



MUNICIPALITY OF SKAGWAY

GATEWAY TO THE KLONDIKE
P.O. BOX 415, SKAGWAY, ALASKA 99840
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June 9, 2023 REQUEST FOR BIDS HEATING FUEL FOR MUNICIPAL FACILITIES

The Municipality of Skagway is accepting sealed bids from fuel suppliers to provide #1 and #2 heating fuel to Municipal facilities. The contract award is scheduled to be considered at the July 20, 2023, Assembly Meeting.

A full copy of the Request for Bids can be obtained by e-mailing a.lawson@skagway.org.

The Municipality of Skagway is not responsible for any costs incurred in the preparation of bids. The Municipality reserves the right to reject any or all proposals.

Bids must be sealed and clearly labeled with the following information:

1. "Heating Fuel for Municipal Facilities"
2. Date and Time of Bid Due Date (July 11, 2023, at 2:00 PM)
3. Bidder's Name

Bids are due no later than 2:00 PM, July 11, 2023, at the address listed above, or delivered directly to the borough office on 700 Spring Street.

Bidders are expected to be familiar with the potential extreme and challenging weather conditions in Skagway, Alaska, and the Municipality will assume all bidders have considered weather in preparing their bids and will rely on all bidders having considered Skagway weather in submitting their bids. Faxed and e-mailed bids will not be accepted. Bids will be opened in the Assembly Chambers at 2:00 p.m., July 11, 2023.

The Municipality of Skagway is an equal opportunity employer.

General Conditions

Bid Evaluation/Award: The Municipality of Skagway (Municipality) may award a contract based on bids received as a result of this Request for Bids if it is in the best interest of the Municipality. A bid award will be based on the overall bid price, but the Municipality may reject the low bid if such rejection is determined to be in the best interests of the Municipality. The Municipality reserves the right to reject any or all bids received if determined to be in the best interest of the Municipality. The Municipality reserves the right to waive minor informalities and irregularities of bids received if it is in the best interest of the Municipality.

Submittal Deadline and Location: Bidders are responsible for assuring delivery prior to deadline. Only bids received prior to the date, time, and received at the location specified shall be considered. Faxed or e-mailed bids will not be accepted. Bidders are fully responsible for ensuring their bids physically arrive in Skagway timely, regardless of weather.

Bids to Remain Open: Bidders shall guarantee their Bids for a period of sixty (60) calendar days from the date of the bid opening.

Beginning of Work: Physical work may begin upon the Bidder signing an Agreement with the Municipality.

Insurance & Indemnification: No contract for services shall be issued or continued unless there is presented to the Municipality of Skagway a certificate of insurance showing that the business owner/operator has obtained at least two million dollars (\$2,000,000.00) general liability insurance. Proof of such insurance shall be provided to the Municipality as a condition of entering into the contract. Failure to maintain such insurance shall constitute a breach of contract. The certificate of insurance must establish that the Municipality is named as an additional insured on such policy, and that the insurer shall notify the Municipality twenty (20) days before the policy is canceled or terminated. Additionally, the certificate of insurance holder shall execute an instrument under the terms of which the holder will agree to indemnify, defend and hold harmless the Municipality of Skagway from any and all claims for injury, including death, or damage to persons or property as a result of the holder's activities. Insurance coverage shall include all contractors, staff person and employees that provide services as part of this Agreement.

Bidder shall provide Worker's Compensation Insurance in compliance with the laws of the State of Alaska, AS 23.30 et seq., and federal jurisdiction where the work is being performed.

Bidder shall provide Contractors' Pollution Liability insurance - \$2,000,000 each claim and \$5,000,000 in the aggregate.

Compensation: The Municipality agrees to pay Contractor an amount not to exceed that as specified and accepted in the bid upon completion of the project.

Responder's Responsibility: Responding Bidders have the responsibility of understanding what is required by this solicitation. The Municipality shall not be held responsible for any firm's lack of understanding. Should a firm not understand any aspect of this solicitation or require further explanation or clarification regarding the intent or requirements of this solicitation, it shall be the responsibility of the Bidder to submit any question or questions to the Municipality. Further, by submitting a bid in response to this solicitation, a firm certifies that it has thoroughly read and understands this solicitation in its entirety.

