



CITY OF KENAI

REQUEST FOR PROPOSALS (RFP)

ARCHITECTURAL/ENGINEERING & CONSTRUCTION MANAGEMENT SERVICES FOR KENAI MUNICIPAL AIRPORT CAPITAL IMPROVEMENT PROJECTS

ISSUED
January 23, 2020

PROPOSAL DELIVERY DEADLINE
5:00 PM February 18, 2020

Issued By:
CITY OF KENAI
Public Works Department
210 Fidalgo Avenue
Kenai, AK 99611

Point of Contact:
Kayla Feltman
publicworks@kenai.city
907.283.8236



CITY OF KENAI
210 FIDALGO AVENUE
KENAI, ALASKA 99611-7794
(907) 283-8236

REQUEST FOR PROPOSALS (RFP)

Project Name: Kenai Municipal Airport Engineering Services Contract
Proposal Documents Available: January 23, 2020
Pre-Proposal Meeting: January 30, 2020 @ 1 PM at 515 N. Willow St.
Last Day for Questions: February 10, 2020 @ 5 PM
Proposal Due Date: February 18, 2020 @ 5 PM at City Hall

The City of Kenai and the Kenai Municipal Airport plan to construct certain improvements to the Kenai Municipal Airport over the next five years and are soliciting proposals from qualified airport consultants to provide professional architectural, engineering, environmental, and construction management services. The effective date of this contract shall be for three years from the date of award with an option to renew for two additional one-year periods, upon mutual consent by the successful firm and the City of Kenai.

Proposers should contact the Public Works Department at (907) 283-8236 to be placed on the plan holder's list to receive addenda. Attendance at the Pre-Proposal meeting is not mandatory but is recommended.

RFP documents can be obtained on the City of Kenai website at www.kenai.city or at City Hall for a non-refundable fee of \$25.00.

Publish: Anchorage Daily News- January 23, 2020
Peninsula Clarion – January 28, 2020

REQUEST FOR PROPOSALS (RFP) INSTRUCTIONS

1.0 GENERAL INFORMATION

1.1 Purpose

The City of Kenai plans to construct certain improvements to Kenai Municipal Airport over the next five years and is soliciting proposals from qualified airport consultants to provide professional architectural, airport planning, engineering and construction management services.

The effective period of this contract shall be for three years from the date of award with an option to renew for two (2) additional one-year periods, upon mutual consent by the successful firm and City of Kenai. Additionally, upon request by the City, the selected firm must perform all activities needed to satisfy Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grant requirements.

1.2 Questions

Any questions regarding this proposal are to be submitted in writing to the Public Works Department by no later than the date specified in the advertisement. Questions shall be emailed to publicworks@kenai.city, and scurtin@kenai.city. The subject line of the email should read: "Questions: *Kenai Municipal Airport Engineering Services Contract*".

Except during the pre-proposal meeting, verbal requests for information or clarification will not be accepted. No oral change, or interpretation, of any provision contained in this RFP is valid whether issued at a pre-proposal conference or otherwise. Written addenda will be issued when changes, clarifications, or amendments to proposal documents are deemed necessary by the City.

To receive project addenda, you must be on the planholders list. To be placed on the planholders list, please contact the Public Works Admin Assistant either by phone at 283-8236 or email publicworks@kenai.city. Downloading projects from the City web site does not automatically put you on the planholders list.

1.3 Preparation Costs

The City shall not be responsible for proposal preparation cost, nor for any cost including attorney fees associated with any (administrative, judicial or otherwise) challenge to the determination of the highest ranked proposer and/or award of contract and/or rejection of proposal. By submitting a proposal, each proposer agrees to be bound in this respect and waives all claims to such costs and fees.

1.4 Timeline

Release.....	January 23, 2020
Proposals Due	February 18, 2020
Intent to Award.....	February 25, 2020
Notice of Award.....	March 5, 2020
Notice to Proceed	March 12, 2020

These dates are approximate and subject to change.

2.0 RULES GOVERNING COMPETITION

2.1 Examination of Proposals

Proposers should carefully examine the entire Request for Proposal (RFP) and any addenda thereto, and all related materials and data referenced in the RFP. Proposers should become fully aware of the nature of the work and the conditions likely to be encountered in performing the work.

2.2 Proposal Acceptance Period

Proposals must be irrevocable for ninety (90) days following the submission date.

2.3 Confidentiality

The content of all proposals will be kept confidential until the selection of the Consultant is announced. At that time, the selected proposal is open for review by the competing proposers, excluding any tabulations and evaluations thereof. After the award of the Contract, all proposals, tabulations and evaluations will then become public information.

2.4 Proposal Format

Proposals are to be prepared in such a way as to provide a straight forward, concise delineation of the proposer's capabilities to satisfy the requirements of this RFP. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and completeness and clarity of content.

2.5 Signature Requirements

All proposal transmittal letters and fee schedules must be signed. A proposal may be signed by: an officer or other agent of a corporate vendor, if authorized to sign contracts on its behalf; a member of a partnership; an owner of a privately-owned vendor; or other agent if properly authorized by a power of attorney or equivalent document. The name and title of the individual(s) signing the proposal must be clearly shown immediately below the signature.

2.6 Proposal Submission

Five (5) copies of the Technical Proposal are to be submitted to the City of Kenai Public Works Department at 210 Fidalgo Avenue, Kenai, AK 99611, along with one (1) copy of the Fee Schedule in a separate sealed envelope. These six (6) documents shall be submitted in a sealed envelope clearly marked with the proposer's and RFP name.

2.7 Tax Compliance

Kenai City Code requires that businesses or individuals contracting to do business with the City be in compliance with the Kenai Peninsula Borough tax provisions. No contract will be awarded to any individual or business found to be in violation.

2.8 Licenses and Certifications

Proposers shall include with their proposals copies of all licenses, certificates, registrations and other credentials required for performance under the contract. Documentation must be current and must have been issued by or under authority of the State of Alaska or, if documentation is from an outside jurisdiction, such documentation must be accepted as valid by the State of Alaska for performance in Alaska. Such documentation shall include, but is not limited to, Alaska business license and applicable professional licenses, registrations and certificates.

2.9 News Releases

News releases pertaining to the award resulting from the RFP shall not be made without prior written approval of the City of Kenai's City Manager.

2.10 Disposition of Proposals

All materials submitted in response to this RFP will become the property of the City of Kenai. One copy shall be retained for the official files of the Public Works Department and will become public record after award of the Contract.

2.11 Oral Change/Interpretation

No oral change, or interpretation, of any provision contained in this RFP is valid whether issued at a pre-proposal conference or otherwise. Written addenda will be issued when changes, clarifications, or amendments to proposal documents are deemed necessary by the City.

Proposer shall acknowledge receipt of addenda in the space provided on the Proposal Form. Only a proposal acknowledging receipt of all addenda may be considered responsive, unless the addendum, in the opinion of the City Manager, would have no material effect on the terms of the proposal. The City Manager may elect to allow a proposer to acknowledge receipt of addenda after opening proposals.

2.12 Replacement of Submitted Proposals

A respondent may withdraw a proposal at any time prior to the final submission date by sending written notification of its withdrawal, signed by an agent authorized to represent the agency. The respondent may thereafter submit a new or modified proposal prior to the final submission date; or submit written modification or addition to a proposal prior to the final submission date. Modifications offered in any other manner, oral or written, will not be considered. A final proposal cannot be changed or withdrawn after the time designated for receipt, except for modifications requested by the City after the date of receipt and following oral presentations.

2.13 Late Submissions

Proposals not received prior to the date and time specified will not be considered.

2.14 Withdrawal of Proposals

At any time prior to scheduled closing time for receipt of RFP submittals, any responding firm may withdraw their submittal, either personally or by written request. However, a proposal may not be withdrawn after opening without the written consent of the City.

2.15 Acceptance – Rejection of Proposals

The City may reject any or all proposals if the City Manager determines that it is in the best interest of the City and may waive irregularities, other than the requirements for timeliness and manual signature, if the irregularities do not affect the competitive advantage of any proposer.

2.16 Choice of Law and Jurisdiction

The laws of the State of Alaska shall govern this RFP, and any legal action brought thereon shall be filed in the Third Judicial District at Kenai, Alaska.

