

STATE OF ALASKA INFORMAL REQUEST FOR PROPOSALS (IRFP)



INDEPENDENCE MINE STATE HISTORICAL PARK VISITOR SERVICES OPERATIONS

IRFP 10-004-20

ISSUED APRIL 1, 2020

THE DEPARTMENT OF NATURAL RESOURCES IS SEEKING PROPOSALS FROM QUALIFIED OFFERORS FOR OPERATION AND MANAGEMENT OF THE INDEPENDENCE MINE STATE HISTORICAL PARK VISITOR SERVICES OPERATIONS IN HATCHER PASS NEAR PALMER, ALASKA.

ISSUED BY:

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF SUPPORT SERVICES

PRIMARY CONTACT:

CHRIS BROOKS
PROCUREMENT OFFICER
CHRISTOPHER.BROOKS@ALASKA.GOV
(907) 269-8666

OFFERORS ARE NOT REQUIRED TO RETURN THIS FORM.

IMPORTANT NOTICE: IF YOU RECEIVED THIS SOLICITATION FROM THE STATE OF ALASKA'S "ONLINE PUBLIC NOTICE" WEB SITE, YOU MUST REGISTER WITH THE PROCUREMENT OFFICER LISTED IN THIS DOCUMENT TO RECEIVE NOTIFICATION OF SUBSEQUENT AMENDMENTS. FAILURE TO CONTACT THE PROCUREMENT OFFICER MAY RESULT IN THE REJECTION OF YOUR OFFER.

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SECTION 1. INTRODUCTION & INSTRUCTIONS

SEC. 1.01 PURPOSE OF THE IRFP

The State of Alaska, Department of Natural Resources, is offering an opportunity for a qualified entity to obtain a concession contract to operate and manage Independence Mine State Historical Park (IMSHP) Visitor Center / Bookstore. The IMSHP Visitor Center is located 20 miles north of the community of Palmer, AK along the Palmer-Fishhook Road | Hatcher Pass Road. IMSHP is a popular destination for tourists and locals alike, particularly during the summer months. In the past, the State of Alaska, or Friends of State Parks have provided interpretive opportunities and amenities for the public during the summer months, these include: building tours, demos and interpretive programs, bookstore/small concession stand, visitor information center, buildings open for public walkthrough. Due to recent budget cuts, the park is no longer able to hire Park Attendants, who in the past have provided the above services. It is due to this that a request for proposal is being put forward.

The IRFP contains numerous contract stipulations that should be read and understood before a proposal is offered. It is up to the prospective operator to decide how the facility will be managed, and if the prospective contractor has the necessary skills and time available to successfully manage the required duties. If the contractor fails to provide satisfactory service, the contract may be terminated without refund. The state does not guarantee that the contractor will make sufficient income or profit to sustain proposals or operations authorized with this contract, and the state does not assume any risk of loss. The contract only authorizes the operator to use a state park area to conduct a legal commercial enterprise. A more detailed description including scope of work is provided in Section 3.

SEC. 1.02 BUDGET

The contractor must make a minimum payment to the state of at least 3 percent of monthly gross revenues.

Contract fee increases may be negotiated periodically throughout the life of this contract to ensure a fair return to the state.

SEC. 1.03 DEADLINE FOR RECEIPT OF PROPOSALS

Proposals must be received no later than 2:00 PM prevailing Alaska Time on APRIL 10, 2020. Late proposals or amendments will be disqualified and not opened or accepted for evaluation.

SEC. 1.04 PRIOR EXPERIENCE

Offerors must be able to document that they have performed at least two years of running a visitor center, bookstore, public or visitor services, and interpretative activities similar or related to that required herein.

An offeror's failure to meet the minimum prior experience requirements will cause their proposal to be considered non-responsive.

SEC. 1.05 REQUIRED REVIEW

Offerors should carefully review this solicitation for defects and questionable or objectionable material. Comments concerning defects and questionable or objectionable material should be made in writing and received by the procurement officer at least ten days before the deadline for receipt of proposals. This will allow time for the issuance of any necessary amendments. It will also help prevent the opening of a defective proposal and exposure of offeror's proposals upon which award could not be made.

SEC. 1.06 QUESTIONS PRIOR TO DEADLINE FOR RECEIPT OF PROPOSALS

All questions must be in writing and directed to the procurement officer. The interested party must confirm telephone conversations in writing.

Two types of questions generally arise. One may be answered by directing the questioner to a specific section of the IRFP. These questions may be answered over the telephone. Other questions may be more complex and may require a written amendment to the IRFP. The procurement officer will make that decision.

PROCUREMENT OFFICER: CHRIS BROOKS – PHONE 907-269-8666 - FAX 907-269-8909 – christopher.brooks@alaska.gov

SEC. 1.07 RETURN INSTRUCTIONS

Offerors must submit four hard copies of their proposal, in writing, to the procurement officer in a sealed package. The cost proposal included with the package must be sealed separately from the rest of the proposal and must be clearly identified. The sealed proposal package(s) must be addressed as follows:

Department of NATURAL RESOURCES
Division of SUPPORT SERVICES
Attention: CHRIS BROOKS
Request for Proposal (IRFP) Number: 10-004-20

IRFP Title: INDEPENDENCE MINE STATE HISTORICAL PARK VISITOR SERVICES OPERATIONS

550 W. 7TH AVE., SUITE 1330
ANCHORAGE, ALASKA 99501

If using U.S. mail, please use the following address:

550 W. 7TH AVE., SUITE 1330
ANCHORAGE, ALASKA 99501

If using a delivery service, please use the following address:

550 W. 7TH AVE., SUITE 1330
ANCHORAGE, ALASKA 99501

If submitting a proposal via email, the technical proposal and cost proposal must be saved as separate PDF documents and emailed to CHRISTOPHER.BROOKS@ALASKA.GOV as separate, clearly labeled attachments, such as “Vendor A – Technical Proposal.pdf” and “Vendor A – Cost Proposal.pdf” (Vendor A is the name of the offeror). The email must contain the IRFP number in the subject line.

The **maximum** size of a single email (including all text and attachments) that can be received by the state is **20mb (megabytes)**. If the email containing the proposal exceeds this size, the proposal must be sent in multiple emails that are each less than 20 megabytes and each email must comply with the requirements described above.

Please note that email transmission is not instantaneous. Similar to sending a hard copy proposal, if you are emailing your proposal, the state recommends sending it enough ahead of time to ensure the email is delivered by the deadline for receipt of proposals.

It is the offeror’s responsibility to contact the issuing agency at 907-269-8666 to confirm that the proposal has been received. The state is not responsible for unreadable, corrupt, or missing attachments.

SEC. 1.08 PROPOSAL CONTENTS

The following information must be included in all proposals.

(a) AUTHORIZED SIGNATURE

All proposals must be signed by an individual authorized to bind the offeror to the provisions of the IRFP. Proposals must remain open and valid for at least 90-days from the date set as the deadline for receipt of proposals.

(b) OFFEROR'S CERTIFICATION

By signature on the proposal, offerors certify that they comply with the following:

- A. the laws of the State of Alaska;
- B. the applicable portion of the Federal Civil Rights Act of 1964;
- C. the Equal Employment Opportunity Act and the regulations issued thereunder by the federal government;
- D. the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the federal government;
- E. all terms and conditions set out in this IRFP;
- F. a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; and
- G. that the offers will remain open and valid for at least 90 days.

If any offeror fails to comply with [a] through [g] of this paragraph, the state reserves the right to disregard the proposal, terminate the contract, or consider the contractor in default.

(c) VENDOR TAX ID

A valid Vendor Tax ID must be submitted to the issuing office with the proposal or within five days of the state's request.

(d) CONFLICT OF INTEREST

Each proposal shall include a statement indicating whether or not the firm or any individuals working on the contract has a possible conflict of interest (e.g., currently employed by the State of Alaska or formerly employed by the State of Alaska within the past two years) and, if so, the nature of that conflict. The procurement officer reserves the right to **consider a proposal non-responsive and reject it** or cancel the award if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the contract to be performed by the offeror.

SEC. 1.09 ASSISTANCE TO OFFERORS WITH A DISABILITY

Offerors with a disability may receive accommodation regarding the means of communicating this IRFP or participating in the procurement process. For more information, contact the procurement officer no later than ten days prior to the deadline for receipt of proposals.

SEC. 1.10 AMENDMENTS TO PROPOSALS

Amendments to or withdrawals of proposals will only be allowed if acceptable requests are received prior to the deadline that is set for receipt of proposals. No amendments or withdrawals will be accepted after the deadline unless they are in response to the state's request in accordance with 2 AAC 12.290.

SEC. 1.11 AMENDMENTS TO THE IRFP

If an amendment is issued, it will be provided to all who were notified of the IRFP and to those who have registered with the procurement officer after receiving the IRFP from the State of Alaska Online Public Notice website.

SEC. 1.12 IRFP SCHEDULE

The IRFP schedule set out herein represents the State of Alaska's best estimate of the schedule that will be followed. If a component of this schedule, such as the deadline for receipt of proposals, is delayed, the rest of the schedule may be shifted accordingly. All times are Alaska Time.