Addenda: The Municipality will make reasonable efforts to provide Bidders with all addenda when issued. Addenda may be issued by any reasonable method such as hand delivery, mail, facsimile, and courier and in special circumstances, by phone. It is the Bidder's responsibility to ensure receipt of all addenda. No claim or protest will be allowed based on the Bidder's allegation that the Bidder did not receive all of the addenda or did not timely receive all of the addenda.

Technical Questions: All technical questions shall be directed in writing to the Borough Manager no later than July 3, 2023, at 4:00 p.m. by email at manager@skagway.org and contracts@skagway.org.

Cost Incurred in Bid Preparation: No contract shall be in effect until the Municipality executes a written agreement. The Municipality shall not be liable for any cost incurred by any Bidder in the response to this Request for Bids, including any work done, even in good faith, prior to the execution of a contract.

Proprietary Information: Bidders shall not include proprietary information in bids if such information should not be disclosed to the public. Any language with a submittal purporting to render all or portions of a bid confidential will be disregarded. Proprietary information, which may be provided will be confidential, if expressly agreed by the Municipality, and if allowable by state law.

Minor Informalities: The Municipality reserves the right to waive any minor informality, negotiate changes or reject any and all bids and to not award the proposed contract, if it is in the Municipality's best interest. Minor informalities mean matters of form rather than substance which are evident from the submittal, or are insignificant matters that have a negligible effect on price, quantity, quality, delivery, or contractual conditions and can be waived or corrected without prejudice to other Bidders.

Receipt and Bid Opening: The Municipality must receive all bids including any amendment or withdrawal prior to the scheduled time for submitting bids. Any bid, amendment, or withdrawal, which has not been actually physically received by the Municipality prior to the scheduled time for submitting bids shall not be considered. No responsibility shall be attached to any officer, employee or agent of the Municipality for

the premature opening of, or failure to open, a bid improperly delivered, addressed or identified.

Until the award of a contract, the Municipality reserves the right to reject any or all bids, to waive technicalities or to advertise for new bids without liability against the Municipality. Receipt of bids will be publicly acknowledged at the submittal deadline and location by reading the bids to any attendees at the municipal building.

Disqualification of Bidders: A Bidder may be disqualified for the following reasons:

- More than one bid for the same work from an individual, firm, or corporation under the same or different name. (A party that has quoted prices to a Bidder is not thereby disqualified from quoting prices to other Bidders or from submitting a bid directly for the project).
- Evidence of collusion among Bidders as set out in the Non-Collusion Declaration attached to the Official Bid documents.

Rejection of Bids: The Municipality reserves the right to reject any and all bids when such rejection is determined to be in the best interests of the Municipality; to reject the bid of a Bidder who has previously failed to perform properly, or complete on time, any contracts or projects; to reject the bid of an Bidder who is not, in the opinion of the Municipality and sole discretion of the Municipality, in a position to perform the contract; and to reject a bid as non-responsive where the Bidder fails to furnish the required documents, fails to complete the required documents in the manner directed, or makes unauthorized alterations to bid documents.

Non-Responsive Bids: Bids shall be considered non-responsive and shall be rejected if there are unauthorized additions, conditional or alternative bids, or irregularities of any kind which may tend to make the bid incomplete, indefinite, or ambiguous as to its meaning.

Documents for Successful Bidder: Prior to contract execution and Notice to Proceed, the successful Bidder shall complete and submit the following documents within seven (7) days following Notice of Intent to Award, as well as any other documents that may be requested by the Municipality.

- Proof of Insurance
- Copy of State and Municipal Business License
- Successful Background Check

Award and Execution of Contract: All Bidders will be notified of the Municipality's intent to award the contract and the successful Bidder will be requested to execute certain documents that shall include a contract agreement. No contract shall be considered as effective until it has been fully executed by both parties (Bidder and Municipality).

Failure to Execute Contract: Failure of the successful Bidder to execute and return the contract agreement and other documents within seven (7) days after receipt of the Municipality's Notice of Intent to Award, will be just cause for the rejection of the award. Award may then be made to the next lowest responsive, responsible and qualified Bidder, or the work may be re-advertised, in the sole discretion of the Municipality.

