



## **CITY OF KENAI**

### **REQUEST FOR PROPOSALS (RFP)**

Kenai Waterfront Redevelopment  
Assessment and Feasibility Study

**ISSUED**

September 7, 2021

**PROPOSAL DELIVERY DEADLINE**

5:00 PM October 1, 2021

Issued By:

**CITY OF KENAI**

Administration

210 Fidalgo Avenue

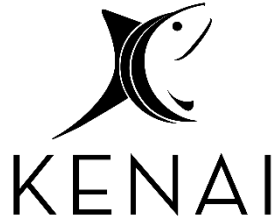
Kenai, AK 99611

Point of Contact:

Christine Cunningham

[ccunningham@kenai.city](mailto:ccunningham@kenai.city)

(907) 283-8223



CITY OF KENAI  
210 FIDALGO AVENUE  
KENAI, ALASKA 99611-7794  
(907) 283-8223

## **REQUEST FOR PROPOSALS (RFP)**

Project Name: Kenai Waterfront Redevelopment Assessment and Feasibility Study  
Proposal Documents Available: Tuesday, September 7, 2021  
Last Day for Questions: Friday, September 24, 2021 @ 5:00 p.m.  
Proposal Due Date: Friday, October 1, 2021 @ 5:00 p.m. at City Hall

SCOPE OF WORK: Kenai Waterfront Redevelopment Assessment and Feasibility Study

Proposers must contact Administration at (907) 283-8223 to be placed on the list to receive addenda.

RFP documents can be obtained on the City of Kenai website at [www.kenai.city](http://www.kenai.city) or at City Hall at 210 Fidalgo Avenue, Kenai, AK 99611.

Publish: Anchorage Daily News – September 9, 10–12, 2021  
Peninsula Clarion – September 9, 10–12, 2021

## REQUEST FOR PROPOSALS (RFP) INSTRUCTIONS

### 1.0 GENERAL INFORMATION

#### 1.1 Introduction

The City of Kenai, Alaska is seeking proposals from qualified Proposers for a Kenai Waterfront Redevelopment Assessment and Feasibility Study. The City of Kenai is considering redevelopment strategies for the Kenai Waterfront Area to maximize the potential of the area to support a thriving business, residential, recreational and cultural community. This approximately 160-acre area includes both City-owned and privately-owned uplands and tidelands located in the area adjacent to Bridge Access Road beginning at Millennium Square, located east of the Kenai Senior Center, to the Kenai City Dock within the City of Kenai near the mouth of the Kenai River where it meets Cook Inlet. The successful proposal(s) will provide for an evaluation of market conditions for potential revitalization of the area, review existing plans, zoning, and/or regulations to identify constraints and opportunities, utilize community engagement to develop vision, core concepts, and priorities, perform an assessment of infrastructure needs to support redevelopment, identify potential City economic investments and incentives to encourage development, prepare conceptual plans for potential site redevelopment alternatives, and provide a financial analysis to evaluate the feasibility of redevelopment concepts. The City has budgeted a total of \$95,000 for Kenai Waterfront Redevelopment Assessment and Feasibility Study.

#### 1.2 Background

The City of Kenai incorporated as a home-rule city in 1960, and today is an All-America City with moderate population growth and an economy that provides a high quality of life for residents with abundant natural and cultural assets to attract visitors. Overlooking the mouth of the Kenai River, Kenai has views of Cook Inlet as well as miles of beaches, two mountain ranges and four active volcanoes. The Kenai Waterfront Area presents a transformative opportunity for economic development and community enhancement.

Commercial salmon canneries became a significant economic factor in the late 1800s. The first cannery at Kenai, the Northern Packing Company, was established in 1888. From then on at least one and often two or three canneries operated at the mouth of the Kenai River. Since 2003, the City's comprehensive plans have responded to the diminishing role of commercial fisheries and a declining oil and gas industry with a specific provision in the *City of Kenai Imagine Kenai 2030 Comprehensive Plan* to develop land use strategies to implement a forward-looking approach to community growth and development and includes revitalization for the area adjacent to the Bridge Access Road beginning at Millennium Square to the boat landing.

The City owns ten of the 28 parcels located in the Kenai Waterfront Area (Map in Appendix A), with six of the parcels under long-term leases for commercial fishing dock facilities, fish processing, and associated accessory structures and parking. Two parcels, containing the City Dock and Tarbox Wildlife Viewing Platform to the north provide for public use and access. All of the properties located in the Kenai Waterfront Area are currently zoned Heavy Industrial. City water and sewer are available along Bridge Access Road and natural gas and electric serve the developed properties.

