

**CITY OF BETHEL
BETHEL, ALASKA**



REQUEST FOR PROPOSALS

**FOR COST ANALYSIS OF THE CITY OF BETHEL'S
WATER AND SEWER UTILITIES**

Proposals will be accepted from June 12, 2012 to July 12, 2012

Opening Date: Friday, July 12, 2012

Opening Time: 4:00 pm

**Opening Place: City of Bethel
Public Works Building
1155 Ridgecrest Drive
Bethel, Alaska 99559**

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REQUEST FOR PROPOSALS
FOR COST ANALYSIS OF THE CITY OF BETHEL'S
WATER AND SEWER UTILITIES

1. INTRODUCTION

The City of Bethel ("City") is soliciting proposals to perform a comprehensive cost analysis of the water and sewer utilities owned and operated by the City of Bethel. The cost analysis should include all relevant costs for current operations of the City's hauled and piped systems, a discussion of near-term (within 5 years) water and sewer development projects, and the impact they will have on the cost of operations.

The cost analysis will include a subcomponent that separates and targets facilities in the Institutional Corridor, a .8 mile stretch along Chief Eddie Hoffman Highway that begins near the Alaska State Fish and Wildlife facility and ends at the Public Health Service building. See Institutional Corridor Water System Feasibility Study (March 8, 2010) on the City of Bethel website (www.cityofbethel.org) by following the Planning Department link on the left of the screen and then scroll down and click on *Water_System_Feasibility_Study.pdf*.

The final report should contain recommendations for the City that will help it save money, operate more effectively and efficiently, and design and construct water and sewer infrastructure projects responsibly in the best short-and long-term interest of the City and community.

2. BACKGROUND

The City has approximately 1,292 hauled and 431 piped water and sewer customers in its database as of May 4, 2012. The City also has a record of vacancies, customers who subscribed to water and sewer service at one time and discontinued service for one reason or another. By keeping track of vacancies, the City can facilitate reconnection of service when directed by customers and keep in mind the total potential market.

The water and sewer trucks are stored nightly in the Public Works building ("City Shop"). Water truck drivers begin work at 7:00 am and deliver water to households on assigned routes on specified days of the week, Monday through Saturday. Drivers begin each day with a full truck of water and fill up as needed at one of the City's water treatment plants. Water truck capacity is 3,500 gallons.

Sewer truck drivers begin each work day at 7:00 am and evacuate raw sewage from household storage tanks on assigned routes on specified days of the week, Monday through Saturday. When full, the drivers deposit the truck contents to the sewage lagoon, located on Ridgecrest Drive, north of the City Shop. Sewage truck capacity is 3,500 gallons.

The City owns and operates ten water trucks and seven sewer evacuation trucks, Services are provided Monday through Saturday with occasional emergency service provided on Sundays.

The Bethel Municipal Code contains ordinances governing the water and sewer utilities. See Chapter 13.16.020 to 13.16.090 in the code located on the City’s website (www.cityofbethel.org). Use the Advanced Search tool on the left side of the screen to facilitate access to Code sections of interest.

The Bethel Municipal Code requires every household to subscribe to City sewer services. As of May 2, 2012, there were 101 households out of compliance with this ordinance. The two-person Planning Department monitors those in non-compliance and is responsible for code enforcement. The Planner estimates he spends approximately 12 hours a month on water and sewer code enforcement and his assistant spends 15 hours a month.

The City has two water treatment plants from which it fills its trucks for water delivery and from which it distributes water by pipe to households. Table 1 below highlights some characteristics of each water treatment plant:

Table 1 Water Treatment Plants Operated by City of Bethel					
Water Treatment Plant	Avg. Gallons of Water Produced/Month	Number of Full-time Employees	Water Dispensing Unit for Public Self-Serve	Operator Level Requirement	Number of Wells
City Subdivision	3,500,000	2	None	2	1
Bethel Heights	3,500,000	1	One - \$.75 for 25 gallons	2	2

One sewer lagoon consisting of two cells receives sewage deposits seven days per week, by pipe and truck. The City discharges millions of gallons from the lagoon in June and October every year to prevent the cells from overflowing or the lagoon walls from breaching.

The Bethel Community has a small population (6,080) with 42% of residents in the low-to-moderate income bracket. Bethel has 35 miles of road in the 44 square mile city limits. As a hub community, there is a fairly high transient population and a lot of intra-city relocations contributing to 30 connection and/or disconnection requests to the City each month for water and sewer services.