If the Municipality does not execute the contract agreement within fifteen (15) days following receipt from the Bidder of all required documents appropriately executed for the award of the contract, the Bidder shall have the right to withdraw its bid without penalty.

Skagway Bidder Preference: A bid shall be awarded to a Skagway bidder if Bidder's bid is not more than five percent higher than the lowest responsive nonresident bidder's. A bid shall be rejected if it contains a material alteration or an erasure. The Municipality may reject the bid of a bidder who failed to perform or failed to timely perform on a previous contract with the Municipality or any municipality. The Borough manager may reject any and all bids and waive any informalities or minor irregularities in the bids. Where all bids are rejected, and new bids are called for on substantially the same purchase or contract, each of the bidders whose bids were rejected shall be timely notified of the new call for bids and of changes, if any, in the specifications and requirements.

Ownership of Bid Submittals: Once bids are opened, they become the property of the Municipality, and shall not be returned. Bids may be withdrawn by submitting a written withdrawal request to the same address to which the bid was submitted if said request is received by the Municipality one (1) hour prior to the bid opening time and date. The bid shall be returned to the Bidder unopened.

Bid Form: Bids will be considered non-responsive if the following documents are not completely filled out and submitted at the time of bidding:

- Completed Official Bid Form
- Non-Collusion Declaration Form

Scope of Work and Notices

SCOPE AND INTENT: The bid is intended to result in a term contract for heating and incinerator fuel for the Municipality of Skagway Municipal facilities. The fuel is to be delivered to various facilities on a keep-full basis unless otherwise specified by the facility contact.

CONTRACT PERIOD: Date of contract will be based on final signature and date of official contract through **December 31, 2025**. The Municipality and Contractor may renew for three (3) additional two (2) year terms. Renewals are to be exercised at the sole discretion of the Municipality. The Contractor has no right to a renewal.

HOLDING OVER: Any holding over of the contract will be considered as a month-to-month extension with all other terms and conditions remaining the same. Such an extension may be canceled upon 30 days' written notice.

CANCELLATION: Any contract written as a result of this invitation to bid can be cancelled by the Municipality or the Contractor upon 30 days' notice. The Municipality of Skagway reserves the right to cancel any resulting contract due to non-appropriation of funds. Termination by either party must be done in writing.

F.O.B. POINT: Skagway, Alaska at multiple locations. Facilities may be added or deleted during the contract period and during extensions.

DEFINITIONS: "Keep full" is defined as maintaining the fuel tank at half full (50%) or more.

PRICES: All prices offered shall include all costs incurred in delivery to the user's fuel tank(s).

Bid Price: Delivered fuel prices for Municipal facilities shall be based on the average weekly published Skagway Rack Price for each type of fuel plus or minus a fixed delivery and handling charge per gallon. It is the Contractor's responsibility to provide to the Municipality of Skagway the weekly Supplier's prices with Contractor's monthly billing.

All unit prices shall be in cents or full dollar amounts. DO NOT ROUND. The delivery and handling charge is to include transportation, labor, any taxes, and all other expenses related to the delivery of fuel into the fuel tanks of each facility.

Fuel Type: Low sulfur #1 and #2 fuel is the minimum grade that is acceptable for this request for bids.

Number 1 type fuel is required at the following locations:

- ◆ Apartment Rentals (3)
- ◆ Dog Facility (next to WWTP Office Building)

Number 2 type fuel is required at the following locations:

- ◆ Incinerator
- ◆ Public Works Equipment Tanks (4)
- ◆ WWTP Office Building
- ◆ AB Hall
- ◆ Recreation Center
- ◆ McCabe Building (City Hall and Museum)
- ◆ Clinic
- ◆ Garden City RV Park
- ◆ Little/Big Dippers Building
- ◆ Wastewater Treatment Plant
- ◆ Public Safety Facility
- ◆ Boat Maintenance Building
- ◆ Library
- ◆ Fire Dept. Training Tank

Bidders may submit a bid based on a higher grade of fuel, but not a lower grade of fuel. Bidders are required to include in their bid the most recent Skagway Weekly Rack Price published report average for Skagway, AK, for the type of fuel that bidder plans on supplying for this RFB with the correct type of fuel circled or highlighted.

