

Attachment A

RFP 2022P011

Provide Billing and Mailing Services

SAMPLE CONTRACT FOR PROFESSIONAL SERVICES

with _____

In consideration of the mutual promises herein, ANCHORAGE and

_____ agree as follows. This contract consists of:

- A. Part I consisting of 13 sections of Special Provisions;
- B. Part II, consisting of 11 sections of General Provisions;
- C. Appendix A, Scope of Work consisting of ____ pages;
- D. Appendix B, Project Schedule consisting of ____ pages;
- E. Appendix C, Project Organization consisting of ____ pages;
- F. Appendix D, Schedule of Professional Fees consisting of ____ pages; and
- G. Appendix E, Proof of Insurance.

PART I
SPECIAL PROVISIONS

SECTION 1. DEFINITIONS

- A. "Administrator" means the Director of the Department of Solid Waste Services or his designee.
- B. "Anchorage" means the Municipality of Anchorage.
- C. "Contractor" means _____

SECTION 2. SCOPE OF SERVICES

- A. The Contractor shall perform professional services in accordance with Appendix A which is incorporated in this section by reference.
- B. Anchorage shall not allow any claim for services other than those described in this section. However, the Contractor may provide, at its own expense, any other services that are consistent with this contract.

SECTION 3. TIME FOR PERFORMANCE

- A. This contract becomes effective when signed on behalf of Anchorage. The period of performance shall be one (1) year. The contract may be renewed annually by mutual agreement for up to four (4) additional one-year periods, confirmed by amendment.
- B. The Contractor shall commence performance of the work described in Section 2 upon issuance of attached Notice-to-Proceed.
- C. Completion of the work described in Section 2 shall not affect the parties' other obligations under this contract and all other portions of this contract shall continue to be in full force and effect.

SECTION 4. PERSONNEL AND SUBCONTRACTS

- A. The Contractor agrees that the project will be conducted primarily using the contractor's staff. Any subcontractor, associates or consultants required by the Contractor in connection with services under this contract will be limited to such individuals or firms as Anchorage specifically authorizes during performance of this contract. Anchorage must give prior approval for any substitutions in or additions to such subcontractors, associates, or consultants.
- B. Every subcontract shall be reduced to writing and contain a precise description of the services or goods to be provided and the nature of the consideration paid, therefore.

- C. Every subcontract under which the Contractor delegates the provision of services shall be subject to review and approval by the Administrator before it is executed by the Contractor.
- D. Every subcontract in an amount exceeding \$1,000.00 shall require retention of the reasonable access to business records of the subcontractor relating to the purchase of goods or services pursuant to the subcontract.

SECTION 5. COMPENSATION: METHOD OF PAYMENT

- A. Subject to the Contractor's satisfactory performance, Anchorage shall pay the Contractor no more than _____ (\$XX,XXX) per year in accordance with this section.
- B. Anchorage shall pay the Contractor in accordance with the schedule of professional fees attached as Appendix D and incorporated herein by reference for services actually performed under this contract.
- D. Each month the Contractor shall present a bill to the Administrator describing the work for which it seeks payment and documenting expenses and fees to the satisfaction of the Administrator.
- E. The Contractor is not entitled to any compensation under this contract, other than as expressly provided for in this section.
- F. As a condition of payment, the Contractor shall have paid all municipal taxes currently due and owing by the Contractor.

SECTION 6. TERMINATION OF THE CONTRACTOR'S SERVICES

The Contractor's services under Section 2 may be terminated:

- A. By mutual consent of the parties.
- B. For the convenience of Anchorage, provided that Anchorage notified the Contractor in writing of its intent to terminate under this paragraph at least 10 days prior to the effective date of the termination.
- C. For cause, by either party where the other party fails in any material way to perform its obligations under this contract. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefor, and the other party fails to cure the default within thirty (30) days after receiving the notice.

