



# MUNICIPALITY OF SKAGWAY

GATEWAY TO THE KLONDIKE  
P.O. BOX 415, SKAGWAY, ALASKA 99840  
(PHONE) (907) 983-2297  
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[www.skagway.org](http://www.skagway.org)

## **September 28, 2022 REQUEST FOR BIDS SKAGWAY INCINERATOR FIRE PUMP AND CONTROLLER REPLACEMENT**

The Municipality of Skagway is requesting bids to replace an existing fire pump and controller located at the Skagway Incinerator Facility. Contractor shall be responsible for all mobilization, materials, supplies, and equipment needed to complete the job. All work shall be completed by December 30, 2022. Bids are due no later than 2:00 p.m. October 12, 2022. Tyson Ames can be contacted at [t.ames@skagway.org](mailto:t.ames@skagway.org) for scheduled site visits.

Bids shall include all labor, equipment, transportation, and materials to complete the specified work. Bids shall also include mobilization and demobilization to and from the Project site. Alaska Labor Standards, reporting and prevailing wage rate determination is made part of this bid package. If this project is over \$25,000, a notice of award will be sent to the Alaska Department of Labor - Wage and Hour Section. The State will require that certified payroll forms are completed and the State has the right to randomly audit the successful bidders company to ensure Davis Bacon Wages are being paid for this project.

Technical questions regarding this project must be directed in writing to the Borough Manager at [manager@skagway.org](mailto:manager@skagway.org).

Project completion will be no later than December 30, 2022.

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 rely on all bidders having considered Skagway weather in submitting their bids. Extraordinary weather delays may be considered and addressed through contract modification in the sole discretion of the Municipality. Liquidated damages shall be a part of the final contract.

Bidders are encouraged to familiarize themselves with this project through contact with the Borough Manager and by visiting the site of the project.

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

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

1. "Skagway Incinerator Fire Pump and Controller Replacement"
2. Date and Time of Bid Due Date (Thursday, October 12, 2022 at 2:00 p.m.)
3. Bidder's name

Bids are due no later than Thursday, October 12, 2022 at 2:00 p.m. at the address listed above, or delivered directly to Municipal Offices on 700 Spring Street. All bidders are expected to consider weather in determining how to deliver their bids timely and there shall be no exceptions for a late received bid on account of weather.

Faxed and e-mailed bids will not be accepted. Bids will be opened in the Assembly Chambers at 2:00 p.m. on Date of Closing, October 12, 2022.

**The Municipality of Skagway is an equal opportunity employer.**

## General Conditions and Notices

**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.

**Bid Package Fee:** There is not a fee for this bid package.

**Bid Security:** There is no Bid Security required for this project.

**Project Completion:** Project completion will be no later than December 30, 2022. Bidders are expected to be familiar with the potential extreme and challenging weather conditions in Skagway, Alaska. Extraordinary weather delays may be considered and addressed through contract modification in the sole discretion of the Municipality.

**Project Description:** The successful Bidder shall be responsible for providing the following services:

- Contractor shall be responsible for identifying and supplying new fire pump, controller, and necessary electrical components for replacement of existing equipment.
- Contractor shall be responsible for supplying O&M's and training for all new equipment.
- Contractor shall be responsible for providing pump and controller certification from pump manufacturer approved representative.
- Contractor shall be responsible for demo of existing pump and controller equipment.
- Contractor shall be responsible for all electrical work required.
- Electrical work shall be performed by certified electrician.
- Quotes shall include all labor, equipment, transportation, supplies and materials to complete the work as specified in the RFB. Bids shall include all mobilization and demobilization to and from the project site.
- Successful Contractor shall provide a project schedule to the Public Works Director prior to starting work.
- Bids shall include all labor, equipment, transportation, supplies and materials to complete the work as specified in this Request for Bids. Bids shall include all mobilization and demobilization to and from the Project site.
- All work shall conform to all Federal, State, and Local laws, regulations, and codes. The Successful Bidder/Contractor shall comply with the Migratory Bird Treaty Act and shall comply with the provisions of those federal laws as applicable to migratory birds, eggs, and nests in Skagway Borough.
- CONTRACTOR shall comply with all federal, state and local mandates and protocols related to COVID-19 and CONTRACTOR shall insure that all employees,

subcontractors, consultants, and invitees of CONTRACTOR shall similarly comply with all such mandates and protocols. CONTRACTOR shall have in place such procedures and protocols requiring employees, subcontractors and employees of subcontractors to immediately report any COVID-19 symptoms and take immediate steps for testing and the protection of other employees and the public.