Contract Prices: Prices to the Municipality shall increase or decrease in direct relation with the supplier's (supplier must be same supplier used by Contractor in submitted bid) weekly published price for fuel type used in bidding, plus the awarded per-gallon charge for delivery and handling. The fuel type used for bidding will be the fuel type/column used for invoicing throughout the contract period.

DELIVERIES:

- ◆ All product deliveries must be verified by a delivery ticket.
- ◆ The delivery ticket must include delivery date, product description, quantity, delivery point, and any data relative to the shipment.
- ◆ If the facility has more than one tank, the delivery ticket should indicate which tank was filled.
- ◆ The fuels are to be delivered on a keep-full basis unless otherwise specified by the Municipal facility representative. "Keep full" is defined as not less than 50% full.
- ◆ **Failure to keep fuel levels above 50%, which results in a required call out by the Municipality, will be billed out for accordingly. Expenses, including labor and materials, associated with failure to keep tanks filled are the responsibility of the Contractor.**

INVOICES:

- ◆ All invoices must include delivery point, type and quantity of fuel, and the adjusted fuel price. The invoice price is based on the Skagway Weekly Rack Price plus the awarded delivery and handling fee.
- ◆ Invoices for heating fuel must include the facility to which the fuel has been delivered.
- ◆ Delivery slip numbers are to be referenced on the invoice.
- ◆ **A copy of the Skagway Weekly Rack Price must be included with the invoice. Average price for the type of fuel invoiced should be circled.**
- ◆ Copies of all the delivery slips (with full documentation) are to be attached to the invoice.
- ◆ Invoices containing all the required information will be processed. Invoices that do not include all the required information **will be returned** to the Contractor so that the remaining information can be supplied.
- ◆ Invoices will be confirmed by the Municipality to guarantee compliance to the bid specifications.

SUBMITTAL OF INVOICES: Original invoices with the required back-up information are to be submitted as follows:

Send original invoices to: Municipality of Skagway
P.O. Box 415
Skagway, AK 99840

RECORD KEEPING: Contractor will maintain records of refinery laboratory reports for all fuel delivered for a six (6) month period after delivery, for access by the Municipality of Skagway as needed to meet permit requirements.

PRODUCT QUALITY: In case of substandard fuel or damage directly traceable to contaminate in the fuel, the Contractor shall be responsible for all costs incurred, including, but not limited to, costs of removing all contaminated fuel from the tank, labor costs, any and all costs associated with any ADEC investigation or directives or clean up orders, damage to machinery, replacement parts and filters, and for any and all costs and attorney's fees incurred by the Municipality to enforce this provision. This includes, but is not limited to, the following impurities: water, dirt, harmful oils, fibrous materials, bacteria, and other petroleum products or contaminants.

TESTING: The Municipality has the option to draw samples for testing any product delivered to a Municipal facility to verify product compliance. If the product is found to be in compliance, the tests will be done at the expense of the Municipality. If the test results show that the product is not in compliance with bid requirements, the tests will

be at the expense of the Contractor and the contract may be re-evaluated in the sole discretion of the Municipality.

PROTECTION OF MUNICIPAL PROPERTY AND SPILL PREVENTION: The Contractor shall not damage or contaminate existing buildings, equipment, asphalt, pavement, or soil vegetation (such as trees, shrubs and grass) on Municipal property. If the Contractor damages or contaminates any such buildings, equipment, asphalt pavement, soil vegetation, or other Municipal facilities, they shall replace the damaged items or repair the damage at no expense to the Municipality and to the satisfaction of the Municipality within thirty days of the date of the damage or contamination. Should the Contractor fail or refuse to make such repairs or replacements, the Municipality may make the repairs or replacement and the Contractor shall be liable for all costs incurred by the Municipality in the repair or replacement, which may be deducted from the amounts due under this contract.

