

PROPOSAL #17-043P

**MATANUSKA-SUSITNA BOROUGH
PURCHASING DIVISION**

PALMER, ALASKA



PROPOSAL AND CONTRACT DOCUMENTS
FOR

CENTRAL LANDFILL C&D CELL DEVELOPMENT PLAN

CLOSING DATE & TIME: November 14, 2016 @ 2:30 PM

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ADVERTISEMENT

MATANUSKA-SUSITNA BOROUGH
350 East Dahlia
Palmer, Alaska 99645

A D V E R T I S E M E N T

VENDOR		ACCOUNT #	DATE FOR ADVERTISEMENT
Alaska Dispatch News		MATA 0070	October 24, 2016
Frontiersman		CONTRACT	October 26, 2016
TYPE OF AD:	<input type="checkbox"/> Display	<input checked="" type="checkbox"/> Classified	<input type="checkbox"/> Public Information

The material herein must be printed in its entirety on the dates shown above. Affidavit of publication is required prior to payment.

MATANUSKA-SUSITNA BOROUGH
#17-043P
Central Landfill C&D Cell Development Plan

The Matanuska-Susitna Borough is seeking proposals from qualified engineering firms to provide consulting services for the development of a new Construction & Demolition (C&D) cell and a ten year plan for the future development of the new C&D cell. The services under this contract will include assistance with developing permit applications and associated documents and a gravel extraction plan complete with drawings, estimated quantities, and recommendations for internal and/or external use.

Proposal documents are available **beginning October 24, 2016** in the Purchasing Division, Matanuska-Susitna Borough, 350 E. Dahlia Ave., Palmer, AK 99645. Info: (907) 861-8601, Fax (907) 861-8617, e-mail purchasing@matsugov.us. A document fee of \$10.00 will be charged for materials picked-up and \$15.00 for materials mailed. This proposal document may be available on the internet at www.matsugov.us.

Proposal closing: **November 14, 2016 @ 2:30 PM in the Purchasing Section**

Proposals must be received in the Purchasing Division prior to the time fixed for closing of the RFP to be considered. Time of receipt will be determined by the time stamp in the Purchasing Division.

Persons needing accommodation in order to participate should contact the borough ADA coordinator at (907) 861-8404.

The Matanuska-Susitna Borough reserves the right to accept or reject any or all proposals, waive any and all technicalities or informalities it deems appropriate. Award of this project is subject to the availability of funding.

Page 1 of 1	Requested by: Signature on File	Approved by: Signature on File
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DEPARTMENT ACCOUNT NO.: 510.150.401.426.900

SECTION I
INSTRUCTIONS TO PROPOSERS

GENERAL INSTRUCTIONS TO PROPOSERS PROFESSIONAL SERVICES

01. EXAMINATION OF DOCUMENTS AND SITE

Before submitting a proposal, the Proposer is encouraged to:

- Carefully examine and acquaint themselves with all portions of the proposal and specifications.
- Fully inform themselves of existing conditions and limitations.
- If material required for proposal purposes by these documents is absent, the Proposer is required to notify the Purchasing Officer.
- Any interested party submitting a proposal on Matanuska-Susitna Borough (MSB) projects should first review the MSB Debarment/Suspension List. This listing is available off of the MSB Purchasing Division web page. Any submission of a proposal, with participation or involvement of an individual, company, firm or corporation on this list will render the proposal as non-responsible.

02. INTERPRETATION

Should a Proposer find discrepancies in, or omissions from, the drawings or specifications, or be in doubt as to their meaning, they should at once notify the Purchasing Officer who will send written instructions or addenda to all known plan holders. The Purchasing Officer will not be responsible for oral interpretations. **Questions must be received in writing.** Questions received less than five (5) days before proposal close may not be answered. All addenda issued during the time of proposals shall become part of the Agreement Documents. **Questions or requests for clarifications shall be directed to the Borough's Purchasing Officer. Questions or requests for clarification directed to any other member of the Borough staff, or consultants may be grounds for rejection of proposal as being irregular.** E-mail questions to purchasing@matsugov.us or fax questions to the Purchasing Officer at (907) 861-8617.

03. FORM OF PROPOSAL

Proposals should be submitted in accordance with the Section entitled *Proposal Submission & Evaluation Criteria*.

04. ALTERNATES

Alternate proposals, other than those called for in this solicitation, shall not be considered. The failure of a Proposer to propose upon all alternates called for may cause the rejection of the proposal as irregular.

05. SIGNATURE

The Proposer shall sign the original proposal in longhand, preferably in **blue** ink.

06. SUBMISSION OF PROPOSAL

One (1) paper copy of proposal, clearly marked "**ORIGINAL**", with an originally signed submittal page, and one electronic copy on CDROM of the submitted proposal documents, in PDF format; both shall be enclosed in a sealed envelope, addressed, marked, and delivered to the following address:

Matanuska-Susitna Borough
Purchasing Division of Capital Projects
350 E. Dahlia Avenue
Palmer, Alaska 99645

Sealed envelope should reflect the following in the lower left corner of the envelope: Proposal number, title, date and time of closing.