- Issue IRFP **APRIL 1, 2020**
- Deadline for Receipt of Proposals **2:00 PM ALASKA TIME ON APRIL 10, 2020,**
- Proposal Evaluation Committee complete evaluation by **WEEK OF APRIL 13, 2020,**
- State of Alaska issues Notice of Award **APRIL 20, 2020,**
- State of Alaska issues contract **MAY 1, 2020,**
- Contract start **APPROXIMATELY MAY 1, 2020.**

This IRFP does not, by itself, obligate the state. The state's obligation will commence when the contract is approved by the Commissioner of the Department of NATURAL RESOURCES, or the Commissioner's designee. Upon written notice to the contractor, the state may set a different starting date for the contract. The state will not be responsible for any work done by the contractor, even work done in good faith, if it occurs prior to the contract start date set by the state.

SEC. 1.13 ALTERNATE PROPOSALS

Offerors may only submit one proposal for evaluation.

In accordance with 2 AAC 12.830 alternate proposals (proposals that offer something different than what is asked for) will be rejected.

SECTION 2. BACKGROUND INFORMATION

SEC. 2.01 BACKGROUND INFORMATION

GOLD! A magic word that time cannot tarnish; a soft metal with the strength to forge history. Gold was the magnet that drew thousands of adventurers to the last frontier. Though most Alaskans recognize that gold played an important part in Alaska's history, they normally think first of Nome, Fairbanks, or the Iditarod country. But even before a quarter-of-a-million gold seekers began their stampede into those famous areas, gold was discovered just southeast of Anchorage in 1886. From there prospectors spread into the Susitna and Matanuska river basins, testing the creeks in the nearby mountains.

They found hard rock (lode) gold scattered in quartz veins throughout the granite in the Talkeetna Mountains. These veins were created by hydrothermal action that filled fractures in the rock. Erosion loosened flakes of gold, and flowing water eventually washed the gold-bearing gravel into a stream. Throughout the history of gold mining, placer mining has preceded lode mining, and this area was no exception. The rough-textured gold found in the bottom of pans and sluice boxes hinted at something more: a nearby source, or mother lode.



Robert Lee Hatcher discovered and staked the first lode gold claim in the Willow Creek Valley in September 1906, and others soon followed. But lode mining was expensive for an individual operator; it required elaborate tunnels and heavy equipment, so companies merged to pool resources and reduce expenses.

What is now called Independence Mine was once two mines: The Alaska Free Gold (Martin) Mine on Skyscraper Mountain, and Independence Mine on Granite Mountain. In 1938 the two were bought together under one company, the Alaska-Pacific Consolidated Mining Company (APC). With a block of 83 mining claims, APC became the largest producer in the Willow Creek Mining District. The claims covered more than 1,350 acres and included 27 structures. In its peak year, 1941, APC employed 204 men, blasted nearly a dozen miles of tunnels, and produced 34,416 ounces of gold worth \$1,204,560; today \$17,208,000. Twenty-two families lived in nearby Boomtown, with eight children attending the Territorial School in the new bunkhouse.

By 1942, the United States had entered World War II, and the War Production Board designated gold mining as nonessential to the war effort. Gold mining throughout the United States came to a halt, but Independence Mine continued to operate because of the presence of scheelite. Scheelite occurs in some of the quartz veins along with gold, and was a source of tungsten, a strategic metal. But because Independence Mine's scheelite production was low, the exemption was short-lived. In 1943, Independence Mine was ordered to close.

The wartime ban was lifted in 1946, but gold mining was slow to recover. After the war, gold could be sold only to the U.S. government at a fixed rate of \$35 per ounce. Postwar inflation raged, and gold mining became an unprofitable venture. Finally, in January of 1951, after mining nearly 6 million dollars' worth of gold, Independence Mine was closed by APC, and a chapter of Alaska's gold mining history came to an end. In 1974, Independence Mine was entered into the National Register of Historic Places, a list of cultural resources significant to American history. In the late 1970's, 271 acres of land were donated to the Alaska Division of Parks & Outdoor Recreation for establishment of Independence Mine State Historical Park. On January 16, 1980, title to the acreage was transferred to the State of Alaska.



Visitation and Use Patterns

Visitor counts at Independence Mine State Historical Park are conducted in the fee booth as guests pay the entrance fee. It is worth noting that our visitor count is likely representative of 80-90% of the actual number of guests who have passed by the fee booth as we don't always have staff on duty to provide counts. The visitor count accounts for all passengers in the car, regardless of whether they paid.

Totals:

Visitors—15,894

Cars—6,457

Commercial vehicles—115

SECTION 3. SCOPE OF WORK & CONTRACT INFORMATION

SEC. 3.01 SCOPE OF WORK

The Division of Parks and Outdoor Recreation's goal is to contract with a qualified entity which, through a variety of revenue generating techniques, will operate and maintain Independence Mine State Historical Park Visitor Center | Bookstore in a self-supporting manner that is compatible with the purposes for which the park was established - to preserve and interpret the site, its buildings, and its structures as representative of important periods and themes in Alaska's history.

The project would require any potential contractor to run a bookstore/concession stand and visitor center (VC) and lead guided tours within the buildings. Additional services may include extra programming, such as gold panning demos.

Due to the valuable and irreplaceable nature of many of the artifacts within the buildings, contractors will not be allowed to leave buildings open for public walkthrough (excluding the Managers House and Bunkhouse #2 – ground level floors only).

Service hours and tour times must be on a reliable schedule – staying consistent between operating days - which will allow the public to plan their visits accordingly. Services do not need to be available every day of the week. Visitation is highest on weekends, and the contractor would be expected to provide services on Saturday and Sunday at the least, extra attention will be given to contractors with plans to offer services on more than just these days.

Contractors will be responsible for operating the bookstore/visitor center and running tours, they will not be responsible for opening and closing the main grounds of the park. Visitors are allowed within the park at any time of day or night, though the buildings are locked. A gate, one mile from the main complex, is opened and closed daily by park staff and allows visitors to park at the complex. The opening and closing of the gate will be the responsibility of the park staff.

Independence Mine State Historical Park

Tours: Guides are expected to deliver professional, uniformed interpretive walks, talks, and introductions to IMSHP and Hatcher Pass area. A minimum of 1 scheduled tour per day is required. Guides will also be available at the visitor center counter to answer questions and assist staffing the retail outlet. Groups may make special arrangements for additional tours.

Bookstore/Visitor Center: There are two buildings with potential to be used as the bookstore/visitor center: the Manager's House, and Bunkhouse #2 (first floors only). Because of its greater size and better layout, bunkhouse #2 State Parks prefers contractors use this space. Potable Water is available in the Managers House. Contractors will be expected to provide their own merchandise, cash tills, POS system, and means of securing valuables during closed hours. Responsibility for customer service, security, and sales accuracy will fall entirely on the contractor.

Snacks and water may be sold at the bookstore, the lack of these amenities last year (2019) caused noticeable public distress. Other merchandise should be relatable to the mine, Alaska, or the cultural or natural history of the area.

Contractor provides staff to oversee the day to day operations of the retail outlet, including supervising staff when they are working in retail outlet, greeting the public, providing accurate and friendly information about the local area and assisting customers in selecting and purchasing merchandise in the bookstore. Supervising staff will also tally store sales data, deposit revenues and donations, prepare cash drop envelopes, and will be responsible for tracking inventory and stocking of merchandise and will be responsible for stock purchasing,

transport, overall store operations and protocols, and revenue deposits. The hours of the Bookstore will coincide with the Visitor Center hours ~ generally 10:00 am to 5:00 pm at least 3 days per week. Friday, Saturday, and Sunday are historically the busiest days. Contractors would be expected to hold hours of operation on these days as a minimum.

Public Access: Only the Bunk House / Visitor Center and the Managers House may remain open to the public to walk through unescorted during normal business hours. All other buildings are to remain locked and closed unless contractor staff are conducting tours. See additional requirements below. Contractor staff must do a walkthrough of those two buildings every 15-20 minutes during normal hours of operation.

Staffing: Contractors will be solely responsible for providing adequate staffing, staff training, scheduling and discipline.

Requirements for VC:

The visitor center provides information to the public about IMSHP as well as Hatcher Pass. Contractors will be expected to complete a basic training from State Park Staff to ensure a baseline of information such as park history, operating hours, basic hiking information, basic fee structures, and park regulations. While not included in the training, contractors should expect to answer questions about the nearby towns, Matanuska Glacier, and transportation questions (i.e. How long will it take to get to the airport from here?).

Preference will be given to contractors with local knowledge specific to Hatcher Pass and the surrounding communities.

Interpretive Requirements:

Personal interpretation is outlined in the IMSHP preservation plan as the most important aspect of operations in the future. Therefore, considerable preference will be placed on contractors with previous experience in interpretation, education, history (particularly that of the Hatcher Pass area), gold mining, and historic preservation.

Basic interpretive training will be provided by IMSHP staff and will provide a baseline of information for contractor use. The style, frequency, content, and duration of interpretive programs can be discussed between park staff and the contractor.

Tours:

- Must take place once a day (on days when services are available)
- Tour times must be consistent across operating days
- Any building used during a tour shall not remain open to the public while tours are inside. Doors must be closed and secured behind the group (after entering the building), to prevent unknown public from entering and being locked in when you exit the building.
- Buildings must be locked as the group leaves the building. Buildings should never be left open.
- Contractor staff shall coordinate which buildings they intend to use for tours and receive approval from State Park staff. Only those buildings shall be used for tours as long as the previous guidelines are met.

