

General Terms and Conditions

The following General Terms and Conditions are standard to the City's Purchasing Division for all purchases. Unless otherwise specified in the solicitation document, the following General Terms and Conditions will apply. Other specific terms and conditions may be provided in the solicitation specifications. In the event of a conflict between the general terms and conditions and the specifications, the specifications shall take precedence. The CBJ Purchasing Division, or their designee, will be establishing the official Time and Date of receipt of all solicitation responses. Vendor responses to Quote and Bid solicitations will be considered the best and final offer and are non-negotiable.

Addenda: Bidders shall acknowledge receipt of all addenda issued for the solicitation document. Failure to acknowledge all addenda may result in the Vendors' response being rejected as non-responsive. It is the Vendor's responsibility to verify and acknowledge any addenda issued.

Award: Following the posting of evaluations and scoring, the successful Proposer will be required to accept the City's contract. If needed, any changes to the scope, schedule, or compensation as lined out in the RFP document may be discussed, and must be mutually agreed upon. Changes will be documented in the Contract. Note: Any agreed adjustments cannot have an effect on the ranking of proposals. If agreement cannot be reached, with the apparent best Proposer, the CBJ will discontinue the discussion and the next highest ranked Proposer will be offered the project. Upon receipt of a fully executed contract, the CBJ will issue a purchase order that will serve as the notice to proceed.

Bid Bond/Security: When requested, bid bonds must be submitted with the Vendor's response and shall be in the form of a certified check, cashier's check or approved bid bond, in a minimum amount of at least 5 percent of the maximum total amount for award. Checks or Bonds shall be made payable to the City and shall be given as a guarantee that the Vendor, if offered the award, will conform with the all specifications, furnish any required documentation, including but not limited to, Payment Bond, Performance Bond and Insurance Certificates. In case of vendor refusal or failure to enter into an agreement, the Check or Bid Bond shall be forfeited to the City. Failure of the Vendor to furnish the required bid security with their response will deem the Vendor non-responsive.

Bid Surety: In lieu of a performance bond, when specified in the solicitation, a bidder may post a surety to ensure performance over the entire term of the contract. The surety shall be made payable to the City in the form of a cashier's or certified check or certificate of deposit in the percentage amount stated in the solicitation, of the total contract value. If indicated in the solicitation, an option to withhold a set percentage from Vendor payments may be available as an alternative surety. Failure to supply the surety within the time required may cause the City to declare the bidder non-responsive and to reject their response. If the City cancels the contract due to noncompliance, regardless of the circumstances or contract time remaining, the surety will be declared as liquidated damages and forfeited to the City.

Bid Bond/Surety Return: As soon as practicable, the City will return solicitation securities that are not considered for award. All other required or specified bonds or securities will be held until contract has been awarded.

Changes on Award: For RFPs, the City may amend the scope of work according to the **CHANGES** provision of the CBJ Standard Contract. For RFB's or RFQ's, all changes in the Scope of Work will be negotiated, and mutually agreed upon in writing and documented by signed amendment.

Contract Cancellation for Cause: If the vendor is awarded a solicitation, the City reserves the right to cancel the contract for cause after initial award by providing written notice to the vendor. Cause includes, but is not limited to, the provision of inferior products other than requested in the solicitation documents, the vendor not meeting contract specifications, or failure to comply with the contract provisions, including notice that the vendor is in violation federal, state, or local laws pertaining to the contract. Upon such cancellation, any bid bond of the vendor shall be forfeited and the contract may be offered to the next responsible, responsive bidder or re-bid.

Contract Extension: Any extension of time to complete the scope of work provided in the solicitation, shall only be by mutually agreed upon terms between CBJ and the Vendor. If agreed upon, all terms and conditions shall remain in full force and effect. Unless otherwise agreed upon, vendors must complete the scope of work provided in the solicitation by the deadline provided in the contract and may be subject to damages caused by delay.

Contract Termination for Convenience: The CBJ may by prior written notice, terminate this agreement at any time, in whole or in part, when it is in the best interest of the City. In the event that this contract is terminated by the CBJ for convenience, as opposed to termination for cause, the City is liable only for payment in accordance with this agreement for work accomplished prior to the effective date of the termination.