As the City begins to develop tools to incentivize development or redevelopment in Kenai, such as Property Tax Exemption for Economic Development and Depreciated Property

Redevelopment that will incentivize large-scale capital investment or substantial redevelopment in Kenai, a focus on strategic infrastructure improvements that will attract large-scale investment in Kenai specific to the Kenai Waterfront Area provide an exciting opportunity to engage the community and pursue revitalization strategies on the Kenai waterfront.

### 1.3 Questions

Any questions regarding this proposal must be submitted in writing to Christine Cunningham by **5:00 p.m. on Friday, September 24, 2021**. Questions may be emailed to ccunningham@kenai.city. The subject line of the email must read: "Questions: Kenai Waterfront Redevelopment Assessment and Feasibility Study RFP."

Verbal requests for information or clarification will not be accepted. All questions will be answered and distributed to all prospective proposers via addendum. To receive project addenda, you must be on the plan holder's list. To be placed on the plan holder's list, contact Administration either by phone at (907) 283-8223 or email ccunningham@kenai.city. Downloading projects from the City web site does not automatically place you on the plan holder's list.

### 1.4 Preparation Costs

The City shall not be responsible for proposal preparation cost, nor for cost including attorney fees associated with any (administrative, judicial or otherwise) challenge to the determination of the highest ranked proposer and/or award of agreement 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.

## 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 Proposer 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 an Agreement, all proposals, tabulations and evaluations will then become public information.

**2.4 Tax Compliance Certificate.** The City requires that businesses or individuals contracting to do business with the City be in compliance with City tax provisions. No contract will be awarded to any individual or business who is found to be in violation of the City Code of Ordinances in the several areas of taxation. Prior to award of the contract, the successful Proposer will be required

to submit a completed Tax Compliance Certificate, signed by both the Proposer and by Kenai Peninsula Borough Finance Department personnel. See Attachment B.

2.5 Licenses and Certifications. Proposers, if in current possession of, shall include with their proposals copies of all licenses, certificates, registrations and other credentials required for performance under the contract. Prior to and throughout the term of any agreement resulting from this RFP, 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. Failure to submit all required documentation may result in rejection of the proposal

## 2.6 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 City Manager.

## 2.7 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 City of Kenai and will become public record after award of an Agreement.

## 2.8 Oral Change/Interpretation

No oral change, or interpretation, of any provision contained in this RFP is valid. 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 their transmittal letter. Only a proposal acknowledging receipt of all addenda may be considered responsive, unless the unacknowledged addenda, 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.

## 2.9 Modification of Proposals

Modifications will be accepted by the City, and binding upon the responding Proposer, where the modification:

- i. Is received by the City prior to the deadline for RFP responses. Attached documents to any modification must adhere to the same requirements as for proposal submission. The subject line for any proposal modification must read: Kenai Waterfront Redevelopment Assessment and Feasibility Study RFP – [NAME OF PROPOSING ENTITY] Proposal Modification
- ii. Is signed by the same individual who signed the original submittal.

The modification document shall include a copy of each page of the original submittal which the responding Proposer seeks to modify, with the modification and the respondent's signature clearly set out in ink on each page.

Should there be more than one submittal modification from a responding Proposer, the last modification received prior to the deadline shall be opened and applied to the submittal. All earlier modifications shall be returned to the responding Proposer.

Any modification, which fails to meet any requirement of this section, shall be rejected and the submittal shall be considered as if no modification had been attempted.

#### 2.10 Replacement of Submitted Proposals

Replacements will be accepted by the City, and binding upon the responding Proposer, only if it is received by the City at the place designated for submission prior to the scheduled deadline and meets all other RFP conditions.

#### 2.11 Late Submissions

Proposals received after the date and time specified in this RFP will not be considered.

#### 2.12 Withdrawal of Proposals

At any time prior to the scheduled closing time for receipt of RFP submittals, any responding Proposer 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.

#### 2.13 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.

#### 2.14 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 agreement 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 Proposer for itself and its principal employees, officers, agents, directors or shareholders covenants that neither the Proposer 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 agreement 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 agreement no person having such interest shall be employed, without first disclosing his/her potential conflict.

## 2.15 Award of Agreement

It is the intent of the City to enter into an agreement with the highest-ranking proposer. This proposal contains a base bid for the Kenai Waterfront Feasibility Study and a deductive alternate for the Conceptual Plans and Financial Feasibility Analysis, under the Scope of Services. The total cost of the base bid and the cost of deductive alternate to be awarded shall be used to determine each proposer total cost for awarding the cost evaluation points in Section 5.2 of this RFP.