SECTION 7. DUTIES UPON TERMINATION

- A. If Anchorage terminates the Contractor's services for convenience, Anchorage shall pay the Contractor for its actual costs reasonably incurred in performing before termination. Payment under this subsection shall not exceed the total compensation allowable under Section 5. All finished and unfinished documents and materials prepared by the Contractor shall become the property of Anchorage.
- B. If the Contractor's services are terminated for cause, Anchorage shall pay the Contractor the reasonable value of the services satisfactorily rendered prior to termination less any damages suffered by Anchorage because of the Contractor's failure to perform satisfactorily. Any finished or unfinished documents or materials prepared by the Contractor under this contract shall become the property of Anchorage at its option. Payment under this subsection shall not exceed ninety percent (90%) of the total compensation allowable under Section 5. Any finished or unfinished documents or materials prepared by the Contractor under this contract shall become the property of Anchorage at its option.
- C. If the Contractor receives payments exceeding the amount to which it is entitled under subsection A or B of this section, he shall remit the excess to the Administrator within thirty (30) days of receiving notice to do so.
- D. The Contractor shall not be entitled to compensation under this section until the Contractor has delivered to the Administrator all documents, records, work product, materials and equipment owned by Anchorage, related to this contract and requested by the Administrator.
- E. If the Contractor's services are terminated, for whatever reason, the Contractor shall not claim any compensation under this contract, other than that allowed under this section.
- F. If a final audit has not been performed before the Contractor's services are terminated, Anchorage may recover any payments for costs disallowed as a result of the final audit.
- G. Except as provided in this section, termination of the Contractor's services under Section 6 does not affect any other right or obligation of a party under this contract.

SECTION 8. INSURANCE

- A. The Contractor shall maintain in good standing the insurance described in subsection B of this section. Before rendering any services under this contract, the Contractor shall furnish the Administrator with proof of insurance in accordance with subsection B of this section in a form acceptable to the Risk Manager of Anchorage to be incorporated as Appendix G of this contract.

B. The Contractor shall provide the following insurance:

- 1.) \$500,000 Employers Liability and Workers Compensation as required by Alaska Law.
- 2.) Commercial Automobile Liability in the amount of \$1,000,000 combined single limit to include: owned, hired, and non-owned.
- 3.) Commercial General Liability including:
 - \$2,000,000 General Aggregate
 - \$2,000,000 Products/Completed Operations
 - \$1,000,000 Personal & Advertising Injury
 - \$1,000,000 Each Occurrence
 - \$5,000 Medical Payments
- 4.) Professional Liability in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate.
- 5) Cyber/Privacy Liability insurance with limits not less than \$3,000,000. The Cyber coverage shall include, but not be limited to, claims involving invasion of privacy violations (including HIPAA), Information theft, and release of private information. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses.

C. Policies written on a "claims-made basis" must have a two (2) year tail of coverage, or an unbroken continuation of coverage for two (2) years from the completion of the contract requirements.

D. Each policy of insurance required by this section shall provide for advance notice to the MOA/Contract Administrator prior to cancellation in accordance with the policy. If the insurer does not notify the MOA on policy cancellation it shall be the contractor's responsibility to notify the MOA of such cancellation.

E. With the exception of Workers Compensation and Professional Liability each policy shall name The Municipality as an "additional insured" and the actual policy endorsement shall accompany each Certificate of Insurance.

F. General Liability, Workers Compensation, and Automobile policies shall be endorsed to waive all rights of subrogation against the Municipality of Anchorage by reason of any payment made for claims under the above coverage. This policy endorsement shall accompany each Certificate of Insurance.

G. All policies for general liability shall be primary and noncontributing with any insurance that may be carried by the Municipality.

- H. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Municipality requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Municipality.
- I. Contractor shall require and verify that all subcontractors maintain insurance meeting all requirements stated herein, and Contractor shall ensure that the Municipality is an additional insured on insurance required from subcontractors.