Cooperative Purchasing: The City is authorized to extend the opportunity to utilize City contracts with other governmental agencies. The City will expressly state this condition if it is applicable to the solicitation and successful vendors will be bound by that condition. The City is not an agent of, partner to or representative of such outside agencies and is not obligated or liable for any action or debts that may arise out of such independently established cooperative procurements.

Default: In case of default by the Vendor, the City may procure the goods or services from another source and hold the Vendor responsible for any resulting excess cost and may seek other remedies under law or equity. If the Contractor defaults, the City may at its discretion, award the contract to the next available firm, based on ranking or price.

DEFINITIONS: the following terms used shall be defined as:

CBJ or City: is the City and Borough of Juneau,

Solicitation: A procurement document, such as Quote (RFQ), Bid (RFB), Request for Proposal (RFP), Statement of Interest (SI), or Request for Information (RFI), that contains information, scope of work, specifications, deliverables, timeline, etc. for goods or services the CBJ intends to procure.

Vendor, Contractor, Proposer, Bidder, Consultant: a firm or individual seeking to do business with the City and Borough of Juneau, AK and to whom a solicitation may be awarded.

Submittal, Submission, Proposal, Response(s): the document(s) submitted by the Vendor to the CBJ as required by the solicitation document.

Plan holder: a Vendor who is on record with the City for purposes of notification on all City communications concerning the solicitation.

Responsive Vendor: an individual or firm who conforms in all respects to the requirements stated in the solicitation.

Responsible Vendor: an individual or firm which demonstrates the capability in all aspects to fully perform all solicitation requirements and demonstrates the experience, integrity, perseverance, reliability, capacity, facilities, equipment and credit to assure good faith performance.

Disclosure: The CBJ is a municipal corporation and political subdivision of the State of Alaska, is subject to the Alaska Public Records Act, AS40.25.100-220, and the public records provisions of CBJ Charter, section 15.7. Contents of submitted responses to a solicitation will be kept confidential until the intent to award or posting notice is released. Immediately following release, all responses become public information. Any restrictions or prohibitions intending to prohibit public disclosure of any material attached or reference in any response based upon claims of privileged, confidential or proprietary materials, or other similar restriction shall be of no force and effect and all material will be deemed as public records. Trade Secrets and other proprietary data may be held confidential to the extent allowed by law upon request in writing by the Vendor. Material considered confidential by the vendor must be

clearly identified and marked by page and section and must include a brief statement outlining the reasons for confidentiality. Marking the entire response as confidential is not acceptable and may be cause for rejecting a response for consideration and award.

Document Response Disclaimer & File Uploads: It is the responsibility of the Vendor to submit all solicitation documents, including modifications, in a timely manner. Submitting any response to a solicitation shall be solely at the Vendor's risk. The Purchasing Division will attempt to keep all office equipment used in methods of document receipt, in working order but is NOT responsible for communications or documents that are late, regardless of cause. No Vendor documentation will be accepted as proof of receipt. Prior to any deadline, Vendors are strongly encouraged to confirm receipt of any submitted documents with the Purchasing Division. All electronic files uploaded must be in a common format accessible by software programs the City uses. Those common formats are generally described as Microsoft Word (.doc or .docx), Microsoft Excel (.xls or .xlsx), Microsoft Power Point (.ppt or pptx), or Adobe Portable Document Format (.pdf.). Suppliers will not secure, password protect or lock uploaded files; the City must be able to open and view the contents of the file. Suppliers will not disable or restrict the ability of the City to print the contents of an uploaded file. Scanned documents or images must be of sufficient quality, no less than 150 dpi, to allow for reading or interpreting the words, drawings, images or sketches. The City may disqualify any Submittal Response that does not meet the criteria stated in this paragraph.

Examination of Solicitation: Vendors shall thoroughly examine all solicitation documents, including any issued addenda and attached sample contract if applicable. Responses submitted for consideration of award by the Vendor shall constitute an acknowledgement that all solicitation documents have been thoroughly examined and reviewed. Failure of a Vendor to receive, review or examine any solicitation documents including attachments, appendix or addenda shall in no way relieve them of any contractual obligation required by the solicitation. A claim of misinterpretation or lack of knowledge concerning the solicitation document or process is not justification for additional compensation.