2.17 Conflicts of Interests

No member of the governing body of the City of Kenai or other officer, employee or agent of the City who exercises any functions or responsibilities in connection with the carrying out of the project shall have any personal interests, direct or indirect, in any ensuing contract as a result of this Request for Proposal, without first disclosing his/her potential conflict, by submitting a letter to the Clerk's Office establishing their "intent to do business with the City". The contractor for itself and its principal employees, officers, agents, directors or shareholders covenants that neither the contractor nor any of the listed classes of individuals has nor shall acquire any interest, direct or indirect, in the project, direct or indirect, to which the contract pertains which would conflict in any manner or degree with the performance of its work hereunder. The selected proposer further covenants that in its performance of the contract no person having such interest shall be employed, without first disclosing his/her potential conflict.

2.18 Grant Funding

Projects may be funded in part or in whole by a grant or grants. The Consultant and their sub consultants will be required to comply with the requirements of these grants, including insurance and purchasing requirements, if any. Consultant shall incorporate, or cause to incorporate, in all contracts, subcontracts and bid documents, provisions to meet grant requirements. Grants will be made available at your request.

2.19 Disadvantaged Owned Business (DBE) Goals

Disadvantaged Owned Business Enterprise (DBE) goals will be established for each project. Instructions and DBE specification requirements will be specified in project at the time of solicitation. Consultants should describe their experience and knowledge of projects with DBE requirements.

Affirmative steps should be taken to assure that small and minority firms are used whenever possible. These steps should include, but not be limited to the following:

- 1) Include qualified small business and minority firms on solicitation lists.
- 2) Assure that small business and minority firms are solicited whenever they are potential sources.
- 3) Divide the total requirements into small tasks, when economically feasible, to permit maximum small business and minority firm participation.
- 4) Use the services and assistance of the Small Business Administration and the Disadvantaged Business Enterprise of the State of Alaska.

3.0 SCOPE OF WORK

3.1 Project Description

The Airport anticipates improvements including but not limited to construction of new facilities and reconstruction of existing facilities within the area known as Kenai Municipal Airport located within the City of Kenai. The major categories of anticipated work are identified below.

The Notice to Proceed for these projects will be issued separately and/or in different combinations depending on funding sources and priorities throughout the duration of the contract. Projects not listed here and not anticipated at this time may be added during the contract period and projects listed here may be deleted. Many factors including world events, FAA regulatory changes or local economics can and will affect the funding and priority of these projects. The Kenai Municipal Airport intends to complete one or more of the projects listed during this contract. The intent is to only award construction contracts for specific improvements as funding priorities permit. The different funding sources include Municipal, State and Federal (FAA Airport Improvement Program Grants). No work is guaranteed to the successful proposer. Projects listed herein or developed in the future may be subject to further RFP's. Projects undertaken without FAA funding may be awarded to other consultants without negotiation with the successful proposer.

The AIP Grant eligible projects are part of the Phased Capital Improvement Program for Kenai Municipal Airport and are recommended in the Airport Layout Plan and the Kenai Municipal Airport Master Plan.

Environmental documents are required by the National Environmental Act (NEPA) for all projects.

Options listed in the Airport Master Plan and Supplemental Planning Assessment may be examined for applicability and priority. Highest priority projects will proceed.

3.2 Identification of Projects

3.2.1 Airfield Sand and Equipment Storage Building – will begin design immediately. This will be a heated roughly 6000sf facility with approximately 20' wall height.

3.2.2 Terminal Road and Parking lot improvements

3.2.3 Willow Street and Apron Extension

3.2.4 Airfield Painting & Crack Sealing

3.2.5 Runway Reconstruction

3.2.6 Acquire Security Camera System

Terminal and airfield security system is outdated and not repairable.

3.2.7 Airfield Surface Preservation Maintenance

Address and plan for any pavement and airfield marking needs.

3.2.8 Development of airport lease properties

It may be necessary to evaluate other airport properties and develop a plan for lease lot development and access.

3.2.9 Evaluation and re-design of airport fencing, public access, and lease lot configuration

Any safety and security requirements may require reevaluation or relocation of public access and security fencing on the airport.

3.2.10 Rehabilitate existing structures including possible mechanical engineering for existing buildings to improve HVAC or mechanical systems

The airport property includes several buildings such as the Terminal, Fire Training Facility, Operations Center, Animal Control and Warm Storage building. Evaluate these buildings for useful life and provide recommendations for expansion, rehabilitation, or upgrades as needed.

3.2.11 Land Acquisition

Airport Master Plan and Supplemental Planning Assessment recommend acquisition of property. Investigate and recommend best options for airport to acquire land if needed. Other property in approach surfaces will be reviewed and recommendations on land acquisition or avigation easements may be pursued. Perform airspace evaluations of City or privately proposed structural development that might affect operations on, adjacent to, or in proximity to the airport as needed.

3.2.12 Float Plane Basin Development

Options for commercial and general aviation development at the float plane basin. Project includes public access, lease lot development, taxiways, utilities, and roads. May include relocation of the gravel strip to the west side and develop apron areas, taxi lanes and lease lots along Willow Street, Marathon Road, and the Float Plane Basin.

3.2.13 Noise Abatement Procedures

Evaluate noise abatement restrictions and analyze possible modification of those restrictions as they relate to the ongoing operation and financial viability of the airport as needed.

3.2.14 Update ALP

Prepare the Airport Layout Plan as necessary to meet FAA requirements. Includes providing and/or updating existing exhibits/drawings for airport operations manuals such as the Certification Manual and Emergency Control Plans.

3.2.15 Environmental Reports

Storm water drainage and environmental studies, such as environmental assessments, storm water master plans, permitting and agency co-ordination, wetland and noise mitigation projects.

3.3 Project Scope

3.3.1 Construction projects may require the consultant and contractors to;

- Coordinate with Airport Traffic Control Tower, applicable FAA Divisions (Engineering, Environmental, Airports Division, Airway Facilities) and Airport Management.
- Coordinate with agencies that would be associated with approving the development.
- Review specific aircraft performance and physical characteristics for compatibility with horizontal, vertical, or load limitations on airport property. May include single time, emergency, seasonal or long term uses.
- Develop the project construction safety and phasing plan.
- Analyze the existing conditions of above ground and underground utilities and compile recommendations and designs for immediate and long-term reconstruction requirements (including electrical, storm drain etc.) if needed. Provide recommendations on local, or area wide drainage issues affecting airport property.
- Provide complete grading plan.
- Provide design.
- Provide bid ready documents, including obtaining permit approvals.
- Develop general operating procedures that are acceptable to Airport Management and the FAA for the gating.
- Analyze the existing and new airport signage requirements to reduce runway incursions and expedite aircraft and vehicle traffic movements.
- Provide bid ready documents, including obtaining permit approvals.
- Ensure overall compliance with FAA regulations in obtaining and completing grants / projects.
- Conduct financial feasibility and ROI analysis of projects

3.3.2 Building and Security Improvements

- Evaluate available gates for controlled access and maintainability in local environment.
- Evaluate and determine what information should be provided on the informational signs to improve situational awareness and reduce inadvertent incursions.
- Evaluate and determine locations of fencing improvements to reduce incursions and better define airside and landside operational activities.
- Address future access and security issues as well as any anticipated change in regulations by FAA or the Transportation Security Administration (TSA).
- Analyze the existing security system for compatibility of the proposed improvements.
- Develop the construction safety and phasing plan.
- Provide bid ready documents, including obtaining required approvals and permits.

3.4 Special Considerations

Coordination of all work with the Contract Control Tower is essential. Work to be performed by construction contractor must require continual vigilance by contractor while maintaining radio communication as needed. Work in proximity of air operation areas will require extreme vigilance. A construction safety and phasing plan must be developed and approved by the airport manager, FAA, and Contract Tower prior to any activities in the air operation areas of the Airport.

Other construction projects may be in progress on and around the airport during the effective period of this contract and would require coordination with the projects within this request for proposal.

Notification requirements and obtaining approvals for construction activities as required by Federal, State and Municipal agencies are included in the contract responsibilities. These may include, but are not limited to, EPA storm water regulations, environmental documents required by the National Environmental Policy Act (NEPA), and FAA airspace studies.

3.5 General Scope of Work

All work performed by the professional consulting firm selected shall be within the context of Advisory Circular AC 150/5100-14D, "Architectural Engineering and Planning Consultant Services for Airport Grant Projects," published by the Department of Transportation, Federal Aviation Administration. Design and construction shall incorporate recommended standards as set forth in FAA Advisory Circulars and FAA Sponsor Certifications to the maximum extent possible.

