



# **CITY OF KENAI**

REQUEST FOR PROPOSALS (RFP)

Kenai Cemetery Expansion 2018

ISSUED

January, 2018

PROPOSAL DELIVERY DEADLINE

Tuesday, February 6, 2018 @ 2PM

Issued By:

CITY OF KENAI

Public Works Department

210 Fidalgo Avenue

Kenai, AK 99611

Point of Contact:

Kayla Feltman

publicworks@kenai.city

(907) 283-8236



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

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

Project Name: Kenai Cemetery Expansion 2018  
Proposal Documents Available: January 2018  
Pre-Proposal Meeting: Tuesday, January 30, 2018 @ 2 PM at City Hall  
Last Day for Questions: Wednesday, January 31, 2018 @ 5 PM  
Proposal Due Date: Tuesday, February 6, 2018 @ 2 PM at City Hall

SCOPE OF WORK: Design and construction administration for the Kenai Cemetery Expansion project.

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

RFP documents can be obtained on the City of Kenai website at [www.kenai.city](http://www.kenai.city) or at City Hall for a non-refundable fee.

Publish: Anchorage Daily News- January 2, 2018  
Peninsula Clarion – January 2 and 23, 2018

## REQUEST FOR PROPOSALS (RFP) INSTRUCTIONS

### 1.0 GENERAL INFORMATION

#### 1.1 Purpose

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

#### 1.2 Background

The Kenai cemetery is nearly out of space. An expansion is planned to be constructed at 109 Floatplane Road. A concept site plan has been completed and is attached to this RFP. An AutoCAD .dwg of the concept plan will be provided to the successful proposer. The following elements of the concept are anticipated to be constructed in 2018. Grading and seeding, aluminum and chain link fencing, gravel road and walkways, survey monuments, and a well and related appurtenances. A new HEA service will be installed and minimal design for power from it to the well will be required.

#### 1.3 Questions

Any questions regarding this proposal are to be submitted in writing to the Public Works Department by no later than the time and date specified in the ad or addenda. Questions shall be emailed to [PublicWorks@kenai.city](mailto:PublicWorks@kenai.city). The subject line of the email should read: "Questions: Kenai Cemetery Expansion 2018".

Except during the pre-proposal meeting, 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 planholders list. To be placed on the planholders list, please contact Kayla Feltman either by phone at 283-8236 or email [PublicWorks@kenai.city](mailto:PublicWorks@kenai.city). Downloading projects from the City web site does not automatically put you on the planholders 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 contract and/or rejection of proposal. By submitting a proposal, each proposer agrees to be bound in this respect and waives all claims to such costs and fees.

#### 1.5 Additional Services

Additional Services shall consist of providing any other services not included in the Consultant's basic services and will be authorized by a change order signed by both parties and compensated at the rate listed in the Consultant's Fee Schedule for Additional Services. The fee schedule should be included with the cost proposal portion of the submitted proposal.

## 1.6 Timeline

Intent to Award.....	First Quarter 2018
Schematic Phase Completion .....	First Quarter 2018
Design Development and Construction Document Phase Completion .....	Second Quarter 2018
Bid Phase and Bid Opening .....	Second Quarter 2018
Construction .....	Third Quarter 2018

These dates are approximate and subject to change.

## 2.0 RULES GOVERNING COMPETITION

### 2.1 Examination of Proposals

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

### 2.2 Proposal Acceptance Period

Proposals must be irrevocable for sixty (60) days following the submission date.

### 2.3 Confidentiality

The City of Kenai, a municipal corporation and political subdivision of the State of Alaska, is subject to the Alaska Public Records Act. The contents of proposals submitted in response to this RFP will be kept confidential until the top ranked proposer is announced. Immediately following announcement, all proposals become public information. Trade secrets and other proprietary data contained in a proposal may be held confidential, to the extent allowed by law, by the Purchasing Officer, upon request in writing by a proposer. Material considered confidential by the proposer must be clearly identified and marked (page, section, etc.) by the proposer, and the proposer must include a brief statement that sets out the reasons for confidentiality. Marking the entire proposal confidential is not acceptable and may be cause for the City to reject your proposal as non-responsive.

### 2.4 Proposal Format

Proposals are to be prepared in such a way as to provide a straight forward, concise delineation of the proposer's capabilities to satisfy the requirements of this RFP. Emphasis should be concentrated on:

- (1) conformance to the RFP instructions;
- (2) responsiveness to the RFP requirements;
- (3) completeness and clarity of content.

