shall any provision of this Contract restrict the future issuance of City of Craig's bonds or any obligations payable from any class or source of City of Craig's money.

XIX. Notice. Any notice required or permitted under this Agreement shall be in writing and shall be provided by electronic delivery to the e-mail addresses set forth below and by one of the following methods 1) hand-delivery or 2) registered or certified mail, postage pre-paid to the mailing addresses set forth below. Each party by notice sent under this paragraph may change the address to which future notices should be sent. Electronic delivery of notices shall be considered delivered upon receipt of confirmation of delivery on the part of the sender. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process.

To City of Craig:  
Peter Brixius  
300 West 4<sup>th</sup> Street Craig, CO 81625  
Email: pbrixius@ci.craig.co.us  
To Contractor:  
ProVelocity  
2536 Rimrock Ave - Suite 400-387  
Grand Junction, CO 81505  
Phone: (970) 255-0103  
Email: jlabrum@preciseholdings.com

XX. Public Contracts for Services and Public Contracts with Natural Persons. In conformance with the provisions of C.R.S. §§ 8-17.5-101, *et seq.*, as amended **and** C.R.S. §§ 24-76.5-101, *et seq.*, as amended:

**A. PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, et seq. C.R.S.**

*[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services]* Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program established under Pub. L. 104-208 or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a Subcontractor that fails to certify to Contractor that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor **(i)** shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Contract is being performed, **(ii)** shall notify the Subcontractor and the contracting State agency within 3 days if Contractor has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Contract, **(iii)** shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice,



and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Contractor participates in the State program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Contractor fails to comply with any requirement of this provision or §§8-17.5-101 *et seq.*, C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Contract for breach and, if so terminated, Contractor shall be liable for damages.

**B. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, *et seq.*, C.R.S.**

Contractor, if a natural person 18 years of age or older, hereby swears and affirms under penalty of perjury that he or she (i) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of §§24-76.5-101 *et seq.*, C.R.S., and (iii) has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Contract.

IN WITNESS WHEREOF, the parties have executed this Contract as of the date first set out herein above.

**PROVELOCITY**

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Date

**CITY OF CRAIG, COLORADO**  
RECOMMENDED FOR APPROVAL:

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Date

MANAGER APPROVAL:

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Date