Buildings and artifacts: All buildings must remain locked unless tour groups are currently entering or exiting a building. Doors shall be locked while the tour is inside, this is to minimize the chances of locking guests in a building unknowingly and to help protect artifacts. The bookstore/visitor center (Manager's House or

Bunkhouse #2) may remain unlocked during operating hours provided staff are present. Buildings will not be open for public walkthrough (non-tour) unless approved by park staff and with constant staff supervision.

Staff may use approved interpretive artifacts and may allow the public to handle them. Artifacts in displays, or with signs prohibiting handling may not be handled by contractor staff unless approved by park staff or in case of emergency. Artifacts found by guests around the grounds (non-secured) are not the responsibility of the contractor. Contractor staff should inform guests of the regulations surrounding the removal of artifacts and of any potential safety issues.

Historic Integrity:

IMSHP is a historic site, registered with the National Registry of Historic Places. As such, the site must be maintained under certain criteria. Contractors are expected to utilize spaces in such a way as to minimize negative sensory impacts to the site. Signs promoting the bookstore/visitor center must be unobtrusive and placed either near the fee station in the upper (and lower) parking lot, and/or directly outside of the bookstore/visitor center. Music, if used within the bookstore/visitor center, should be low enough that it cannot be heard outside the building.

Within the bookstore, merchandise and signage should not cover any significant defining features of the building. Any installment that requires altering the building in any way, or which would damage any of the original building material is PROHIBITED.

Other Facilities:

- Latrines – Contractors will not be responsible for cleaning latrines in the upper and lower parking lots.
- Generators – Contractors are not responsible for the maintenance of the generators. There is a 10kw generator that will supply the buildings with power. No outside generators will be allowed.
- Shop and gen fuel shed - Contractors will not have access to these buildings.
- Managers House – Running water is available for the contractor inside this building. However, in the event there is a non-paid volunteer living in the apartment of the Managers House, the contractor must coordinate with that individual to access the apartment. The restrooms will not be available for public use due to water flow capacity.

AK State Parks ~ Park Specialist: This is the primary contact for issues pertaining to park operations and interpretive guide scheduling.

In return for operating and maintaining the park visitor center, bookstore, the Permittee will be allowed to collect fees for: historic tours, book and gift sales and gold pan rentals. All additional business conducted in the parks must be related to outdoor recreation. Respondents should specify in their proposals the types and dollar amounts of fees they intend to charge, as well as any additional business activities they intend to pursue, for consideration by the State during proposal evaluations and permit negotiations. See Appendix 8.11 for concession contract stipulations.

Operational Responsibilities

The Division of Parks and Outdoor Recreation will be responsible for:

- Providing the VC and bunkhouse facility for shared use;
- Collection and maintenance of historic artifacts;
- Providing IMSHP interpretive training;
- Major facility maintenance (routine latrine cleaning, major repairs to VC).

Contractor will be responsible for:

- Hiring, training, and scheduling all staff pertaining to the visitor center/bookstore operations;
- Provide interpretive materials for their staff and visitors;
- Provide uniforms for all staff (as mutually agreed upon in advance);
- All matters pertaining to the retail functions, including training in sales;
- Store planning and layout, purchasing sales supplies;
- Handling revenues and donations (bank deposits);
- Daily retail outlet accounting;
- Period-appropriate signage promotion;
- Supervising all retail-related functions, with visits on a weekly basis;
- Providing a cash register;
- Providing any credit card acceptance hardware or subscriptions;
- Purchasing interpretive supplies (as mutually agreed upon in advance);
- Purchasing specialty supplies for the park, including flags, props, signage, etc. (as mutually agreed upon in advance).

The Division of Parks and Outdoor Recreation and Contractor will be mutually responsible for:

- Operating the facility in a professional manner;
- Assessing program operations;
- Clear organizational identification (via uniforms for all staff/volunteers involved);
- Setting up weekly meetings as necessary for clear communications;
- Responding to each other's inquiries in a timely manner;
- Promoting the primary goal noted above, within each organization's mission;
- Scheduling an end of season meeting to assess program functions and success.

Uniform Requirements

All staff conducting visitor information and interpretive services must be properly identified with approved uniforms. Each staff may also bear the organization's name or logo. Required uniforms include:

- Contractor-issued uniforms or coordinating shirts. Should have appropriate logos and means to designate association with State Parks.
- lanyards with volunteer's/employees name (may include organization name also)
- headwear: ball cap, as approved by Park Superintendent.
- clothing: under clothing may be casual, must be clean, neat, and no imagery or text displayed other than park provided; period-appropriate clothing may be worn as approved by the Park Specialist.

SEC. 3.02 CONTRACT TERM AND WORK SCHEDULE

The length of the contract will be from the date of award, approximately May 1, 2020, through October 1, 2020.

Unless otherwise provided in this IRFP, the State and the successful offeror/contractor agree: (1) that any extension of the contract excluding any exercised renewal options, will be considered as a month-to-month extension, and all other terms and conditions shall remain in full force and effect and (2) the procurement officer will provide written notice to the contractor of the intent to cancel such month-to-month extension at least 30 days before the desired date of cancellation. A month-to-month extension may only be executed by the procurement officer via a written contract amendment.

SEC 3.03 DELIVERABLES

The contractor will be required to provide the following deliverables:

The contractor will be responsible for managing the park's visitor center \ bookstore per the state's requirements including providing janitorial duties to maintain a clean and pleasant environment in the visitor center, bookstore and any authorized fee collection.

The contractor will also be responsible for providing all supervision and management, labor, supplies, and materials necessary for bookstore and visitor centers.

SEC. 3.04 CONTRACT TYPE

This contract is a concession contract.

SEC 3.05 PROPOSED PAYMENT PROCEDURES

The contractor shall pay to the state during the entire term of this contract for the right to exercise the privileges herein contained, a minimum consideration of 3 percent of monthly gross revenues. Any payments to the state shall be made on or before the 15th of each calendar month, unless otherwise negotiated with the State Park staff. The payment shall be based on gross revenues of the preceding calendar month. Payments to the state shall be made to the project manager.

The Maintenance Generalist will turn on the water and get the Managers House and Bunk House / Visitor Center running in the spring and shut the water system down in the fall without charge the first season. If the

concessionaire requires start-up and shutdown procedures in following years, they will be billed \$61.96/hr. The concessionaire will also be billed for any other maintenance requested.

SEC 3.06 PROMPT PAYMENT FOR STATE PURCHASES

Not applicable to the IRFP or the resulting contract.

SEC 3.07 CONTRACT PAYMENT

Contract payments must be received by the project manager prior to the 15th of each calendar month. Failure to submit the payment may result in termination of the contract. Any late payments under this contract shall, in addition to allowing the state to declare a breach of contract obligations, accrue interest owed to the state at the maximum rate allowed under AS 45.45.010(a).

SEC 3.08 LOCATION OF WORK

Independence Mine State Historical Park is located at Mile 20 on the Palmer Fishhook / Hatcher Pass Road, Palmer Alaska.

By signature on their proposal, the offeror certifies that all services provided under this contract by the contractor and all subcontractors shall be performed in the United States. If the offeror cannot certify that all work will be performed in the United States, the offeror must contact the procurement officer in writing to request a waiver at least 10 days prior to the deadline for receipt of proposals. The request must include a detailed description of the portion of work that will be performed outside the United States, where, by whom, and the reason the waiver is necessary. Failure to comply with these requirements may cause the state to reject the proposal as non-responsive, or cancel the contract.

SEC 3.09 THIRD-PARTY SERVICE PROVIDERS

Not applicable to the IRFP or the resulting contract.

SEC 3.10 SUBCONTRACTORS

Subcontractors may be used to perform work under this contract. If an offeror intends to use subcontractors, the offeror must identify in the proposal the names of the subcontractors and the portions of the work the subcontractors will perform.

If a proposal with subcontractors is selected, the offeror must provide the following information concerning each prospective subcontractor within five working days from the date of the state's request:

- complete name of the subcontractor;
- complete address of the subcontractor;
- type of work the subcontractor will be performing;
- percentage of work the subcontractor will be providing;
- evidence that the subcontractor holds a valid Alaska business license; and

- a written statement, signed by each proposed subcontractor that clearly verifies that the subcontractor is committed to render the services required by the contract.

An offeror's failure to provide this information, within the time set, may cause the state to consider their proposal non-responsive and reject it. The substitution of one subcontractor for another may be made only at the discretion and prior written approval of the project manager.

Note that if the subcontractor will not be performing work within Alaska, they will not be required to hold an Alaska business license.

3.11 JOINT VENTURES

Joint ventures will not be allowed.

3.12 RIGHT TO INSPECT PLACE OF BUSINESS

At reasonable times, the state may inspect those areas of the contractor's place of business that are related to the performance of a contract. If the state makes such an inspection, the contractor must provide reasonable assistance.

3.13 F.O.B. POINT

Not applicable to the IRFP or the resulting contract.

3.14 CONTRACT PERSONNEL

Any change of the project team members or subcontractors named in the proposal must be approved, in advance and in writing, by the project manager. Changes that are not approved by the state may be grounds for the state to terminate the contract.