Equal Employment Opportunity: In order to be considered for the solicitation, the vendor must not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, disability, familial status, sexual orientation, gender identity, gender expression, or national origin. The vendor will be required to include these provisions in any agreement relating to the work performed under this agreement with contractors or subcontractors. The City is an affirmative action purchaser and encourages small and disadvantaged businesses to submit responses.

Filing A Protest: Protest will be administered in accordance with the Purchasing Code 53.50.062 and 53.50.080. Available from the Purchasing Division or online at https://library.municode.com/ak/juneau/codes/code_of_ordinances?nodeId=TIT53PRACDI_PTIIOTPR_CH53.50PUSUSE_53.50.062PR

Fiscal Funding: The parties acknowledge that the municipality is legally prohibited from encumbering funds that have not been duly appropriated, pursuant to CBJ Charter 9.13. Funding for this solicitation is subject to an appropriation of funds by, and at the sole discretion of, the City and Borough of Juneau Assembly. The parties acknowledge and understand that in the event the Assembly fails to appropriate sufficient funds for this solicitation, the solicitation will automatically terminate without penalty or further municipal liability. A contract award will not be issued unless there is a sufficient appropriation in place for the purchase order or notice to proceed.

Force Majeure Events: Except for the obligation to make payments, neither the CBJ or Vendor shall be in default for its failure to perform, or a delay in performance cause by strikes, epidemics, riots, imposition of laws or governmental orders, fires, acts of God, acts of civil or military authority, embargoes, war, terrorist acts, insurrections, explosions, earthquakes, nuclear accidents, floods, power blackouts affecting facilities and other similar events beyond either the CBJ's or Vendors reasonable control and without its fault or gross negligence. Upon the occurrence of a Force Majeure Event, written notice shall be given to the other Party as soon as practicable and shall promptly confer in good faith to agree upon reasonable actions to minimize any impact. The Party claiming such an event is preventing performance, shall take reasonable actions to mitigate any such delay or failure.

Indemnification: As a material part of this solicitation, the Vendor shall agree to defend, indemnify, and hold harmless CBJ, its employees, volunteers, consultants, and insurers, with respect to any action, claim, or lawsuit arising out of or related to the Vendor's performance of this contract without limitation as to the amount of fees, and without limitation as to any damages, cost or expense resulting from settlement, judgment, or verdict, and includes the award of any attorney's fees even if in excess of Alaska Civil Rule 82. This indemnification agreement applies, to the fullest extent, permitted by law, and is in full force, and effect whenever, and wherever any action, claim, or lawsuit is initiated, filed, or otherwise brought against CBJ relating to this contract. The obligations of the Vendor arise immediately upon actual or constructive notice of any action, claim, or lawsuit. CBJ shall notify Vendor in a timely manner of the need for indemnification, but such notice is not a condition precedent to Vendor's obligations and may be waived where the Vendor has actual notice.

Interpretation of Solicitation: No oral interpretations will be made to any vendor as to the meaning of a solicitation. Oral and all other non-written responses, interpretations and/or clarifications shall not be legally effective or binding. Comments concerning defects, questionable or objectionable material and requests for interpretation must be made in writing and received by the Purchasing Division by the deadline indicated in the solicitation document. If required, changes to the solicitation documents will be made by addendum and sent promptly to all parties to whom the documents have been issued. All addenda issued become part of the solicitation document and resulting final contract award.

Licensing Requirements. Contractor is responsible for obtaining and maintaining all appropriate licenses as required by federal, state or local laws. An Alaska Business License is required to perform most, if not all services in the State of Alaska. Information on obtaining a business or requirements for all professional licenses for AK can be found online at <https://www.commerce.alaska.gov/web/cbpl/BusinessLicensing.aspx> If requested by the City, proof of licensing may be required prior to award.