### 2.5 Signature Requirements

All proposal transmittal letters and cost proposal forms must be signed. A proposal may be signed by: an officer or other agent of a corporate vendor, if authorized to sign contracts on its behalf; a member of a partnership; an owner of a privately-owned vendor; or other agent if properly

authorized by a power of attorney or equivalent document. The name and title of the individual(s) signing the proposal must be clearly shown immediately below the signature.

## 2.6 Proposal Submission

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

## 2.7 Tax Compliance

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

## 2.8 Licenses and Certifications

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

## 2.9 News Releases

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

## 2.10 Disposition of Proposals

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

## 2.11 Oral Change/Interpretation

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

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

## 2.12 Replacement of Submitted Proposals

Replacements will be accepted by the City, and binding upon the responding firm, 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.

#### 2.13 Late Submissions

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

#### 2.14 Withdrawal of Proposals

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

#### 2.15 Acceptance – Rejection of Proposals

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

#### 2.16 Choice of Law and Jurisdiction

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

#### 2.17 Conflicts of Interests

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

### **3.0 SCOPE OF WORK**

#### 3.1 Program and budget

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

### 3.2 Task 1 - Schematic Phase Services

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

Schematic design plans (65%) should include at a minimum:

1. Cover sheet
2. Vicinity Map, legend, index and abbreviations
3. Site Plan
4. Civil
5. Electrical
6. Preliminary cost estimate

The City will provide comments for the 65% submittal within three weeks of delivery.

### 3.4 Task 2- Design Development and Construction Document Phase Services

After Schematic Design Document comments are provided by the City, the consultant shall commence with the Design Development Phase Services. The consultant shall prepare bid ready design documents, including drawings, specifications, and an AACE Class 1 cost estimate.

The Consultant shall be responsible for submittal of documents to authorities having jurisdiction for all required permits. The City will pay all permit fees.

A 95% review set with plans, specifications and a detailed cost estimate shall be provided to the City for review. The City will provide comments for the 95% submittal within three weeks of delivery.

Final plans stamped by a professional consultant registered in the State of Alaska shall be provided to the Owner to complete this phase.

### 3.5 Task 3 – Bid Phase Services

The City will compile the bid documents including all front end documents. Consultant will not be responsible for any publishing of bid documents. The Consultant shall attend and participate in a pre-bid conference. The Consultant shall review requests for alternates to the design and provide a recommendation to the City, and assist the City in preparing addenda. The Consultant will conduct the bid opening.

### 3.6 Task 4 - Construction Phase Services

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

- Review and approve submittals
- Respond to Requests For Information (RFI's)
- Periodic, Substantial and Final Inspections (Include 60 hours of inspection time in your proposal)
- As-built drawings
- Other tasks as identified in the general conditions

### 3.7 Deliverable Conditions

See the General Conditions for deliverable requirements which includes Mylars.

## 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 Letter of Transmittal

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

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

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

### 4.2 Experience, Qualifications, Key Project Staff and Sub-consultants

Detail the firm's experience and qualifications in the same or similar areas of expertise.

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

### 4.3 Cost Proposal

The Cost Proposal consists of the following 3 documents and is to be provided in a separate sealed envelope from the technical proposal. Allowable mark-up is detailed in the General Conditions.

#### 4.3.1 Cost Proposal Form

Complete the Cost Proposal Form provided with this RFP.

#### 4.3.2 Detailed Breakdown

Provide a detailed breakdown of the Total Not to Exceed Lump Sum on the Cost Proposal Form. Breakdown shall be separated by Task, and include a detailed spreadsheet showing man hours per position description and all other expenses anticipated to complete each Task.

#### 4.3.3 Fee Schedule

Provide a fee schedule of personnel rates per position description with rates.



## **5.0 EVALUATION PROCESS AND CRITERIA**

### **5.1 Evaluation Process**

A committee of individuals representing the City of Kenai will perform evaluation of the proposal. The committee will rank the proposal as submitted. The City of Kenai reserves the right to award a contract solely on the written proposal.

The City also reserves the right to request oral interviews with the highest ranked firms (short list). The purpose of the interviews with the highest ranked firms is to allow expansion upon, and possible refinement of the written responses. If interviews are conducted, a maximum of three (3) firms will be short-listed. A second score sheet will be used to score those firms interviewed. 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 firm, whose proposal is ranked highest by the evaluation committee, may be invited to enter into final negotiations with the City for the purposes of contract award.