3.15 CONTRACT CHANGES – UNANTICIPATED AMENDMENTS

During the course of this contract, the contractor may be required to perform additional work. That work will be within the general scope of the initial contract. When additional work is required, the project manager will provide the contractor a written description of the additional work and request the contractor to submit a firm time schedule for accomplishing the additional work and a firm price for the additional work. Cost and pricing data must be provided to justify the cost of such amendments per AS 36.30.400.

The contractor will not commence additional work until the procurement officer has secured any required state approvals necessary for the amendment and issued a written contract amendment, approved by the Commissioner of the Department of Natural Resources or the Commissioner's designee.

3.16 NONDISCLOSURE AND CONFIDENTIALITY

Contractor agrees that all confidential information shall be used only for purposes of providing the deliverables and performing the services specified herein and shall not disseminate or allow dissemination of confidential information except as provided for in this section. The contractor shall hold as confidential and will use reasonable care (including both facility physical security and electronic security) to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, the confidential information. "Reasonable care" means compliance by the contractor with all applicable federal and state law, including the Social Security Act and HIPAA. The contractor must promptly notify the state in writing if it becomes aware of any storage, disclosure, loss, unauthorized access to or use of the confidential information.

Confidential information, as used herein, means any data, files, software, information or materials (whether prepared by the state or its agents or advisors) in oral, electronic, tangible or intangible form and however stored, compiled or memorialized that is classified confidential as defined by State of Alaska classification and categorization guidelines provided by the state to the contractor or a contractor agent or otherwise made available to the contractor or a contractor agent in connection with this contract, or acquired, obtained or learned by the contractor or a contractor agent in the performance of this contract. Examples of confidential information include, but are not limited to: technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data (infrastructure, architecture, operating systems, security tools, IP addresses, etc).

If confidential information is requested to be disclosed by the contractor pursuant to a request received by a third party and such disclosure of the confidential information is required under applicable state or federal law, regulation, governmental or regulatory authority, the contractor may disclose the confidential information after providing the state with written notice of the requested disclosure (to the extent such notice to the state is permitted by applicable law) and giving the state opportunity to review the request. If the contractor receives no objection from the state, it may release the confidential information within 30 days. Notice of the requested disclosure of confidential information by the contractor must be provided to the state within a reasonable time after the contractor's receipt of notice of the requested disclosure and, upon request of the state, shall seek to obtain legal protection from the release of the confidential information.

The following information shall not be considered confidential information: information previously known to be public information when received from the other party; information freely available to the general public; information which now is or hereafter becomes publicly known by other than a breach of confidentiality hereof; or information which is disclosed by a party pursuant to subpoena or other legal process and which as a result becomes lawfully obtainable by the general public.

3.17 INDEMNIFICATION

The contractor shall indemnify, hold harmless, and defend the state from and against any claim of, or liability for error, omission or negligent act of the contractor under this agreement. The contractor shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the state. If there is a claim of, or liability for, the joint negligent error or omission of the contractor and the independent negligence of the state, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "Contractor" and "state", as used within this and the following article, include the employees, agents and other contractors who are directly responsible, respectively, to each. The term "independent negligence" is negligence other than in the contracting agency's selection, administration, monitoring, or controlling of the contractor and in approving or accepting the contractor's work.

3.18 INSURANCE REQUIREMENTS

Without limiting contractor's indemnification, it is agreed that contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the contractor's policy contains higher limits, the state shall be entitled to coverage to the extent of such higher limits.

Certificates of Insurance must be furnished to the contracting officer prior to beginning work and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract

and shall be grounds for termination of the contractor's services. All insurance policies shall comply with and be issued by insurers licensed to transact the business of insurance under AS 21.

Workers' Compensation Insurance: The contractor shall provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, and; where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements. The policy must waive subrogation against the State.

Commercial General Liability Insurance: covering all business premises and operations used by the Contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per claim.

Commercial Automobile Liability Insurance: covering all vehicles used by the contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per claim.

3.19 TERMINATION FOR DEFAULT

If the project manager or procurement officer determines that the contractor has refused to perform the work or has failed to perform the work with such diligence as to ensure its timely and accurate completion, the state may, by providing written notice to the contractor, terminate the contractor's right to proceed with part or all of the remaining work.

This clause does not restrict the state's termination rights under the contract provisions of Appendix A, attached in **SECTION 8. ATTACHMENTS**.

SECTION 4. PROPOSAL FORMAT AND CONTENT

SEC. 4.01 PROPOSAL FORMAT AND CONTENT

The state discourages overly lengthy and costly proposals, however, in order for the state to evaluate proposals fairly and completely, offerors must follow the format set out in this IRFP and provide all information requested.

SEC. 4.02 INTRODUCTION

Proposals must include the complete name and address of offeror's firm and the name, mailing address, and telephone number of the person the state should contact regarding the proposal.

Proposals must confirm that the offeror will comply with all provisions in this IRFP; and, if applicable, provide notice that the firm qualifies as an Alaskan bidder. Proposals must be signed by a company officer empowered to bind the company. An offeror's failure to include these items in the proposals may cause the proposal to be determined to be non-responsive and the proposal may be rejected.

SEC. 4.03 PROPOSED OPERATION AND SERVICES

Offerors should submit this information as described in the Application Form (8.01) and Operations Plan (8.02).

SEC. 4.04 MANAGERIAL ABILITY AND BUSINESS EXPERIENCE

Offerors should submit this information as described in the Application Form (8.01) and Operations Plan (8.02).

SEC. 4.05 OPERATIONS PLAN

Offerors should submit this information as described in the Application Form (8.01) and Operations Plan (8.02).

SEC. 4.06 FINANCIAL RESOURCES

Offerors should submit this information as described in the Application Form (8.01) and Operations Plan (8.02).

SEC. 4.07 FEES CHARGED TO THE PUBLIC

Offerors should submit this information as described in the Application Form (8.01) and Operations Plan (8.02).

SEC. 4.08 OPTIONAL ADDITIONAL SERVICES AND PROPOSED CHANGES TO THE CONTRACT STIPULATIONS

Offerors should submit this information as described in the Application Form (8.01) and Operations Plan (8.02).

SEC. 4.09 COMPENSATION (RETURN) TO THE STATE

Offerors should submit this information as described in the Application Form (8.01) and Operations Plan (8.02).

SEC. 4.10 EVALUATION CRITERIA

All proposals will be reviewed to determine if they are responsive. Proposals determined to be responsive will be evaluated using the criterion that is set out in **SECTION 5. EVALUATION CRITERIA AND CONTRACTOR SELECTION**.

An evaluation may not be based on discrimination due to the race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, disability, or political affiliation of the offeror.

SECTION 5. EVALUATION CRITERIA AND CONTRACTOR SELECTION

THE TOTAL NUMBER OF POINTS USED TO SCORE THIS PROPOSAL IS 100

SEC. 5.01 PROPOSED OPERATION AND SERVICES (20%)

Information contained in the Offeror's Operations Plan (Appendix 8.01 and 8.02) will be used to evaluate this criterion.

- 1) How well does the proposal adequately address the goods and/or services, quality, and costs to the public as requested in the IRFP?
- 2) How well does the proposal reflect an understanding of the enhancement and preservation of the cultural and historic resources?
- 3) How well does the proposal reflect an understanding of the operational issues and questions that are likely to arise and include realistic means of dealing with those matters?
- 4) How well does the proposal reflect an understanding of the resources and time that will be needed to provide the services requested in the IRFP?
- 5) How well does the proposed operational schedule meet all the requirements specified in the IRFP?

SEC. 5.02 MANAGERIAL ABILITY AND BUSINESS EXPERIENCE (15%)

Information contained in the Offeror's Operations Plan (Appendix 8.01 and 8.02) will be used to evaluate this criterion.

- 1) How well do the Offeror's current or past performance in this kind of enterprise indicate sound business ability and a good client/community relationship?
- 2) How well do the Offeror's prove that they have the ability to provide the required services?
- 3) How well does the Offeror know the cultural history of the Independence Mine State Historical Park area?
- 4) If the Offeror has no directly relevant experience, what evidence is provided that the firm has the skills and resources to successfully perform?

SEC. 5.03 OPERATIONS PLAN (15%)

Information contained in the Offeror's Operations Plan (Appendix 8.01 and 8.02) will be used to evaluate this criterion.

- 1) How well does the proposal provide detailed plans, specifications, cost estimates, and a plan of operation that meets all requirements specified in the IRFP, and falls within the scope of required services?
- 2) How realistic is the Offeror's operations plan for the conditions and visitation expected? Is the operations plan complete?
- 3) How well have all the reasonable costs for operating been considered in the operations plan?
- 4) How well has the Offeror calculated their projected revenue for the business?

SEC. 5.04 FINANCIAL RESOURCES (20%)

Information contained in the Offeror's Operations Plan (Appendix 8.01 and 8.02) will be used to evaluate this criterion.

- 1) How well has the Offeror demonstrated that they have enough resources (i.e. staff, equipment, finances, etc.) committed to providing the services as required under this IRFP?