Modifications: Modifications to a solicitation response can be delivered in person, by fax, email to purchasing@juneau.org (or via online submission depository if e-responses are allowed by the solicitation), by mail or fax (907-586-4561). Responses must be received prior to the solicitation deadline and will be time and date stamped thereby establishing the official time of receipt. Any modification must not reveal the respondent's price for a formal sealed solicitation and shall be in the form of an addition or subtraction so that final prices will not be known until the solicitation is opened, reviewed and verified. Modifications to a solicitation received after the deadline established for receipt shall not be considered.

Negotiations: Unless expressly specified in the solicitation document, compensation will not be **negotiated**. If so specified, negotiated changes to any Vendor submitted pricing, fee schedule, or price proposal will be documented by contract or signed amendment prior to the issuance of a purchase order.

Nondisclosure & Confidentiality: Contractor agrees that all confidential information to which it has access in performing this contract shall be used only for purposes of providing the deliverables and performing the services specified herein. Contractor shall not disseminate or allow dissemination of confidential information to third parties unless authorized in writing by the City. Contractor shall hold as confidential and will use reasonable care (including both facility physical security and electronic security) to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, the confidential information. "Reasonable care" means compliance by the Contractor with all applicable federal and state law, including the Social Security Act and HIPAA. Contractor must promptly notify the City in writing if it becomes aware of any storage, disclosure, loss, unauthorized access to or use of the confidential information. Confidential information, as used herein, includes but is not limited to financial data, bank account data and

information, user lists, passwords, technology infrastructure, and technology data (infrastructure, architecture, operating systems, security tools, IP addresses, etc.).

Preparation of Solicitation Response: Responses submitted for consideration, must be carefully, and legibly completed, as required and described in the solicitation documents: i.e. on forms provided, with attached required documents, description of any proposed variances, etc. Responses that contain omissions, irregularities, additions or alterations of any kind may be rejected. Every submittal, formal or informal, shall include signature of an authorized representative to bind the company. Responses containing any material alteration or irregularity of any kind may be rejected. Any erasures or changes must be initiated by the authorized representative signing the response. The lowest qualified response will be considered for award. Except as ordered by a court of competent jurisdiction, the City is not liable for any cost incurred by the bidder for bid preparation.

When a solicitation specifies that only Hard Copy responses will be accepted, no oral, electronic mail, facsimile or telephone responses will be accepted. Sealed responses shall be received at the Purchasing Division Office; or their designee as noted in the solicitation, prior to the deadline indicated. Responses shall be delivered in a completely sealed envelope with an affixed label that shows the solicitation title, number, and deadline. The City will not be responsible for the premature opening of, or failure to open, any response not properly addressed and identified. It is the Vendor's responsibility to verify that responses are received prior to the solicitation deadline. Late responses will not be accepted and will be returned to the Vendor.

Postponement of Opening: Sealed responses will be received until the deadline stated in the solicitation document, or such later time as announced by addenda sent to all plan holders at any time prior to the deadline. The City reserves the right to postpone the solicitation deadline at any time.

Pricing & Additions: Submitted prices shall include everything necessary to fulfill the contract including, but not limited to, furnishing all materials, freight, equipment and labor. Submitted pricing must be in U.S. funds. In case of error in the extension of prices, unit prices will govern. A Vendors' response to a solicitation is acknowledgement and acceptance of any proposed fee schedule, deliverables, or timeline specified in the solicitation documents. For the purpose of award, offers made in accordance with any solicitation must be irrevocable for a period of ninety (90) calendar days from the solicitation deadline. Quantities listed are estimates for bidding purposes only. The City does not guarantee any minimum or maximum quantities. The City may request additional units above the amount stated in the solicitation. Additional units in excess of 25% of the original awarded contract will be at pricing previously submitted in the solicitation and accepted by mutual written agreement.

Price Adjustments: Unless stated otherwise, unit pricing may be subject to an adjustment once per year of a term contract. Requests for a price adjustment must be submitted in writing a minimum of 60 days prior to the start of the next renewal period and be based on substantiated changes for actual cost differences during the contract period. If the City agrees to the price adjustment, an amendment reflecting the change will be issued. The City may counter the Vendors request for pricing and if no agreement can be negotiated, the City may offer the contract to the next apparent low bidder, or the contract may be cancelled and rebid.