City subdivision located in the center of Bethel has 157 meters installed by the City to measure the amount of water usage at each household. Problems with the meters since installation several years ago have prevented the City from implementing a meter-based water rate.

3. GOAL AND PURPOSE

The goal of this cost analysis is to determine the cost to produce and sell water and the cost to evacuate raw sewage to and from households in Bethel. The City plans to use the results of the study to make management decisions governing water and sewer utilities, including implementation of cost-saving measures, the determination of rates, what capital improvements to make, and as a tool to assess future development impacts.

4. SCOPE OF SERVICES

The firm hired under the contract related to this RFP will perform a comprehensive cost analysis of the water and sewer utilities owned and operated by the City of Bethel. The cost analysis for the water utility will include all costs involved in the City producing and storing water at both of its water treatment plants, the cost to haul water to households/businesses (“households”) in Bethel, and the cost to pipe water to households. The cost analysis for the sewer utility will include the cost to evacuate sewage from households and haul and deposit it to the lagoon, and the cost to pipe it from households to the lagoon. All lagoon management costs should be included (e.g., testing of effluent, berm maintenance).

A component of the study will be a detailed cost analysis of the planned water and sewer service to be provided to properties along the *institutional corridor*, a .8 mile stretch along Chief Eddie Hoffman Highway that begins near the Alaska State Fish and Wildlife facility and ends at the Public Health Service building. See Institutional Corridor Water System Feasibility Study (March 8, 2010) on the City of Bethel website (www.cityofbethel.org) by following the *Planning Department* link on the left of the screen and then scroll down and click on *Water_System_Feasibility_Study.pdf*. The cost analysis should determine the cost for the City to deliver water and sewer services now and estimate the cost to the City for delivering services after the institutional corridor water pipe project is completed (circa 2015).

Thus far, the City has only completed the feasibility study for the institutional corridor project, so it remains the best source of information about this portion of the study.

The consultant hired is expected to have a depth of knowledge to know which costs should be included and which costs should not be included in the analysis. All costs, calculations, and estimates should be clearly itemized and explained in the report.

Proposals will describe how a fixed and variable cost component will be determined for each facet of the water utility and each facet of the sewer utility. The selected Consultant shall provide a separate financial model (in Microsoft Excel format) for each utility that allows the City to factor in future adjustments and variables when using the spreadsheet for management purposes.

Deliverables

The firm shall provide the City Administration and City Council members at least two weeks for comments on each of three phases of plan development: 35%, 65%, and 95%. The firm can be working on succeeding phases while the City is in each two-week feedback period. The City Manager will have the final say on edits and revisions based on feedback.

The City requires five (5) bound copies of the final report plus one unbound reproducible copy by December 15, 2012. An electronic file must also be delivered of the report in MS Word format along with all spreadsheets related to the engagement in MS Excel format.

Presentation

The successful firm is expected to present the final report to the City Council on-site at a regularly scheduled Bethel City Council meeting. The Council meets the second and fourth Tuesday of each month at 6:30 pm. All handouts, slide shows, and other media for the presentation must be sent to the City Clerk by email at (Istrickler@cityofbethel.net) one week in advance of the council meeting.

City Responsibility

The City of Bethel will:

1. Furnish all reasonably available records and information, including financial reports, budgets, debt and consumption data.
2. Allow consultant access to water and sewer utility foremen, utility maintenance crew, drivers, and water plant operators and other City personnel, as needed.
3. Provide work space in the City Hall breakroom to consultants who desire to work in Bethel for one or more days during the performance period. The breakroom has a table, chairs, electrical outlets, and open wireless internet access. The consultant is required to provide laptops, office equipment and other office materials.

5. REVIEW OF BACKGROUND INFORMATION

The following information is available for review by consultants planning to respond to this RFP:

- **Bethel Water and Sewer Facilities Master Plan Update** (April 2005) by CRW Engineering Group, LLC. The document is 2.25 inches thick and may contain 750 pages.
 - See copy on the City's website: www.cityofbethel.org > City Departments > Planning Department > [Five parts of document in list of documents available for download]. Size of the file might preclude upload of this document.
- **Institutional Corridor Water System Feasibility Study** (March 8, 2010)
 - See copy on the City's website (www.cityofbethel.org) by following the *Planning Department* link on the left of the screen and then scroll down and click on *Water_System_Feasibility_Study.pdf*.