SEC. 5.05 FEES CHARGED TO THE PUBLIC (10%)

The information contained in the Offeror's Operations Plan (Appendix 8.01 and 8.02) will be used to evaluate this criterion.

- 1) Are the rates to be charged fair and consistent for services to be provided?

SEC. 5.06 OPTIONAL ADDITIONAL SERVICES AND PROPOSED CHANGES TO THE CONTRACT STIPULATIONS (5%)

The information contained in the Offeror's Operations Plan (Appendix 8.01 and 8.02) will be used to evaluate this criterion.

- 1) What contract stipulations are proposed for revision or deletion, and what effect would the proposed change have?
- 2) Are additional services offered beyond those specified in the IRFP? How do they affect the overall operation and service requirements of this IRFP?
- 3) How well do the proposed contract stipulation changes enhance safety, convenience and efficiency of park users beyond that required in the IRFP?
- 4) Will the proposed changes affect the basic services requested in this IRFP in a negative way?
- 5) Are the proposed changes compatible with the purpose of the park -- to preserve and interpret the site, its buildings, and its structures as representative of important periods and themes in Alaska's history?

SEC. 5.07 COMPENSATION (RETURN) TO THE STATE (5%)

The information contained in the Offeror's Operations Plan (Appendix 8.01 and 8.02) will be used to evaluate this criterion.

SEC. 5.08 ALASKA OFFEROR PREFERENCE (10%)

If an offeror qualifies for the Alaska Bidder Preference, the offeror will receive an Alaska Offeror Preference. The preference will be 10% of the total available points. This amount will be added to the overall evaluation score of each Alaskan offeror.

SECTION 6. GENERAL PROCESS INFORMATION

SEC. 6.01 ALASKA BUSINESS LICENSE AND OTHER REQUIRED LICENSES

Prior to the award of a contract, an offeror must hold a valid Alaska business license. However, in order to receive the Alaska Bidder Preference and other related preferences, such as the Alaska Veteran Preference and Alaska Offeror Preference, an offeror must hold a valid Alaska business license prior to the deadline for receipt of proposals. Offerors should contact the **Department of Commerce, Community and Economic Development, Division of Corporations, Business, and Professional Licensing, PO Box 110806, Juneau, Alaska 99811-0806**, for information on these licenses. Acceptable evidence that the offeror possesses a valid Alaska business license may consist of any one of the following:

- copy of an Alaska business license;
- certification on the proposal that the offeror has a valid Alaska business license and has included the license number in the proposal;
- a canceled check for the Alaska business license fee;
- a copy of the Alaska business license application with a receipt stamp from the state's occupational licensing office; or
- a sworn and notarized statement that the offeror has applied and paid for the Alaska business license.

You are not required to hold a valid Alaska business license at the time proposals are opened if you possess one of the following licenses and are offering services or supplies under that specific line of business:

- fisheries business licenses issued by Alaska Department of Revenue or Alaska Department of Fish and Game,
- liquor licenses issued by Alaska Department of Revenue for alcohol sales only,
- insurance licenses issued by Alaska Department of Commerce, Community and Economic Development, Division of Insurance, or
- Mining licenses issued by Alaska Department of Revenue.

Prior the deadline for receipt of proposals, all offerors must hold any other necessary applicable professional licenses required by Alaska Statute.

SEC. 6.02 SITE INSPECTION

The state may conduct on-site visits to evaluate the offeror's capacity to perform the contract. An offeror must agree, at risk of being found non-responsive and having its proposal rejected, to provide the state reasonable access to relevant portions of its work sites. Individuals designated by the procurement officer at the state's expense will make site inspection.

SEC. 6.03 CLARIFICATION OF OFFERS

In order to determine if a proposal is reasonably susceptible for award, communications by the procurement officer or the proposal evaluation committee (PEC) are permitted with an offeror to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Clarifications may not result in a material or

substantive change to the proposal. The evaluation by the procurement officer or the PEC may be adjusted as a result of a clarification under this section.

SEC. 6.04 DISCUSSIONS WITH OFFERORS

The state may conduct discussions with offerors in accordance with AS 36.30.240 and 2 AAC 12.290. The purpose of these discussions will be to ensure full understanding of the requirements of the IRFP and proposal. Discussions will be limited to specific sections of the IRFP or proposal identified by the procurement officer. Discussions will only be held with offerors who have submitted a proposal deemed reasonably susceptible for award by the procurement officer. Discussions, if held, will be after initial evaluation of proposals by the procurement officer or the PEC. If modifications are made as a result of these discussions they will be put in writing. Following discussions, the procurement officer may set a time for best and final proposal submissions from those offerors with whom discussions were held. Proposals may be reevaluated after receipt of best and final proposal submissions.

If an offeror does not submit a best and final proposal or a notice of withdrawal, the offeror's immediate previous proposal is considered the offeror's best and final proposal.

Offerors with a disability needing accommodation should contact the procurement officer prior to the date set for discussions so that reasonable accommodation can be made. Any oral modification of a proposal must be reduced to writing by the offeror.

SEC. 6.05 EVALUATION OF PROPOSALS

The procurement officer, or an evaluation committee made up of at least three state employees or public officials, will evaluate proposals. The evaluation will be based solely on the evaluation factors set out in SECTION 5. EVALUATION CRITERIA AND CONTRACTOR SELECTION.

After receipt of proposals, if there is a need for any substantial clarification or material change in the IRFP, an amendment will be issued. The amendment will incorporate the clarification or change, and a new date and time established for new or amended proposals. Evaluations may be adjusted as a result of receiving new or amended proposals.

SEC. 6.06 CONTRACT NEGOTIATION

After final evaluation, the procurement officer may negotiate with the offeror of the highest-ranked proposal. Negotiations, if held, shall be within the scope of the request for proposals and limited to those items which would not have an effect on the ranking of proposals. If the highest-ranked offeror fails to provide necessary information for negotiations in a timely manner, or fails to negotiate in good faith, the state may terminate negotiations and negotiate with the offeror of the next highest-ranked proposal.

If the offeror must travel to attend contract negotiations the offeror is responsible for their travel expenses.

SEC. 6.07 FAILURE TO NEGOTIATE

If the selected offeror

- fails to provide the information required to begin negotiations in a timely manner; or
- fails to negotiate in good faith; or
- indicates they cannot perform the contract within the budgeted funds available for the project; or

- if the offeror and the state, after a good faith effort, simply cannot come to terms,

the state may terminate negotiations with the offeror initially selected and commence negotiations with the next highest ranked offeror.

SEC. 6.08 OFFEROR NOTIFICATION OF SELECTION

After the completion of contract negotiation the procurement officer will issue a written Notice of Intent to Award (NIA) and send copies to all offerors. The NIA will set out the names of all offerors and identify the proposal selected for award.

SEC. 6.09 PROTEST

2 AAC 12.695 provides that an interested party may protest the content of the IRFP or the award of a contract.

An interested party is defined in 2 AAC 12.990(a)(7) as “an actual or prospective bidder or offeror whose economic interest might be affected substantially and directly the issuance of a contract solicitation, the award of a contract, or the failure to award a contract.”

Per 2 AAC 12.695, an interested party must first attempt to informally resolve the dispute with the procurement officer. If that attempt is unsuccessful, the interested party may file a written protest to the solicitation or the award of the contract. The protest must be filed with the Commissioner of the purchasing agency or the Commissioner’s designee. The protester must also file a copy of the protest with the procurement officer. The protest must include the following information:

- the name, address, and telephone number of the protester;
- the signature of the protester or the protester's representative;
- identification of the contracting agency and the solicitation or contract at issue;
- a detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
- the form of relief requested.

If an interested party wishes to protest the content of a solicitation, the protest must be filed before the date and time that proposals are due.

If an offeror wishes to protest the award of a contract not greater than \$50,000, the protest must be filed within 10 days from the date of the solicitation or award, whichever is later.

If an offeror wishes to protest the award of a contract greater than \$50,000, the protest must be filed within 10 days from the date that notice of award is made.

A protester must have submitted a proposal in order to have sufficient standing to protest the award of a contract.

The procurement officer shall immediately give notice of the protest to the contractor or, if no award has been made, to all offerors who submitted proposals.

If the protestor agrees, the Commissioner of the purchasing department or the Commissioner’s designee may assign the protest to the procurement officer or other state official for alternate dispute resolution. In other cases, the Commissioner or the Commissioner’s designee may issue a decision denying the protest and stating

the reasons for denial, issue a decision sustaining the protest, in whole or in part, and instruct the procurement officer to implement an appropriate remedy, or conduct a hearing using procedures set out in AS 36.30.670(b).

