



ADDENDUM NO. 1

This addendum consists of 5 pages with attachments.

TO: All Respondents

FROM: City of Kenai Public Works Department

DATE: February 15, 2021

SUBJECT: Request for Proposals – 2021 City of Kenai Bluff Bank Stabilization
Professional Engineering Services

DUE DATE: *****Revised to March 4, 2021, by no later than 12:00 PM*****

Proposers must acknowledge receipt of this Addendum within the Letter of Transmittal. Failure to do so may result in the disqualification or rejection of the proposal.

Note: Information in this addendum takes precedence over original information. All other provisions of the document remain unchanged.

01-01 Clarification

Last day for questions has been changed from February 16, 2021 to February 23, 2021 by 5:00pm; Proposals Due Date changed from February 25, 2021 to March 4, 2021 by 12:00pm.

01-02 Clarification

Section 4.7 Cost is removed from this RFP. Understanding the parameters surrounding surveying and geo-tech and other factors that a clearly defined scope for these services has yet to be defined, we can appreciate quoting a

hard cost at this time is challenging. The 30 points that was associated with Cost will now be allocated as follows:

Letter of Transmittal	3 points
Firm's Experience with USACOE	25 points
Firm's Experience with Alaska & Cold Climates	12 points
Qualifications of Key Staff and Sub-consultants	10 points
Available Resources / Firm's Location	10 points
Project Methodology / Approach	<u>40 points</u>
Total	100 points

The City shall intend to enter into negotiation with the highest scoring firm.

01-03 Plan Holder Question

Do you require union to all of your projects or contracts?

Response: This question is not relevant for an RFP seeking professional engineering services, however the link below will be included when seeking construction bids with the resulting plans and specifications this RFP is intended to provide. <https://labor.alaska.gov/lss/forms/Pam400.pdf>

01-04 Plan Holder Question

Given the uncertainties surrounding the pandemic and the need to limit physical contact, would the City be willing to accept electronic submissions of this proposal?

Response: No. Hard copies in the quantities requested are required.

01-05 Plan Holder Question

Upon legal review of the RFP and contract terms, we've found some disparities that we hope to resolve so that we can propose.

The RFP includes an unacceptable/un-insurable indemnity provision that is explicitly incorporated into our contract terms. However, the General Conditions include an acceptable indemnity provision. The final payment release includes yet another conflicting and problematic indemnity provision. We are hoping that you might be able to sync up acceptable indemnity across all the documents.



Specifically, on Page 13, Section D, Insurance and Indemnification Requirements, Item iv: If incorporated into our contract, this RFP provision is typically viewed as a "deal-killer" since it constitutes broad-form indemnity that is not insurable under our professional liability insurance policy.

We request this language to clarify we are only responsible for the proportion of damages we are determined to have caused through our fault, and not for damages caused by the client or a third party. **Response: This only applies to general liability, not professional liability.**

Page 7 of the Contract, Article 8.5 under "Insurance":

Professional liability insurance available in the A/E space only covers *negligent* errors or omissions, not *any* errors or omissions, so technical compliance with this requirement is not possible. We recommend inserting the word "negligent." **Response: changed to "any negligent errors or omissions" with this addenda.**

Page 9 of the Contract, Article 13 under "Indemnification":

This indemnity provision, which is generally acceptable, conflicts with the unacceptable indemnity provision included in the RFP. Perhaps the City could amend its RFP to sync up the conflicting indemnity provision. The differences are important, as the RFP indemnity is un-insurable under any professional liability insurance available in the A/E industry.

We recommend adding the following language: This indemnity provision shall prevail and control over the indemnity provision included in the RFP for the Project. **Response: We will standardize all the indemnity language to match what is provided within the General Conditions.**

CONTRACTOR'S RELEASE AND AFFIDAVIT OF PAYMENTS OF DEBTS AND CLAIMS

Under item 4, this is pretty unusual/uncustomary. We suggest striking this entire provision since it is duplicative of and inconsistent with the acceptable indemnity provision included in the General Conditions. But we could sign it, if the City qualifies our indemnity obligations here with a fault component. As stated, any professional liability insurance available in the insurance industry, whether in the A/E space or elsewhere, will only cover *negligent* acts or omissions, not *any* acts or omissions. So we would typically view this as another deal-killer indemnity provision.

Response: See responses above.

Thank you for your consideration!

Response: See responses above in Red.

01-06 Plan Holder Question

Would all sub-consultants be required to prepare the Tax Compliance Form as well? Does this get sent in with proposal or any time prior to?



Response: Sub-consultants are not required to provide a Tax Compliance Form at all. With this addenda Tax Compliance Form may be withheld until successful negotiations are completed with the highest scoring proposer, and then that firm shall provide the required documentation prior to execution of agreement.

01-07 Plan Holder Question

Has the City performed any boundary work with respect to the project? Presumably the berm would encroach on a number of non-city parcels along the bank. Do you envision boundary survey work to be a part of this scope?

Response: There has been limited recent work performed. The City has acquired a majority of properties that are likely to be affected, however there does remain a few in private hands. It is possible that the berm at the intended elevations may encroach on those lots. Survey work to determine that extent shall be included, and the City shall then decide how to proceed based on that information.

01-08 Plan Holder Question

Hello, the RFP references a "Pre-PPA Section 221 Memorandum of Understanding (MOU) January 2021," yet we cannot seem to find that attachment. Could you please provide?

Response: This document was executed by the City and sent to the USACOE on January 25, 2021, we are awaiting signature from the District Commander and will include in a future addenda.

01-09 New Attachments

See the attached Plan Holders list current to 2/12/21.

END OF ADDENDUM



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Highlight indicates attendance at the Preproposal Meeting on 2/9/21						