The Contractor shall take all measures as required by law to prevent spills (including but not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping into or onto any land or water). Should the Contractor fail or refuse to take the appropriate containment, clean up, and disposal actions, the Municipality may do so itself. The Contractor shall reimburse the Municipality for all expenses incurred including fines levied by any federal or state agencies.

SPILL REPORTING: Contractors must immediately report spillage to the Municipality of Skagway Borough Manager, and the local Alaska Department of Environmental Conservation (DEC), and any other state or federal agency as required by law.

SPILL CLEAN-UP: The Contractor will be responsible for all fuel spills that may occur during transit or fueling operations and clean up the spillage. In the event the Contractor spills any product, the Contractor shall be responsible for the containment, clean up, and disposal of the product spilled. Failure to do so will cause the Municipality to take corrective action and the Contractor shall be charged with all related costs. Contractor shall defend and indemnify the Municipality for any action, damages, liabilities, injuries, including death, property damage, remediation costs, fines, administrative costs and fees, expert fees and attorneys fees resulting from or arising out of any action or inaction of the Contractor which causes or contributes to a spill event of any kind or any nature.

PERMITS: The Contractor is responsible for obtaining all required permits and licenses to comply with applicable municipal, state, and federal laws.

COMPLIANCE: The bidder must comply with all applicable national, federal, state, and local regulations, codes and laws; be liable for all required insurance, licenses, permits and bonds; pay all applicable federal, state and local taxes.

AWARD: Award will be based on a set per-gallon delivery and handling charge.

**Official Bid Form
Heating Fuel for Municipal Facilities**

HEATING FUEL: All heating fuel shall conform to ASTM D396, latest revision standard Specifications for Fuel Oils.

The bid amount is to be based on heating fuel as specified in the section PRICES-Fuel Types. The supplier's price for Skagway, AK for #1 and #2 fuels will be the price used for invoicing throughout the contract period. Delivered fuel must meet requirements as per industry standards. **Bidders are required to include with their bid the most recent Skagway Weekly Rack Price, for the type of fuel that the bidder plans on supplying for this RFB with the correct type of fuel circled or highlighted. Bidders must submit a bid form for each fuel type (i.e., two bid forms total; one bid form for #1 fuel and one bid form for #2 fuel).**

Fuel Type	Delivery & Handling Fee per gallon (In cents or full dollar amounts. DO NOT ROUND)
Fuel	\$

Fuel Supplier's Average Price Used for Bidding/Contract: _____

Company Name: _____ **Date:** _____

Contact Name: _____

Phone Number: _____ **E-mail:** _____

Authorized Signature: _____

Printed Name: _____

ACKNOWLEDGEMENT OF ADDENDA

The bidder acknowledges receipt of addenda to the solicitation (give number and date of each)

ADDENDUM #				
DATE				

NON-COLLUSION DECLARATION FOR MUNICIPALITY OF SKAGWAY

The undersigned declares, under penalty of perjury under the laws of the United States, that neither he nor the firm, association, or corporation of which he is a member, has, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this bid.

The undersigned has read the foregoing and hereby agrees to the conditions stated therein by affixing his signature below:

Signature of Authorized Company representative

Typed name and Title of Authorized Company Representative

Phone Number

Fax Number

THIS IS TO CERTIFY that on this _____ day of _____, 20 _____,

_____ personally appeared before me, to me known to be the individual described in and who executed the within Non-Collusion Declaration for the Municipality of Skagway and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND and official seal the day and year last above written.

Notary Public in and for Alaska

My commission expires: _____



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Attachment A - Sample

Municipality of Skagway Fuel Oil Agreement

SECTION ONE: GENERAL CONDITIONS

A) Company name, hereinafter Contractor, shall furnish heating and incinerator fuel for the Municipality of Skagway Municipal facilities. The Contractor shall deliver the fuel to various facilities on a keep full basis ("Keep full" is defined as maintaining the fuel tank at half full (50%) or more) unless otherwise specified by amendment in writing to this contact.