If more than one Proposal is offered by any one party, by or in the name of their clerk, partner, or other person, all such Proposals will be rejected. A party who has quoted prices to a Proposer is not thereby disqualified from quoting prices to other Proposers, or from submitting a Proposal directly for the work.

07. SUBMITTAL PAGE

The submittal page must be completed, signed and returned with the proposal. Proposers should acknowledge addenda, if any, on the submittal page. The bottom of the submittal page contains a list of documents that should be included as a part of the proposal. Unless otherwise stated elsewhere in this solicitation, the submittal page and any required licensing is not counted toward any stipulated page limitation(s).

08. MODIFICATIONS

No oral or telephone modifications of any proposal submitted will be considered.

09. WITHDRAWAL OF PROPOSAL

Proposers may withdraw their proposal either personally or by written request at any time prior to the time set for the proposal closing. No proposal may be withdrawn after the time set for the closing thereof. Proposals may be modified after proposal closing only as a result of negotiations.

10. EVIDENCE OF QUALIFICATIONS

Upon request of the Borough, a Proposer, whose proposal is under consideration for the award of the Agreement, shall submit promptly to the Borough satisfactory evidence of the Proposer's financial resources, their experience, their performance in completing other projects of a similar nature and the organization and equipment they have available for the performance of the Agreement.

11. AWARD

Each proposal will be rated independently. A Proposer whose proposal is scored the highest will be invited to enter into discussions to clarify their current proposal and/or enter into award negotiations.

Award shall be made to the person or firm determined by the evaluation team to be the best qualified, and shall be for an amount of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best-qualified person or firm, negotiations shall be formally terminated with that person or firm. If more than one person or firm determined to be qualified submitted a proposal, negotiations may be conducted with the next firm, in order of their respective qualification ranking. The agreement may be awarded to the person or firm then ranked as best qualified if the amount of compensation is determined to be fair and reasonable.

A proposal debriefing may be requested by participating proposers following Agreement execution for Agreements having a value of at least \$100,000. Participating proposers may forward their requests to Purchasing via e-mail to purchasing@matsugov.us for scheduling.

12. BOROUGH'S RIGHT TO REJECT PROPOSAL

The right is reserved to reject any or all proposals and to waive any informalities. Informalities that cannot be waived (MSB Code 3.08.250) are timeliness and manual signature requirements.

13. PROTEST OF AWARD OF PROPOSAL

Within two (2) days of service of the Purchasing Officer's determination of the apparent successful proposal, a proposer who wishes to protest the determination shall lodge a protest with the Purchasing Officer. The protest shall be in writing on a form provided by the Purchasing Officer. The protest shall describe with particularity the alleged errors in the award recommendation. The Purchasing Officer shall conduct a review and, within three working days of receipt of the protest, issue a determination. Full text of the protest and appeal procedures, as well as the protest form, can be downloaded from the Borough's web site at www.matsugov.us, selecting "Services", then selecting "Forms" under Forms and Documents, then selecting "Purchasing Forms". A copy can also be obtained by contacting the Purchasing Division at (907) 861-8601.

In order to receive notice of the apparent successful proposal, the proposer must provide the Borough with a fax number. It is the responsibility of the proposer to follow the selection process and stay apprised of the bid or proposal due date, the date notice of apparent successful proposer is issued and the period in which protests can be filed.

14. MATANUSKA-SUSITNA BOROUGH BUSINESS LICENSE

Matanuska-Susitna Borough Code, Chapter 3.36, requires that all entities conducting business within the Borough boundaries have a current business license issued by the Matanuska-Susitna Borough. Prior to any award as a result of this solicitation, the Contractor may be required to provide proof that they have a current Matanuska-Susitna Business License or proof that they have applied for one. Copies of this borough code and instructions on obtaining a business license may be obtained at the Collection Counter, Finance Department, or by calling 907-861-8632. MSB §3.36.040.

15. EXECUTION OF AGREEMENT

The Proposer whose proposal is accepted shall execute the Agreement and furnish the required insurance within five (5) working days after notice of Intent to Award is issued. The Agreement shall be considered executed by the successful Proposer when an authorized representative of the company or firm signs the Agreement and the insurance certificate(s) are received by the Purchasing Officer. Failure or neglect of the proposer to execute the Agreement within the time specified may result in the award of the Agreement to the next highest rated proposer.

The Borough will execute the Agreement within ten (10) working days after execution by the Contractor as set forth above. The date the Agreement is executed by the Borough is the Agreement Date. The rights of the obligations provided for in the Agreement shall become effective and binding upon the parties of the Agreement Date.

16. QUALIFIED AND RESPONSIBLE PROPOSER

The Borough reserves the right to require the Proposer to submit information pertaining to its products, service, reputation, or experience, in order to determine, at the Borough's sole discretion, if the Proposer is qualified. Past dealings with the Borough and other government agencies will be considered in determining if the Proposer is responsible.