The Construction Management work requirements shall be a fee negotiated separately for each project as additional services to the professional services contract. Authorization to proceed for any FAA Grant fundable projects is subject to receipt by the City of a FAA AIP Grant for that purpose.

As previously stated, the Notice to Proceed for these projects may be issued separately and/or in different combinations depending on funding sources and priorities throughout the duration of the contract. In all cases, a separate Notice to Proceed will be issued for the Construction Management portion of each project.

The attached General Conditions of the Professional Services Agreement, with any acceptable minor modifications, will be utilized to employ the chosen firm. Award of any contracts executed as a result of this RFP does not guarantee authorization to proceed with any work.

The anticipated scope of work will include at least the following identifiable elements:

Based on a mutually agreed upon program and budget, the Consultant's basic services shall consist of the normal duties associated with a phased design system. These include: Schematic Design Phase, Design Development and Construction Document Phase, Bidding Phase, and Construction Phase as described in the Request for Proposals and the General Conditions of the Contract.

3.5.1 Task 1 - Schematic Phase Services

Provide permitting applications, planning surveys and site evaluations. Conduct subsurface soils investigations as necessary to support the planned improvements. Provide detailed soil reports supporting proposed improvements, design parameters, construction requirements and planning documents. Conduct field surveys as required for planning and design of the proposed improvements. Provide schematic layouts, conceptual design criteria and exhibits. Compile design study reports as required to satisfy environmental assessment requirements and to determine the recommended alternative for the planned improvements.

Investigate existing Airport infrastructures - including structural sections of improved surfaces, electrical and drainage utilities, security system (fences and gates), and signage to support the planned improvements. Provide preliminary plans, specifications and contract documents as necessary to support the planned improvements. Coordinate review of preliminary documents with Federal, State and Municipal agencies (including FAA) as required. Conduct a presentation to the Kenai Airport Commission on the planned improvements.

Plans will be submitted to the City for review at 35% completion. No formal review period will be necessary at this time and schematic design shall continue. Consultant will be expected to deliver preliminary specifications, an engineer's cost estimate and 65% plans to complete the schematic phase.

3.5.2 Task 2- Design Development and Construction Document Phase Services

After Schematic Design Document comments are provided by the City, the consultant shall commence with the Design Development Phase Services. The consultant shall prepare bid ready design documents, including drawings, specifications, a detailed cost estimate, and other documents to show the extent of the work required to complete the project.

Coordinate all activities associated with the AIP grant with the FAA. Coordinate all necessary Federal, State and Municipal permits and approvals as may be required for the planned improvements. All costs and expenses will be tracked and documented. Separation of grant fundable and non-grant fundable costs and expenses will be required.

The Consultant shall be responsible for submittal of documents to authorities having jurisdiction for all required permits. The City will pay all permit fees. A 95% review set with plans, specifications and a detailed cost estimate shall be provided to the City for review.

Final plans stamped by a professional consultant registered in the State of Alaska shall be provided to the Owner to complete this phase. See requirements in the RFP for deliverable conditions.

3.5.3 Task 3 – Bid Phase Services

The City will compile the bid documents including all front end documents. Consultant will not be responsible for any publishing except as outlined otherwise in this RFP. The Consultant shall attend and participate in a pre-bid conference and assist the City in preparing addenda.

The City will conduct the bid opening.

3.5.4 Task 4 - Construction Phase Services

The start of certain improvements under this activity is contingent upon the City receiving an FAA AIP Grant; in all cases, a separate Notice to Proceed will be issued for the Construction Management of each project.

These services will begin at the Construction Contractor's start date and may include the following:

- Review and approve submittals
- Respond to Requests For Information (RFI's)
- Substantial and Final inspections
- Generate As-built drawings
- Other tasks as identified in the general conditions
- Act as the City's representative in administration of all contract construction activities.
- Provide field observations of construction, evaluation of defective work, interpretation and clarification of contract documents, review of shop drawings, evaluation of product substitutions, inspection and testing, resolution of disputes, contractor application for payment, substantial completion review, and document completion.
- Provide City with project status reports (format acceptable to City & FAA).
- Coordinate all activities associated with the FAA AIP Grant including final grant close out requirements.
- Coordinate necessary Federal, State and Municipal permits and approvals as may be required for the project.
- All costs and expenses will be tracked and documented.
- Update ALP as needed.

3.6 Deliverable Conditions

Upon completion of schematic design (Task 1), the City shall be furnished with drawings and specifications in PDF and WORD file formats. In addition, one 11" x 17" and one 22" x 34" set of hard copy drawings shall be provided by the consultant.

Upon completion of final design (Task 2), Owner shall be furnished with 2 flash drives of drawings in both DWG and PDF file formats and specifications in both DOCX and PDF file formats. In addition, one 11" x 17" and one 22" x 34" set of hard copy drawings shall be provided by the consultant.

Upon completion of construction (Task 4), Owner shall be furnished with 2 flash drives of as-built drawings in both DWG and PDF file formats and specifications in both DOCX and PDF file formats. In addition, one 11" x 17" paper and one 22" x 34" MYLAR set of as-built drawings shall be provided. As-built documents are subject to review by owner and subsequent revision by Consultant. Two sets of Equipment manuals. Two copies the AIP Grant project closeout package as submitted to FAA. Coordinate with City on FAA closeout package submittals. Update ALP as needed.

3.7 Scheduling Factors

The City plans to construct the improvement projects included in this request for proposal as funding permits over the next five years.

4.0 PROPOSAL AND SUBMISSION REQUIREMENTS

To achieve a uniform review process and obtain the maximum degree of comparability, it is required that the proposals be organized in the manner specified below. After a title page and table of contents include the following sections.

4.1 Letter of Transmittal

Briefly state your firm's understanding of the services to be performed and make a positive commitment to provide the services as specified.

List name(s) of the person(s) who are authorized to make representations for your firm, their titles, address, and telephone numbers.

The letter must be signed by a corporate officer or other individual who has the authority to bind the firm.

4.2 Experience/Qualifications/References

Detail the firm's experience in the same or similar areas of expertise. Identify your firm's performance on similar projects especially noting airport work and other municipal work. All airport work should have identified a point of contact. A telephone number should also be provided if applicable.

Provide a client / project list for the last ten (10) airport relevant projects the firm has been involved with. List should include contact information, project description, description of services provided and overall project dollar value, location of project, project start and completion dates.

4.3 Project Manager, Key Project Staff and Sub-consultants

Identify the project manager, key project staff and sub-consultants expected to provide services on behalf of the firm. Resumes should be included for each of the individuals and sub-consultants referenced. Be specific on the proposed staff regarding experience and qualifications on projects of similar size and scope.

4.4 FAA Programs and Standards, Code Compliance

Provide a description of your understanding of FAA Airport Improvement Program, FAA Airport Design Standards, and local code compliance issues.

4.5 Available Resources

Provide information on resources available to your firm, which indicates that you have access to the services necessary to perform the work. Also indicate the location where the primary services are to be provided and the ability to meet in person with City personnel when required during the performance of the contract.

4.6 Financial Analysis

The Kenai Municipal Airport is owned and operated by the City of Kenai. Airport operations are to be self supporting. Each capital expenditure proposal must include a cost/benefits analysis to determine the worthiness of each project for the Airports limited capital funds. Projects whose purpose is to enhance the Airports revenue generation capabilities must be analyzed to determine the financial feasibility of the project taking into account the initial capital investment, the loss of future earning on the initial capital investment, and projected future earnings. The successful proposer must possess the capability of performing these basic financial analyses. Provide a narrative about the firm's experience and methodology and approach to financial analyses.

4.7 Fee Schedule

Under a separate sealed envelope submit one copy of a fee schedule for all services which may be required in performance of this work and marked on the outside of the envelope "FEE SCHEDULE". The fee schedule is to be a presentation of hourly costs per positions working on the projects. The fee schedule shall be all inclusive of overhead, general and administrative expenses, fringe benefits, profit, insurance, etc. The fee schedule shall not be used in evaluations. This RFP has been structured to meet FAA Advisory Circular 150/5100-14D, "Architectural, Engineering, and Planning consultant Services for Airport Grant Projects", criteria. Consultants will be selected on the basis of their qualifications and experience.

Only the highest-ranking proposers' fee schedule will be opened for the purpose of commencing contract negotiations. Fee schedules may be adjusted for each negotiated contract.