Purchase Order(s) & Payments: The City's purchase order and (if applicable) the Notice of Award, are the only documents that may be used to place orders against any contract(s) resulting from a solicitation. Payment will be authorized and initiated after acceptance of the goods or services by the City. A portion of the final payment may be withheld to insure all conditions of the solicitation are met. Accurate invoices must be submitted to the designated Contract Administrator and the CBJ Accounts Payable Division. Invoices must include, the purchase order number, Vendor's name and phone number. Invoices must clearly and accurately state quantities, item descriptions and units of measure and any discounts or trade-ins. All payments shall be net 30 days upon receipt of complete and accurate invoice(s) unless specified otherwise.

Qualified Vendor: A qualified Vendor is a Vendor who submits the lowest responsive and responsible bid or response. A responsive bid conforms in all material respects to the requirements stated in the solicitation. A responsible vendor has the capability in all respects to fully perform all of the contract requirements, and the experience, integrity, perseverance, reliability, capacity, facilities, equipment and credit, which will assure good faith performance. Responsible vendors will be those who have not defaulted or otherwise failed to perform an awarded City contract and are in good standing with the City finance division as provided below. Each Vendor shall be skilled and regularly engaged in the general class or type of work called for within the solicitation. If requested, the apparent successful Vendor shall submit resumes, references or other documentation, which demonstrates the experience and knowledge of the Vendor, and its key personnel who will be assigned to this contract.

Solicitation Cancellation or Rejection of Solicitation Response: The City may cancel, in whole or in part, any Solicitation when it is in the best interest of the City. The City reserves the right to reject any or all submitted solicitation responses, and to determine which submitted response, if any, should be accepted in the best interest of the City. The City reserves the right to waive any informality in a solicitation. A Vendor may be considered not responsible if a Vendor has previously failed to perform properly or to complete a contract as specified with the City, or another government agency. A response may be rejected and considered non-responsive for, including but not limited to, the following reasons:

- The response is on a form other than that supplied by the City, or is improperly signed;
- The responding Vendor adds any unauthorized conditions, limitations, or provisions reserving the right to accept or reject any award, or to enter into a contract pursuant to an award;
- If there are unauthorized additions or irregularities of any kind which may make the response incomplete, indefinite, ambiguous as to its meaning, or in conflict with the City's solicitation;
- If the responding Vendor omits a price on any item or items on which pricing is required;
- If the response contains any excessively unbalanced prices (either above or below a reasonable price) to the detriment of the City;
- If the Vendor fails to furnish an acceptable bid guaranty; or
- If the Vendor has not acknowledged receipt of each Addendum.

Specifications: Unless otherwise specified as no substitute in the solicitation documents, product brand names or model numbers specified are examples of the type and quality of product required and are not a statement of preference. If the solicitation specifications stated conflict with a brand name or model number describing an item, the specifications will govern. Reference to brand name or number does not prevent an offer of a comparable or better product. When offering a comparable product full specifications and descriptive literature must be provided if requested. Any variance to specifications must clearly indicated and documented by the Vendor. Failure to provide complete specifications and descriptive literature may be cause for rejection of Vendor's response.

Unless clearly stated in the solicitation all items to be shipped must be quoted F.O.B. destination. Any charges associated with shipping are to be imbedded into the unit pricing. Items are to be shipped as economically as possible and packaged as appropriate to contents to minimize damage or loss. Vendor is responsible for filing any freight claims subsequent to shipment. Any loss incurred will be the responsibility of the Vendor.

The City reserves the right to determine suitability of items offered. All goods or materials are subject to approval by the City. Materials used in the fabrication of items must be free of any defects that affect the performance, application and specifications. Any items rejected because of non-conformity of the terms and conditions or specifications of the solicitation, whether held by the City or returned, will be at the Vendor's risk and expense. Vendor represents that all items offered shall be new. Used, shopworn, demonstrator, prototype or discontinued models are not acceptable. Vendor will guarantee

parts availability for applicable items for a minimum of 10 years or the reasonable life of items, whichever is greater. OEM manuals must be supplied with all items upon delivery.