17. CONSULTANT'S VIOLATION OF TAX OBLIGATIONS

- A. No agreement shall be awarded to any individual, firm, corporation or business who is found to be delinquent in any area of taxation, lease or rental agreement with the Borough and School District which has not been remedied within ten (10) calendar days of receipt of written notice.
- B. This Agreement can be terminated for cause if it is determined that the individual, firm, corporation or business is in arrears of any taxation, lease or rental agreement that is due to the Borough that is not remedied within ten (10) calendar days of notification by regular mail.
- C. The Borough reserves any right it may have to offset amounts owed by an individual, firm, corporation or business for delinquent Borough taxes against any amount owing to the same under a contract between the Borough and the same.

18. INSURANCE

See Insurance Requirements in Sample Agreement, Section 27.

19. FLOW DOWN PROVISIONS

This Agreement may include flow down provisions. This Agreement may be issued in connection with another government agency and may include flow down or contract provisions required by that agency. In the event of a conflict between the terms and conditions of the agreement and any flow down terms and conditions, the flow down terms and conditions shall govern. The Contractor and any sub-contractors agree to comply with any and all flow down or contract provisions required by the

Borough or another government agency that are included in the Agreement. In the event that flow down or contract provisions required by other agencies or by law are inadvertently omitted from this Agreement, both parties agree to negotiate in good faith for inclusion of those provisions into the Agreement.

20. STATUTORY REQUIREMENTS

Proposers and proposed subcontractors shall be in compliance with the statutory requirements for Alaska licensing included in the certification statement in this RFP package. Non-compliance shall result in rejection of proposal.

21. ACCEPTANCE OF CONTRACT/AGREEMENT TERMS AND CONDITIONS

By signing the Proposal Form/Proposal Submittal Form, the proposer certifies that they have examined and accept the terms and conditions of the Agreement contained in this solicitation. The acceptance is inclusive of, but not limited to, all AGREEMENT REQUIREMENTS, TERMS AND CONDITIONS, GENERAL PROVISIONS, AND SUPPLEMENTAL CONDITIONS along with any and all conditions contained in the INSTRUCTIONS TO PROPOSERS associated with this solicitation. Submission of a proposal in response to this solicitation certifies that the proposer is willing to accept these terms and understands that failure to accept these terms will subject the proposer to forfeiture of the contract/agreement and loss of any bid guarantee as liquidated damages.

Proposers are encouraged to carefully examine the insurance requirements, any bonding requirements, and any Defense and Indemnification clause contained in the sample contract/agreement.

22. MILEAGE AND PER DIEM

The Matanuska-Susitna Borough will not allow charges for mileage and/or per diem for projects deemed to be in the core area of Borough. The core area is defined as the area north of Knik River Bridge and south of Chickaloon Road on the Glenn Highway and all areas on Parks Highway south of the Willow Creek Bridge. Mileage and per diem outside the core area will be paid at the rates published by the State of Alaska, AAM 60 - Travel.

SECTION II
SCOPE OF SERVICES

**MATANUSKA-SUSITNA BOROUGH
REQUEST FOR PROPOSALS #17-043P
CENTRAL LANDFILL C&D CELL DEVELOPMENT PLAN**

SCOPE OF SERVICES

The Matanuska-Susitna Borough is seeking proposals from qualified engineering firms to provide consulting services for the development of a new Construction & Demolition (C&D) Cell and a ten year plan for the future development of the new C & D cell. The services under this contract will include, assistance with developing permit applications and associated drawings and a gravel extraction plan complete with drawings, estimated quantities and recommendation for internal and/or external use. Plan would include a gravel extraction plan complete with drawings and estimated quantities with recommendations for internal or external use. External use may include gravel sales to the public.

The MSB Solid Waste Division shall provide the successful proposer with incoming C&D tonnage and soil cover and total airspace usage in the current C&D cell for the last 3 (three) years and will provide the latest depth to groundwater data at the Central Landfill for use in determining cell bottom cell elevations. The new C&D cell development plan and associated design will not include a bottom liner. The surface of the C&D cells will be graded (during operations) and runoff will infiltrate into the coarse gravel soils therefore, a need for drainage structures is not anticipated, though a drainage plan may be necessary to show runoff.

The engineering consulting firm should assign a Project Manager who will attend all meetings and act as the primary point of contact in all communication with the MSB Solid Waste Division (SWD). Monthly progress reports shall be submitted to the MSB SWD.

Consultant shall organize and attend up to four (4) meeting with MSB staff at the Central Landfill in Palmer, and possibly one meeting with Alaska Department of Environment Conservations (ADEC) if necessary.

The work is expected to begin in November 2016 and be completed by the end on March 2017, so that C&D cell development can begin in the summer of 2017. The permit application and associated drawings and documents shall be completed by the end of January. The estimated cost for this scope of work is approximately \$40,000.00.