5.0 EVALUATION CRITERIA AND PROCESS

5.1 CRITERIA SCORESHEET

Name of firm being evaluated _____

Name of Evaluator _____

Signature and Date _____

1. Firm Experience - Section 4.2 (30 points total)

Firm's Experience in airport projects

Firm's Experience with FAA

Performance & quality of projects previously completed

2. Staff - Section 4.3 (30 points total)

Project Manager

Project Team

Outside consultants

3. FAA Programs and Standards, Code Compliance Section 4.4 (10 points total)

Understanding of airport projects & FAA Airport
Improvement Program

4. Available Resources Section 4.5 (10 points total)

Available Resources and ability to meet in person with
Airport staff when required

5. Firm's knowledge of Disadvantaged Business Enterprise Program Section 2.19 (10 points)

Experience with DBE's and the City's DBE program

6. Firm's Experience and Approach to Financial Analyses Section 4.6 (10 points)

Experience and Approach to Financial analyses

5.2 Evaluation Process

A committee of individuals representing the City of Kenai will perform an evaluation of the proposal. The committee will rank the proposal as submitted. The City of Kenai reserves the right to select solely on the written proposal. The committee shall consist of no less than 3 members to ensure fairness.

The City also reserves the right to request oral interviews with the highest ranked firms (short list). The purpose of the interviews with the highest ranked firms is to allow expansion upon the written responses. If interviews are conducted, a maximum of three firms will be short-listed. A second score sheet will be used to score those firms interviewed. The final selection will be based on the total of all evaluators scores achieved on the second rating. The same categories and point ranges will be used during the second evaluation as for the first.

6.0 SELECTION PROCESS

The Proposer with the highest total evaluation points may be invited to enter into contract negotiations with the City of Kenai. If an agreement cannot be reached with the highest ranked Proposer, the City shall notify the proposer and terminate the negotiations. If proposals are submitted by one or more other proponents determined to be qualified, negotiations may then be conducted with such other proposers in the order of their respective rankings. This process may continue until successful negotiations are achieved. The City of Kenai reserves the right to reject any and all proposals submitted.

7.0 APPEAL PROCEDURE

Any party submitting a proposal for this procurement and who believes that they are adversely affected by the City's procurement process, or by any acts of the City in connection with the award of a City contract, may file a protest appeal with the City's Public Works Director. All protest appeals must be filed with the City within 10 days of the issuance of the City's notice of its intent to award the contract. The City Manager will decide the appeal. The protest appeal must be in writing and shall include the following information:

- A. the name, address, e-mail, and telephone and facsimile numbers of the protester;
- B. the signature of the protester or the protester's representative;
- C. identification of the solicitation or contract at issue;
- D. a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents; and,
- E. the form of relief requested.

The protest appeal may be hand-delivered, faxed, or sent by U.S. mail with postage prepaid to the attention of the Public Works Director, 210 Fidalgo Avenue, Kenai, AK 99611. Regardless of the method of delivery chosen by the protester, all protest appeals must be actually received by the City within 5 calendar days of the issuance of the City's notice of intent to award. If the

fifth day is a City-recognized holiday or a weekend, the deadline for appeal shall be the next work day. It is up to the protester to choose a method of delivery to assure timely receipt by the City.

The City Manager shall decide the protest appeal and issue a written decision under the following general procedures:

- A. If the City Manager sustains a protest in whole or in part, the City Manager shall implement an appropriate remedy.
- B. In determining an appropriate remedy, the City Manager shall consider the circumstances surrounding the solicitation or procurement including the seriousness of the procurement deficiencies, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, the extent the procurement has been accomplished, costs to the agency and other impacts on the agency of a proposed remedy, and the urgency of the procurement to the welfare of the City.
- C. Notwithstanding subsections A and B immediately above, if the City Manager sustains a protest appeal in whole or part, the protester's damages shall not exceed the reasonable proposal preparation costs.

The City Manager shall deliver his or her determination of the protest appeal in writing to the protester by hand-delivery at the protester's place of business or other address or via U.S. Mail or facsimile, and shall be effective immediately upon receipt if hand-delivered, upon receipt of delivery confirmation if sent by facsimile or, if mailed, three days after placement in the U.S. Mail.

A party filing a protest appeal may appeal the City Manager's decision to the Kenai Superior Court.

8.0 SAMPLE CONTRACT OR MINIMUM MANDATORY CONTRACT PROVISIONS

In addition to carefully reading all of the information in the RFP, all Proposers must carefully read and review the attached sample contract. The successful Proposer shall be required to enter into a Contract with the City of Kenai, which will be substantially similar to the sample.

Therefore, the Proposer must make any proposed changes to the sample Contract that the Proposer desires. All changes must be made legible and conspicuously in red ink on all copies submitted. Page (s) on which the change (s) appear must be tabbed as to be easily identified. The respondent must also provide the rationale for all changes.

If no changes are made, the proposer shall be deemed to have accepted the sample contract. If the respondent makes changes, such changes will be considered in any negotiations with the city. Changes made to the sample contract shall not be considered during the evaluation process.

CITY OF KENAI

AGREEMENT BETWEEN OWNER AND CONSULTANT FOR PROFESSIONAL DESIGN SERVICES

MADE AS OF THE _____ DAY OF _____ 201____.

BETWEEN the OWNER: CITY OF KENAI
210 Fidalgo Avenue
Kenai, Alaska 99611

AND the CONSULTANT:

FOR the PROJECT:

The Owner and Consultant agree as set forth below.

ARTICLE 1

THE WORK

The Consultant shall perform all the work described in the Request for Proposals as Attachment "A" hereto, and in the Consultant's Proposal, as Attachment "B" hereto, consisting of:

1. Basic Services, as described in the General Conditions, including Schematic Phase Services, Design Development and Construction Document Phase Services, Bidding Phase Services, and Construction Phase Services.
2. Additional Services, if authorized, as described in ARTICLE 2 of the General Conditions.

ARTICLE 2

TIME OF COMMENCEMENT AND COMPLETION

The Consultant's performance of services required by this Agreement shall commence with a Notice to Proceed and shall be completed in accordance with the following schedule:

- | | |
|--|--|
| 1. Schematic Design Phase Services | Within _____ days of Notice to Proceed |
| 2. Design Development and Construction Document Phase Services | Within _____ days of Notice to Proceed |
| 3. Construction Phase Services | Within _____ days of Notice to Proceed |

ARTICLE 3

COMPENSATION

The Owner shall compensate the Consultant in accordance with the General Conditions of this Agreement as follows:

1. FOR THE CONSULTANT'S BASIC SERVICES, as described in ARTICLE 1 of the General Conditions, Compensation will be paid periodically on a time and expense basis in accordance with the Consultant's Cost Proposal and Fee Schedule as Attachment "B" hereto, in a total amount not to exceed the sum of \$_____.
2. FOR THE CONSULTANT'S ADDITIONAL SERVICES, as described in ARTICLE 2 of the General Conditions, Compensation will be paid for Principal's, employees', and subconsultant's time at the fixed gross hourly billing rates set forth in the Fee Schedule as Attachment "B" hereto, and as per ARTICLE 6 of the General Conditions. Payment of additional services is not included in the "shall not exceed" provisions contained in the contract documents.
3. FOR THE CONSULTANT'S REIMBURSABLE EXPENSES, as described in Article 7 of the General Conditions, Compensation will be paid in accordance with the Consultant's Cost Proposal and Fee Schedule as Attachment "B" hereto, in a total Amount not to exceed \$_____.
4. THE CONSULTANT'S EXTENDED BASIC SERVICES BEYOND THE CONSTRUCTION PHASE, if authorized, shall commence with a written Notice to Proceed with the performance of those services. These services will be paid as additional services. This payment is not included in the "shall not exceed" provisions contained in the contract documents.
5. The total payment under these contract documents, including payment for basic services and reimbursable expenses shall not exceed \$_____. Any payment beyond this amount including payment for additional services, extended basic services and related expenses may be made only pursuant to a fully executed change order or contract modification specifically stating the amount of payment agreed upon. In the event this paragraph conflicts with or is inconsistent with any other provision in the contract documents, this provision shall control.

Based upon applications for payment submitted by Consultant, Owner shall provide for Progress Payments to Consultant on a monthly schedule. Upon proper application submitted no later than ten (10) days prior to the next scheduled payday, Consultant shall be paid for the value of the work performed during the period preceding application. Each application for payment shall be on an approved Application for Payment form. All sums properly due shall be paid within thirty (30) days of receipt of application. Prior to final payment, the Consultant shall submit as-built drawings or other documents as required by the contract documents.