## 3.0 SCOPE OF SERVICES

### 3.1 Services to be Performed

The City of Kenai requires the following assessment and feasibility analysis to be conducted for the Kenai Waterfront Redevelopment:

#### Kenai Waterfront Feasibility Study

##### i. Project Meetings

Engage City personnel to discuss the project, scope, project plan and timelines and acquire necessary materials (e.g. mapping, zoning, available lands information). Establish project meetings at the beginning of the process with additional meetings to be scheduled as necessary. Attend City Council and Planning and Zoning Commission meetings to present the final Feasibility Study and attend any additional public meetings as necessary.

##### ii. Communications

Maintain communication with designated City personnel to provide regular updates and discuss the progress of the project. Communication will be provided to the City Council, Planning and Zoning Commission, and public as necessary throughout the project.

##### iii. Community Engagement

Engage the Kenai community to develop vision, core concepts, and priorities, including an initial meeting with the City of Kenai Administrative team to develop a program to work with members of the public and identify a multifaceted community engagement strategy and process that is transparent and inclusive.

##### iv. Elements of Study

Develop a comprehensive feasibility study, including the following elements:

- 1) Engage Kenai community and develop vision, core concepts, and priorities
- 2) Evaluate market conditions and identify opportunities for potential revitalization of the area
- 3) Review and assess existing plans and area characteristics, including infrastructure, access, zoning, and regulations to identify development

- constraints and provide recommended changes to support a thriving business, residential, recreational and cultural community
- 4) Review existing infrastructure and assess infrastructure needs to support redevelopment, including roads, water, sewer, stormwater, electrical, alternative power generation, and broadband infrastructure
- 5) Identify economic strategies, including private public partnerships, external funding opportunities, improvement districts, and incentives that encourage redevelopment of the area
- 6) Develop an implementation strategy and recommendations

v. Final Report

Provide five (5) bound copies and an electronic version of the final feasibility study in an accessible file format. The final report should include results of public involvement, background review, assessment of existing conditions, risks and opportunities related to redevelopment, infrastructure needs, redevelopment strategies and concepts to revitalize and incentivize redevelopment, recommendations regarding zoning or land and development code changes and potential economic incentive programs, conceptual development design options, and potential for combinations of uses and activities to support revitalization of the area to maximize the potential to support a thriving business, residential, recreational and cultural community

### Conceptual Plans and Financial Feasibility Analysis

- i. Prepare examples of conceptual plan(s) for potential site redevelopment alternative(s) that are reproducible and in an accessible file format
- ii. Prepare financial analysis to evaluate the feasibility of redevelopment alternative(s)

### 3.2 Contract Formation

Contract(s) in this matter will not be formed until executed by all parties including the City of Kenai City Manager. Performance under the contract(s) will not begin until the contract(s) is fully executed by all parties. A sample professional services agreement is provided as an attachment to this RFP. Terms and conditions of these agreements are subject to negotiation with successful Proposer(s), except the Insurance and Indemnification Requirements in subsection A, below:

#### A. Insurance and Indemnification Requirements

Proposer must, at Proposer's own expense, throughout the term of the Agreement(s) secure and maintain the following insurance:

- i. Comprehensive general liability insurance, including premises, all operations, property damage, personal injury and death, broad-form contractual coverage with a per occurrence limit of not less than \$1,000,000 combined single limit;
- ii. Worker's compensation insurance with coverage for all employees engaged in work under this Agreement as required by AS 23.30.045 (Proposer is responsible for worker's compensation insurance for any subcontractor who directly or indirectly provides services under the Agreement); and,



- iii. Comprehensive automobile liability insurance covering all owned, hired, and non-owned vehicles with coverage limits not less than \$1,000,000 combined single limit per occurrence.

All insurance required must also meet the following requirements:

- i. For comprehensive general liability and automobile liability insurance, name the City of Kenai as an additional insured;
- ii. For worker's compensation insurance, general liability, and automobile liability insurance, where possible, include a waiver of subrogation so that the insurer waives all rights of subrogation against the City of Kenai for payments made under the policy;
- iii. Provide Owner with at least 30 days' written notice before any termination, cancellation, or material change in insurance coverage is effective; and,
- iv. Be issued by a company/corporation currently rated "A-" or better by A.M. Best.

Proposer must indemnify, defend, and hold harmless the City and its agents, employees, and/or insurers from claim, loss, damage, liability, including injury and death or expense in any way related to any act or omission of Proposer or Proposer's employees, agents, or invitees arising out of Proposer's performance of services under the Agreement(s), except to the extent any negligence of City or its employees or agents is a proximate cause of any injury or damage. If a third party asserts a claim against Proposer and City, Proposer and the City shall seek in good faith to achieve Agreement to an apportionment of fault as between them without an independent of litigation. This provision shall survive expiration or termination of any Agreement(s).