Deliverables:

- Permit application and associated documents for submittal to ADEC for approval of the new C&D cell.
- Development plan: A written plan explaining the future development of the new C&D cell for the next 10 (ten) years. Content will include access for truck hauling C&D, soil cover and borrow areas for each lift. C&D volume (airspace) requirements will be estimated from recent MSB records of incoming tonnage of C&D. The C&D development plan will include a table with estimated C&D waste, soil cover and total air space requirements. The estimated fill quantity for the first two lifts will be provided to the selected firm by the MSB upon contract award.

Consideration of soils (screened) required for build out shall be calculated from these excess gravel sources as well.

- Submittals: Draft and final C&D Development Plan, in technical memo format, in three (3) hard and one (1) electronic copy.
- Site Survey and Drawings: The site survey drawings (as-built) will show various features including landfill entrance facilities, hazardous waste treatment facility/main office, current cells, access roads, and proposed footprint of the new C&D Cell. These drawings will be in 11x17 format and sealed by a professional land surveyor registered in the State of Alaska. The survey shall use State Plane Zone 4 and NAVD 88 for the horizontal and vertical coordinate systems, respectively. All drawings to be provided as a draft for MSB review and comments before finalization. Deliver in both hard copy and electronic format as ACAD files.
- Design Drawings: Drawings shall include information regarding the horizontal limits and bottom grading plan for the C&D cell when gravel extraction is complete. (Note: Bottom grade will be the position relative to existing bottom of the new pit and will account for minimum separation of 10 feet from groundwater. Notes on this drawing will be used to indicate the fill plan for the new C&D cell.)
- Gravel Extraction Plan Drawings: Included *Site Survey and Design Drawings* above. Show existing conditions with new access road, include topography of the full development area between the existing C&D cell and the new pit/access road. Produce additional drawings showing 3 (three) phases of gravel extraction:

Phase 1: Gravel extraction within the boundaries of the existing pit in the new C&D cell. This will include mining of existing bumps and ridges to the appropriate side slopes and bottom elevations. The consultant shall provide recommendations for optimizing side slopes so they are as steep as possible to maximize gravel extraction while maintaining safety and stability. Proposed gravel extraction haul route shall be shown. Consideration of soils (screened) required for build out Cell 4 base shall be calculated from these excess gravel sources as well.

Phase 2: Gravel extraction of the 100 foot high ridge separating the existing C&D cell and the new C&D pit. Proposed gravel extraction haul routes shall be shown.

Phase 3: Gravel extraction of the remaining areas between the ridge and the existing C&D cell. Proposed gravel extraction haul routes will be shown. Bottom grades shall account for minimum separation of 10 (ten) feet from groundwater.

All drawings will be provided in draft and final stages submitted in hard and electronic copies.

- The consultant shall use calculate gravel volume between existing ground and bottom grades. Gravel extraction quantities will be summarized in a table in cubic yards by project phase, and submitted with the deliverables for the gravel extraction plan

SECTION III

PROPOSAL SUBMISSION & EVALUATION CRITERIA

**MATANUSKA-SUSITNA BOROUGH
REQUEST FOR PROPOSALS #17-043P**

PROPOSAL SUBMISSION & EVALUATION CRITERIA

1. Each proposer shall submit one clearly marked original proposal, to include the signed "Submittal Page", preferably in blue ink and One (1) complete electronic copy on CDROM. Electronic copy should be merged into one complete file and provided in PDF format. **Proposer should not include cover letters or resumes.**

The proposals shall be organized in sections as indicated within the evaluation criteria below. The proposal should be limited to ten (10) single-sided, single spaced pages in length. It is requested that a minimum font size of 12 be used wherever practical. The use of photos and graphics within the 10 page proposal limit, should be kept to a minimum. Photos and/or graphics can be used to demonstrate a process/method but should be limited to generic photos or tied to projects contained in the Relevant Project Experience section. Use of photos depicting specific projects not named in the Relevant Project Experience section may cause a proposal to be rejected.

2. The Contracting Agency expressly reserves the right to waive minor informalities, negotiate changes or reject any and all proposals and to not award the proposed contract, if in its best interest. "Minor Informalities" means matters of form rather than substance which are evident from the submittal, or are insignificant matters that have a negligible effect on price, quantity, quality, delivery, or contractual conditions and can be waived or corrected without prejudice to other Offerors.

3. The selected proposal shall be open for inspection after recommendation of award is issued. All scored proposals submitted shall be open for inspection upon execution of an agreement resulting from this solicitation. Offerors should not include proprietary information in proposals if such information should not be disclosed to the public. Any language within a submittal purporting to render all or portions of a proposal confidential will be disregarded. Proprietary information which may be provided after selection for contract negotiations will be confidential if expressly agreed to by the Contracting Agency.

PROPOSAL EVALUATION -

1. Award of this proposal shall be made in accordance with MSB 3.08.300.

EVALUATION CRITERIA

SECTION I - TECHNICAL PROPOSAL

PROPOSAL LAYOUT:

Responses to this Request for Proposals should follow the following order:

- Qualifications
- Past Performance
- Project Approach
- Workload and Resources
- Project Schedule
- Geographic Location

Points for Items 1 and 2 will be awarded as indicated by the Purchasing section based on information provided by each proposer. Maximum points equal 100.