- Successful Bidder/Contractor shall obtain any and all necessary permits from Federal, State or local authorities for this project, including payment of any applicable fees and costs associated with the permit/process.
- The Successful Bidder/Contractor's shall properly dispose of all debris and/or material at the end of each work day. Contractor may coordinate disposal with the Public Works Department.
- Before acceptance of the Project as complete, the Municipality shall inspect and verify that the work is complete. All work found unacceptable shall be redone at the Successful Bidder/Contractor's expense to the satisfaction and acceptance of the Municipality. All work determined to be incomplete shall be completed in accordance with the contract specifications.
- Alaska Labor Standards, reporting and prevailing wage rate determination is made part of this bid package. If this project is over \$25,000, a notice of award will be sent to the Alaska Department of Labor - Wage and Hour Section. The State will require that certified payroll forms are completed and the State has the right to randomly audit the successful bidders company to ensure Davis Bacon Wages are being paid for this project.

**Project Site:** It is the sole responsibility of the Bidder to evaluate the jobsite and make their own technical assessment of the project site for determining the proposed work process, schedule, site conditions and equipment utilization and to make a valid financial bid. The Municipality will not make any additional compensation or payments if the project conditions are different from the conditions expected, anticipated or assumed by the Bidder.

**Construction Standards:** All work and equipment must comply with the Uniform Building Code latest version.

**Project Contact:** Bidders are encouraged to familiarize themselves with project requirements. All inquiries must be in writing and directed to the Borough Manager at [manager@skagway.org](mailto:manager@skagway.org).

**Submittal Deadline and Location:** Bidders are responsible to assure delivery prior to deadline. Only bids received prior to the date, time and received at the location specified shall be considered. Faxed and e-mail bids will not be accepted.

**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 the Contract and the Notice of Award and the Notice to Proceed from the Municipality.

**Liquidated Damages:** The Bidder will pay the Municipality up to \$1000 per day in liquidated damages if the project is not completed in accordance with the Bid specifications. If the Municipality determines that the project is defective and that repairs must be made to meet the Bid specifications, the Bidder will pay the Municipality up to \$1000 per day for each day which the project fails to meet the approval of the Municipality, up to the time that the Municipality agrees that the project has been completed in accordance with the Bid specifications.

**Delays beyond Bidders Control:** Suspension of work caused by Acts of God, which are beyond the control of the Bidder, shall not be cause for termination. If such Acts suspend work on the project, any delay caused will be negotiated and an addendum to this contract will be issued, which will be signed by both the Municipality and the Bidder, outlining the time schedule and costs associated with any delay in substantially completing the project.

**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 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 such policy, and that the insurer shall notify the Municipality twenty (20) days before the policy is canceled, or terminated. Additionally, the Successful Bidder/Contractor shall execute an instrument under the terms of which the Successful Bidder/Contractor shall 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 Successful Bidder/Contractor's activities.

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

**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 Bidder's lack of understanding. Should a Bidder 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 Bidder 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 at 4:00 p.m. on October 5, 2022 email at [manager@skagway.org](mailto:manager@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
- Performance Bond (if required)
- Payment bond (if required)
- Copy of Subcontractor Agreements (if applicable)
- Copy of State and Municipal Business License

**Award and Execution of Contract:** All Bidders will be notified of 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.

**Permit Responsibility:** Successful Bidder/Contractor shall obtain any and all necessary permits from Federal, State and local authorities for this project, including any applicable fees and costs associated with the permit/process.

**Davis Bacon:** Alaska Labor Standards, reporting and prevailing wage rate determination is made part of this bid package. If this project is over \$25,000, a notice of award will be sent to the Alaska Department of Labor - Wage and Hour Section. The State will require that certified payroll forms are completed and the State has the right to randomly audit the successful bidders company to ensure Davis Bacon Wages are being paid for this project.