## **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.

### **4.1 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.

### **4.2 Proposal Submission**

Five (5) copies of the complete proposal package (which shall include the Tax Compliance Certificate, along with all other enclosures as requested in the Request for Proposal) are to be submitted no later than 5:00 p.m. local time on October 1, 2021, to the City of Kenai at 210 Fidalgo Avenue, Kenai, AK 99611, in a sealed envelope.

Proposal responses shall be comprised of two documents placed in separate sealed envelopes. One shall contain only the RFP Cost Proposal on the Cost Proposal Form and must be titled:

“Kenai Waterfront Redevelopment Assessment and Feasibility Study RFP – [NAME OF PROPOSING ENTITY] Cost Proposal.”

The second shall contain all other response materials and must be titled: “Kenai Waterfront Redevelopment Assessment and Feasibility Study RFP – [NAME OF PROPOSING ENTITY] RFP Response.”

The City reserves the right to establish any and all elements or terms of this proposal. All proposals submitted shall be binding upon the contractor if accepted by the City.

#### 4.3 Letter of Transmittal

Briefly state your Proposer's understanding of the project's purpose and 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 Proposer, 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 Proposer.

The letter must acknowledge all addenda, if any.

#### 4.4 Profile of the Proposer's Management and Key Staff

Describe your organization and key staff experience and qualifications in the area of planning and community development, strategic planning and analysis, economic development, and communications.

Identify key staff who will provide services on behalf of the Proposer. Resumes should be included for each individual(s) referenced.

#### 4.5 Scope of Services Section

Provide narrative(s) on how your organization will fulfill the Scope of Services and provide the required services.

#### 4.6 Proposer's Experience /References

Detail the firm's experience in the same or similar areas of expertise, stability, and its adaptability to provide the required services.

The proposal shall include a list of five (5) references for services performed by the Proposer similar to this engagement. The City will contact references to ascertain the Proposer's performance, specifically in the areas of knowledge and expertise, customer satisfaction, and conformance to a similar Scope of Services as this engagement.

#### 4.7 Cost Proposal

Complete the Cost Proposal Form included as Attachment A:

Cost proposals must be for a lump sum for all services, inclusive of all out-of-pocket costs, and open for acceptance by the City for a period of not less than ninety (90) calendar days from the date the proposal is due. A proposal will be rejected if it contains a material alteration or erasure, which is not initialed by the signer of the proposal.

The cost proposal page must be placed in a separate sealed envelope and marked "Kenai Waterfront Redevelopment Assessment and Feasibility Study RFP – [NAME OF PROPOSING ENTITY] Cost Proposal."

#### 4.8 Signature Requirements

The proposal transmittal letter must be signed. A proposal may be signed by; an officer or other agent of a Proposer, if authorized to sign agreements on its behalf; a member of a partnership; an owner of a privately-owned Proposer; 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.

### 5.0 EVALUATION PROCESS AND CRITERIA

#### 5.1 Evaluation Process

A committee of individuals representing the City of Kenai will evaluate the proposals. The committee will rank the proposals as submitted. The City of Kenai reserves the right to award an agreement solely on the written proposal. A sample agreement(s) is attached with all terms subject to negotiation.

The City also reserves the right to request oral interviews with the highest ranked Proposers (short list). The purpose of the interviews with the highest ranked Proposers is to allow expansion upon, and possible refinement of the written responses. If interviews are conducted, a maximum of three (3) Proposer s will be short-listed. A second score sheet will be used to score those Proposer s interviewed if oral interviews are conducted. The final recommendation for 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.

The Proposer, whose proposal is ranked highest by the evaluation committee, may be invited to enter into final negotiations with the City for the purposes of agreement award.

#### 5.2 Criteria

A committee of individuals representing the City of Kenai will perform evaluation of the proposal.

The factors to be evaluated and the points available for each are as follows:

1. Demonstrated understanding of the project's purpose and intended outcomes (20 points)

2. Proposed work plan and the degree to which it meets the requirements of this RFP (20 points)
3. Experience with similar projects and proposer's references (25 points)
4. Qualifications and resumes of the key staff assigned (15 points)
5. Cost (20 points)

Committee members will independently review the proposals and award points for above factors 1 – 4. Factor 5 will be scored by the committee as a whole using the following formula:

$$\frac{\text{Lowest total cost proposal}}{\text{Proposer total cost proposal}} \times 20 = \text{Points Awarded}$$

This proposal contains a base bid and a deductive alternate, the total cost of the base bid and the cost of deductive alternate to be awarded shall be used to determine each proposer total cost for awarding the cost evaluation points