1. Registration

Weight: 2

Proposers who download this solicitation and register with the Purchasing Division as plan holders will be awarded these points automatically. Registration should be made by e-mailing the company name, address, telephone and fax numbers, contact individual name and their email address to Purchasing@matsugov.us.

2. Geographic Location

Weight: 5

At the time the proposal was submitted did the firm have an established office within 20 miles of the Borough designated location in the RFP from which the Borough's representative will manage/co-ordinate the contract work? (examples below)

- If "yes", score 3 points
- If "no", score 0 points

During the performance of contract work, what percentage of the time will the Proposer's Project Manager be working from an office that is within 20 miles of the Borough designated location?

- For more than 75% of the time, score 2 points
- For 35% to 75% of the time, score 1 points
- For less than 35% of time, score 0 points

TECHNICAL PROPOSAL

The MSB does not publish criteria weights nor do we provide these to evaluators. Criteria are listed in order and a relative important in relationship to other criteria is provided. It is important that proposers focus of the providing the information requested rather than focus the weight of a criteria.

Criteria one is the most important and has the highest weight.

3. Past Performance

Weight:

Provide a descriptive list of **past** projects which show a history of completing similar projects. Listing should identify key staff members who were involved in those projects and their roles. Response must name the individuals to perform the professional/technical functions you deem essential to perform the services (include all professional license numbers and/or registrations).

Describe the work to be performed by the individuals you name to perform essential function and detail their specific qualifications and substantive **experience directly related to the proposed contract**. Describe other projects where the team has worked together. A response prepared specifically for this proposal is required. Marketing resumes often include non-relevant information which may detract from the evaluation of your response and should NOT be included. Lists of projects are not useful. Focus on individual's specific duties and responsibilities and how project experience is relevant to the proposed contract.

For each person named, identify their employer, professional discipline or job classification and state of residency. List three professional references (contact persons, phone numbers, and email addresses) for each person.

Criteria 4, 5 and 6 are all weighted slightly less than #3

4. Qualifications

Weight:

Describe experience related to providing these services and analysis. Describe key members who will be involved in this project and their qualifications (not a marketing resume). Describe other contracts/commitments you currently have doing these types of services for other governmental or private entities. Describe the equipment, including any specialty equipment, for performing this work.

5. Project Approach/Methods

Weight:

Describe your approach and methods to performing the proposed work. Include a detailed description of services to be provided and constraints, if any (procedures, time, personnel, equipment, etc.). Describe what, when, where, how, and in what sequence the work will be done. The proposal should answer the questions: Who will have overall responsibility for the project? Who will oversee daily operations? Discuss your approach to project management. Provide a schedule of completing the services.

Schedule will include key activities together with their resources commitment to complete the project in accordance with proposed schedule. Schedule may be submitted on one oversized sheet, not to exceed 11" x 17", which will be counted as one page of the proposal. Activities that are within your control should be identified separately from those where the schedule may be strongly influenced by others. Schedules must include or allow for full statutorily mandated advertising, agency and public comment periods. Estimates of man-hours are not requested and shall not be submitted.

6. Objectives and Services

Weight:

Response must demonstrate your comprehension of the objective and services for the proposed contract. Do not merely duplicate the Scope of Services provided with this RFP. Also, consider if scope of services is sufficiently explicit; are expressed or implied schedules attainable/economically feasible, etcetera? Explain. Define any assumptions made in formulating Criteria Response. If design Services for a construction project are included, express any opinions regarding alternative design considerations that could impact construction costs.

Criteria #7 is weighted the least and is approximately half of 4, 5, and 6

7. Workload and Resources

Weight:

Response must:

- (1) discuss both current and potential time commitment of your proposed Project Staff to ALL clients;
- (2) discuss the projected workload of each firm (offeror and proposed subcontractors) for ALL clients;
- (3) demonstrate adequate support personnel, facilities and other resources to provide the services required.

Provide a list of current contracts in which your proposed Project Staff are participating.

SECTION IV
SUBMITTAL PAGE

Proposal Submittal Page
Proposal #17-043P
Central Landfill C&D Cell Development Plan

By signing below, the Proposer hereby certifies to the following –

1. The individual signing below, or the firm associated or corporation of which they are a member, has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of a free competitive process in connection with this solicitation.
2. The individual signed below is authorized by the firm association or corporation to bind such association or corporation to a legal contract.
3. The individual signing below, or the firm association or corporation of which they are a member, is not debarred or suspended from doing business with the Matanuska-Susitna Borough.
4. They are acknowledging receipt of the following Addenda Numbers (if no addenda have been issued, either leave blank or write "N/A" or "None").