Please contact Chuck Willert, Public Works Director, by calling (907) 543-3110 or sending an email to (cwillert@cityofbethel.net) for answers to questions about the City's water and sewer programs or projects.

6. PROPOSAL FORMAT

The proposal shall include the following information in any order:

1. **Cover/Transmittal Letter** - Letter is to be signed by a member of the organization having the authority to negotiate and execute contracts on behalf of the firm. Cover letter should state the respondent's understanding of the cost analysis and summarize the plan of work described in the proposal.
2. **Scope of Work** – Identify major steps to be taken or tasks to be completed. Describe the work plan that will be used to complete the tasks, associated timeline for task completion, and a budget (cost).
3. **Personnel Responsible** - List the Principal-in-Charge, Engineer, and key project staff who will be directly involved in this project. Include a concise statement of qualifications and experience of each person together with the hours that each is committed to the project. Mention subcontractors, their key personnel, and their expected hours to be committed to the project. A project organizational chart of key personnel should be included with anticipated hours committed to the project for each individual.

Provide resumes of no more than four (4) key members of the project team and no more than four (4) key members of each subcontractor who will work on this project. Each resume shall be a maximum of two (2) pages in length.

4. **Project Management** - Describe how the project tasks and the budget will be planned and controlled.
5. **Fees** - The firm shall prepare an estimated fee for the contract work as described in the Scope of Work. The cost estimate shall be broken down by task, hours per task, and personnel classifications per hour (e.g., Principal, Senior Engineer, Staff Engineer). The contract to be signed relative to this RFP shall provide for payment for each task/phase of work on a not-to-exceed amount.

Per Bethel Municipal Code Section 4.20.090E, "...any local business submitting a PROPOSAL shall receive a five percent (5%) preference in determining the lowest responsible and responsive proposer." Application of this ordinance means that a local proposer can submit a bid price 5% higher than the lowest bid price received and be considered equal to the lowest bidder in that point category. See Bethel Municipal Code on the City's website (cityofbethel.org) under City Clerk menu item.

7. SCHEDULE TO SELECT PROPOSALS

Issue RFP	June 12, 2012
Deadline for City to Receive Proposals	July 12, 2012
City evaluates proposals	July 13-18, 2012
City selects consultant and finalizes contract terms	July 20, 2012
Consultant completes cost analysis	July 25, 2012 – December 15, 2012

8. PROPOSAL SUBMITTALS

Pages in the proposal shall be 8.5” x 11” typed (word processed) and with the maximum number of pages of proposal information (excepting cover sheet, to be limited to twenty (20) pages.

Mail / Private Carrier Option

Proposal package should be clearly marked with the consultant’s name and the description “Proposal to Conduct Water and Sewer Cost Analysis.” Send or arrange with a private carrier to send one original proposal and two copies to:

Mailing Address:

Chuck Willert, Public Works Director
City of Bethel
P.O. Box 1388
Bethel, AK 99559

Physical Address:

City Shop
1155 Ridgecrest Drive
Bethel, AK 99559

Personal Delivery Option

The consultant shall submit one original, unbound proposal and two copies in a sealed box or envelope clearly marked with the consultant’s name and the description “Proposal to Update Water and Sewer Facilities Master Plan.” The proposals shall be received in the City Public Works Director’s office by the time and at the location noted on the cover sheet of this RFP. The City Public Works office is on the second floor of the City Public Works building or “City Shop” at 1155 Ridgecrest Drive in Bethel, Alaska.

Email and Fax Option

Proposal packages may be in MS Word format or PDF format and sent to Chuck Willert by email at (cwillert@cityofbethel.net) or by fax: 907-543-3366. The City is not responsible for incomplete transmissions or unsuccessful delivery by electronic means. The City will send an email to the responder to confirm receipt of the proposal materials submitted.

The City reserves the right to reject at its sole discretion proposals received after the stated due date and time. The City has the right to waive minor irregularities for any proposal received.

Questions or comments on this RFP may be directed to: Chuck Willert, Public Works Director, by calling 907-543-3110 or by emailing cwillert@cityofbethel.net. Clarification offered by the City to one consultant may be distributed to all known participants at the City's discretion.

9. EVALUATION CRITERIA

The Review Committee made up of Public Works personnel will evaluate the proposals using a scoring matrix based on the items listed in this section. The committee will recommend the top ranked consultant to the City Manager for final selection. The City will then enter into negotiations to clarify terms for a prospective agreement with the selected consultant. The Public Works Director or City designee reserves the right to negotiate with the next highest ranked consultant if the two parties cannot agree on all contract terms. The final, negotiated agreement shall be approved and signed by the City Manager.