SECTION TWO: CONTRACT PERIOD

- A) The contract period shall begin Starting Date and end Ending Date. The Municipality may offer to allow renewal for three (3) additional two (2) year terms or the Municipality may accept a request to renew for up to three (3) additional two (2) year terms. Renewals shall be allowed only at the sole discretion of the Municipality. The Contractor has no right to renewal. Any renewal shall be in writing and approved by the Borough Assembly.
- B) Any holding over of the contract, will be considered as a month-to-month extension with all other terms and conditions remaining the same. Such an extension must be in writing and agreed upon by both parties. The extension may be canceled upon 30 days written notice.

SECTION THREE: CANCELLATION

- A) The Municipality of Skagway reserves the right to terminate the services of the Contractor upon 30 days' notice. Termination by either party must be done in writing.
- B) The Contractor may terminate services upon 90 days' notice to the Municipality of Skagway. Termination by either party must be done in writing.

SECTION FOUR: COMPENSATION

- A) Compensation for services shall be based on the weekly published Skagway Rack Price (as submitted in Contractor's Bid) average for each type of fuel for Skagway, AK, and the accepted bid amount for delivery fees of \$ accepted bid fee for #1 and #2 fuel, as specified in the Contractors bid dated Bid document date. The delivery and handling charge includes all transportation, labor, taxes, and all other expenses related to the delivery of fuel into the fuel tanks of each facility.
- B) The fuel specified in Contractor's bid must be delivered throughout the contract and the fuel Supplier's published price will be used for invoicing throughout the contract period. All fuel delivered shall meet industry standards.

- C) Prices to the Municipality of Skagway shall increase or decrease in direct relation with price provided by the weekly Supplier's Average for each type of fuel for Skagway, AK, plus the awarded bid per gallon charge (as specified above) for delivery and handling.

SECTION FIVE: DELIVERIES & INVOICING

- A) All product deliveries must be verified by a delivery ticket. The delivery ticket must include delivery date, product description, quantity, delivery point, and any data relative to the shipment. If the facility has more than one tank, the delivery ticket should indicate which tank was filled. The fuels are to be delivered on a keep full basis unless otherwise specified by the Municipal facility representative. "Keep full" is defined as not less than 50% full.
- B) Failure to keep fuel levels above 50% full, which results in a required call out by the Municipality, will be billed out for the full amount of the cost incurred by the Municipality. Expenses, including labor and materials, associated with failure to keep tanks filled are the responsibility of the Contractor.
- C) All invoices must include delivery point, type and quantity of fuel, and the adjusted fuel price. The invoice price is based on the weekly Supplier's average price plus the awarded delivery and handling fee. Invoices for heating fuel must include the facility to which the fuel has been delivered. Delivery slip numbers are to be referenced on the invoice. A copy of the Supplier's price is to be attached to the invoice, and the average price for the type of fuel invoiced should be circled. Copies of all the delivery slips with full documentation shall be attached to the invoice. Invoices containing all the required information will be processed. Invoices that do not include all the required information **will be returned** to the Contractor so that the remaining information can be supplied. Invoices will be confirmed by the Municipality to guarantee compliance to the required specifications.
- D) Original invoices with the required back-up information are to be submitted as follows:

**Send original invoices to: Municipality of Skagway
 P.O. Box 415
 Skagway, AK 99840**

SECTION SIX: CONTRACTOR RESPONSIBILITIES

- A) The Contractor shall deliver heating fuel in Skagway, Alaska at multiple locations. Facilities may be added or deleted during the contract period and during extensions in writing by amendment to this contract.
- B) Contractor shall provide services as directed by the Municipality of Skagway provided for by this Agreement, the request for bids (Attachment A) and Contractor's Bid submitted on (date) (Attachment B). Contractor shall comply with the specifications that were part of the advertised RFB. Contractor will maintain records of refinery laboratory reports for all fuel delivered for a six (6) month period after delivery, for access by the Municipality of Skagway and shall otherwise maintain those reports as needed to meet any federal or state permit requirements.
- C) In case of substandard fuel or damage traceable to contaminate in any fuel, the Contractor shall be responsible for all costs incurred, including but not limited to costs of removing all contaminated fuel from the tank, labor costs, damage to machinery, replacement parts and filters, and for any and all costs and attorney's fees, and any and all expert and consultant costs and fees incurred by the Municipality to enforce this provision. This includes, but is not limited to, the

following impurities: water, dirt, harmful oils, fibrous materials, bacteria, and other petroleum products or other contaminants.