(List Addenda numbers that you are acknowledging receipt of)

 Company Name

 Date

 Mailing Address

 Signature

 City, State and Zip Code

 Printed (or typed) Name

 Contact Person (printed or typed)

 Title (printed or typed)

 Phone Number

 Email Address (optional)

 Facsimile Number

 State and Professional License Numbers

It shall be the responsibility of the Proposer to that their proposal is received at or before the date and time fixed for closing.	Proposers should include the following with their proposal. <ul style="list-style-type: none"> ✓ Signed Submittal Page (acknowledging Addenda if applicable) ✓ One (1) original signed proposal and one (1) copy on CD ✓ Any other items required within the Instructions to Proposers & Specifications/Scope of Services
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SECTION V
SAMPLE FORMS

PROFESSIONAL SERVICES AGREEMENT

SAMPLE

FOR

#17-043P, CENTRAL LANDFILL C&D CELL DEVELOPMENT PLAN

THIS AGREEMENT made and entered into this _____ day of _____ 20__, by and between the **MATANUSKA-SUSITNA BOROUGH** and ***INSERT NAME OF CONSULTANT HERE.***

Section 01 Definitions

In this Agreement:

- A. The term "Borough" means the Matanuska-Susitna Borough.
- B. The term "Consultant" means insert name of Consultant firm here.
- C. The term "Manager" means the manager of the Matanuska-Susitna Borough or his authorized representative.

Section 02 Employment of Consultant

The Borough hereby agrees to engage the Consultant and the Consultant hereby agrees to perform the services hereafter set forth.

Section 03 Scope of Services

The Consultant shall perform all the services provided for by this Agreement which are described with particularity in Appendix "A", entitled Scope of Services, attached hereto and incorporated by reference as if fully set forth herein.

Section 04 Personnel

Personnel shall be limited to employees of insert name of Consultant firm here and any Sub-Consultants.

Section 05 Time of Performance

The services of the Consultant shall commence upon execution of this Agreement by both parties and shall be completed by _____, 20__. The period of performance may be extended for additional periods only by the mutual written agreement of the parties.

Section 06 Compensation

A. Subject to the provisions of this Agreement, the Borough shall pay the Consultant a total sum for all services and expenses for the term of this Agreement not exceeding the sum as set forth in

Appendix "B", attached hereto and incorporated herein by reference, for services required by this Agreement.

B. Travel or per diem required for the performance of services pursuant to this Agreement shall be subject to Appendix "B".

C. Except as otherwise provided in this Agreement, the Borough shall not provide any additional compensation, payment, use of facilities, 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 section, 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 Borough.

Section 07 Method and Time of Payment

A. The Borough will pay to the Consultant the amount set forth in Appendix "B" which shall constitute the full and complete compensation for the Consultant's professional services. That sum will be paid on approval of billings submitted pursuant to a schedule set forth in Appendix "B". If not identified within Schedule "B", normal billing cycle is 30 calendar days from receipt of an approved invoice. A billing is a summary of expenditures to date by line item categories (e.g., Personal Services, Travel, Contractual, Commodities and Equipment). Documentation of expenditures need not be submitted with billings but must be retained by the Consultant in the event the Borough requests said documentation.

B. No payment will be disbursed until the completed task and associated expenditures have been approved by the Borough.

C. All invoices must be submitted in duplicate and addressed as follows:

Matanuska-Susitna Borough
Attention: Accounts Payable
350 East Dahlia Avenue
Palmer, Alaska 99645

D. It is expressly understood and agreed that in no event shall the total compensation due the Consultant exceed [**INSERT AMOUNT IN BOLD IN WORDS FOLLOWED BY FIGURES IN BRACKETS.**]

Section 08 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 Borough shall thereupon have the right to terminate this Agreement by giving written notice to the Consultant of such 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 Borough and shall be delivered to the Borough by or upon the effective date of termination. The Consultant shall be entitled to receive compensation in accordance

with the payment provisions of Appendix "B" of this Agreement only for work completed to the Borough's satisfaction in accordance with Appendix "A" of this Agreement and the other terms of this Agreement.

Section 09 Termination for Convenience of Borough

The Borough may terminate this contract 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 Borough and shall be delivered to the Borough by or upon the effective date of execution of this section. The Consultant shall be entitled to receive compensation in accordance with the payment provisions of Appendix "B" of this Agreement only for work completed to the Borough's satisfaction in accordance with Appendix "A" of this Agreement and the other 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, non-performance 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 the 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 the Agreement as set forth herein. 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 Borough 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 the Agreement. Modifications to the Agreement shall be incorporated into the Agreement by written amendments.

B. It is expressly understood that the Borough 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 the Agreement for cause. It is expressly understood that the total amount of compensation for successful performance of the Agreement will not be modified, under any circumstances, without prior written approval of the Borough.

Section 12 Equal Employment Opportunity

A. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical handicap, age, status as a disabled

veteran, or veteran of the Vietnam war era. The Consultant shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin, physical handicap, age, status as a disabled veteran, or veteran of the Vietnam war era. Such actions shall include, but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; selection for training, including apprenticeship; and participation in recreational and educational activities. The Consultant agrees to post in conspicuous places available for employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause. The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, physical handicap, age, or status as a disabled veteran, or veteran of the Vietnam war era. The Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement.