### **5.2 Criteria**

The criteria considered during evaluations are as follows:

50% Experience, Qualifications, Key Project Staff and Sub-consultants  
50% Cost

## **6.0 SELECTION PROCESS**

The Proposer with the highest total evaluation points will be invited to enter into a contract with the City of Kenai. The City of Kenai reserves the right to reject any and all proposals submitted.

## **17. APPEAL PROCEDURE**

KMC 7.15.120 Appeal procedures.

- (a) Any party submitting a bid or proposal for a contract 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 contract, may file a protest appeal with the City Clerk. All protest appeals must be to the City within five (5) calendar days of the issuance of the City's notice of its intent to award the contract. The appeal must be hand delivered, delivered by mail, or by facsimile and must comply with all requirements of this section. If the fifth day is a City-recognized holiday or a weekend, the deadline for appeal shall be the next work day. It is up to the protester to choose a method of delivery to assure timely receipt by the City.
- (b) Rejection of Appeal. The Clerk shall reject an untimely or incomplete appeals. Such rejection shall be final and may be appealed to the Superior Court pursuant to the Court Rules of Appellate Procedure.
- (c) The protest appeal must be in writing and shall include the following information:
  - (1) The name, address, e-mail, and telephone (and facsimile if available) numbers of the protester;

- (2) The signature of the protester or the protester's representative;
- (3) Identification of the contracting agency and the solicitation or contract at issue;
- (4) A statement of the legal and factual grounds of the protest, including copies of relevant documents; and
- (5) The form of relief requested.
- (d) Stay of Award. If a timely and complete protest appeal is filed, the award of the contract shall be stayed until all administrative remedies have been exhausted, unless the City Manager determines in writing that award of the contract pending resolution of the appeal is in the best interests of the City.
- (e) Notice and Response. Notice of the stay and protest appeal shall be delivered to any party who may be adversely affected by the City Manager's decision by facsimile, first class mail or in person within three (3) business days of receipt of a properly filed appeal.
- (f) City Manager Decision. The City Manager shall issue a written decision to the appellant within ten (10) business days of the date the appeal is filed. If multiple appeals have been filed, they may be consolidated for purposes of the decision. Copies of the appeal and decision shall be provided to any interested party requesting one. The decision may include any lawful action, including without limitation an amendment of all or any part of the recommended award. For good cause shown, the City Manager may extend the date for the decision for such additional period as may be necessary.
- (g) If the City Manager sustains a protest in whole or in part, the City Manager shall implement an appropriate remedy. In determining an appropriate remedy, the City Manager shall consider the circumstances surrounding the solicitation or procurement including the seriousness of the procurement deficiencies, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, the extent the procurement has been accomplished, costs to the agency and other impacts on the agency of a proposed remedy, and the urgency of the procurement to the welfare of the City.
- (h) Notwithstanding subsections (a) and (b) immediately above, if the City Manager sustains a bid protest appeal in whole or part, the protester's damages shall not exceed the reasonable bid or proposal preparation costs.
- (i) Appeal to Superior Court. Appeals may be taken from the written decision of the City Manager within thirty (30) days of the date of the decision pursuant to Part VI of the Alaska Rules of Appellate Procedure.

(Ord. 2852-2015)

## **8.0 SAMPLE CONTRACT OR MINIMUM MANDATORY CONTRACT PROVISIONS**

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

Therefore, the Proposer must identify any proposed changes to the sample Contract per the procedures detailed in Section 1.3 of this RFP.

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

**CITY OF KENAI  
COST PROPOSAL FORM**

In submitting this proposal, we certify that we have examined the specifications documents, have received Addenda Nos. \_\_\_\_\_, and have included their provisions in our proposal. If awarded a contract under this proposal, we hereby agree to the terms set forth in the specifications documents and all addenda identified on this proposal.

TOTAL NOT TO EXCEED LUMP SUM, for all services required for Tasks 1-4:   \$ \_\_\_\_\_  
Numerical amount

Dollars \_\_\_\_\_  
Written Amount

Firm Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

E-mail address: \_\_\_\_\_

Representative \_\_\_\_\_ Title \_\_\_\_\_

By executing this proposal I certify that I have authority to bind the Consultant or consulting firm or other business entity submitting this proposal.