## **6.0 APPEAL PROCEDURE**

Any party submitting a bid or proposal for an agreement with the City and who believes that they are adversely affected by the City's relevant ordinances, regulations, procurement process, or by any acts of the City in connection with the award of a City agreement, may file an appeal in accordance with the appeal procedures outlined in Kenai Municipal Code KMC 7.15.120. The City's Code may be viewed online at <https://kenai.municipal.codes/KMC/7.15.120>

## **7.0 TIMELINE**

Proposal Documents Available:	September 7, 2021
Last Day for Questions:	September 24, 2021 @ 5:00 p.m.
Proposal Due Date:	October 1, 2021 @ 5:00 p.m.
Proposal Evaluation and Interviews (if necessary) Completed:	Week of October 4, 2021
Notice of Intent to Award:	October 11, 2021
Contract Execution:	October 22, 2021
Begin Services:	November 1, 2021

## **8.0 SELECTION PROCESS**

The Proposer with the highest total evaluation points may be invited to enter into agreement 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 who are 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.

## COST PROPOSAL FORM

Proposer acknowledges receipt of Addenda No(s) \_\_\_\_\_, and hereby represent that if awarded a contract, will enter into and execute a contract with the City of Kenai for the Professional Services referenced in the Request for Proposals at the compensation stated below.

Cost proposal is a lump sum and open for acceptance by the City for a period of not less than ninety (90) calendar days from the date the proposal is due.

**BASE BID TOTAL:** (All services detailed in Section 3.0 – Scope of Services and inclusive of all out-of-pocket expenses)

\$ \_\_\_\_\_  
Numerical amount

\_\_\_\_\_  
(Amount Written in Words)

**DEDUCTIVE ALTERNATE:** (Elimination of services to provide Conceptual Plans and Financial Feasibility Analysis. To be clear, the number below is the amount to deduct from the Base Bid, it is not a total amount.)

\$ \_\_\_\_\_  
Numerical amount

\_\_\_\_\_  
(Amount Written in Words)

In the event the Base Bid exceeds the Owner's budget for the Services, Owner reserves the right to award to any combination of Base Bid and Deductive Alternate that provides the best value to the City. An Agreement shall not be formed and no rights shall exist under the Agreement until the final Agreement is fully executed by all parties.

By executing this Proposal, I certify that I have the authority to bind the Company or Business Entity submitting this proposal.

\_\_\_\_\_  
Name of Company or Business Entity

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Address

\_\_\_\_\_  
Fax

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email Address

**Cost Proposal is to be submitted in a separate sealed envelope**

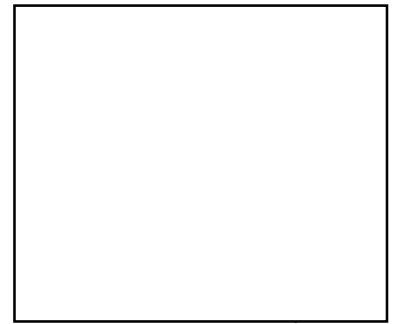
# Tax Compliance Certification

## Kenai Peninsula Borough

### Finance Department

144 N. Binkley Street  
Soldotna, Alaska 99669-7599  
www.kpb.us

Phone: (907) 714-2197  
or: (907) 714-2175  
Fax: (907) 714-2376



1.) Fill in all information requested. 2.) Sign and date. 3.) Submit with solicitation, or other.

For Official Use Only

Reason for Certificate:		For Department:	
<input type="checkbox"/> Solicitation <input type="checkbox"/> Other:		Dept. Contact:	
Business Name:			
Business Type:		<input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other:	
Owner Name(s):			
Business Mailing Address:			
Business Telephone:		Business Fax:	
Email:			

As a business or individual, have you ever conducted business or owned real or personal property within the Kenai Peninsula Borough? (If yes, please supply the following account numbers and sign below. If no, please sign below.)  
☐ Yes    ☐ No    Kenai Peninsula Borough Code of Ordinances, Chapter 5.28.140, requires that businesses/individuals contracting to do business with the Kenai Peninsula Borough be in compliance with Borough tax provisions. No contract will be awarded to any individual or business who is found to be in violation of the Borough Code of Ordinances in the several areas of taxation.