The following criteria will be used by the Review Committee to assist in the ranking of each proposal:

Capability - 35 points

- a) Project Manager Experience - the length and quality of experience of the person named in the proposal as the Consultant's project manager. The experience does not necessarily have to be with the same firm, but experience with similar projects in Alaska is strongly preferred.
- b) Company Experience and Understanding of the Project - the length and quality of experience of the company doing similar work. Sample projects with references should be provided. Rural Alaska experience preferred.
- c) Team Quality - the length and quality of experience of the team members, including subcontractors, who have been selected by the consultant to work on this particular project. Detailed resumes of key team members should be provided.

Methodology - 25 points

- a) Quality of Proposal – Proposal contains all required components, is easy to read, logical, reasonable, and thorough.
- b) Work Plan – Methodology described in Scope of Work is appropriate to accomplish the goals of this cost analysis and scope of work, as described; identify costs to be considered, list sources of information for data collection; describe data collection methods; explain computer models, if applicable.
- c) Schedule – Detailed timeline of deliverables to the City, including time for City feedback to consultant and revision of documents, public and stakeholder meetings (if any), and required Bethel City Council presentation at a regular Tuesday meeting (2nd and 4th Tuesday of each month, beginning at 6:30 pm, in Bethel). Final Plan must be delivered to the City of Bethel by December 15, 2012.

Historical Performance - 20 points

- a) Fees and Personnel - Past performance of consultant and project team with the City or with other clients where City experience is insufficient, in being able to complete the projects within fee estimates and by using the same personnel as originally proposed.
- b) Keeping to Schedule - Past performance of consultant and project team in completing projects on-time and within budget with the City, or with other clients where City experience is insufficient.

Budget (Consultant Fees) - 20 points

- a) Consultant's budget score is the proportion of the consultant's total proposed price relative to the lowest price proposed multiplied by total points available. See formula below:

$$\frac{\text{Lowest Proposed Price (from all proposals submitted)}}{\text{Consultant's Proposed Price}} \times 20$$

10. DEFINITIONS

“Sewer Facilities” means all interceptors, pressure pumps, valves, sumps, heating and electrical facilities, manholes, guards and other features required for an operating, piped sewage collection system.

“Water facilities” means all water mains, water connections, pumps, valves, fire hydrants, heating and electrical facilities, storage tanks and other parts of the city or a community water system.

11. STANDARD CONSULTANT AGREEMENT

The Consultant selected to provide the scope of services shall use the City of Bethel’s consulting and professional services contract as a foundation for negotiations. A copy of this agreement is attached as Attachment B. By submitting a proposal for the work, the consultant agrees to utilize the City standard agreement form for the contract. Contractually required insurance coverage and endorsement information is shown in the body of the document.

Contract Terms

The City will not accept change orders from the consultant to the contract for professional services. The City reserves its right to change the scope during the contract period and negotiate the change with the consultant.

The consultant shall complete and distribute all final copies of the Cost Analysis for the City’s water and sewer utilities by December 15, 2012. While time is of the essence for this project, the City requires a high-quality product as a result of this effort.

While the City of Bethel encourages the contractor to hire locals to complete the project, the “force accounting” method requiring local-hire will NOT be acceptable for this project. The

hiring of employees and arrangements with subcontractors will be the consultant firm's responsibility.

12. ATTACHMENTS

City of Bethel Request for Proposals General Conditions	Exhibit "A"
City of Bethel Consulting and Professional Services Contract	Exhibit "B"

Exhibit A

CITY OF BETHEL REQUEST FOR PROPOSALS GENERAL CONDITIONS

1. Public Information

All submitted proposals and information included therein or attached thereto shall become public record upon their delivery to the City. Confidential data, if identified as such, will be held in confidence upon request, if the request is made as part of the proposal and if the City Attorney determines that the data meets the requirements of the Alaska Public Records Act.

2. RFP Addenda

The City of Bethel reserves the right to amend, alter, or revoke this RFP in any manner at any time. At the City's sole discretion, modifications, clarifications, or additions will be distributed as an addendum to all known proposers.

3. Proposal Preparation Costs

All costs incurred in the preparation and presentation of this proposal shall be wholly absorbed by the Proposer.

4. Withdrawal of Proposal

Any Proposer may withdraw his or her proposal, either personally or by written request at any time prior to the scheduled closing time for the receipt of proposals. Such requests are to be directed to the Public Works Director.