Signature \_\_\_\_\_ Date \_\_\_\_\_

**This Cost Proposal Form and other Cost Proposal documents are to be submitted in a separate sealed envelope.**

# CITY OF KENAI

## AGREEMENT BETWEEN OWNER AND CONSULTANT FOR PROFESSIONAL DESIGN SERVICES

MADE AS OF THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 201 \_\_\_\_.

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

AND the CONSULTANT:

FOR the PROJECT:

The Owner and Consultant agree as set forth below.

### **ARTICLE 1**

#### **THE WORK**

The Consultant shall perform all the work described in:

1. the Consultant's Proposal (Attachment "A") and in the Request for Proposals (Attachment "B");
2. Basic Services, as described in the General and Supplemental General (if any) Conditions, including Schematic Phase Services, Design Development and Construction Document Phase Services, Bidding Phase Services, and Construction Phase Services; and
3. Additional Services, if authorized, as described in ARTICLE 2 of the General Conditions.

### **ARTICLE 2**

#### **TIME OF COMMENCEMENT AND COMPLETION**

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

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

### **ARTICLE 3**

#### **COMPENSATION**

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

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

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

#### **ARTICLE 4**

##### **ENUMERATION OF CONTRACT DOCUMENTS**

The documents which are specifically incorporated into this AGREEMENT by reference and form the contract documents are listed below. Should any provision or requirement of one portion of the contract documents conflict with any other portion of the contract documents, unless otherwise provided herein, the conflict will be resolved by reference to the contract documents in the following order of priority:

- A. Any and all later modifications, Change Orders, and written interpretations of the Contract Documents issued by the Owner
- B. This AGREEMENT
- C. Addenda
- D. Supplemental General Conditions (if any)
- E. The General Conditions
- F. The Request for Proposals / Invitation to Bid
- G. The Contractor's Proposal, including Cost Proposal and Fee Schedule

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

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

## **ARTICLE 5**

### **NOTICES**

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

#### **OWNER**

City of Kenai  
Public Works Director  
210 Fidalgo Ave  
Kenai, Alaska 99611

#### **CONSULTANT**

## **ARTICLE 6**

### **EXTENT OF AGREEMENT**

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

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

## **ARTICLE 7**

### **ATTACHMENTS**

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

## **ARTICLE 8**

### **NO THIRD-PARTY BENEFICIARY**

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

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

## **ARTICLE 9**

### **JURISDICTION: CHOICE OF LAW**

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

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

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

OWNER:  
CITY OF KENAI

CONSULTANT:

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF ALASKA            )  
  )ss.  
THIRD JUDICIAL DISTRICT    )

STATE OF ALASKA            )  
  )ss.  
THIRD JUDICIAL DISTRICT    )

THIS IS TO CERTIFY that on

THIS IS TO CERTIFY that on

this \_\_\_\_ day of \_\_\_\_\_, 201\_\_

this \_\_\_\_ day of \_\_\_\_\_, 201\_\_

Paul Ostrander, City Manager,

\_\_\_\_\_,

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

(title) \_\_\_\_\_

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

\_\_\_\_\_  
NOTARY PUBLIC FOR ALASKA  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC FOR ALASKA  
My Commission Expires: \_\_\_\_\_

Approved by Legal: \_\_\_\_\_  
Approved by Finance: \_\_\_\_\_



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

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

**ARTICLE I     CONSULTANT'S BASIC SERVICES**

**1.1     Basic Services**

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

**1.2     Schematic Phase**

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

**1.3     Design Development Phase**

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

**1.4     Construction Documents Phase**

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

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

## **1.5 Bidding Phase**

- 1.5.1 Consultant, following Owner's approval of the Construction Documents and the final Statement of Probable Construction Cost, shall assist Owner in conducting a pre-bid conference, in preparing addenda, in reviewing bids, and in evaluating bidder's qualifications. Based on the results, Consultant shall submit a recommendation for award of contract.

## **1.6 Construction Phase**

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

record drawings. A Schedule of Visits will be incorporated by reference if included as an attachment hereto.

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

- 1.6.15 Within 30 days after substantial completion of the work Consultant shall furnish Owner as-built documentation for Owner review and approval. After subsequent edits and Owner's final approval Consultant shall furnish Owner one DVD or flash drive of as-built drawings in both DWG and PDF file formats and specifications in both DOCX and PDF file formats. In addition, one 11" x 17" paper and one 22" x 34" Mylar (color if photos are present) set of as-built drawings shall be provided by the Consultant.