Subcontracting: Subcontracting will not allowed without the prior written consent of the Purchasing Division. If subcontracting is approved and allowed, information on the subcontractor and a list of employees and their qualifications must be provided. Subcontractor must abide by all the solicitation requirements.

Vendor Collusion: By submitting a bid, the vendor affirms that they have not, either directly or indirectly, participated in any collusion, or otherwise taken any action in restraint of the competitive bidding in connection with the solicitation. Collusion by and between Vendors or City officials will disqualify all parties involved in the act of collusion and may result in those Vendors being disqualified from participating in future solicitations.

Vendor Good Standing with CBJ: Vendors must be in good standing with the CBJ prior to award of any contract and any subsequent contract renewals. The apparent successful Vendor shall have seven (7) business days following notification to correct any outstanding issues. Good standing means the following: all amounts owed to the CBJ are current and the Vendor is not delinquent with respect to any taxes, fees, assessment, or other monies due and owed the CBJ. Vendor must be current in all CBJ reporting requirements including sales tax registration and reporting and any necessary business personal property declarations. If a Confession of Judgment has been executed, the Vendor must be in compliance and current with any terms or stipulations associated with the Confession of Judgment, including any installment payments due. Vendors who fail to timely pay suppliers or subcontractors under CBJ contracts will likewise not be considered in good standing. For the purposes of this provision, the term "vendor" will include all entities that share principal officials and managing members. If a vendor is not in good standing with the CBJ, subsidiaries or other entities created or otherwise controlled by that vendor will also not be considered in good standing with the CBJ.

Failure to meet these requirements may be cause for rejection of your solicitation. To determine if your business is in good standing, or for further information, contact the CBJ Finance Department's Sales Tax Division, at email: Sales_Tax_Office@juneau.org for sales tax issues, Assessor's Office at email: Assessor.Office@juneau.org for business personal property issues, or Collections Division at email: Collections@juneau.org for all other accounts.

Vendor Name Change & Assignment of Contract: If the Vendor's business name changes or the business is sold, transferred, or assumed by a second party, written notification of the change must be provided to the City's Purchasing Division. The notification must be signed by all Vendor parties involved, and received by CBJ no later than 30 calendar days from the date of change. The notification must state the type of change, reason for change, include the Federal Employer Identification Number or Tax identification Number of all Vendor parties involved, and provide all legal documentation verifying the change. Failure to provide notification within 30 calendar days of the changes may be grounds for purchase order cancellation without further cause. Additional documentation concerning the assignment of payments and acceptance of assigned payments may be required from the assignor and assignee. Any contract resulting from this solicitation may not be assigned in whole or in part without the prior written consent of the City's Purchasing Division and agreement from the user department.

Vendor Obligation: Notwithstanding the expiration date of a contract resulting from this solicitation, the Vendor is obligated to fulfill its responsibilities until warranty, guarantee, maintenance and parts availability requirements have completely expired. Unless otherwise stated in the solicitation, the City will assume that the Vendor has accepted, without reservation or amendment, the whole terms of the contract documents.

Warranty/Guarantee: The Manufacturers maximum standard warranty/guarantee shall apply to all items purchased. Coverage will begin on the date of acceptance of items by the City. All items shall be guaranteed against faulty material and workmanship. Failure of any items to meet specifications or to operate properly in any way will require replacement by the Vendor at no expense to the City. Any claims initiated by the City for warranty/guarantee will be resolved within thirty (30) days of notification at no additional cost. Failure to resolve any claim in the timeframe specified may require the City to correct the issue. Any costs incurred by the City in correcting an issue will be reimbursed by the Vendor. Vendor guarantees that all items offered will be standard equipment and the latest model of regular stock product offered in the manufacturers published specifications. No attachment or part of any item will be supplied that is contrary to the manufactures recommendations or standard practice.

Withdrawal of Response. All submitted responses shall constitute a binding offer to the City as outlined therein and shall be irrevocable after the solicitation deadline. A vendor may withdraw its response by giving written notice prior to the solicitation deadline. After the time last announced for the solicitation deadline and until execution of the contract, no vendor will be permitted to withdraw its response unless the solicitation contract is delayed due to acts by the City.