SECTION 9. ASSIGNMENTS

Unless otherwise allowed by this contract or in writing by the Administrator, any assignment by the Contractor of its interest in any part of this contract or any delegation of duties under this contract shall be void, and an attempt by the Contractor to assign any part of its interest or delegate duties under this contract shall give Anchorage the right immediately to terminate this contract without any liability for work performed.

SECTION 10. OWNERSHIP; PUBLICATION, REPRODUCTION AND USE OF MATERIAL

- A. Except as otherwise provided herein, all data, documents and materials produced by the Contractor under this contract shall be the property of Anchorage, which shall retain the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. Exclusive rights shall not be attributed to portions of such materials presently in the public domain or which are not subject to copyright.
- B. Equipment purchased by the Contractor with contract funds shall be the sole property of Anchorage.
- C. Any reuse of these documents not occurring as part of this contract will be without liability to the Contractor.

SECTION 11. NOTICES

Any notice required pertaining to the subject matter of this contract shall be either sent via facsimile (FAX) or mailed by prepaid first class registered or certified mail, return receipt requested to the following addresses:

Anchorage: Municipality of Anchorage
Solid Waste Services Department
P.O. Box 196650
Anchorage, Alaska 99519-6650 FAX (907) 561-1357

Contractor: _____

FAX: _____

Notices are effective upon the earlier of receipt, proof of good transmission (facsimiles only), or five (5) days after proof of proper posting.

SECTION 12. CONTRACT BUDGET

The Contractor shall not in connection with its performance under this contract make expenditures other than as provided in line items in the contract budget.

SECTION 13. FORCE MAJEURE

- A. Any failure to perform by either party due to force majeure shall not be deemed a violation or breach hereof.

- B. As used in this contract, force majeure is an act or event of substantial magnitude, beyond the control of the Contractor, which delays the completion of this contract, including without limitation:
 - 1. Any interruption, suspension or interference resulting solely from the act of Anchorage or neglect of Anchorage not otherwise governed by the terms of this contract.
 - 2. Strikes or work stoppages.
 - 3. Any interruption, suspension or interference with the project caused by acts of God, or acts of the public enemy, wars, blockades, insurrections, riots, arrests or restraints of governments and people, civil disturbances or similar occurrences.
 - 4. Order of court, administrative agencies or governmental officers other than Anchorage.
 - 5. Suspension, termination or interruption of governmental licenses, consents, authorization, or approvals.

PART II

GENERAL CONTRACT PROVISIONS

SECTION 1. RELATIONSHIP OF PARTIES

The Contractor shall perform its obligations hereunder as an independent contractor of Anchorage. Anchorage may administer the contract and monitor the Contractor's compliance with its obligations hereunder. Anchorage shall not supervise or direct the Contractor other than as provided in this section.

SECTION 2. NONDISCRIMINATION

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, marital status, or who is a "qualified individual with a disability" (as that phrase is defined in the Americans with Disabilities Act of 1990). The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, mental or physical disability, sexual orientation or gender identity. Such action shall include, without limitation, employment, upgrading, demotion or transfer, recruitment or recruiting advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- B. The Contractor shall state, in all solicitations or advertisements for employees to work on contract jobs, that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, marital status, or mental or physical disability.
- C. The Contractor shall comply with any and all reporting requirements that may apply to it which the Anchorage Office of Equal Employment Opportunity Contract Compliance may establish by regulation.
- D. The Contractor shall include the provisions of subsections A through C of this section in every subcontract or purchase order under this contract, so as to be binding upon every such subcontractor or vendor of the Contractor under this contract.

- E. The Contractor shall comply with the applicable federal, state, and municipal laws concerning the prohibition of discrimination including, Title 5 and Chapter 7.50 of the Anchorage Municipal Code.