## **ARTICLE 2     CONSULTANT'S ADDITIONAL SERVICES**

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

- 2.2.11 Prepare and serve as an expert witness in connection with any public hearing, arbitration proceeding, or legal proceeding in connection with the Project where Consultant is not at fault, and is not a party thereto, providing such activities occur within the one year warranty period as defined in the contract documents. For such activities occurring after the warranty period, the Fee Schedule for Additional Services shall be revised as mutually agreed to by the parties to the contract.
- 2.2.12 Provide any other services not otherwise included in this contract and not customarily furnished as basic services in accordance with generally accepted Consultant practice.

### **ARTICLE 3 OWNER'S RESPONSIBILITIES**

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

### **ARTICLE 4 BUDGETS AND COST ESTIMATES**

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

## **4.6 Definitions**

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

## **ARTICLE 5 PAYMENTS TO CONSULTANT**

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

## **ARTICLE 6 PAYMENT FOR ADDITIONAL SERVICES**

- 6.1 For the purpose of determining compensation for additional services of employees or Principals engaged on the Project by Consultant, gross hourly billing rates shall be used. The term employees shall include Consultants, Technicians, Draftsmen, and Secretaries who are engaged in consultation, research, and design, in producing Drawings, Specifications, and other documents pertaining to the Project, and in rendering additional services during construction at the site. Services of Subconsultants or other Professional Services contracted upon prior approval of Owner shall be billed at 1.1 times the basic fee cost without markup.

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

## **ARTICLE 7 REIMBURSABLE EXPENSES**

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

## **ARTICLE 8 INSURANCE**

- 8.1 The services to be rendered under this contract are those of an independent Contractor.
- 8.2 Contractor and all subcontractors, if any, shall be responsible for the purchase and maintenance of all insurance required by law and at a minimum purchase the insurance coverage as specified in ARTICLE 8. Such insurance shall be by a company/corporation currently rated "A- " or better by A.M. Best.
- 8.3 This insurance coverage required by ARTICLE 8 shall be in acceptable form, and for the amounts specified by the City of Kenai, or as required by law, whichever is greater.
- 8.4 The insurance policies shall remain in force for the life of the contract and shall be a part of the contract price.
- 8.5 Commercial general liability with minimum coverage of \$1,000,000, automobile liability insurance with minimum coverage of \$1,000,000 combined single limit bodily injury and property damage per occurrence, and insurance covering work on this project that provides a minimum coverage of \$1,000,000 against any claim arising out of professional liability/errors or omissions of Consultant and/or Consultant's subcontractors. This insurance shall be primary and exclusive of any other insurance carried by the City of Kenai. The commercial general liability insurance shall be without limitation on the time within which the resulting loss, damage, or injury is actually sustained.

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

#### **ARTICLE 9 CONSULTANT'S ACCOUNT RECORDS**

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

#### **ARTICLE 10 PROJECT CLOSE-OUT AND TERMINATION OF AGREEMENT**

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



contract and ARTICLE 5, if services are performed and expenses incurred prior to the dates specified in the termination notice.

- 10.5 Should this agreement be terminated because Consultant has failed substantially to perform Consultant's duties in a satisfactory or in a timely manner, then Consultant shall be paid only for the actual value of Consultant's services to date, less any damages or additional costs incurred by Owner as a result of Consultant's failure to perform Consultant's duties. In the event that additional costs to Owner exceed the amount of money then otherwise due and owing to Consultant, then Owner shall retain those monies and may immediately proceed against Consultant for excess damages.

#### **ARTICLE 11 OWNERSHIP OF DOCUMENTS/DESIGNS**

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

#### **ARTICLE 12 SUCCESSORS AND ASSIGNS**

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

#### **ARTICLE 13 INDEMNIFICATION**

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

Following are definitions for terms in the above clause:

- (1) "construction" means the process of building, altering, repairing, maintaining, improving, demolishing, planning, and designing a public highway, a structure, a building, a utility, infrastructure, or another public improvement to real property, but does not mean the routine operation of a public improvement;
- (2) "consultant" means a person who contracts with a public agency to provide professional services;
- (3) "professional services" means professional, technical, or consultant's services that are predominantly intellectual in character, result in the production of a report or the completion of a task, and include analysis, evaluation, prediction, planning, or recommendation;;

- (4) "public agency" means a department, institution, board, commission, division, authority, public corporation, committee, school district, political subdivision, or other administrative unit of a municipality, of a political subdivision, or of the executive or legislative branch of state government, including the University of Alaska, the Alaska Aerospace Development Corporation, the Alaska Housing Finance Corporation, the Alaska Industrial Development and Export Authority, the Alaska Energy Authority, the Alaska Railroad Corporation, and a regional educational attendance area.