B. The Consultant shall keep such records and submit such reports concerning the equal opportunity employment provisions set forth in subsection 12 (A) for applicants for employment and employees as the Borough may require.

Section 13 Interest of Members of Borough and Others

No officer, member or employee of the Borough 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 14 Assignability

Because of additional administrative and accounting time required of borough departments/divisions when third party financing agreement and/or assignments of payment are permitted, they will not be allowed under any agreement resulting from this Invitation to Bid.

Section 15 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 16 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 Borough 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 Borough.

Section 17 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 Borough 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 18 Audits and Inspections

At any time during normal business hours and as often as the Borough or the Comptroller General of the United States may deem necessary, the consultant and any sub-consultants shall make available for examination all of its records with respect to all matters covered by this Agreement and will permit representatives of the Borough or the Comptroller General to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Agreement.

Section 19 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 Palmer. The law of the state of Alaska shall govern the rights and obligations of the parties.

Section 20 Non-Waiver

The failure of the Borough 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 Borough thereafter to enforce each and every protection hereof.

Section 21 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 statutes, ordinances, rules and regulations. The Consultant shall pay all taxes pertaining to its performance under this Agreement.

Section 22 Relationship of the Parties

The Consultant shall perform its obligations hereunder as an independent Consultant of the Borough. The Borough may administer this Agreement and monitor the Consultant's compliance with this Agreement but shall not supervise or otherwise direct the Consultant except to provide recommendations and to provide approvals pursuant to this Agreement.

Section 23 Agreement Administration

A. The Borough Manager, or their designee, will be the representative of the Borough 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 the Agreement is unable to serve for any reason, the Consultant shall appoint a successor in interest subject to a written approval of the Matanuska-Susitna Borough.

Section 24 Integration

A. 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. To the extent they are not inconsistent with the terms of this Agreement, the following documents are incorporated by reference into this Agreement as if fully set forth herein:

B. The following documents are incorporated in full text or by reference into this Agreement:

FULL TEXT	REFERENCE
Submittal Page	Matanuska-Susitna Borough Business License
Appendix 'A' Scope of Services	State of Alaska Business License
Appendix 'B' Fee Schedule	Professional License
Certificate of Insurance	RFP 17-043P and any Addendum(a) issued

C. The below list of documents establishes the hierarchy of governing documents contained in this agreement. The order precedence is listed in descending order:

- 1) Agreement Document
- 2) Addendum(a) to specifications/scope of work
- 3) Specifications/scope of work
- 4) Bid Form/Cost Proposal
- 5) Solicitation Documents
- 6) Consultant's Proposal submitted in response to RFP

Section 25 Defense and Indemnification

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.

B. If any portion of this clause is voided by law or court of competent jurisdiction, the remainder of the clause shall remain enforceable.

Section 26 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 27 Consultant Insurance

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of the Agreement to create in the public or any member thereof a third party benefit hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

It is highly recommended that Consultant confer with their respective insurance companies or brokers to determine if their insurance program complies with the Borough's Insurance requirements.

The Consultant shall procure and maintain the following project specific insurances:

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services office form number CG 0001 (Edition 10/01) covering Commercial General Liability.
2. Insurance Services office form number CA 0001 (Edition 10/99) covering Automobile Liability, symbol 1 "any auto".
3. Worker's Compensation insurance as required by the State of Alaska and Employers Liability Insurance.
4. Professional Liability insurance against liability arising out of the rendering or failure to render professional services under this agreement on a form acceptable to the Borough.

B. Minimum Limits of Insurance

Consultant shall maintain limits no less than:

1. General Liability:
\$300,000 combined single limit per occurrence for bodily injury, property damage, personal injury and advertising injury. The general aggregate limit shall be \$300,000.

If the general liability insurance is written on a claims made form, the Consultant shall provide insurance for a period of two years after final payment of this agreement. The policy(s) shall evidence a retroactive date, no later than the beginning of this agreement.

2. Auto Liability:

\$100,000 combined single limit per accident for bodily injury and property damage.

3. Worker's Compensation and Employers Liability:

Worker's Compensation shall be statutory as required by the State of Alaska. Employers liability shall be endorsed to the following minimum limits:

Bodily injury by Accident - \$100,000 each accident
Bodily injury by Disease - \$100,000 each employee
Bodily injury by Disease - \$500,000 policy limit

4. Professional Liability:

\$1,000,000 combined single limit per claim with an aggregate limit of \$1,000,000. The professional liability insurance shall be maintained in effect until final acceptance by the Borough of the completed project.

If the professional liability insurance is written on a claims made form, the Consultant shall provide insurance for a period of two years after final repayment of this agreement. The policy(s) shall evidence a retroactive date, no later than the beginning of this agreement.

5. Excess Liability:

In order to meet the required minimum limits of insurance it is permissible for the Consultant to combine an excess liability or umbrella policy with the general liability, auto liability or employers liability. In the instance where the Consultant purchases an excess liability or umbrella policy the occurrence limit and the aggregate limit may be of the same amount.