- D) The Municipality has the option to draw samples for testing any product delivered to a Municipal facility to verify product compliance. If the product is found to be in compliance, the tests will be done at the expense of the Municipality. If the test results show that the product is not in compliance with contract requirements, the tests shall be at the expense of the Contractor and the contract may be re-evaluated or terminated in the sole discretion of the Municipality.
- E) The Contractor shall be responsible for obtaining all required permits and licenses to comply with applicable municipal, state, and federal laws, rules and regulations.
- F) The Contractor shall comply with all applicable national, federal, state, and local regulations, codes and laws. The Contractor shall obtain all required insurance, licenses, permits and bonds by any federal, state or local statute, rule, regulation or agency. The Contractor shall pay all applicable federal, state and local taxes.

SECTION SEVEN: INDEMNIFICATION

- A) The Contractor shall not damage or contaminate existing buildings, equipment, asphalt, pavement, or soil vegetation (such as trees, shrubs and grass) on Municipal property. If the Contractor damages or contaminates any such buildings, equipment, asphalt pavement, soil vegetation, or other Municipal facilities, the Contractor shall replace the damaged items or repair the damage at no expense to the Municipality and to the satisfaction of the Municipality or to the property owner if other than the Municipality within thirty days of the date of the damage or contamination. The Contractor shall act with all due diligence and care and shall take all measures as required by any federal, state or local statute, rule or regulation to prevent spills of any kind (including but not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping into or onto any land or water). Should the Contractor fail or refuse to take the proper and safe containment, clean up, and disposal actions, the Municipality may do so itself and may charge the Contractor the full amount of all expenses and fees incurred by the Municipality. The Contractor shall reimburse the Municipality for all expenses and fees incurred, including but not limited to consultant fees, expert fees and attorney's fees, and including, but not limited to fines or sanctions levied by any federal or state agencies.
- B) Contractor shall immediately report spillage to the Municipality of Skagway Borough Manager, and the local Alaska Department of Environmental Conservation (DEC) and any other state or federal agency as required by law. The Contractor shall be responsible for all fuel spills (that may occur during transit or fueling operations and clean up the spillage and all related contamination related to the spill. In the event the Contractor spills any product, the Contractor shall be responsible for the containment, clean up, and disposal of the product spilled to the satisfaction of the proper state and federal agencies. Failure to do so will cause the Municipality to take corrective action and the Contractor shall be charged with all related costs, including fines and penalties imposed by any state or federal agency and including all costs and attorney's fees incurred by the Municipality in connection to any administrative proceeding or court proceeding.
- C) The Contractor agrees to defend, indemnify and hold harmless the Municipality of Skagway from any and all claims and actions of any kind and any nature, including any administrative actions or proceedings by any federal or state agency, for injury or damage to persons or property, including death, arising out of or in connection with the Contractor's actions or omissions in the performance of this Contract.

Contractor for purposes of this defend and indemnification provisions includes any actions or omissions by Contractor's employees, agents, subcontractors, and independent contractors.

- D)** Contractor agrees to hold the Municipality harmless and to indemnify and defend the Municipality against any and all claims and losses of any kind and any nature resulting from or relating to the Contractor's (as defined above) actions or omissions resulting in the spill or contamination of any Hazardous Materials breach of this paragraph, including, but not limited to, any loss, damage, liability, cost, or expense, including reasonable actual attorneys' and consultants' fees and expert fees, and including without limitation (i) any claims of third parties for personal injury, death, property damage, or other harm, and (ii) any response costs, costs of remedial, restoration or clean-up actions, fines imposed against or incurred by Lessor arising out of or related to the presence of Hazardous Materials, as Hazardous Materials are defined in in Alaska Statute 18.60.105 or 46.03.826, and associated regulations; (v) designated as a "Hazardous Substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et. seq.; (vi) designated as a "Hazardous Waste" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et. seq.; (vii) designated as a "Hazardous Substance" under the Clean Water Act, 33 U.S.C. § 1321, or listed pursuant to 33 U.S.C. § 11317; (viii) listed by the U.S. Department of Transportation at 49 C.F.R. Part 302; and (ix) any other substance, waste or material which is regulated as hazardous or dangerous by any federal, state or local agency, in, on, or under any Municipality property.