#### **ARTICLE 14 GOVERNING LAW**

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

#### **ARTICLE 15 SEVERABILITY**

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

#### **ARTICLE 16 NONDISCRIMINATION**

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

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

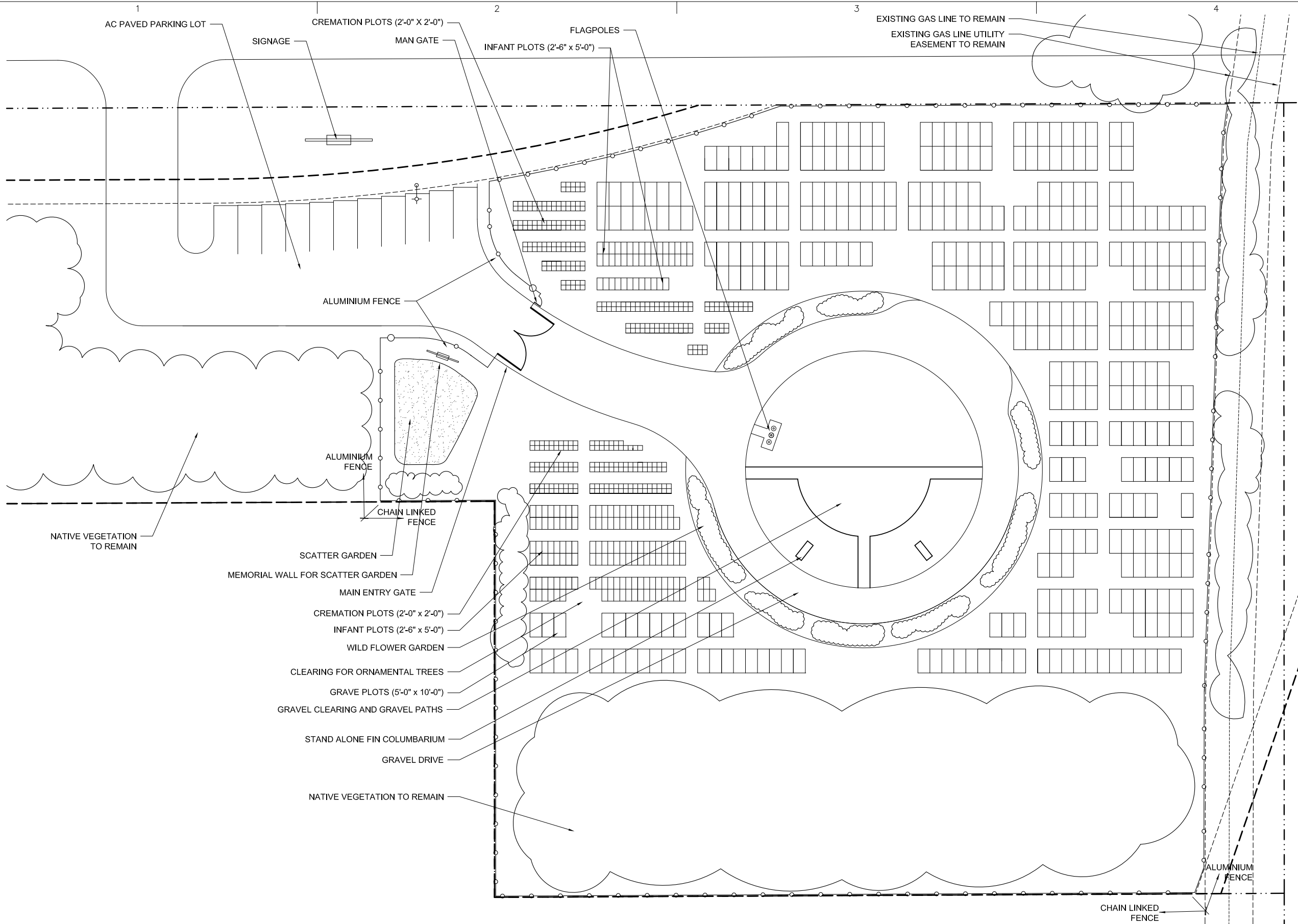
#### **END GENERAL CONDITIONS**

NOT FOR CONSTRUCTION

PLOTTED 1/2 SCALE

SCALE: AS SHOWN

Autocad FILE: 1708 g1.dwg



PRELIMINARY

PROJECT: KENAI CEMETERY  
MASTER PLAN UPDATE

CLIENT: CITY OF KENAI  
210 FIDALGO AVENUE  
KENAI, AK 99611

DESIGN BY: KLAUDER & COMPANY  
ARCHITECTS, INC.