5. Right to Reject Proposals

The City reserves the right to reject any and all proposals, to waive any non-material irregularities or information in any proposal, and to accept or reject any combination of items.

Exhibit B

CITY OF BETHEL CONSULTING AND PROFESSIONAL SERVICES CONTRACT

THIS CONTRACT is made at Bethel, Alaska, by and between the City of Bethel ("City"), a municipal corporation, and _____ ("Consultant") for the purpose of completing a cost analysis of the City's water and sewer utilities.

WHEREAS, City does not have sufficient personnel to perform the services required herein thereby necessitating this Contract for consulting and professional services.

NOW, THEREFORE, the Parties covenant and agree, for good consideration hereby acknowledged, to the following provisions:

SECTION 1: CONSULTANT SERVICES

Subject to the terms and conditions set forth in this Contract, Consultant shall provide to City the services described in Scope of Work in the Request for Proposals and proposal submitted by Consultant. Consultant shall provide the services at the time, place and in the manner specified in proposal or negotiated and included as part of this contract.

SECTION 2: COMPENSATION AND REIMBURSEMENT OF COSTS

- A. City shall pay Consultant for services rendered pursuant to this Contract, at the times and in the manner set forth herein in a total amount not to exceed _____ (\$_____). This sum includes all out-of-pocket travel, lodging and incidental expenses incurred by Consultant that are reasonably associated with the provision of services under this Contract.
- B. Consultant shall submit monthly invoices to City for work completed by the date of the invoice. All invoices shall be itemized to reflect the employees performing the requested tasks, the billing rate for each employee and the hours worked.
- C. All correct, complete and undisputed invoices sent by Consultant to City shall be paid by the City within 30 days.

SECTION 3: TERM AND TERMINATION

- A. Consultant shall commence work on or about _____ and complete said work no later than _____. Time is of the essence.
- B. If Consultant fails to perform its duties to the satisfaction of City, or if consultant fails to fulfill in a timely and professional manner its obligations under this Contract, then City

shall have the right to terminate this Contract effective immediately upon City giving written notice to Consultant.

- C. Either Party may terminate this Contract without cause by providing notice thirty (30) calendar days in advance. Notwithstanding the preceding, if the term set forth in Section 3.A. of this Contract exceeds ninety (90) calendar days in duration, Consultant's sole right to terminate shall be limited to termination for cause.
- D. In the event that City gives notice of termination, Consultant shall promptly provide to City any and all finished and unfinished reports, data, studies, photographs, charts or other work product prepared by Consultant pursuant to this Contract. City shall have full ownership, including, but not limited to, intellectual property rights, and control of all such finished and unfinished reports, data, studies, photographs, charts or other work product.
- E. In the event that City terminates the Contract, City shall pay Consultant the reasonable value of services rendered by Consultant pursuant to this Contract; provided, however, that City shall not in any manner be liable for lost profits which might have been made by Consultant had Consultant completed the services required by this Contract. Consultant shall, not later than ten (10) calendar days after termination of this Contract by City, furnish to City such financial information as in the judgment of the City's representative is necessary to determine the reasonable value of the services rendered by Consultant.
- F. In no event shall the termination of this Contract be construed as a waiver of any right to seek remedies in law, equity or otherwise for a Party's failure to perform each obligation required by this Contract.

SECTION 4: MISCELLANEOUS TERMS AND CONDITIONS OF CONTRACT

- A. City shall make its facilities accessible to Consultant as required for Consultant's performance of its services under this Contract, and, upon request of Consultant, provide labor and safety equipment as required by Consultant for such access.
- B. Consultant represents and warrants to City that it has all licenses, permits, qualifications and approvals of any nature whatsoever that are legally required for Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Contract any licenses, permits and approvals that are legally required for Consultant to practice its profession.
- C. Consultant shall, during the entire term of this Contract, be construed to be an independent contractor and nothing in this Contract is intended, nor shall it be construed, to create an employer/employee relationship, association, joint venture relationship, trust or partnership or to allow City to exercise discretion or control over the professional manner in which Consultant performs under this Contract; provided, however, that the services to be provided by Consultant shall be provided in a manner consistent with the

professional standards applicable to such services. The sole interest of City is to insure that services are rendered and performed in a competent, efficient and satisfactory manner. Consultant shall be fully responsible for payment of all taxes due to state and federal governments which would be withheld from compensation if Consultant were a City employee. City shall not be liable for deductions for any amount for any purpose relating to Consultant's compensation. Consultant shall not be eligible for coverage under City's workers' compensation insurance plan, benefits under the Public Employee Retirement System or be eligible for any other City benefit. No party shall be the agent of, or have a right or power to bind, the other Party without its express written consent.