REAL/PERSONAL/BUSINESS PROPERTY ACCOUNTS	
ACCT. NO.	ACCT. NAME

\_\_\_\_\_  
KPB Finance Department (signature required)

SALES TAX ACCOUNTS	
ACCT. NO.	ACCT. NAME

\_\_\_\_\_  
KPB Sales Tax Division (signature required)

TAX ACCOUNTS/STATUS (TO BE COMPLETED BY KPB)	
YEAR LAST PAID	BALANCE DUE

\_\_\_\_\_  
Date    ☐ In Compliance    ☐ Not in Compliance

TAX ACCOUNTS/STATUS (TO BE COMPLETED BY KPB)		
FILED THRU	M/F's	BALANCE DUE

\_\_\_\_\_  
Date    ☐ In Compliance    ☐ Not in Compliance

CERTIFICATION: I, \_\_\_\_\_ the \_\_\_\_\_, hereby certify that, to the  
(Name of Applicant) (Title)  
 best of my knowledge, the above information is correct as of \_\_\_\_\_.  
(Date)

\_\_\_\_\_  
Signature of Applicant (Required)

**IF ANY BUSINESS IS CONDUCTED OR IS AWARDED A BID WITHIN THE KENAI PENINSULA BOROUGH YOU MUST BE REGISTERED TO COLLECT SALES TAX. THE SALES TAX DEPARTMENT CAN BE REACHED AT (907) 714-2175.**

# **PROFESSIONAL SERVICES AGREEMENT**

## **FOR**

### **KENAI WATERFRONT REDEVELOPMENT ASSESSMENT AND FEASIBILITY STUDY**

THIS AGREEMENT made and entered by and between the CITY OF KENAI and \_\_\_\_\_.

**Section 1. Definition.** In this Agreement:

1. The term "City" means the City of Kenai.
2. The term "Consultant" means \_\_\_\_\_.
3. The term "City Manager" means the city manager of the City of Kenai or his authorized representative.

**Section 2. Scope of Services.** The Consultant shall perform all the services provided for by this Agreement:

See Attachment A, incorporated by reference as if fully set forth herein.

**Section 3. Personnel.** Personnel shall be limited to \_\_\_\_\_.

**Section 4. Time of Performance.** The services of the Consultant shall commence \_\_\_\_\_, and shall terminate \_\_\_\_\_ subject to appropriation of funds from the Kenai City Council. The period of performance may be extended for additional periods only by the mutual written agreement of the parties and subject to appropriation of funds by the Kenai City Council.

**Section 5. Compensation.**

- A. Subject to the provisions of this Agreement, the City shall pay the Consultant a total sum for all services and expenses for the term of this those fees and expenses to which the parties agree in the Attachment A attached hereto.
- B. Except as otherwise provided in this Agreement, the City shall not provide any additional compensation, payment, service or other thing of value to the Consultant in connection with performance of Agreement duties. The parties understand and agree that, except as otherwise provided in this agreement, administrative overhead and other indirect or direct costs the Consultant may incur in the performance of its obligations under this Agreement have already been included in computation of the Consultant's fee and may not be charged to the City.

**Section 6. Method and Time of Payment.**

- A. Payment shall be made within 30 calendar days from receipt of an approved invoice.

- B. Any expenditures identified as reimbursable under the request for proposal shall be included with the billings for professional services. Billing shall include a summary of expenditures to date by line item categories (e.g., personal services, travel, lodging, meals, and other). Documentation of expenditures need not be submitted with billings but must be retained by the Consultant in the event the City requests said documentation.
- C. No payment will be disbursed until the completed task and associated expenditures have been approved by the City.
- D. All invoices should be submitted in duplicate and addressed as follows:

City of Kenai  
Attn: City Manager Office  
210 Fidalgo Avenue  
Kenai, AK 99611

**Section 7. Ownership.** All finished or unfinished documents, data, studies, surveys, and reports or other material prepared by the Consultant under this agreement are the property of the City.

**Section 8. Termination of Agreement for Cause.** If, through any cause, the Consultant shall fail to fulfill in a timely and proper manner the obligations under this Agreement or if the Consultant shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall have the right to terminate this Agreement by giving written notice to the Consultant of termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. All finished or unfinished documents, data, studies, surveys and reports or other material prepared by the Consultant under this Agreement are the property of the City and shall be delivered to the City by or upon the effective date of termination. The Consultant shall be entitled to receive compensation only for work completed to the City's satisfaction in accordance with the terms of this Agreement.

**Section 9. Termination for Convenience of City.** The City may terminate this Agreement at any time by giving written notice to the Consultant of such termination and specifying the effective date of such termination. All finished or unfinished documents and other materials as described in Section 8, above, are the property of the City and shall be delivered to the City by or upon the effective date of termination. The Consultant shall be entitled to receive compensation in accordance with the payment provisions of this Agreement only for work completed to the City's satisfaction in accordance with the terms of this Agreement. If this Agreement is terminated due to the fault of the Consultant, Section 8 of this Agreement shall govern the rights and liabilities of the parties.