C. Deductibles and Self-Insured Retention

Prior to work commencing any deductible or self-insured retention must be declared and approved by the Borough. The Consultant may be requested to demonstrate how the deductible or self-insured retention will be funded in the event of a claim. At the option of the Borough, the Consultant shall reduce or eliminate such deductibles or self-insured retention as respects the Borough, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability, Automobile Liability

a. The Borough, its Administrator, officers, officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant premises owned, occupied or used by the Consultant or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitation on the scope of protection afforded to the Borough, its Administrator, officers, officials, employees and volunteers.

b. The Consultant's insurance coverage shall be primary insurance as respects the Borough, its Administrator, officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Borough, its Administrator, officers, officials, employees and volunteers shall be excess of the Consultant insurance and shall not contribute to it.

c. The Consultant insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Worker's Compensation and Employer's Liability

The insurer shall agree to waive all rights of subrogation against the Borough, its Administrator, officers, officials, employees and volunteers for losses arising from work performed by the Consultant or any subcontractor for the Borough.

3. All Insurance

Each insurance policy required by this agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after 30 days prior written notice for nonpayment of premium or fraud on the part of the Consultant or 60 days prior written notice for any other reason by certified mail, return receipt requested, has been given to the Borough. Such notice shall be mailed by the Consultant to the attention of the Borough's Purchasing Officer.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a Best's rating of no less than A-: VII.

F. Verification of Coverage

Consultant shall furnish the Borough with certificates of insurance and with certified copies of all endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates are to be on forms acceptable to the Borough. All certificates are to be received and approved by the Borough before work commences. The Borough reserves the right to require complete, certified copies of all required insurance policies, at any time.

G. Subcontractors

Consultant shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all requirements stated herein.

H. Lapse in Coverage

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

Section 28 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 29 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 30 Notices

Any notice required pertaining to the subject matter of the Agreement shall be personally delivered or mailed by prepaid first-class, registered or certified mail to the following address:

Borough: 350 East Dahlia Avenue, Palmer, Alaska 99645

Consultant: **INSERT VENDOR'S ADDRESS HERE**

Section 31 Consultants' Violations of Tax Obligations

A. Any consultant in arrears on a Borough obligation, including, but not limited to tax, assessment, lease, sale, or rental payments, whether as an individual, or as a representative of a business, organization, firm, corporation, or partnership, shall not be awarded the Agreement if the delinquency is not cured within ten calendar days of receipt of written notice sent by the Borough of the delinquency.

B. This Agreement can be terminated for cause, pursuant to Section 8, if it is determined that a Consultant whether the amounts owed are in the name of the Consultant as an individual or as a representative of a firm, business, corporation, or partnership, is in arrears of any taxation, lease or rental agreement that is due to the Borough that is not remedied within 10 calendar days of notification by regular mail.

C. The Borough reserves any right it may have to offset amounts owed by an individual, firm, corporation or business for delinquent Borough taxes, moneys owed on sales, assessments, leases and rental agreements, against any amount owing to the same under an Agreement between the Borough and the same.

Section 32 Flow Down Provisions

This Contract may include flow down provisions. This Contract may be issued in connection with another government agency and may include flow down or contract provisions required by that agency. In the event of a conflict between the terms and conditions of the general agreement and any flow down terms and conditions, the flow down terms and conditions shall govern. The Consultant and any sub-consultants agree to comply with any and all flow down or contract provisions required by the Borough or another government agency that are included in the Contract. In the event that flow down or contract provisions required by other agencies or by Law are inadvertently omitted from this Contract, both parties agree to negotiate in good faith for that provisions inclusion into the Contract.

Section 33 Contracts Enforceable Against the Borough (MSB Code 3.08.120)

A contract for supplies, services, professional services or construction, or any amendment to the contract, may not be enforced against the borough unless its terms have been approved in accordance with this chapter, and unless the contract or amendment to the contract has been set forth in writing, executed in accordance with this chapter.

Section 34 Fund Verification

Fund source and verification of funds for this project:

Funding Source: PER PURCHASE ORDER 2017-XXXX

Verified by

Date

MATANUSKA-SUSITNA BOROUGH

INSERT CONSULTANT'S NAME HERE IN BOLD

RUSTIN M. KRAFFT
Purchasing Officer

Title: _____

STATE OF ALASKA

Third Judicial District

SAMPLE

On _____, 20__, _____ personally appeared before me,

- 1. [] who is personally known to me
- 2. [] whose identity I proved on the basis of _____
- 3. [] whose identity I proved on the oath/affirmation of _____, a credible witness

to be the signer of the **Agreement #17-043P, Central Landfill C&D Cell Development Plan** and he/she acknowledged that he/she signed it.

Notary Public
My Commission expires: _____

STATE OF ALASKA

Third Judicial District

On _____, 20__, RUSTIN M. KRAFFT, Purchasing Officer, personally appeared before me, who is personally known to me, to be the signer of the above document, and he acknowledged that he signed it on behalf of the Matanuska-Susitna Borough.

Notary Public
My Commission expires: _____