- D. No provision of this Contract is intended to, or shall be for the benefit of, or construed to create rights in, or grant remedies to, any person or entity not a party hereto.
- E. No portion of the work or services to be performed under this Contract shall be assigned, transferred, conveyed or subcontracted without the prior written approval of City. Consultant may use the services of independent contractors and subcontractors to perform a portion of its obligations under this Contract with the prior written approval of City. Independent contractors and subcontractors shall be provided with a copy of this Contract and Consultant shall have an affirmative duty to assure that said independent contractors and subcontractors comply with the same and agree to be bound by its terms. Consultant shall be the responsible party with respect to all actions of its independent contractors and subcontractors, and shall obtain such insurance and indemnity provisions from its contractors and subcontractors as City shall determine to be necessary.
- F. Consultant, at such times and in such form as City may require, shall furnish City with such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs or obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.
- G. Consultant shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this Contract and such other records as may be deemed necessary by City to assure proper accounting for all project funds. These records shall be made available for audit purposes to state and federal authorities, or any authorized representative of City. Consultant shall retain such records for three (3) years after the expiration of this Contract, unless prior permission to destroy them is granted by City.
- H. Consultant shall perform all services required pursuant to this Contract in the manner and according to the standards observed by a competent practitioner of the Consultant's profession. All products of whatsoever nature which Consultant delivers to City pursuant to this Contract shall be prepared in a professional manner and conform to the standards of quality normally observed by a person practicing the profession of Consultant and its agents, employees and subcontractors assigned to perform the services contemplated by this Contract.

- I. Consultant shall be entitled to rely upon the accuracy and completeness of all data furnished by City to Consultant that is used by Consultant in providing its services under this Contract. Consultant may retain and use all data furnished to it, except such data which may be marked “confidential” and required to be returned, and may use all plans, designs, specifications and other work product created by Consultant in providing services hereunder. Any use of such work product that includes proprietary information shall not identify City; nor shall the manner of such use have the effect of identifying City.
- J. All completed reports and other data or documents, or computer media including CDs, and other materials provided or prepared by Consultant in accordance with this Contract are the property of City, and may be used by City. City shall have all intellectual property rights including, but not limited to, copyright and patent rights, in said documents, computer media, and other materials provided by Consultant. City shall release, defend, indemnify and hold harmless Consultant from all claims, costs, expenses, damage or liability arising out of or resulting from the use or modification of any reports, data, documents, drawings, specifications or other work product prepared by Consultant, except use by City on those portions of the project for which such items were prepared.
- K. Consultant, including its employees, agents, and sub-consultants, shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Contract. Consultant shall comply with all requirements of laws and regulations relating to conflicts of interest.

SECTION 5: INSURANCE

- A. Unless modified in writing by City Manager, Consultant shall maintain the following noted insurance during the duration of the Contract:

Coverage	Required
Commercial General Liability	X
Comprehensive Vehicle Liability	X
Workers' Compensation and Employers' Liability	X
Professional Liability (Errors and Omissions)	X

- B. Coverage shall be at least as broad as:
 - 1. Commercial General Liability Insurance, in an amount not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate for bodily injury, personal injury and property damage;

2. Comprehensive Automobile Liability Insurance, which provides for total limits of not less than \$1,000,000 combined single limits per accident applicable to all owned, non-owned and hired vehicles;
 3. Statutory Workers' Compensation required by the State of Alaska and Employers' Liability Insurance in an amount not less than \$1,000,000 per occurrence. Both the Workers' Compensation and Employers' Liability policies shall contain the insurer's waiver of subrogation in favor of the City, its elected officials, officers, employees, agents and volunteers;
 4. Professional Liability (Errors and Omissions) Insurance, appropriate to Consultant's profession, against loss due to error or omission or malpractice in an amount not less than \$1,000,000. Architects' and Engineers' coverage is to be endorsed to include contractual liability.
- C. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its elected officials, officers, employees, agents and volunteers or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.
- D. The General Liability and Automobile Liability policies are to contain or be endorsed to contain the following provisions:
1. City, its elected officials, officers, employees, agents and volunteers are to be covered as additional insured as respects liability arising out of work or operations performed by or on behalf of Consultant; premises owned, leased or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its elected officials, officers, employees, agents and volunteers.
 2. The insurance coverage of Consultant shall be primary insurance as respects City, its elected officials, officers, employees, agents and volunteers. Any insurance or self-insurance maintained by City, its elected officials, officers, employees, agents and volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.
 3. Coverage shall state that the insurance of Consultant 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.
 4. Each insurance policy required by this Contract shall be endorsed to state that coverage shall not be canceled except after thirty (30) days' prior written notice has been given to City. In addition, Consultant agrees that it shall not