SECTION 3. PERMITS, LAWS AND TAXES

The Contractor shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this contract. All actions taken by the Contractor under this contract shall comply with all applicable statutes, ordinances, rules and regulations. The Contractor shall pay all taxes pertaining to its performance under this contract.

SECTION 4. NONWAIVER

The failure of either party at any time to enforce a provision of this contract shall in no way constitute a waiver of the provision, nor in any way affect the validity of this contract or any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

SECTION 5. AMENDMENT

- A. This contract shall only be amended, modified or changed by a writing, executed by authorized representatives of the parties, with the same formality as this contract was executed.
- B. For the purposes of any amendment modification or change to the terms and conditions of this contract, the only authorized representatives of the parties are:

Contractor: _____
(title of position)

Anchorage: Municipal Manager, or Authorized Designee

- C. Any attempt to amend, modify, or change this contract by either an unauthorized representative or unauthorized means shall be void.

SECTION 6. JURISDICTION; CHOICE OF LAW

Any civil action rising from this contract shall be brought and maintained in the Superior Court for the Third Judicial District of the State of Alaska at Anchorage. The law of the State of Alaska shall govern the rights and obligations of the parties under this contract.

SECTION 7. SEVERABILITY

Any provision of this contract decreed invalid by a court of competent jurisdiction shall not invalidate the remaining provisions of the contract.

SECTION 8. INTEGRATION

This instrument and all appendices and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this contract shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

SECTION 9. LIABILITY

- A. The Contractor shall indemnify, defend, save, and hold Anchorage harmless from any claims, lawsuits or liability, including reasonable attorney's fees and costs, arising from any wrongful or negligent act, error or omission of the Contractor or any subcontractor as a result of the Contractor's or any subcontractor's performance pursuant to this contract.
- B. The Contractor shall not indemnify, defend, save and hold Anchorage harmless from claims, lawsuits, liability, or attorneys' fees and costs arising from wrongful or negligent acts, error or omission solely of Anchorage occurring during the course of or as a result of the performance of this contract.
- C. Where claims, lawsuits or liability, including attorneys' fees and costs arise from wrongful or negligent act of both Anchorage and the Contractor, the Contractor shall indemnify, defend, save and hold Anchorage harmless from only that portion of claims, lawsuits or liability, including attorneys' fees and costs, which result from the Contractor's or any subcontractor's wrongful or negligent acts occurring as a result of the Contractor's performance pursuant to this contract.

SECTION 10. INSPECTION AND RETENTION OF RECORDS

The Contractor shall, at any time during normal business hours and as often as Anchorage may deem necessary, make available to Anchorage for examination all of its records with respect to all matters covered by this contract for a period ending three years after the date the Contractor is to complete performance in accordance with Section 2 of the special provisions. Upon request, and within a reasonable time, the Contractor shall submit such other information and reports relating to its activities under this contract to Anchorage in such form and at such times as Anchorage may reasonably require. The Contractor shall permit Anchorage to audit, examine and make copies of such records, and to make audits of all invoices, materials, payrolls, records of personnel and other data relating to all matters covered by this contract. Anchorage may, at its option, permit the Contractor to submit its records to Anchorage in lieu of the retention requirements of this section.

SECTION 11. AVAILABILITY OF FUNDS

Payments under this contract require funds from future appropriations and are subject to future appropriations. If sufficient funds are not appropriated for payments required under this contract, this contract shall terminate without penalty to Anchorage and Anchorage shall not be obligated to make payments under this contract beyond those which have previously been appropriated.

IN WITNESS WHEREOF, the parties have executed this contract on the date and at the place shown below.

MUNICIPALITY OF ANCHORAGE

CONTRACTOR

Mayor, Municipal Manager or
Authorized Designee

Name _____

Title _____

Date _____

Date _____

IRS Tax Identification No. _____

Tax Status: Taxable []

Non-Taxable []

RECOMMENDED FOR APPROVAL

Director, Solid Waste Services

Date _____