**Section 10. Causes Beyond Control.** In the event the Consultant is prevented by a cause or causes beyond control of the Consultant from performing any obligation of this Agreement, nonperformance resulting from such cause or causes shall not be deemed to be a breach of this Agreement which will render the Consultant liable for damages or give rights to the cancellation of this Agreement for cause. However, if and when such cause or causes cease to prevent performance, the Consultant shall exercise all reasonable diligence to resume and complete performance of the obligation with the least possible delay. The phrase "cause or causes beyond



control,” as used in this section, means any one or more of the following causes which are not attributable to the fault or negligence of the Consultant and which prevent the performance of the Consultant: fire, explosions, acts of God, war, orders or law of duly constituted public authorities, and other major uncontrollable and unavoidable events, all of the foregoing which must actually prevent the Consultant from performing the terms of this Agreement. Events which are peculiar to the Consultant and would not prevent another Consultant from performing, including, but not limited to financial difficulties, are not causes beyond the control of the Consultant. The City will determine whether the event preventing the Consultant from performing is a cause beyond the Consultant’s control.

#### **Section 11. Modifications.**

- A. The parties may mutually agree to modify the terms of this Agreement. Modifications to this Agreement shall be incorporated into this Agreement by written amendments.
- B. It is expressly understood that the City may require changes in the scope of services and an unreasonable refusal by the Consultant to agree to modification in the scope of services will be the basis for termination of this Agreement for cause. It is expressly understood that the total amount of compensation for successful performance of this Agreement will not be modified, under any circumstances, without prior written approval of the City.

**Section 12. Interest of Members of City and Others.** No officer, member or employee of the City and no member of its governing body, and no other public official of the governing body shall participate in any decision relating to this Agreement which affects their personal interest or the interest of any corporation, partnership or association in which they are, directly or indirectly, interested or having any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

**Section 13. Assignability.** The Consultant shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novation) without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Consultant from the City under this Agreement may be assigned by court order or to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City, or the Consultant shall be responsible to the City for any moneys due the assignee of this Agreement, which are paid directly to the Consultant.

**Section 14. Interest of Consultant.** The Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The Consultant further covenants that in the performance of this Agreement no person having any such interest shall be employed.

**Section 15. Findings Confidential.** To the extent permitted or required by law any reports, information, data, etc., given to or prepared or assembled by the Consultant under this Agreement

which the City requests to be kept confidential shall not be made available to any individual or organization by the Consultant without the prior written approval of the City.

**Section 16. Publication, Reproduction and Use of Materials.** No material produced, in whole or in part, under this Agreement shall be subject to copyright in the United States or in any other country. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement.

**Section 17. Jurisdiction; Choice of Law.** Any civil action arising from this Agreement shall be brought in the superior court for the third judicial district of the state of Alaska at Kenai. The law of the state of Alaska shall govern the rights and obligations of the parties.

**Section 18. Non-Waiver.** The failure of the City at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provisions, nor in any way affect the validity of this Agreement or any part thereof, or the right of the City thereafter to enforce each and every protection hereof.

**Section 19. Permits, Laws and Taxes.** The Consultant shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to the performance under this Agreement. All actions taken by the Consultant under this Agreement shall comply with all applicable federal, state, and local regulations including, but not limited to, those laws related to wages, taxes, social security, workers compensation, nondiscrimination, licenses, and registration requirements. The Consultant shall pay all taxes pertaining to its performance under this Agreement.

**Section 20. Agreement Administration.**

- A. The City Manager or designee, will be the representative of the City administering this Agreement.
- B. The services to be furnished by the Consultant shall be administered, supervised, and directed by \_\_\_\_\_. In the event that the individual named above or any of the individuals identified in the proposal to perform work under this Agreement is unable to serve for any reason, the Consultant shall appoint a successor in interest subject to written approval of the City.

**Section 21. Integration.** This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations or agreements, either oral or written, between the parties.

**Section 22. Defense and Indemnification.** The Consultant shall indemnify, defend, save and hold the City, its elected and appointed officers, agents and employees, harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorneys' fees resulting from Consultant or Consultant's officers, agents, employees, partners, attorneys, suppliers, and subconsultants' performance or failure to perform this Agreement in any way whatsoever. This defense and indemnification responsibility includes claims alleging acts or omissions by the City or its agents which are said to have contributed to the losses, failure,

violations, or damage. However, Consultant shall not be responsible for any damages or claim arising from the sole negligence or willful misconduct of the City, its agents, or employees. Consultant and subconsultants shall also not be required to defend or indemnify the Owner for damage or loss that has been found to be attributed to an independent contractor directly responsible to the City under separate written contract.

**Section 23. Interpretation and Enforcement.** This Agreement is being executed by the parties following negotiations between them. It shall be construed according to the fair intent of the language as a whole, not for or against any party. The titles of sections in this Agreement are not to be construed as limitations or definitions but are for identification purposes only.