reduce its coverage or limits on any such policy except after thirty (30) days' prior written notice has been given to City.

- E. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII.
- F. Consultant shall designate the City of Bethel as a Certificate Holder of the insurance. Consultant shall furnish City with certificates of insurance and original endorsements effecting the coverage required by this clause. Certificates and endorsements shall be furnished to: Chuck Willert, Public Works Director, City of Bethel, P.O. Box 1388, Bethel, Alaska 99559. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. All endorsements are to be received and approved prior to the commencement of contracted services. The City may withhold payments to Consultant if adequate certificates of insurance and endorsements required have not been provided, or not been provided in a timely manner.
- G. The requirements as to the types and limits of insurance coverage to be maintained by Consultant as required by Section 5 of this Contract, and any approval of said insurance by City, are not intended to and will not in any manner limit the liabilities and obligations otherwise assumed by Consultant pursuant to this Contract, including, without limitation, provisions concerning indemnification.
- H. If any policy of insurance required by this Section is a "claims made" policy, Consultant shall keep said insurance in effect for a period of twenty-four (24) months after the termination of this Contract.
- I. If any damage, including death, personal injury or property damage, occurs in connection with the performance of this Contract, Consultant shall immediately notify City Manager by telephone at (907) 543-1373 or cell phone at 907-545-1373. No later than three (3) calendar days after the event, Consultant shall submit a written report to the City Manager containing the following information, as applicable: 1) name and address of injured or deceased person(s); 2) name and address of witnesses; 3) name and address of Consultant's insurance company; and 4) a detailed description of the damage and whether any City personnel or property was involved.

SECTION 6: INDEMNIFICATION AND HOLD HARMLESS

- A. Consultant shall defend, indemnify and hold harmless City, its elected officials, officers, employees, agents and volunteers, and each and every one of them, from and against all actions, damages, costs, liability, claims, losses, penalties and expenses (including, but not limited to, reasonable attorney's fees of the City Attorney or legal counsel retained by City, expert fees, litigation costs, and investigation costs) of every type and description to which any or all of them may be subjected by reason of, or resulting from, directly or indirectly, the negligent performance of this Contract by Consultant, whether or not caused in part by passive negligence of the Party

indemnified hereunder. Consultant will conduct all defenses at its sole cost and expense and City shall have the right to approve or disapprove Consultant's legal counsel. City shall be reimbursed for all costs and attorney's fees incurred by City in enforcing this obligation.

- B. Consultant shall also defend, indemnify and hold harmless City for any adverse determination made by the Internal Revenue Service or any State of Alaska taxing or regulatory agency and/or any other taxing or regulatory agency and shall defend, indemnify and hold harmless City with respect to Consultant's "independent contractor" status that would establish a liability on City for failure to make social security deductions or contributions or income tax withholding payments or any other legally mandated payment.
- C. The obligation to defend, indemnify and hold harmless set forth in this Section applies to all claims and liability regardless of whether any insurance policies are applicable. The policy limits of said insurance policies do not act as a limitation upon the amount of indemnification to be provided by Contractor.

SECTION 7: CONTRACT INTERPRETATION, VENUE AND ATTORNEY FEES

- A. This Contract shall be deemed to have been entered into in Bethel, Alaska. All questions regarding the validity, interpretation or performance of any of its terms or of any rights or obligations of the parties to this Contract shall be governed by Alaska law, and any action brought by either party to enforce any of the terms of this Contract shall be filed in the Bethel Superior Court. If any claim, at law or otherwise, is made by either party to this Contract, the prevailing party shall be entitled to its costs and reasonable attorneys fees.
- B. This document, the proposal selected for contract, and the Request for Proposals comprise the entire agreement between the parties and supersedes whatever oral or written understanding each may have had prior to the execution of this Contract. This Contract shall not be altered, amended or modified except by writing signed by City and Consultant. No verbal agreement or conversation with any official, officer, agent or employee of City, either before, during or after the execution of this Contract, shall affect or modify any of the terms or conditions contained in this Contract, nor shall any such verbal agreement or conversation entitle Consultant to any additional payment whatsoever under the terms of this Contract.
- C. If any portion of this Contract or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Contract shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
- D. The headings in this Contract are inserted for convenience only and shall not constitute a part hereof. A waiver of any party of any provision or a breach of this

Contract must be provided in writing, and shall not be construed as a waiver of any other provision or any succeeding breach of the same or any other provisions herein.