**Payment and Performance Bond: If this project is under \$50,000 no bonding is required.** If this project is over \$50,000 but under \$150,000, bidder must complete and sign the bonding exemption checklist & have it notarized. Answers to questions on Bonding Exemption Checklist page may require bonding papers or a letter from bonding company saying contractor is bondable for this project for the amount of the project. If this project is over \$150,000, bonding **IS** required. For purposes of bid documents, a signed letter from a surety company committing to the bonding of the contractor in the amount of the project will suffice until the time of actual signing of the contract, when bond must be on hand. (See Bonding Exempt Checklist)

**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
- Contracting Officer Documentation
- Non-Collusion Declaration
- Bonding Exempt Checklist (for projects between \$50,000 and \$150,000)
- Bonding paperwork (if required)



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**REQUEST FOR BIDS – BID FORM**

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**(Contractor's name below)**

\_\_\_\_\_ agrees to provide all labor, equipment, transportation, materials and mobilization and demobilization to and from the work site to complete the Skagway Incinerator Fire Pump and Controller Replacement as described in the Request for Bids dated September 28, 2022 and in any bid addenda for the total lump sum of:

\$ \_\_\_\_\_  
(Numeric Dollar Amount)

\$ \_\_\_\_\_  
(Written Dollar Amount)

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**ACKNOWLEDGEMENT OF ADDENDA**

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

<b>ADDENDUM#</b>				
<b>DATE</b>				

Please list all subcontractors that will be utilized for this project: (Additional sheets listing subcontractors may be attached if needed and must be signed by Bidder)

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Bid Representative Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Phone # \_\_\_\_\_

Contractor Name: \_\_\_\_\_ Email \_\_\_\_\_

Contractor Address: \_\_\_\_\_

Date: \_\_\_\_\_

Contractor's Alaska License Number: \_\_\_\_\_

**Contracting Officer Document**

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(Project Name)

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Company Name

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Company Address (Street or P.O. Box, City, State, Zip)

**TO THE BOROUGH MANAGER  
MUNICIPALITY OF SKAGWAY**

In compliance with your Request for Bids dated, \_\_\_\_\_, the Undersigned proposes to furnish and deliver all the materials, supplies and equipment, including mobilization and demonization, and do all the work and labor required in the construction of the above referenced Project, located at or near **Skagway, Alaska**, according to the plans and specifications and for the amount and prices named herein as indicated on the Project Bid Form consisting of **1** sheet, which is made a part of this Bid.

The Undersigned declares that he has carefully examined the contract requirements and that he has made a personal examination of the site of the work; that he understands that the quantities, where such are specified in the Project Bid Form or on the plans for this project, are approximate only and subject to increase or decrease, and that he is willing to perform increased or decreased quantities of work at unit prices bid under the conditions set forth in the Contract Documents.

The Undersigned hereby agrees to execute the contract within 7 calendar days or such further time as may be allowed in writing by the Borough Manager, after receiving notification of the acceptance of this bid, and it is hereby mutually understood and agreed that in the case the Undersigned does not, the accompanying bid security shall be forfeited to the Municipality of Skagway as liquidated damages, and the Borough Manager may proceed to award the contract to others.

Signature: \_\_\_\_\_

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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 Bid Form for the Municipality of Skagway and acknowledged that he signed the same as his 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.

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Notary Public in and for Alaska

My commission expires: \_\_\_\_\_

**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.

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

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Signature of Authorized Company representative

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Typed name and Title of Authorized Company Representative

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Phone Number

Fax Number

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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 he signed the same as his 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.

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Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_

**BONDING EXEMPTION CHECKLIST – MUNICIPALITY OF SKAGWAY**

Contractors are exempt from payment, performance and material bonding requirements for projects over \$50,000 and not exceeding \$150,000 if the following conditions apply. Please complete this section entirely.