**Section 24. Relationship of the Parties.** The services to be rendered under this Agreement are those of an independent contractor. The Consultant will not at any time directly or indirectly act as an agent, servant or employee of the City or make any commitments or incur any liabilities on behalf of the City without the City's express consent. The City shall not supervise or direct the Consultant except as set forth in this agreement.

**Section 25. Insurance.** Consultant and all subconsultants, if any, shall maintain the following insurance coverage in effect during the term of this Agreement and shall file certificates of such insurance with the Owner or City prior to the commencement of its performance under this Agreement. Such insurance shall be by a company/corporation currently rated "A-" or better by A.M. Best.

- A. A policy of comprehensive **general liability** insurance with limits of not less than **\$1,000,000** per occurrence covering injury to or death of any person or persons, and with limits of not less than **\$1,000,000** per occurrence covering **property damage**.
- B. **Auto liability** with included operations, contractual liability, and owned, leased, hired or borrowed, and non-owned vehicles with limits of not less than **\$1,000,000** combined single limit per occurrence.
- C. **Worker's Compensation and Employer's liability** insurance in accordance with applicable laws.
- D. **Professional Errors and Omissions** insurance in the amount of not less than **\$1,000,000**.

*If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the contractor.*

- E. **Primary Coverage** for any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

F. **Deductibles and Self-Insured Retentions** any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

G. **Claims Made Policies** if any of the required policies provide coverage on a claims-made basis:

- 1) The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
- 2) b) Insurance must be maintained and evidence of insurance must be provided *for at least two (2) years after completion of the contract of work.*
- 3) c) If coverage is canceled or non-renewed, and not *replaced with another claims-made policy form with a Retroactive Date* prior to the contract effective date, the Consultant must purchase “extended reporting” coverage for a minimum of *three (3) years* after completion of contract work.

H. **Verification of Coverage** Consultant shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant’s obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

I. **Subcontractors** Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

Said liability insurance shall provide that such insurance may not be canceled or reduced until **twenty (20) days** after the City shall have received notice of such cancellation or reduction.

Consultant shall maintain said insurance policies in effect and shall cause all parties supplying services, labor, or materials to maintain insurance in amounts and coverage not less than those specified above in effect.

A lapse in insurance coverage is a material breach of this Agreement, which may result in immediate termination of this Agreement, pursuant to Section 8.

**Section 26. Severability.** If any section or clause of this Agreement is held invalid by a court of competent jurisdiction, or is otherwise invalid under the law, the remainder of this Agreement shall remain in full force and effect.

**Section 27. Understanding.** The Consultant acknowledges that the Consultant has read and understands the terms of this Agreement, has had the opportunity to review the same with counsel of their choice, and is executing this Agreement of their own free will.

**Section 28. Notices.** Any notice required pertaining to the subject matter of this Agreement shall be personally delivered or mailed by prepaid first-class, registered or certified mail to the following addresses:

City: City Manager  
City of Kenai  
210 Fidalgo Avenue  
Kenai, AK 99611

Consultant: XXXXXXXXXXXX  
XXXXXXXXXXXX  
XXXXXXXXXXXX  
XXXXXXXXXXXX

**Section 29. Consultant's Violations of Tax Obligations.**

- A. This Agreement can be terminated for cause, pursuant to Section 8, if it is determined that a Consultant is in arrears of any taxation, lease or rental agreement that is due to the City that is not remedied within ten (10) calendar days of notification by regular mail.
- B. The City reserves any right it may have to offset amounts owed by an individual, firm, corporation or business for delinquent City taxes, moneys owed on sales, assessments, leases and rental agreements, against any amount owing to the same under an agreement between the City and the same.

By: \_\_\_\_\_  
 Its: \_\_\_\_\_  
 Dated: \_\_\_\_\_

By: \_\_\_\_\_  
 Its: \_\_\_\_\_  
 Dated: \_\_\_\_\_

By: \_\_\_\_\_  
 Its: \_\_\_\_\_  
 Dated: \_\_\_\_\_

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY BY:

Scott Bloom  
City Attorney

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

Notary Public for State of Alaska  
My Commission Expires: \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  (name) , the  (title)  of  (name of corporation)  for and on behalf of the corporation.

Notary Public for State of Alaska  
My Commission Expires: \_\_\_\_\_

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by (name), the (title) of (name of corporation) for and on behalf of the corporation.

Notary Public for State of Alaska  
My Commission Expires: \_\_\_\_\_

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  (name) ,  (partner or agent)  of  (name of partnership)  for and on behalf of the partnership.

Notary Public for State of Alaska  
My Commission Expires: \_\_\_\_\_