- E. Each Party hereto declares and represents that in entering into this Contract, it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each Party further declares and represents that this Contract is made without reliance upon any statement or representation not contained herein of any other Party or any representative, agent or attorney of the other Party. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms, and conditions of this Contract and that the decision of whether or not to seek the advice of counsel with respect to this Contract is a decision which is the sole responsibility of each of the Parties. Accordingly, no party shall be deemed to have been the drafter hereof, and the principle of law that contracts are construed against the drafter shall not apply.
- F. In the event of a conflict between the term and conditions of the body of this Contract and those of any exhibit or attachment hereto, the terms and conditions set forth in the body of this Contract proper shall prevail. In the event of a conflict between the terms and conditions of any two or more exhibits or attachments hereto, those prepared by City shall prevail over those prepared by Consultant.

SECTION 8: SURVIVAL

The provisions set forth in Sections 5 and 6 of this Contract shall survive termination of the Contract.

SECTION 9: COMPLIANCE WITH LAWS - NONDISCRIMINATION

- A. Consultant shall comply with all applicable laws, ordinances and codes of federal, state and local governments.
- B. In the performance of this Contract, Consultant shall not discriminate against any employee or applicant for employment because of race, color, ancestry, national origin, religious creed, sex, sexual orientation, disability, age, marital status, political affiliation, or membership or non-membership in any organization. Consultant shall take affirmative action to ensure applicants are employed and that employees are treated during their employment without regard to their race, color, ancestry, national origin, religious creed, sex, sexual orientation, disability, age, marital status, political affiliation, or membership or non-membership in any organization. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training.

SECTION 10: REPRESENTATIVES

- A. City's representative for this Contract is Chuck Willert, Public Works Director, telephone number (907) 543-3110, fax number (907) 543-3366. All of Consultant's questions pertaining to this Contract shall be referred to the above-named person, or to the representative's designee.

- B. Consultant's representative for this Contract is _____, telephone number _____ fax number _____. All of City's questions pertaining to this Contract shall be referred to the above-named person.

- C. The representatives set forth herein shall have authority to give all notices required herein. Amendments to this Contract shall be executed as required by the Bethel Municipal Code and the granting agencies.

SECTION 11: NOTICES

- A. All notices, requests, demands and other communications hereunder shall be deemed given only if in writing signed by an authorized representative of the sender (may be other than the representatives referred to in Section 10) and delivered by facsimile, email, with a hard copy mailed first class, postage prepaid; or when sent by a courier or an express service guaranteeing overnight delivery to the receiving party, addressed to the respective parties as follows:

To City:

Chuck Willert, Public Works Director
P.O. Box 1388
Bethel, Alaska 99559
907- 543-3110

To Consultant:

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- B. Either party may change its address for the purposes of this paragraph by giving written notice of such change to the other party in the manner provided in this Section.

- C. Notice shall be deemed effective upon: 1) delivery in person or 2) 48 hours after an email or fax has been sent.

SECTION 12: AUTHORITY TO CONTRACT

Each of the undersigned signatories hereby represents and warrants that they are authorized to execute this Contract on behalf of the respective parties to this Contract; that they have full right, power and lawful authority to undertake all obligations as provided in this Contract; and that the execution, performance and delivery of this Contract by said signatories has been fully authorized by all requisite actions on the part of the respective parties to this Contract.

SECTION 13: DATE OF CONTRACT

The effective date of this Contract shall be the latest date it is signed.

IN WITNESS WHEREOF, City and Consultant have executed this Contract on the days and year set forth below:

**CITY OF BETHEL,
A Municipal Corporation**

**By: Lee M. Foley
City Manager**

Dated: _____, 2012

CONSULTANT

By: _____

Dated: _____, 2012

Title: _____

Tax ID No.: _____

Attachments: Exhibit A: Request for Proposals
Exhibit B: Consultant's Proposal Submitted and Selected for Award