SEC. 6.10 APPLICATION OF PREFERENCES

Certain preferences apply to all contracts for professional services, regardless of their dollar value. The Alaska Bidder, Alaska Veteran, and Alaska Offeror preferences are the most common preferences involved in the IRFP process. Additional preferences that may apply to this procurement are listed below. Guides that contain excerpts from the relevant statutes and codes, explain when the preferences apply and provide examples of how to calculate the preferences are available at the **Department of Administration, Division of Shared Service's** web site:

<http://doa.alaska.gov/dgs/pdf/pref1.pdf>

- Alaska Products Preference - AS 36.30.332
- Recycled Products Preference - AS 36.30.337
- Local Agriculture and Fisheries Products Preference - AS 36.15.050
- Employment Program Preference - AS 36.30.321(b)
- Alaskans with Disabilities Preference - AS 36.30.321(d)

The Division of Vocational Rehabilitation in the Department of Labor and Workforce Development keeps a list of qualified employment programs and individuals who qualify as persons with a disability. As evidence of a business' or an individual's right to the Employment Program or Alaskans with Disabilities preferences, the Division of Vocational Rehabilitation will issue a certification letter. To take advantage of these preferences, a business or individual must be on the appropriate Division of Vocational Rehabilitation list prior to the time designated for receipt of proposals. Offerors must attach a copy of their certification letter to the proposal. **An offeror's failure to provide this certification letter with their proposal will cause the state to disallow the preference.**

SEC. 6.11 ALASKA BIDDER PREFERENCE

An Alaska Bidder Preference of 5% will be applied to the price in the proposal. The preference will be given to an offeror who:

- 1) holds a current Alaska business license prior to the deadline for receipt of proposals;
- 2) submits a proposal for goods or services under the name appearing on the offeror's current Alaska business license;
- 3) has maintained a place of business within the state staffed by the offeror, or an employee of the offeror, for a period of six months immediately preceding the date of the proposal;
- 4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the state, is a limited liability company (LLC) organized under AS 10.50 and all members are residents of the state, or is a partnership under AS 32.06 or AS 32.11 and all partners are residents of the state; and
- 5) if a joint venture, is composed entirely of ventures that qualify under (1)-(4) of this subsection.

Alaska Bidder Preference Certification Form

In order to receive the Alaska Bidder Preference, the proposal must include the Alaska Bidder Preference Certification Form attached to this IRFP. An offeror does not need to complete the Alaska Veteran Preference questions on the form if not claiming the Alaska Veteran Preference. An offeror's failure to provide this completed form with their proposal will cause the state to disallow the preference.

SEC. 6.12 ALASKA VETERAN PREFERENCE

An Alaska Veteran Preference of 5%, not to exceed \$5,000, will be applied to the price in the proposal. The preference will be given to an offeror who qualifies under AS 36.30.990(2) as an Alaska bidder and is a:

- A. sole proprietorship owned by an Alaska veteran;
- B. partnership under AS 32.06 or AS 32.11 if a majority of the partners are Alaska veterans;
- C. limited liability company organized under AS 10.50 if a majority of the members are Alaska veterans; or
- D. corporation that is wholly owned by individuals, and a majority of the individuals are Alaska veterans.

In accordance with AS 36.30.321(i), the bidder must also add value by actually performing, controlling, managing, and supervising the services provided, or for supplies, the bidder must have sold supplies of the general nature solicited to other state agencies, other government, or the general public.

Alaska Veteran Preference Certification

In order to receive the Alaska Veteran Preference, the proposal must include the Alaska Bidder Preference Certification Form attached to this IRFP. An offeror's failure to provide this completed form with their proposal will cause the state to disallow the preference.

SEC. 6.13 ALASKA OFFEROR PREFERENCE

2 AAC 12.260(e) provides Alaska offerors a 10% overall evaluation point preference. Alaska bidders, as defined in AS 36.30.990(2), are eligible for the preference. An Alaska offeror will receive 10 percent of the total available points added to their overall evaluation score as a preference.

SEC. 6.14 FORMULA USED TO CONVERT COMPENSATION TO POINTS

Due to the fact that this IRFP will result in a concession contract with potential revenue returned to the State, the distribution of points based on cost will be determined as set out in 2 AAC 12.260(c), except in reverse. The highest compensation proposal will receive the maximum number of points allocated to this criteria. The point allocations for compensation on the other proposals will be determined through the method set out below:

$$[(\text{Compensation Rate in Proposal}) \times (\text{Maximum Points for Compensation})] \div (\text{Highest Compensation Rate Proposal})$$

SEC. 6.15 EXAMPLES: CONVERTING COST TO POINTS & APPLYING PREFERENCES

(a) FORMULA USED TO CONVERT COMPENSATION TO POINTS

STEP 1

List all proposal compensation rates, adjusted where appropriate by the application of applicable preferences claimed by the offeror.

Offeror #1	\$40,000
Offeror #2	\$42,750
Offeror #3	\$47,500

STEP 2

In this example, the IRFP allotted 40% of the available 100 points to compensation. This means that the highest compensation rate will receive the maximum number of points.

Offeror #3 receives 40 points.

The reason they receive that amount is because the highest compensation rate, in this case \$47,500, receives the maximum number of points allocated to compensation, 40 points.

Offeror #2 receives 36 points.

\$42,750 compensation rate in proposal x 40 maximum points for compensation = 1,710,000 ÷ \$47,500 compensation rate of Offeror #2's proposal = 36

Offeror #1 receives 33.7 points.

\$40,000 compensation rate in proposal x 40 maximum points for compensation = 1,600,000 ÷ \$47,500 compensation rate of Offeror #3's proposal = 33.7

(b) ALASKA OFFEROR PREFERENCE

STEP 1

Determine the number of points available to qualifying offerors under this preference.

100 Total Points Available in IRFP x 10% Alaska offerors preference = 10 Points for the Preference

STEP 2

Determine which offerors qualify as Alaska bidders and thus, are eligible for the Alaska offerors preference. For the purpose of this example, presume that all of the proposals have been completely evaluated based on the evaluation criteria in the IRFP. The scores at this point are:

Offeror #1	83 points	No Preference	0 points
Offeror #2	74 points	Alaska Offerors Preference	10 points
Offeror #3	80 points	Alaska Offerors Preference	10 points

STEP 3

Add the applicable Alaska offerors preference amounts to the offeror's scores:

Offeror #1	83 points	
Offeror #2	84 points	(74 points + 10 points)
Offeror #3	90 points	(80 points + 10 points)

STEP 4

Offeror #3 is the highest scoring offeror and would get the award, provided their proposal is responsible and responsive.

SECTION 7. GENERAL LEGAL INFORMATION

SEC. 7.01 STANDARD CONTRACT PROVISIONS

The contractor will be required to sign and submit the State's Standard Agreement Form for Professional Services Contracts (form SAF.DOC/Appendix A) OR Standard Contract Form for Goods and Non-Professional Services (form SCF.DOC/Appendix A). This form is attached in **SECTION 8. EXHIBITS** for your review. The contractor must comply with the contract provisions set out in this attachment. No alteration of these provisions will be permitted without prior written approval from the Department of Law. Objections to any of the provisions in Appendix A must be set out in the offeror's proposal in a separate document. Please include the following information with any change that you are proposing:

1. Identify the provision the offeror takes exception with.
2. Identify why the provision is unjust, unreasonable, etc.
3. Identify exactly what suggested changes should be made.

SEC 7.02 QUALIFIED OFFERORS

Per 2 AAC 12.875, unless provided for otherwise in the IRFP, to qualify as an offeror for award of a contract issued under AS 36.30, the offeror must:

- 1) Add value in the contract by actually performing, controlling, managing, or supervising the services to be provided; or
- 2) Be in the business of selling and have actually sold on a regular basis the supplies that are the subject of the IRFP.

If the offeror leases services or supplies or acts as a broker or agency in providing the services or supplies in order to meet these requirements, the procurement officer may not accept the offeror as a qualified offeror under AS 36.30.

SEC. 7.03 PROPOSAL AS PART OF THE CONTRACT

Part or all of this IRFP and the successful proposal may be incorporated into the contract.

SEC. 7.04 ADDITIONAL TERMS AND CONDITIONS

The state reserves the right to add terms and conditions during contract negotiations. These terms and conditions will be within the scope of the IRFP and will not affect the proposal evaluations.

SEC. 7.05 HUMAN TRAFFICKING

By signature on their proposal, the offeror certifies that the offeror is not established and headquartered or incorporated and headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: <https://www.state.gov/trafficking-in-persons-report/>

Failure to comply with this requirement will cause the state to reject the proposal as non-responsive, or cancel the contract.

SEC. 7.06 RIGHT OF REJECTION

Offerors must comply with all of the terms of the IRFP, the State Procurement Code (AS 36.30), and all applicable local, state, and federal laws, codes, and regulations. The procurement officer may reject any proposal that does not comply with all of the material and substantial terms, conditions, and performance requirements of the IRFP.

Offerors may not qualify the proposal nor restrict the rights of the state. If an offeror does so, the procurement officer may determine the proposal to be a non-responsive counter-offer and the proposal may be rejected.

Minor informalities that:

- do not affect responsiveness;
- are merely a matter of form or format;
- do not change the relative standing or otherwise prejudice other offers;
- do not change the meaning or scope of the IRFP;
- are trivial, negligible, or immaterial in nature;
- do not reflect a material change in the work; or
- do not constitute a substantial reservation against a requirement or provision;

may be waived by the procurement officer.

The state reserves the right to refrain from making an award if it determines that to be in its best interest.

A proposal from a debarred or suspended offeror shall be rejected.

SEC 7.07 STATE NOT RESPONSIBLE FOR PREPARATION COSTS

The state will not pay any cost associated with the preparation, submittal, presentation, or evaluation of any proposal.