- 1. Has Contractor been licensed in the State of Alaska for **at least** two (2) years? Please provide documentation. (If answer is no to this question and no documentation is provided, then a letter from your bonding company stating you are bondable for this project is required, or provide a letter from a responsible bank in the United States stating that you have enough money to set up an escrow account in the name of the Municipality to equal the value of the contract.)  
 Yes  No
- 2. Has Contractor defaulted on a contract during the last three (3) years? (If answer is yes to this question, a letter from your bonding company stating you are bondable for this project is required, or provide a letter from a responsible bank in the United States stating that you have enough money to set up an escrow account in the name of the Municipality to equal the value of the contract.)  
 Yes  No
- 3. Please attach a financial statement prepared within the last nine (9) months, certified by a public accountant, demonstrating that the contractor has a net worth of not less than twenty percent (20%) of the amount of the contract. Bidder must place their financial information in a sealed envelope marked “Financial Information, Proprietary”. All financial paperwork will remain confidential. Is financial statement attached? (If answer is no to this question, a letter from your bonding company stating you are bondable for this project is required, or provide a letter from a responsible bank in the United States stating that you have enough money to set up an escrow account in the name of the Municipality to equal the value of the contract.)  
 Yes  No
- 4. Does the total amount of **all** contracts which contractor anticipates performing during the contract period exceed your net worth by more than seven (7) times? Please provide documentation. (If answer is yes to this question or no documentation provided, then a letter from your bonding company stating you are bondable for this project is required, or provide a letter from a responsible bank in the United States stating that you have enough money to set up an escrow account in the name of the Municipality to equal the value of the contract.)  
 Yes  No
- 5. Is letter from bonding company or bank provided?  
 Yes  No

Signature: \_\_\_\_\_

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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 the Bonding Exemption Checklist for the Municipality of Skagway and acknowledged that he signed the same as his 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: \_\_\_\_\_



# MUNICIPALITY OF SKAGWAY

GATEWAY TO THE KLONDIKE  
P.O. BOX 415, SKAGWAY, ALASKA 99840  
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[www.skagway.org](http://www.skagway.org)

## /ATTACHMENT A

### AN AGREEMENT BETWEEN \_\_\_\_\_ AND THE MUNICIPALITY OF SKAGWAY

This agreement is made and entered into this DATE between (CONTRACTOR name) (hereinafter referred to as CONTRACTOR) and the MUNICIPALITY of Skagway (hereinafter referred to as MUNICIPALITY) for the purpose of (named project). By signature on this agreement the parties agree to the following terms and conditions:

#### **I. SCOPE OF WORK:**

- A. CONTRACTOR shall perform services as directed by the MUNICIPALITY of Skagway for (project), per the request for bids (Attachment A) and CONTRACTORS bid submitted on (date) (Attachment B). CONTRACTOR shall follow the Bid Documents and Plans that were part of the advertised RFB and all general conditions, special conditions, and addendum, including all questions by bidders and responses.
- B. The CONTRACTOR, for and in consideration of the payment or payments herein specified and agreed to by MOS, hereby covenants and agrees to furnish all labor, equipment, transportation, mobilization and demobilization, and materials required to complete the project at Skagway, Alaska in accordance with the terms and conditions of the RFB Titled **Project**

#### **II. COMPENSATION AND DURATION**

- A. CONTRACTOR has submitted a bid in the amount of \$(0.00) (Dollar amount written out) to perform the work as outlined and described in the, RFB, CONTRACTORS submitted bid, and the scope of work described above. The MUNICIPALITY agrees to pay CONTRACTOR an amount not to exceed that as specified and accepted in the bid proposal upon completion of the project. The MUNICIPALITY must receive payment requests no later than 4-business days prior to scheduled finance meetings of the Assembly finance committee. CONTRACTOR shall submit an invoice on the 1st of each month. The payments will not necessarily fall on the 1st of each month, but will follow the Assembly check run approval process (on the 1st and 3rd Thursday of each month).

- B. The parties expressly agree that CONTRACTOR shall be and is an independent CONTRACTOR and is not an employee or agent of MUNICIPALITY, and is, therefore, entitled to no insurance coverage, whether workers' compensation or otherwise and no other benefits accorded to MUNICIPALITY. No withholding, FICA, or other taxes (whether income, sales or otherwise) or other amounts will be withheld from the payments due to CONTRACTOR, it being understood that CONTRACTOR is solely responsible therefore, provided MUNICIPALITY shall be entitled to withhold certain amounts from any payments as have been provided for elsewhere in this Agreement.
- C. The CONTRACTOR agrees to receive the total amount as set forth in the RFB and the Schedule of Values as full compensation for furnishing all the equipment, materials, transportation, mobilization and demobilization and labor which may be required in the performance and completion of the whole work to be done under this Contract, and in all respects to complete the Contract to the satisfaction of MUNICIPALITY.
- D. CONTRACTOR shall have all work completed no later than November 30, 2022.
- E. The parties acknowledge the time period for this performance may be impacted by the various emergency measures related to COVID-19 and the parties agree to mutually cooperate to make the necessary adjustments for the time of performance to comply with the federal, state and local health and safety measures.

### **III. MUNICIPALITY'S RESPONSIBILITY**

- A. MUNICIPALITY shall designate a person to act as the MUNICIPALITY'S representative with respect to the services to be rendered under this agreement. This representative shall have complete authority to transmit instructions, receive information, interpret and define the MUNICIPALITY'S policies and decisions with respect to the CONTRACTOR'S services. Designation of a Municipal representative shall not change any of the CONTRACTOR'S obligations and responsibilities under this Contract. CONTRACTOR shall remain responsible and liable for all acts and omissions related to the CONTRACTOR's means and methods of performing the work.

### **IV. CONTRACTOR'S RESPONSIBILITIES**

- A. CONTRACTOR shall provide a representative for the project who shall have complete authority to transmit instructions, receive information, interpret and define the CONTRACTOR'S policies and decisions with respect to the project. This provision is a material provision of the contract and the failure of the CONTRACTOR to have an available representative may result in the Municipality terminating the contract for this breach, stopping all or part of the project until the CONTRACTOR fully complies with this provision, or any other remedy or action the Municipality determines to be in the best interests of the project and Municipality.
- B. CONTRACTOR agrees that all work will meet all federal, state and local laws, and will be of the highest quality workmanship. CONTRACTOR agrees that all material and labor shall be in strict and entire conformity with the terms, specifications and conditions of the RFB, and will abide by and perform all stipulations, covenants and

- agreements specified in the RFB. The CONTRACTOR shall comply with the Migratory Bird Treaty Act and shall comply with the provisions of those federal laws as applicable to migratory birds, eggs, and nests in Skagway Borough
- C. If any equipment, material or labor shall be rejected by MUNICIPALITY as defective or unsuitable, the equipment, labor or materials shall be removed or replaced with other equipment, labor or materials specified by MUNICIPALITY, at the sole cost and expense of the CONTRACTOR.
  - D. CONTRACTOR shall not begin work on any additional services, which are not included in the Agreement as provided for the RFB until the MUNICIPALITY has authorized performance of such services in writing specifying the work to be performed and the time for performance. CONTRACTOR shall provide the MUNICIPALITY with a bid estimate of the costs of the additional work and it is agreed both the CONTRACTOR and the MUNICIPALITY shall sign an addendum to this Agreement prior to any additional work for the amount to be paid to the CONTRACTOR for the additional work. CONTRACTOR agrees and acknowledges that no oral authorization for additional work will be honored or paid.
  - E. CONTRACTOR covenants, warrants and represents that CONTRACTOR has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner with the subject matter or the performance of this Agreement. CONTRACTOR further covenants, warrants and represents that in the performance of this Agreement, no person having any such interest shall be employed.
  - F. CONTRACTOR and any employees and subcontractors of CONTRACTOR shall have a COVID-19 test upon arrival in Skagway and again 7 days later. CONTRACTOR shall not begin work under the Scope of Services until a negative test result is confirmed for employees, subcontractors and employees of subcontractors scheduled to work on the Project by the CONTRACTOR. CONTRACTOR shall comply with all federal, state and local mandates and protocols related to COVID-19 and CONTRACTOR shall insure that all employees, subcontractors, consultants, and invitees of CONTRACTOR shall similarly comply with all such mandates and protocols. CONTRACTOR shall have in place such procedures and protocols requiring employees, subcontractors and employees of subcontractors to immediately report any COVID-19 symptoms and take immediate steps for testing and the protection of other employees and the public.

## **V: INSURANCE AND INDEMNIFICATION**

- A. CONTRACTOR shall present to the MUNICIPALITY a certificate of insurance showing that the CONTRACTOR has obtained at least two million dollars (\$2,000,000.00) general liability insurance, which certificate of insurance shall name the MUNICIPALITY of Skagway as an additional insured. Proof of such insurance shall be provided to the MUNICIPALITY as a condition of entering the contract. Failure to provide the certificate of insurance as required by this provision at the time of signing the contract shall constitute a material breach by the CONTRACTOR and the MUNICIPALITY may choose not to proceed with the CONTRACTOR in its sole discretion. Failure to maintain such insurance shall constitute a material breach of contract and entitle the MUNICIPALITY to terminate the CONTRACTOR and this Agreement in its sole discretion. The certificate of insurance must establish that the

MUNICIPALITY is named as an additional insured on such policy, and that the insurer thereof shall notify the MUNICIPALITY twenty (20) days before the policy is canceled or terminated. The CONTRACTOR shall indemnify, defend and hold harmless the MUNICIPALITY of Skagway from any and all claims for injury or damage to persons or property, including death, arising out of or relating to the CONTRACTOR'S acts or omissions. CONTRACTOR'S insurance coverage shall apply to any coverage carried by the MUNICIPALITY which may cover the work specified in this Agreement. CONTRACTOR'S insurance carrier must be an admitted carrier in the State of Alaska or must be Best Rated or better. "CONTRACTOR" shall be defined to include CONTRACTOR'S employees, subcontractors, consultants, representatives, and invitees for purposes of the defend and indemnification provisions of this Paragraph.

- B. Worker's Compensation Insurance is required 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. Contractors' Pollution Liability – \$2,000,000 each claim and in the aggregate.

## **VI: TERMINATION AND SUSPENSION**

- A. The Municipality reserves the right to terminate the services of the CONTRACTOR at any time when the Municipality determines that termination is in the best interests of the Municipality. If the Municipality terminates the contract pursuant to this section, the Municipality shall notify the CONTRACTOR in writing as of the effective date to stop work and the CONTRACTOR shall immediately stop all work, including providing direction to subcontractors to stop and to cease from ordering any materials or supplies for the Project. Upon termination pursuant to this section, CONTRACTOR shall have sixty (60) days to submit any and all claims to the Municipality for any unpaid work actually performed by the CONTRACTOR before the date of termination and for which the CONTRACTOR has not been paid, together with all back-up documentation in support of the claim. "Unpaid work" is defined as actual work performed in accordance with the specifications and project schedule and "unpaid work" is specifically not to include the costs of the work to the CONTRACTOR. The failure of the CONTRACTOR to submit a claim within 60 days forever waives any claim by the CONTRACTOR based upon the Municipality's termination for any payment for work claimed by the CONTRACTOR to have not been paid as of the date of termination. CONTRACTOR and the Municipality agree to make a good faith effort to resolve any claim submitted by the CONTRACTOR pursuant to this section within thirty days (30) of receipt by the Municipality, unless that time is otherwise extended by the parties in writing. If the parties fail to reach an agreement on payment to the CONTRACTOR within the 30 days, the Municipality shall pay the amount determined by the Municipality to be fair and reasonable, based on the back-up documents provided by the CONTRACTOR and the Municipality's records. In the event the parties do not reach agreement, the CONTRACTOR may pursue its remedies pursuant to Section IX (k) below unless the CONTRACTOR failed to submit the claim within 60 days of termination.
- B. Suspension of work caused by Acts of God, which are beyond the control of the CONTRACTOR, shall not be cause for termination. If such Acts suspend work on the project, any delay caused will be negotiated and an addendum to this contract will be



issued, which will be signed by both the MUNICIPALITY and the CONTRACTOR, outlining the time schedule and costs associated with any delay in substantially completing the project. Emergency measures mandated by the Federal government, Governor of Alaska, or the Municipality of Skagway related to COVID-19 shall not be considered Acts of God under this provision.

## **VII: LIQUIDATED DAMAGE**

- A. The CONTRACTOR agrees that if the project is not completed in accordance with the Proposal specification and this Agreement, the CONTRACTOR shall be liable to the MUNICIPALITY for the following:
- 1) The CONTRACTOR will forfeit all payments outstanding under the Bid Proposal.
  - 2) The CONTRACTOR will pay the MUNICIPALITY up to \$1000 per day as liquidated damages if the project is not completed in accordance with the Proposal specifications. If the MUNICIPALITY determines that the project is defective and that repairs must be made to meet the Proposal specifications, the CONTRACTOR will pay the MUNICIPALITY up to \$1000 per day for each day that the project fails to meet the approval of the MUNICIPALITY, up to the time that the MUNICIPALITY agrees that the project has been completed in accordance with the Proposal specifications. If there are any certifications or permits necessary for acceptance of the project, the project shall not be determined complete until the CONTRACTOR has secured all such certifications or permits and liquidated damages shall continue to accrue.

## **VIII: EQUAL EMPLOYMENT OPPORTUNITY.**

- A. The CONTRACTOR will not discriminate against any employee or applicant for employment in violation of law, to include without limitation, because of race, color, religion, sex, national origin, physical handicap, age, or status as a disabled veteran. The CONTRACTOR shall take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their race, color, religion, sect, national origin, physical handicap, age, or status as a disabled veteran. Such actions shall include, but not be limited to the following: Employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoff or terminations; rates of pay or other forms of compensation; selection for training, including apprenticeship; and participation in recreational and educational activities. The CONTRACTOR agrees to post in conspicuous places in his/her places of work available for employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, physical handicap, age, status as a disabled veteran. The CONTRACTOR will cause the

foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement.

## **IX: MISCELLANEOUS**

- A. 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: Brad Ryan, Borough Manager
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Contractor	(Contractor Information)
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- B. CONTRACTOR agrees that the MUNICIPALITY shall have the right to inspect any or all of the project and any books, papers, records, and/or accounts of records of the CONTRACTOR at any reasonable time. All original books, papers, records and accounts related to this project shall be maintained for a minimum of three years after the completion of the project.
- C. This Agreement is binding upon the heirs, successors and assign of the parties.
- D. This Agreement cannot be assigned without prior written consent of the other party. This provision is a material provision of the contract and the assignment by the CONTRACTOR without prior written approval of the Municipality may result in the Municipality terminating the contract for this breach, stopping all or part of the project until the CONTRACTOR fully complies with this provision, or any other remedy or action the Municipality determines to be in the best interests of the project and Municipality, all in the sole discretion of the Municipality. The Municipality will not consent to any assignment to a LLC without a personal guarantee by the CONTRACTOR or a guarantee by at all of the members of the LLC.
- E. This Agreement represents the entire Agreement of the parties and no other Agreement whether oral of 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.
- F. This Agreement can be modified if agreed to by both parties in writing. Any modification will address any changes in cost and will be agreed to in writing prior by both parties. Any modification to the bid proposal or price done without the written consent of the MUNICIPALITY by the CONTRACTOR shall be void for which the Municipality shall have no liability or obligation to pay. CONTRACTOR agrees and acknowledges that no employee nor the borough manager, nor the mayor, nor any

assembly member nor any representative of the Municipality has any actual or apparent authority to orally modify or change any of the terms of this contract.

- G.** 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.
- H.** 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.
- I.** The CONTRACTOR agrees to abide by all federal, state and local laws, ordinances and regulations in the performance of the project.
- J.** 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.
- K.** The Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska shall be the exclusive jurisdiction for any action of any kind and any nature arising out of or related to this Agreement or arising out of or relating to the performance of this Agreement. CONTRACTOR agrees that venue for trial in any action shall be in Skagway, Alaska. The laws of the State of Alaska shall govern the rights and obligations of the parties. The CONTRACTOR specifically waives any right or opportunity to request a change of venue for trial pursuant to A.S. 22.10.040.

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, and to bind CONTRACTOR to the terms and conditions of the Agreement and the RFB.

\_\_\_\_\_  
Andrew Cremata, Mayor  
For the Municipality of Skagway

\_\_\_\_\_  
Contractor  
For (Company)

Date\_\_\_\_\_

Date\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Steve Burnham, Borough Clerk

(SEAL)