SECTION EIGHT: INSURANCE

- A)** No contract for services shall be issued or continued unless there is presented to the Municipality of Skagway a certificate of insurance showing that the business owner/operator has obtained at least two million dollars (\$2,000,000.00) general liability insurance. Proof of such insurance shall be provided to the Municipality as a condition of entering the contract. Failure to maintain such insurance shall constitute a material breach of contract. The certificate of insurance must establish that the Municipality is named as an additional insured on the policy, and that the insurer shall notify the Municipality twenty (20) days before the policy is canceled, or terminated.
- B)** Bidder shall provide Workers' Compensation Insurance in compliance with the laws of the State of Alaska, AS 23.30 et seq., and federal jurisdiction where the work is being performed.
- C)** Bidder shall provide Contractors' Pollution Liability insurance - \$2,000,000 each claim and \$5,000,000 in the aggregate.

SECTION NINE: HEATING FUEL

- A)** All heating fuel shall conform to ASTM D396, latest revision standard Specifications for Fuel Oils.

SECTION TEN: MISCELLANEOUS

- A)** The laws of the State of Alaska shall govern the construction and interpretation of this Contract. The Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska, shall be the exclusive court for jurisdiction and venue of any and all actions of any kind and any nature arising out of or related to the Contract or any actions of the Contractor in the performance of the contract. The parties agree that trial of any action filed shall be in Skagway, Alaska. The Contractor specifically waives any right or opportunity to request a change of venue for trial pursuant to

A.S. 22.10.040. Written notice shall be provided to the parties, by certified mail, return receipt requested, at the following addresses:

Municipality: Municipality of Skagway
PO Box 415
Skagway, AK 99840
Attn: Borough Manager

Contractor: Contractor Name
Address
Address
Address

- D) This Agreement is binding upon the heirs, successors and assign of the parties.
- E) This Agreement cannot be assigned without prior written consent of the other party. The Municipality shall not approve any proposed assignment to any LLC unless the Contractor's owner, member or shareholder personally guarantees the performance of the LLC or the members of the LLC personally guarantee performance of the Contract.
- F) This Agreement represents the entire Agreement of the parties and no other Agreement whether oral or written which is not specifically set forth in this Agreement or an addendum to this Agreement will have any force or effect upon the other party.
- G) This Agreement can be modified if agreed to by both parties in writing. Any modification that addresses changes in cost shall be agreed upon in writing by both parties prior to the revision. Any modification to the contract or price done without the written consent of the Municipality by the Contractor shall be done at the risk of the Contractor.
- H) Contractor's or the Municipality's waiver of any term or condition in this Agreement shall not constitute a waiver of any other term or condition in this Agreement.
- I) If any term of this Agreement is held to be invalid, void or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall be valid and binding upon the parties.
- J) The Contractor agrees to abide by all federal, state and local laws, ordinances and regulations in the performance of the project.
- K) Titles and headings to sections are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

The CONTRACTOR acknowledges that the CONTRACTOR has read and understands the terms of this Agreement and has had the opportunity to review the Agreement with counsel of his/her choice and is executing this Agreement of his/her own free will.

CONTRACTOR acknowledges and agrees that CONTRACTOR is not relying on any representations by any Municipal employee, the mayor, an assembly member, the borough attorney, the borough manager or any consultant of the MUNICIPALITY in deciding to enter this Agreement and perform this project.

The term of the agreement is the period of time from the date this Agreement is made and entered into, to the time at which CONTRACTOR fulfills its obligations under this Agreement. CONTRACTOR warrants and represents that the person who executes and signs this Agreement on behalf of the CONTRACTOR is lawfully authorized to execute and sign the Agreement.

Municipality:

Contractor:

By: _____
Andrew Cremata, Mayor

By: _____
_____, Contractor

Dated: _____

Dated: _____

ATTEST:

Steve Burnham, Jr., Borough Clerk

(SEAL)