SEC. 7.08 DISCLOSURE OF PROPOSAL CONTENTS

All proposals and other material submitted become the property of the State of Alaska and may be returned only at the state's option. AS 40.25.110 requires public records to be open to reasonable inspection. All proposal information, including detailed price and cost information, will be held in confidence during the evaluation process and prior to the time a Notice of Intent to Award is issued. Thereafter, proposals will become public information.

Trade secrets and other proprietary data contained in proposals may be held confidential if the offeror requests, in writing, that the procurement officer does so, and if the procurement officer agrees, in writing, to do so. The offeror's request must be included with the proposal, must clearly identify the information they wish to be held confidential, and include a statement that sets out the reasons for confidentiality. Unless the procurement officer agrees in writing to hold the requested information confidential, that information will also become public after the Notice of Intent to Award is issued.

SEC. 7.09 ASSIGNMENTS

Per 2 AAC 12.480, the contractor may not transfer or assign any portion of the contract without prior written approval from the procurement officer. Proposals that are conditioned upon the state's approval of an assignment will be rejected as non-responsive.

SEC. 7.10 DISPUTES

A contract resulting from this IRFP is governed by the laws of the State of Alaska. If the contractor has a claim arising in connection with the agreement that it cannot resolve with the state by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620 – AS 36.30.632. To the extent not otherwise governed by the preceding, the claim shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

SEC. 7.11 SEVERABILITY

If any provision of the contract is found to be invalid or declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and, the rights and obligations of the parties will be construed and enforced as if the contract did not contain the particular provision held to be invalid.

SEC. 7.12 SUPPLEMENTAL TERMS AND CONDITIONS

Proposals must comply with **SEC. 7.06 RIGHT OF REJECTION**. However, if the state fails to identify or detect supplemental terms or conditions that conflict with those contained in this IRFP or that diminish the state's rights under any contract resulting from the IRFP, the term(s) or condition(s) will be considered null and void. After award of contract:

if conflict arises between a supplemental term or condition included in the proposal and a term or condition of the IRFP, the term or condition of the IRFP will prevail; and

if the state's rights would be diminished as a result of application of a supplemental term or condition included in the proposal, the supplemental term or condition will be considered null and void.

SEC. 7.13 FEDERALLY IMPOSED TARRIFFS

Changes in price (increase or decrease) resulting directly from a new or updated Federal Tariff, excise tax, or duty, imposed after contract award may be adjusted during the contract period or before delivery into the United States via contract amendment.

- **Notification of Changes:** The Contractor must promptly notify the Procurement Officer in writing of any new, increased, or decreased Federal excise tax or duty that may result in either an increase or decrease in the contact price and shall take appropriate action as directed by the Procurement Officer.
- **After-imposed or Increased Taxes and Duties:** Any Federal excise tax or duty for goods or services covered by this contract that was exempted or excluded on the contract award date but later imposed on the contractor during the contract period, as the result of legislative, judicial, or administrative action may result in a price increase provided:
 - a) The tax or duty takes effect after the contract award date and isn't otherwise addressed by the contract;
 - b) The contractor warrants, in writing, that no amount of the newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency or otherwise.

- **After-relieved or Decreased Taxes and Duties:** The contract price shall be decreased by the amount of any decrease in Federal excise tax or duty for goods or services under the contract, except social security or other employment [taxes](#), that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Procurement Officer.
- **State's Ability to Make Changes:** The State reserves the right to request verification of Federal excise tax or duty amounts on goods or services covered by this contract and increase or decrease the contract price accordingly.
- **Price Change Threshold:** No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

SECTION 8. ATTACHMENTS

SEC. 8.01 ATTACHMENTS

Attachments:

- 1) Application Form
- 2) Operations Plan
- 3) Standard Agreement Form - Appendix A

APPLICATION FORM

IN ORDER FOR THIS PROPOSAL TO BE CONSIDERED RESPONSIVE, THE OFFEROR SHALL PROVIDE THE FOLLOWING INFORMATION.

Company Name:

Physical Address:

Mailing Address:

Company Website:

Contact Telephone Number:

Contact Fax Number:

Contact Email Address:

Contact Name (print):

Do you have a valid Alaska business license issued under your firms name?

Yes No License Number _____

Is the offeror in arrears on taxes due?

Yes No

Will any additional commercial activities be offered other than providing guided interpretive tours, charging for camping, use of dump station, historic access fee, restaurant / gift sales?

Yes No

If Yes, please explain:

The minimum contract fee is specified in section 3.05 of this IRFP, and the proposal shall confirm that the offeror is offering this minimum. Proposals not offering the minimum contract fee will be rejected as nonresponsive. Offerors shall be willing to guarantee the payments to the state.

I am proposing:

_____ % of gross revenues from commercial activities to be paid to the state.

Is there any conflict of interest with the offeror per section 1.08(d) of this IRFP?

Yes No

If Yes, please explain:

Further, by my signature on the proposal, I certify that I will comply with:

- The laws of the State of Alaska;
- The applicable portion of the Federal Civil Rights Act of 1964;
- The Equal Employment Opportunity Act and the regulations issued there under by the federal government;
- The Americans with Disabilities Act of 1990 and the regulations issued thereunder by the federal government;
- All terms and conditions set out in this IRFP;
- A condition that the proposal submitted was independently arrived at without collusion, under penalty of perjury;
- That the offers will remain open and valid for at least 90 days; and
- That programs, services, and activities provided to the general public under the resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued there under by the federal government.

The information I have entered on this form and the other required forms for this proposal is complete and true to the best of my knowledge. I understand that any false, fictitious, or fraudulent statement or representation may result in denial, suspension or revocation of any contract issued. I also certify that the proposal compensation was arrived at independently without collusion and the offer made in this proposal will remain in effect for at least 90 days from proposal deadline submittal date.

I agree to provide the services indicated in a satisfactory manner, to abide by the terms and conditions of any contract that might be issued, and to confine activities to those described.

My proposal and all required forms for this contract are attached to this document.

Signature:

Print Name:

Title:

Date:

OPERATIONS PLAN

Offerors to this IRFP are required to submit an annual operations plan for the 2020 season as a part of their proposal. This plan, the contract stipulations included in this IRFP and other portions of the successful offeror's proposal shall control the contractor's activities allowed in the park. It is understood that all of these items may be modified by negotiations between the state and successful offeror (which will become the contractor). Further, the plan and contract stipulations may be modified during the period of the contract by mutual agreement of the parties.

Generally, the state does not regulate prices so long as the park fees do not exceed the allowable maximum, but reserves the right to do so. Please specify how prices and fees shall be established, how the fees will be collected, etc. Offeror shall provide a list of all proposed fees to be charged to the public for the contract term per the IRFP, including pricing policies. The proposed fees shall be tied to your proposed operating plan provisions.

Offeror shall provide detailed information regarding the facility management and operation plan, as it relates to this IRFP. Additionally, list any revisions, deletions, and additions that you wish to make to the contract terms or stipulations. These proposed changes to the contract terms and stipulations will be the subject of negotiations. The state will assume that, unless specifically identified by the offeror in this section, the contract terms and stipulations in this IRFP are acceptable.

The following outline may be used to help structure the operations plan.

Sample Operating Plan Outline

Documentation of Business Company or Corporation

Offerors shall include information about the business organization and organizational structure, i.e., organization and/or individual name, mailing address, designated agent, evidence of incorporation and good standing, and name and address of each affiliate of the applicant. Offerors that are limited-liability companies shall provide the names and interests of the company's principals. Should the offeror not be incorporated in the State of Alaska, the offeror shall submit a valid license to do business in Alaska. Include any appropriate information, including shareholder or partnership agreements, as an attachment to this business plan, and provide the following for each shareholder and/or partnership: Name, Address, SSN, % Ownership

Business Experience/Performance

Offerors shall furnish a detailed description of their experience as it relates to operating and maintaining the facilities identified in this IRFP. The description shall include experience in private business, public service, or any nonprofit or other related enterprises. For each business venture, include the following information:

- The dates of the business experience
- The location of the business
- A description of services provided
- A description of customers served
- The number of employees supervised
- The volume of business

Financial Data

The offeror shall describe how they will cover their start up costs, and operating cash flow for managing the facilities outlined in the IRFP, providing sufficient detail to demonstrate the financial viability of their proposal.

A. Operating Season

B. Staffing and Management

1. Staffing
2. Personnel
3. Employee training
4. Employee services
5. Employee conduct
6. Contingency plans for staff turnover
7. Uniforms or insignia

C. General Operations

1. Facility operations
 - a. Hours of operation
 - b. Seasonal changes to schedule for days and hours
 - d. Cleaning and maintenance
2. Building and grounds operations
 - a. Hours of operation
 - b. Staffing
 - c. Cleaning and maintenance
3. Pricing policy and fee management
 - a. Fee schedule (define fees to be charged and what types of services may be provided at no charge to visitors, if applicable)
 - b. Fee collection and refunds

- c. Other service fees/rentals
- d. Sundries
- e. Financial control and accounting procedures

- 4. Insurance
- 5. Communication systems
- 6. Equipment and supplies
- 7. Use reports
- 8. Utilities
- 9. Garbage management
- 10. Waste management
- 11. Site Hazards
- 12. Signs and Posters
- 13. Advertising
- 14. Vandalism
- 15. Other optional services

D. Summer season operations

E. Special conditions

STANDARD AGREEMENT FORM FOR PROFESSIONAL SERVICES

ATTACHMENT THREE

The parties' contract comprises this Standard Agreement Form, as well as its referenced Articles and their associated Appendices

1. Agency Contract Number	2. Contract Title	3. Agency Fund Code See Appendix D	4. Agency Appropriation Code See Appendix D
5. Vendor Number	6. IRIS Document ID #	7. Alaska Business License Number	

This contract is between the State of Alaska,

8. Department of	Division			
		hereafter the State, and		
9. Contractor				
hereafter the contractor				
Mailing Address	Street or P.O. Box	City	State	ZIP+4

10. **ARTICLE 1. Appendices:** Appendices referred to in this contract and attached to it are considered part of it.