ARTICLE 4

ENUMERATION OF CONTRACT DOCUMENTS

The documents which are specifically incorporated into this agreement by reference and form the contract documents are:

- A. Any and all later modifications, Change Orders, and written interpretations of the Contract Documents issued by the Owner
- B. This Agreement
- C. Addenda No(s)_____
- D. The Contractor's Proposal, including Cost Proposal and Fee Schedule
- E. Supplemental General Conditions (if any)
- F. The General Conditions of the Contract
- G. The Request for Proposals

Any other attachments to this agreement do not form a part of the agreement but are for reference or proof of compliance with the requirements of the agreement, except where the provisions of this agreement provide such attachments will be or are a part of the agreement.

These form the contract and what is required by any of the documents shall be as binding as if required by all. The intention of the contract documents is to require the furnishing of all labor, material, equipment, and other items necessary for the proper execution and completion of the work and to prescribe the terms and conditions of the contract and payment, so as to include work and materials which may be necessary to produce the intended results.

ARTICLE 5

All legal notices relating to this contract, including change of address, shall be mailed to the Owner and the Consultant at the following addresses:

OWNER

City of Kenai
Insert department director
Insert address
Kenai, Alaska 99611

CONSULTANT

ARTICLE 6

EXTENT OF AGREEMENT

This Agreement represents the entire and integrated agreement between the Owner and the Consultant, and supersedes all prior, inconsistent negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Consultant.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed in their respective names by their duly authorized representatives as of the date and year above written.

ARTICLE 7

ATTACHMENTS

In the event there is any difference between an attachment to the original of this agreement on file with the City of Kenai and any attachment to a duplicate original of the agreement, the attachments to the original filed with the City shall control.

ARTICLE 8

NO THIRD-PARTY BENEFICIARY

This agreement is intended solely for the benefit of each party hereto. Nothing contained herein shall be construed or deemed to confer any benefit or right upon any third party.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed in their respective names by their duly authorized representatives as of the date and year first above written.

ARTICLE 9

JURISDICTION: CHOICE OF LAW

This contract shall be governed by the laws of the State of Alaska, and any lawsuit brought thereon shall be filed in the Third Judicial District at Kenai, Alaska.

OWNER and CONSULTANT each binds themselves, their partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed in their respective names or by their duly authorized representatives as of the date and year above written.

OWNER:
CITY OF KENAI

By: _____

Name: _____

Title: _____

STATE OF ALASKA)
THIRD JUDICIAL DISTRICT)ss.

THIS IS TO CERTIFY that on

this ____ day of _____, 201__

Rick R. Koch, City Manager,

City of Kenai, Alaska, being personally known to me or having produced satisfactory evidence of identification, appeared before me and acknowledged the voluntary and authorized execution of the foregoing instrument on behalf of said City.

NOTARY PUBLIC FOR ALASKA
My Commission Expires: _____

Approved by Legal: _____
Approved by Finance: _____

CONSULTANT:

By: _____

Name: _____

Title: _____

STATE OF ALASKA)
THIRD JUDICIAL DISTRICT)ss.

THIS IS TO CERTIFY that on

this ____ day of _____, 201__

_____,

(title) _____

of _____ being personally known to me or having produced satisfactory evidence of identification, appeared before me and acknowledged the voluntary and authorized execution of the foregoing instrument on behalf of said corporation.

NOTARY PUBLIC FOR ALASKA
My Commission Expires: _____

**GENERAL CONDITIONS OF THE CONTRACT
BETWEEN OWNER AND CONSULTANT
FOR PROFESSIONAL DESIGN SERVICES**

THIS DOCUMENT MAY BE ALTERED OR AMENDED ONLY
BY ADDENDUM, CHANGE ORDER OR OTHER DOCUMENT EXECUTED BY ALL PARTIES

ARTICLE I CONSULTANT'S BASIC SERVICES

1.1 Basic Services

Without limiting any obligations arising under law, Consultant's Basic Services are enumerated for each of the phases described below and include normal Engineering and Architectural services.

1.2 Schematic Phase

- 1.2.1 Consultant shall review the program furnished by Owner to ascertain the requirements of the Project and shall review Consultant's understanding of such requirements with Owner.
- 1.2.2 Consultant shall provide a preliminary evaluation of the program and the Project budget requirements, each in terms of the other, subject to the requirements and limitations set forth in ARTICLE 4.
- 1.2.3 Consultant shall review with Owner alternative approaches to design and construction of the Project.
- 1.2.4 Based on the mutually agreed-upon program and Project budget requirements, Consultant shall prepare, for approval by Owner, Schematic Design Documents consisting of drawings and other documents illustrating the scale and interrelationship of Project components.
- 1.2.5 Consultant shall submit to Owner a Statement of Probable Construction Cost based on area, volume, or other unit costs, in conformity with all elements of the Schematic Design Documents.
- 1.2.6 Upon completion of schematic design, the Owner shall be furnished with drawings and specifications in PDF file formats. In addition, one 11" x 17" and one 22" x 34" set of hard copy drawings shall be provided by the consultant.

1.3 Design Development Phase

- 1.3.1 Based on the approved Schematic Design Documents and any other adjustments authorized by Owner in the program or Project budget, Consultant shall prepare, for approval by Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the entire Project as to architectural, structural, civil, mechanical, and electrical systems, materials, and such other elements as may be appropriate.
- 1.3.2 Consultant shall submit to Owner a further Statement of Probable Construction Cost, in conformity with all elements of the Design Development Documents.

1.4 Construction Documents Phase

- 1.4.1 Based on the approved Design Development Documents and any further adjustments authorized by Owner in the scope or quality of the Project or in the Project budget, Consultant shall prepare, for approval by Owner, Construction Documents consisting of Drawings, Specifications, and other items as may be required to detail the requirements for the construction of the entire project in accordance with good design practice and all requirements of agencies having jurisdiction over the work.
- 1.4.2 Consultant shall provide all documents for this Project in a format and on media approved by Owner or as defined in the Request For Proposals.

- 1.4.3 Consultant shall provide in the Construction Documents all of the necessary bidding information, including site plans, floor plans, elevations, sections and details sufficient to show all the requirements of the work. If required by Owner, Consultant shall prepare the Construction Documents for additive alternate bids, unit prices, and phasing of the work.
- 1.4.4 The substantial aspects of the design as indicated by the Working Drawings and Specifications shall comply with the requirements and regulations adopted pursuant to the Occupational Safety and Health Act (OSHA), the Americans with Disabilities Act (ADA), and all requirements of local and state building, fire, mechanical, electrical and other codes in effect at the time of completion of the Construction Documents Phase of work.
- 1.4.5 Consultant shall prepare and submit the required documents for the approval of federal, state and local governmental authorities having jurisdiction over the Project and shall be responsible for obtaining all necessary approvals.
- 1.4.6 Consultant shall provide such additional information as may be required by regulatory agencies in order for such agencies to certify the relevant applications as complete.
- 1.4.7 Consultant shall submit to Owner a final detailed Statement of Probable Construction cost of the project.
- 1.4.8 Upon completion of final design, Owner shall be furnished with 2 DVD's or flash drives of drawings in both DWG and PDF file formats and specifications in both DOCX and PDF file formats. In addition, one 11" x 17" and one 22" x 34" set of hard copy drawings shall be provided by the consultant.

1.5 Bidding Phase

- 1.5.1 Consultant, following Owner's approval of the Construction Documents and the final Statement of Probable Construction Cost, shall assist Owner in conducting a pre-bid conference, in preparing addenda, in reviewing bids, and in evaluating bidder's qualifications. Based on the results, Consultant shall submit a recommendation for award of contract.
- 1.5.2 Consultant shall conduct any mandatory pre-bid conference and shall issue any addenda required to correct errors or omissions in the bid documents, or to clarify items in the bid documents.

1.6 Construction Phase

- 1.6.1 The Construction Phase will commence with the award of the Construction Contract and will terminate when the final Certificate for Payment is approved by Owner.
- 1.6.2 Consultant shall administer the Construction Contract as set forth herein, and the extent of Consultant's duties and responsibilities and the limitations of Consultant's authority as assigned hereunder shall not be modified without the written consent of both parties.
- 1.6.3 Consultant, as the representative of Owner during the Construction Phase, shall advise and consult continually with Owner. Both Consultant and Owner shall at all times have access to the Work wherever it is in preparation or progress. Instructions to the contractor shall be issued through Consultant. Consultant shall have authority to act on behalf of Owner to the extent provided herein unless otherwise modified in writing. Consultant shall provide Owner with copies of all correspondence relating to the Project and shall promptly inform Owner of any circumstances affecting the quality, cost or completion of the work. Consultant shall organize a system of filing and transmitting all documents and correspondence relating to the project.
- 1.6.4 Owner shall have the right to make all final determinations whether an item or material, proposed by the contractor as a substitute for a specified item or material, equals or exceeds the quality of that specified in the Construction Documents. Owner shall make a final determination within seven (7) days after receipt of written request by Consultant.

- 1.6.5 For the Contract fee, Consultant, appropriate staff personnel, and Consultant's consultants, shall make periodic visits to the site, as approved by Owner in advance, for familiarization generally with the progress and quality of the work, conformance with the design intent and as required for completion of record drawings. A Schedule of Visits will be incorporated by reference if included as an attachment hereto.
- 1.6.6 Consultant shall provide additional inspection services beyond those described herein upon request of Owner in accordance with ARTICLE 2.
- 1.6.7 Based upon the observations of the Project Observer at the site and upon the contractor's Application for Payment, Consultant shall determine the amount then due to the contractor and shall approve Certificates for Payment within 5 days after receipt thereof. Consultant's approval shall constitute a representation by Consultant to Owner, that the work has progressed to the point indicated; that to the best of Consultant's knowledge, information, and belief, the quality of the work is in accordance with the contract documents; and that the contractor is due payment in the amount certified. By issuing a Certificate for Payment as defined in the contract documents, Consultant shall not be deemed to represent that Consultant has made any examination to ascertain how, and for what purpose, the contractor has used the monies paid on account of the contract sum.
- 1.6.8 Consultant shall demand proof of payment to subcontractors or materialmen, or releases from subcontractors or materialmen, before the issuance of a final Certificate for Payment.
- 1.6.9 Consultant shall, in the first instance, interpret and explain the requirements of the contract documents, and be judge of the performance thereunder by the contractor. Consultant shall make the initial decision on all claims and questions of the contractor relating to the execution and progress of the Work, and on all other matters or questions related thereto.
- 1.6.10 Consultant shall have authority to reject Work, which does not conform to the contract documents. Whenever, in Consultant's reasonable opinion, Consultant considers it necessary or advisable to ensure the proper implementation of the intent of the contract documents, Consultant will have authority to require special inspection or testing of any Work in accordance with the provisions of the contract documents, whether or not such work be fabricated, installed, or completed.
- 1.6.11 Consultant shall review and accept (as complying with design concept and the requirements of the contract documents) or take other appropriate action upon the contractor's submittals such as shop drawings, product data, and samples. **Such action shall be performed within 5 working days after receipt of the contractor's submittals.** Consultant's acceptance of a specific item shall not indicate approval of assembly of which the item is a component.
- 1.6.12 Consultant shall prepare Change Orders for Owner's approval and execution in accordance with the contract documents. Consultant shall have authority to order minor changes in the work not involving an adjustment in Contract Sum or an extension of Contract Time, and not inconsistent with the intent of the contract documents. Consultant shall notify Owner in writing, on a form approved by Owner, of all changes including authorized extras at no additional cost.
- 1.6.13 Consultant shall conduct inspections to determine the dates of Substantial Completion and Final Completion as defined in the contract documents. Consultant shall determine the date of Substantial Completion and issue a Certificate of Substantial Completion allowing for beneficial occupancy by Owner. The Certificate of Substantial Completion shall set a reasonable time for the contractor to complete the work and to correct any deficiencies noted by Consultant. Consultant shall make recommendations (based on then current market values and labor costs) of the amounts of payment to be withheld by Owner until the deficiencies are corrected and the Work completed. Consultant shall receive, review, and transmit to Owner written guarantees, warranties, and related documents assembled by the contractor. Consultant shall issue a final Certificate for Payment upon final completion of the work.
- 1.6.14 Consultant shall not be responsible for (1) construction means, methods, techniques, sequences or procedures; or (2) the safety precautions or programs of the contractor; or (3) any acts or omissions of

the contractor, any subcontractor, or any of the contractor's or subcontractors' agents or employees, or of any other person performing any of the work.

- 1.6.15 Consultant shall furnish Owner, within 60 days after final completion of the work, 2 DVD's or flash drives of as-built drawings in both DWG and PDF file formats and specifications in both DOCX and PDF file formats. In addition, one 11" x 17" paper and one 22" x 34" MYLAR set of as-built drawings shall be provided. As-built documents are subject to review by owner and subsequent revision by Consultant.

ARTICLE 2 CONSULTANT'S ADDITIONAL SERVICES

- 2.1 If any of the following additional services are authorized by Owner in writing, Owner agrees to pay Consultant in accordance with Consultant's Fee Schedule (as attached hereto). Prior to authorization Owner must be expressly informed that the services requested require additional Consultant fees and an estimate of the amount of additional fees must be provided by Consultant. Payment will be made in accordance with Article 6.
- 2.2 Consultant's additional services may include the following:
- 2.2.1 Provide planning surveys, site evaluations, environmental studies, or comparative studies of prospective sites. Prepare special surveys, studies, and submissions required for approvals of governmental authorities or others having jurisdiction over the project.
- 2.2.2 Provide design services relating to future facilities, systems, and equipment which are not intended to be constructed as part of the Project.
- 2.2.3 Provide services to facilitate detailed appraisals and evaluations of existing conditions or facilities and make measured drawings thereof. Services may include surveys or inventories required in connection with construction performed by Owner.
- 2.2.4 Prepare drawings and specifications for Change Orders requested by Owner, where the changed work was not envisioned by the approved construction documents and therefore results in a construction cost which exceeds the Consultant's Statement of Probable Construction Cost.
- 2.2.5 Make major revisions in Drawings, Specifications, or other documents when such revisions are inconsistent with written approvals or instructions previously given and are due to causes beyond the control of Consultant.
- 2.2.6 Provide consultation concerning replacement of any Work damaged by fire or other causes during construction, and furnish service as may be required in connection with the replacement of such Work.
- 2.2.7 Provide services necessitated by default of the contractor or by major defects or deficiencies in the Work of the contractor or by failure of performance of either Owner or the contractor under the contract for construction, unless such default or failure was caused by deficiencies in the Work of Consultant.
- 2.2.8 Provide extensive assistance in the utilization of any equipment or system, including supervision of initial start up; testing, adjusting and balancing of equipment; preparation of operation and maintenance manuals; training personnel for operation and maintenance; and consultation during normal operation of the Project.
- 2.2.9 Provide contract administration and observation of construction after the Construction Contract Time has been exceeded or extended by more than 30 days through no fault of Consultant and after 20 days' written notice thereof has been given to Owner by Consultant. In that event, compensation shall revert to the hourly rates delineated in the Fee Schedule attached hereto. Owner may, however, elect to administer the contract after receipt of such notice, and no payment will be made to Consultant for extended administration and observation performed prior to issuance by Owner to Consultant of a written order to continue providing contract administration.

- 2.2.10 Provide services required after the approval of the contractor's final Certificate for Payment, but excluding completion of Record Drawings and necessary follow-up actions.
- 2.2.11 Prepare and serve as an expert witness in connection with any public hearing, arbitration proceeding, or legal proceeding in connection with the Project where Consultant is not at fault, and is not a party thereto, providing such activities occur within the one year warranty period as defined in the contract documents. For such activities occurring after the warranty period, the Fee Schedule for Additional Services shall be revised as mutually agreed to by the parties to the contract.
- 2.2.12 Provide any other services not otherwise included in this contract and not customarily furnished as basic services in accordance with generally accepted Consultant practice.

ARTICLE 3 OWNER'S RESPONSIBILITIES

- 3.1 Owner shall provide full information regarding Owner's requirements for the Project.
- 3.2 The City Manager is hereby designated as the representative authorized to act in Owner's behalf with respect to the Project, and the City Manager is hereby authorized to appoint, and to rescind the appointment of, a designee to exercise such authority in the City Manager's place. Owner's representative, or Owner's designee, shall examine documents submitted by Consultant and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of Consultant's work.
- 3.3 Owner shall furnish structural, mechanical, chemical, and other laboratory tests, inspection, and reports as required by law or the contract documents.
- 3.4 If Owner observes or otherwise becomes aware of any fault or defect in the Project or non-conformance with the contract documents, Owner shall give prompt written notice thereof to Consultant.
- 3.5 Owner shall furnish to Consultant all information which Owner is required to provide as expeditiously as necessary for the orderly progress of the Work upon request of Consultant.

ARTICLE 4 BUDGETS AND COST ESTIMATES

- 4.1 The Construction Budget does not include the compensation of Consultant and sub-consultants, the cost of the land, rights-of-way, or other costs that are the responsibility of Owner as provided in ARTICLE 3.
- 4.2 Statements of Probable Construction Cost and Total Budget Estimates prepared by Consultant represent Consultant's best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither Consultant nor Owner has any control over the cost of labor, materials, or equipment, over the contractor's methods of determining bid prices, or over competitive bidding or market conditions. Accordingly, Consultant cannot and does not guarantee that bids will not vary from any Statement of Probable Construction Cost or other cost estimate prepared by Consultant.
- 4.3 If a final Statement of Probable Construction Cost, including contingency and any anticipated cost escalations through the proposed bid date, exceeds the Construction Budget of the Project, Owner shall either: (1) give written approval of an increase in such fixed limit; (2) cooperate with Consultant in revising the Project scope and quality as required to reduce the Probable Construction Cost; or (3) cancel the project.
- 4.4 If the lowest bona fide bid or negotiated proposal exceeds the amount budgeted as the construction cost for this project, Owner may elect to: (1) give written approval of an increase in such fixed limit; (2) cooperate in revising the Project scope and quality as required to reduce the Construction Cost; (3) authorize rebidding the Project within a reasonable time; or (4) cancel the project.
- 4.5 If Owner elects to reduce the scope or quality of the Project because the construction budget may be exceeded, either before or after the opening of bids, then Consultant, without additional charge shall

modify the Drawings and Specifications as necessary to bring the statement, estimate, or bid within the fixed limit. Providing such services shall be the limit of Consultant's responsibility in this regard, and having done so, Consultant shall be entitled to the regular compensation established by the contract.

4.6 Definitions

- 4.6.1 Probable Cost Estimate: An estimate of the costs to construct the facility including all of the structure. Not included in this estimate are administration costs, utility costs, and Consultant fees. This estimate is to be prepared by Consultant.
- 4.6.2 Construction Cost Budget: The budget that is established to construct the project. Not included in this budget are administration costs, utility costs, and Consultant fees.
- 4.6.3 Total Budget: The total budget includes all budget items, Construction Cost Budget, administration costs, utility costs, Consultant fees, movable equipment and contingencies.
- 4.6.4 Contract Sum: The cost submitted by the contractor as the bid to complete all work for the construction of the Project. Not included in this cost are administration costs, utility costs, and Consultant fees.

ARTICLE 5 PAYMENTS TO CONSULTANT

- 5.1 Payments for Consultant's Basic Services shall be made after approval by Owner of Consultant's submissions in accordance with the contract. Owner shall review each submission and invoice, and Owner shall pay the invoice amount to Consultant within 30 days after approval of Consultant's submission and invoice by Owner. If a submission is not approved by Owner, it shall be returned to Consultant for rework, and no payment to Consultant shall be made. Consultant shall rework the submission and transmit the reworked submission with a new invoice to Owner in a timely manner for review and approval by Owner in accordance with the contract.
- 5.2 Payments for Consultant's Additional Services as defined in ARTICLE 2 and for Reimbursable Expenses as defined in ARTICLE 7 shall be made upon presentation of Consultant's statement of services rendered in accordance with the contract.
- 5.3 If Consultant's Additional Services are terminated or suspended in whole or in part through no fault of Consultant, then Consultant shall be paid compensation for services performed prior to receipt of written notice from Owner of suspension or termination, subject to the provisions of ARTICLE 6 and ARTICLE 10. If the Additional Service is resumed after being suspended for more than 90 days, Consultant's compensation for the Additional Services shall be subject to renegotiation.
- 5.4 Consultant shall render a final billing to Owner for all retained compensation prior to final payment to Consultant. The final billing shall be rendered within 60 days after the Project has been closed out. Owner shall not be required to pay any amounts billed after this time.
- 5.5 In the event the entire project is suspended for a period in excess of 90 days, or Consultant is not ordered to proceed to the next phase within 90 days after completion of a previous phase, then Consultant's compensation for basic services and additional services shall be subject to renegotiation if the project is resumed. If the renegotiated fee has not been mutually agreed upon within 14 days after issuance of Notice to Proceed to the next phase, Owner shall be free to terminate the contract and to negotiate freely with other Consultants for completion of the Project utilizing all drawings, specifications, files, notes and other work previously completed under this contract. Consultant will receive 7 days written notice of termination for failure of renegotiation efforts. In the event of such termination, Consultant shall be paid only for services already performed and shall have no further recourse.

ARTICLE 6 PAYMENT FOR ADDITIONAL SERVICES

- 6.1 For the purpose of determining compensation for additional services of employees or Principals engaged on the Project by Consultant, gross hourly billing rates shall be used. The term employees shall include Consultants, Technicians, Draftsmen, and Secretaries who are engaged in consultation,

research, and design, in producing Drawings, Specifications, and other documents pertaining to the Project, and in rendering additional services during construction at the site. Services of Sub-consultants or other Professional Services contracted upon prior approval of Owner shall be billed at 1.1 times the basic fee cost without markup.

- 6.2 Gross hourly billing rates for additional services are noted on Consultant's Fee Schedule as an attachment hereto. Such hourly rates include all wages and salaries paid to Consultant's employees engaged on the Project, payroll taxes, other taxes required by state or federal law, benefits such as vacation, sick leave, retirement plans, pension funds, profit sharing, and any other benefits contracted for or agreed to by said employees and Consultant. Such hourly rates include compensation for any overtime worked by Consultant's employees and sub-consultants, and also include Consultant's overhead and profit for additional services described herein. The aforementioned hourly rates are not subject to escalation, except as noted in ARTICLE 5.3 and 5.5.

ARTICLE 7 REIMBURSABLE EXPENSES

- 7.1 Reimbursable Expenses are in addition to the Compensation for Basic and Additional Services and include actual out-of-pocket expenditures made by Consultant, Consultant's employees, or Consultant's professional sub-consultants in the interest of the Project. Reimbursable expenses do not include ordinary overhead expenses and are limited to the expenses listed in ARTICLE 7. Expenses the Consultant consider reimbursable shall be approved by Owner prior to incurring the expense.
- 7.2 Reimbursable Expenses include the following:
- a. Transportation, meals and actual lodging expenses when traveling with the prior approval of Owner in connection with the project, including Owner requested meetings with various committees, boards; long distance calls and telegrams; and fees paid for securing approval of authorities having jurisdiction over the project.
 - b. Except as required in these general conditions or other contract documents including the instructions to proposers, expense of reproduction, postage, and handling of drawings and specifications.
 - c. Surveying and Mapping, or other uses services requiring specialized training, programs, or systems when used in connection with Additional Services.
- 7.3 Consultant shall not be reimbursed for those expenses for which Owner has not been billed within 90 days after the expenses have been incurred, except that the final billing shall be rendered within 60 days after Project closeout.

ARTICLE 8 INSURANCE

- 8.1 The services to be rendered under this contract are those of an independent Contractor.
- 8.2 Contractor and all subcontractors, if any, shall be responsible for the purchase and maintenance of all insurance required by law and at a minimum purchase the insurance coverage as specified in ARTICLE 8. Such insurance shall be by a company/corporation currently rated "A-" or better by A.M. Best.
- 8.3 This insurance coverage required by ARTICLE 8 shall be in acceptable form, and for the amounts specified by the City of Kenai, or as required by law, whichever is greater.
- 8.4 The insurance policies shall remain in force for the life of the contract and shall be a part of the contract price.
- 8.5 Commercial general liability with minimum coverage of \$1,000,000, automobile liability insurance with minimum coverage of \$1,000,000 combined single limit bodily injury and property damage per occurrence, and insurance covering work on this project that provides a minimum coverage of \$1,000,000 against any claim arising out of professional liability/errors or omissions of Consultant and/or

Consultant's subcontractors. This insurance shall be primary and exclusive of any other insurance carried by the City of Kenai. The commercial general liability insurance shall be without limitation on the time within which the resulting loss, damage, or injury is actually sustained.

- 8.6 Per Alaska State Statutes, Worker's Compensation and Employers Liability Insurance shall be provided for all employees who are performing work under this contract.
- 8.7 Certificate(s) of Insurance shall be provided by Contractor and all subcontractors, or their Insurance Companies and/or their Agents, naming the City of Kenai as an additional insured for the work specified in this contract with a waiver of subrogation for commercial general liability insurance and automobile liability insurance. The certificates of insurance must reference the specific contract by name. Workers compensation insurance must be endorsed for waiver of subrogation against the City. Certificates of Insurance, acceptable in form and content, will be delivered to Owner at the address designated for legal service in the agreement, at or prior to presentation of the contract for execution by owner.
- 8.8 There shall be no cancellation or material change of the insurance coverage, or intent not to renew the insurance coverages as specified in this contract, without thirty (30) days prior written notice to the City of Kenai. Notice of cancellation, material change in coverage, or intent not to renew will be delivered to the address designated for legal notice in the agreement.
- 8.9 Upon renewal or change in policies during the contract, Certificates of Insurance shall be delivered to the address designated for legal notice in the agreement.
- 8.10 Owner shall have the option to purchase and maintain such insurance as will protect Owner against property losses or liability claims, which may arise from operations under the contract. Insurance providing coverage against fire and extended coverage perils, may, at Owner option, provide coverage to the full insurable value of the project and insure the interests of Contractor and all subcontractors as their interests may appear. Any recovery for loss insured pursuant to this General Condition is to be adjusted to Owner and made payable to Owner as trustee for the insured, as their interests may appear. This section does not modify the contractor or subcontractors' responsibility to provide insurance as required in ARTICLE 8.

ARTICLE 9 CONSULTANT'S ACCOUNT RECORDS

- 9.1 Records of reimbursable expenses and expenses pertaining to additional services and services performed on the basis of gross hourly billing rates shall be in a form acceptable to Owner and shall be available to Owner or Owner's authorized representative for audit at mutually convenient times for a period of up to three years after completion of services and final payment. Allowable Consultant's compensation may be modified to conform to the results of any audit, and any excess compensation or expenses shall be refunded to Owner.

ARTICLE 10 PROJECT CLOSE-OUT AND TERMINATION OF AGREEMENT

- 10.1 Contract between Owner and Consultant will be closed out when the Project has been satisfactorily completed and Consultant has performed all of Consultant's obligations under the contract. Project shall not be closed out until Final Completion has been certified and all record drawings and other documentation have been provided to Owner. Project shall be formally closed out by a written memorandum signed by both Consultant and Owner specifying any adjustments to the contract, together with any sums of money remaining due. The memorandum closing out the Project shall constitute a resolution of all payments for contractual services and reimbursable expenses except those specifically noted in the memorandum. Within 30 days after Owner and Consultant have executed the memorandum closing out the Project, Owner shall pay to Consultant all sums of money remaining due to Consultant including all remaining retained money.
- 10.2 This contract may be terminated by either party upon 30 days written notice, should the other party fail substantially to perform in accordance with the Terms and Conditions hereof.

- 10.3 This contract may be suspended or terminated by Owner for Owner's convenience, for any reason deemed by Owner to be in the best interest of Owner.
- 10.4 In the event of termination not due to fault of Consultant, Consultant shall be paid compensation for services actually performed and for reimbursable expenses actually incurred in accordance with the contract and ARTICLE 5, if services are performed and expenses incurred prior to the dates specified in the termination notice.
- 10.5 Should this agreement be terminated because Consultant has failed substantially to perform Consultant's duties in a satisfactory or in a timely manner, then Consultant shall be paid only for the actual value of Consultant's services to date, less any damages or additional costs incurred by Owner as a result of Consultant's failure to perform Consultant's duties. In the event that additional costs to Owner exceed the amount of money then otherwise due and owing to Consultant, then Owner shall retain those monies and may immediately proceed against Consultant for excess damages.

ARTICLE 11 OWNERSHIP OF DOCUMENTS/DESIGNS

- 11.1 All Drawings, Specifications, and Designs are considered instruments of service. Owner shall retain an ownership interest in all instruments of service and any similar work including all intellectual property rights associated with them, whether or not completed, which are produced or provided by Consultant in performance of this contract, whether the project for which they are made is constructed or not. Owner and Consultant each reserve unlimited rights of use, without any further compensation, for this project and any subsequent project in which owner or consultant participate. Owner specifically relieves Consultant of any responsibility or liability pertaining to any subsequent use of the document by owner. Any Drawing, Specification, Design, or similar work produced or provided by Consultant in performance of this contract that contains a copyright in the name of the Consultant or any other entity other than Owner will not be accepted, and Owner will consider such submittal to be a breach of the contract.

ARTICLE 12 SUCCESSORS AND ASSIGNS

- 12.1 Owner and Consultant each binds themselves, their partners, successors, assigns, and legal representatives to the other party to this contract and to the partners, successors, assigns, and legal representatives of such other party with respect to all terms of this contract. Neither Owner nor Consultant shall assign, sublet, or transfer any interest in this contract without the written consent of the other.

ARTICLE 13 INDEMNIFICATION

- 13.1 The consultant shall indemnify, defend, and hold harmless the contracting agency from and against any claim of, or liability for, negligent acts, errors, and omissions of the Consultant under this agreement. The consultant is not required to indemnify, defend, or hold harmless the contracting agency for a claim of, or liability for, the independent negligent acts, errors, and omissions of the contracting agency. If there is a claim of, or liability for, a joint negligent act, error, or omission of the consultant and the contracting agency, the indemnification, defense, and hold harmless obligation of this provision shall be apportioned on a comparative fault basis. In this provision, "consultant" and "contracting agency" include the employees, agents, and contractors who are directly responsible, respectively, to each. In this provision, "independent negligent acts, errors, and omissions" means negligence other than in the contracting agency's selection, administration, monitoring, or controlling of the consultant, or in approving or accepting the consultant's work.

Following are definitions for terms in the above clause:

- (1) "construction" means the process of building, altering, repairing, maintaining, improving, demolishing, planning, and designing a public highway, a structure, a building, a utility, infrastructure, or another public improvement to real property, but does not mean the routine operation of a public improvement;
- (2) "consultant" means a person who contracts with a public agency to provide professional services;

- (3) "professional services" means professional, technical, or consultant's services that are predominantly intellectual in character, result in the production of a report or the completion of a task, and include analysis, evaluation, prediction, planning, or recommendation;;
- (4) "public agency" means a department, institution, board, commission, division, authority, public corporation, committee, school district, political subdivision, or other administrative unit of a municipality, of a political subdivision, or of the executive or legislative branch of state government, including the University of Alaska, the Alaska Aerospace Development Corporation, the Alaska Housing Finance Corporation, the Alaska Industrial Development and Export Authority, the Alaska Energy Authority, the Alaska Railroad Corporation, and a regional educational attendance area.

ARTICLE 14 GOVERNING LAW

- 14.1 This contract shall be governed by the Laws of the State of Alaska, and any lawsuit brought thereon shall be filed in the Third Judicial District Court at Kenai, Alaska.

ARTICLE 15 SEVERABILITY

- 15.1 Should a provision of this Agreement be found to be unenforceable or void for any reason, it shall be considered as severed from this Agreement, and the remaining portions of this Agreement shall stand as if that provision had never been included in the contract. Should the unenforceable or void provision be legally essential to the continuing existence of the contract, the parties shall attempt to substitute a reasonable replacement provision.

ARTICLE 16 NONDISCRIMINATION

- 16.1 Contractor must comply with all federal and state laws, rules, regulations and orders, and all local ordinances, regulations and rules concerning wages, taxes, social security, workers' compensation, nondiscrimination, licenses, registration requirements, and similar provisions governing employment of individuals.
- 16.2 Contractor will not discriminate against any employee or applicant for employment or refuse employment to a person, or bar a person from employment, or discriminate against a person in compensation or in a term, condition, or privilege of employment because of the person's race, religion, color, or national origin, or because of the person's age, physical or mental disability, sex, marital status, changes in marital status, pregnancy, or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical or mental disability, sex, marital status, changes in marital status, pregnancy, parenthood, or political affiliation. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. Contractor further agrees to insert this provision in all subcontracts hereunder and to require the subcontractors to insert this provision in their subcontracts.

Notwithstanding the prohibition against employment discrimination on the basis of marital status or parenthood stated above, an employer may, without violating this provision, provide greater health and retirement benefits to employees who have a spouse or dependent children than are provided to other employees.

END GENERAL CONDITIONS