606 Petersen Way  
Kenai, Alaska 99611  
Tel (907) 283-1919 : Fax (907) 283-0450  
klauder@alaska.net

DESIGN BY: PK  
DRAWN: BC, SY  
CHECKED: PK  
JOB NO: 1708  
DATE: 4/2/17  
REVISIONS:

CATEGORY: A  
SHEET: 1.0

SHEET CONTENTS:  
CONCEPT SITE  
PLAN - PHASE I

**A1** CONCEPT SITE PLAN - PHASE I  
A1.0 1" = 30'-0" (22x34); 1" = 60'-0" (11x17)



**Kenai Cemetery Estimates**

**Phase I.a.**

Cost Item Description	Unit	Quantity	Unit Price	Sub-Total
Clearing & Grubbing	n/a			
Seeding In-House	LS	71,162	\$ 2,250.00	\$ 2,250.00
Site Grading (In-House)	LS	1		\$ -
Survey (In-House)	LS	1		\$ -
Aluminum Fence (8') w/ Pedestrian & Vehicular Gates	LF	760	\$ 92.00	\$ 69,920.00
Chain Link Fence (5')	LF	510	\$ 40.00	\$ 20,400.00
Demo Chain-link Fence	LS	1		\$ -
Ornamental Trees	EA	25		\$ -
Front Entry Signage w/ Light	LS	1		\$ -
Boulders	EA	7		\$ -
Concrete Sidewalk at Entry Gate (52 LF)	LS	52		\$ -
Pavement	SF	10,557		\$ -
Striping (10) x 20 LF	LS	1		\$ -
Masonry Wall at Vehicular Gate (10 LF each side)	LF	20		\$ -
Classified Fill & Excavation - Gravel Road (8,931 SF)	CY	335	\$ 137.50	\$ 46,062.50
Unclassified Excavation	CY	335	\$ 10.00	\$ 3,350.00
Shrub & Wildflower Landscape Beds (In-House)	LS	1		\$ -
Flag Poles w/ Spotlight (35' Max)	EA	3		\$ -
10'x10' Concrete Pad (Flag Poles)	SF	100		\$ -
Storage Building (10'x12')	SF	120		\$ -
Pavilion Building (20'x30' w/ 2' Overhang)	SF	816		\$ -
Gravel Walkways & Seating Area at Pavilion Circle (1,000 SF)	CY	13	\$ 25.00	\$ 325.00
Unclassified Excavation	CY	13	\$ 10.00	\$ 130.00
2" Aluminum Survey Caps	EA	990	\$ 4.00	\$ 3,960.00
5/8" Rebar (2' Length)	LF	1,180	\$ 0.80	\$ 944.00
Concrete Benches	EA	12		\$ -
"Stand Alone" Fin Pavilion Columbarium (Double Sided / 50 Niche)	EA	1		\$ -
"Stand Alone" Curved Columbarium	EA	1		\$ -
Perimeter Fence Columbarium	EA	1		\$ -
Scatter Garden Memorial Wall (Single Sided) - 30 SF	LS	1		
Power/Lighting (Pavilion, Storage Bldg, Flag Poles, Parking Lot, Light Pole and Signage) <b>Power to Service H2O Well/Pump/HEA</b>	LS	1	\$ 20,000.00	\$ 20,000.00
Pole Mounted Site Light at Parking Lot (1 Pole, 1 Fixture)	LS	1		\$ -
<b>Water Supply (6" Pipe @ 60' to 70' - Well, Pump, Controller Box)</b>	LS	1	\$ 15,000.00	\$ 15,000.00
Underground Sprinkler System	SF	71,162		\$ -

Construction	\$ 182,341.50
Design	\$ 35,000.00
Subtotal	\$ 217,341.50
Contingency (15%)	\$ 32,601.23
City Admin. (5%)	\$ 10,867.10
<b>Total</b>	<b>\$ 260,809.83</b>

\$ 182,341.50