ARTICLE 2. Performance of Service:

2.1 Appendix A (General Provisions), Articles 1 through 16, governs the performance of services under this contract.

2.2 Appendix B sets forth the liability and insurance provisions of this contract.

2.3 Appendix C sets forth the services to be performed by the contractor.

ARTICLE 3. Period of Performance: The period of performance for this contract begins _____, and ends _____.

ARTICLE 4. Considerations:

4.1 In full consideration of the contractor's performance under this contract, the State shall pay the contractor a sum not to exceed \$_____ in accordance with the provisions of Appendix D.

4.2 When billing the State, the contractor shall refer to the Authority Number or the Agency Contract Number and send the billing to:

11. Department of	Attention: Division of
Mailing Address	Attention:

12. CONTRACTOR	14. CERTIFICATION: I certify that the facts herein and on supporting documents are correct, that this voucher constitutes a legal charge against funds and appropriations cited, that sufficient funds are encumbered to pay this obligation, or that there is a sufficient balance in the appropriation cited to cover this obligation. I am aware that to knowingly make or allow false entries or alternations on a public record, or knowingly destroy, mutilate, suppress, conceal, remove or otherwise impair the verity, legibility or availability of a public record constitutes tampering with public records punishable under AS 11.56.815-.820. Other disciplinary action may be taken up to and including dismissal.	
Name of Firm		
Signature of Authorized Representative		Date
Typed or Printed Name of Authorized Representative		
Title		

13. CONTRACTING AGENCY	Signature of Head of Contracting Agency or Designee	Date
Department/Division	Date	
Signature of Project Director	Typed or Printed Name	
Typed or Printed Name of Project Director	Title	
Title		

NOTICE: This contract has no effect until signed by the head of contracting agency or designee.

APPENDIX A

GENERAL PROVISIONS

Article 1. Definitions.

- 1.1 In this contract and appendices, "Project Director" or "Agency Head" or "Procurement Officer" means the person who signs this contract on behalf of the Requesting Agency and includes a successor or authorized representative.
- 1.2 "State Contracting Agency" means the department for which this contract is to be performed and for which the Commissioner or Authorized Designee acted in signing this contract.

Article 2. Inspections and Reports.

- 2.1 The department may inspect, in the manner and at reasonable times it considers appropriate, all the contractor's facilities and activities under this contract.
- 2.2 The contractor shall make progress and other reports in the manner and at the times the department reasonably requires.

Article 3. Disputes.

- 3.1 If the contractor has a claim arising in connection with the contract that it cannot resolve with the State by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620 – 632.

Article 4. Equal Employment Opportunity.

- 4.1 The contractor may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, or because of age, disability, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position(s) do not require distinction on the basis of age, disability, sex, marital status, changes in marital status, pregnancy, or parenthood. The contractor shall take affirmative action to insure that the applicants are considered for employment and that employees are treated during employment without unlawful regard to their race, color, religion, national origin, ancestry, disability, age, sex, marital status, changes in marital status, pregnancy or parenthood. This action must include, but need not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting out the provisions of this paragraph.
- 4.2 The contractor shall state, in all solicitations or advertisements for employees to work on State of Alaska contract jobs, that it is an equal opportunity employer and that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, age, disability, sex, marital status, changes in marital status, pregnancy or parenthood.
- 4.3 The contractor shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' compensation representative of the contractor's commitments under this article and post copies of the notice in conspicuous places available to all employees and applicants for employment.
- 4.4 The contractor shall include the provisions of this article in every contract, and shall require the inclusion of these provisions in every contract entered into by any of its subcontractors, so that those provisions will be binding upon each subcontractor. For the purpose of including those provisions in any contract or subcontract, as required by this contract, "contractor" and "subcontractor" may be changed to reflect appropriately the name or designation of the parties of the contract or subcontract.
- 4.5 The contractor shall cooperate fully with State efforts which seek to deal with the problem of unlawful discrimination, and with all other State efforts to guarantee fair employment practices under this contract, and promptly comply with all requests and directions from the State Commission for Human Rights or any of its officers or agents relating to prevention of discriminatory employment practices.
- 4.6 Full cooperation in paragraph 4.5 includes, but is not limited to, being a witness in any proceeding involving questions of unlawful discrimination if that is requested by any official or agency of the State of Alaska; permitting employees of the contractor to be witnesses or complainants in any proceeding involving questions of unlawful discrimination, if that is requested by any official or agency of the State of Alaska; participating in meetings; submitting periodic reports on the equal employment aspects of present and future employment; assisting inspection of the contractor's facilities; and promptly complying with all State directives considered essential by any office or agency of the State of Alaska to insure compliance with all federal and State laws, regulations, and policies pertaining to the prevention of discriminatory employment practices.
- 4.7 Failure to perform under this article constitutes a material breach of contract.

Article 5. Termination.

The Project Director, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the State. In the absence of a breach of contract by the contractor, the State is liable only for payment in accordance with the payment provisions of this contract for services rendered before the effective date of termination.

Article 6. No Assignment or Delegation.

The contractor may not assign or delegate this contract, or any part of it, or any right to any of the money to be paid under it, except with the written consent of the Project Director and the Agency Head.

Article 7. No Additional Work or Material.

No claim for additional services, not specifically provided in this contract, performed or furnished by the contractor, will be allowed, nor may the contractor do any work or furnish any material not covered by the contract unless the work or material is ordered in writing by the Project Director and approved by the Agency Head.

Article 8. Independent Contractor.

The contractor and any agents and employees of the contractor act in an independent capacity and are not officers or employees or agents of the State in the performance of this contract.

Article 9. Payment of Taxes.

As a condition of performance of this contract, the contractor shall pay all federal, State, and local taxes incurred by the contractor and shall require their payment by any Subcontractor or any other persons in the performance of this contract. Satisfactory performance of this paragraph is a condition precedent to payment by the State under this contract.

Article 10. Ownership of Documents.

All designs, drawings, specifications, notes, artwork, and other work developed in the performance of this agreement are produced for hire and remain the sole property of the State of Alaska and may be used by the State for any other purpose without additional compensation to the contractor. The contractor agrees not to assert any rights and not to establish any claim under the design patent or copyright laws. Nevertheless, if the contractor does mark such documents with a statement suggesting they are trademarked, copyrighted, or otherwise protected against the State's unencumbered use or distribution, the contractor agrees that this paragraph supersedes any such statement and renders it void. The contractor, for a period of three years after final payment under this contract, agrees to furnish and provide access to all retained materials at the request of the Project Director. Unless otherwise directed by the Project Director, the contractor may retain copies of all the materials.

Article 11. Governing Law; Forum Selection

This contract is governed by the laws of the State of Alaska. To the extent not otherwise governed by Article 3 of this Appendix, any claim concerning this contract shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

Article 12. Conflicting Provisions.

Unless specifically amended and approved by the Department of Law, the terms of this contract supersede any provisions the contractor may seek to add. The contractor may not add additional or different terms to this contract; AS 45.02.207(b)(1). The contractor specifically acknowledges and agrees that, among other things, provisions in any documents it seeks to append hereto that purport to (1) waive the State of Alaska's sovereign immunity, (2) impose indemnification obligations on the State of Alaska, or (3) limit liability of the contractor for acts of contractor negligence, are expressly superseded by this contract and are void.

Article 13. Officials Not to Benefit.

Contractor must comply with all applicable federal or State laws regulating ethical conduct of public officers and employees.

Article 14. Covenant Against Contingent Fees.

The contractor warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee except employees or agencies maintained by the contractor for the purpose of securing business. For the breach or violation of this warranty, the State may terminate this contract without liability or in its discretion deduct from the contract price or consideration the full amount of the commission, percentage, brokerage or contingent fee.

Article 15. Compliance.

In the performance of this contract, the contractor must comply with all applicable federal, state, and borough regulations, codes, and laws, and be liable for all required insurance, licenses, permits and bonds.

Article 16. Force Majeure:

The parties to this contract are not liable for the consequences of any failure to perform, or default in performing, any of their obligations under this Agreement, if that failure or default is caused by any unforeseeable Force Majeure, beyond the control of, and without the fault or negligence of, the respective party. For the purposes of this Agreement, Force Majeure will mean war (whether declared or not); revolution; invasion; insurrection; riot; civil commotion; sabotage; military or usurped power; lightning; explosion; fire; storm; drought; flood; earthquake; epidemic; quarantine; strikes; acts or restraints of governmental authorities affecting the project or directly or indirectly prohibiting or restricting the furnishing or use of materials or labor required; inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities.