



City and Borough of Sitka

APPENDIX A – STANDARD TERMS AND CONDITIONS - GENERAL CONDITIONS

1. Inspections and Reports: The City and Borough of Sitka (“Purchaser”) may inspect, in the manner and at reasonable times it considers appropriate, all of the contractor’s facilities and activities under this contract. The contractor shall make progress and other reports in the manner and at the times the department reasonably requires.
2. Suitable Materials, Etc.: Unless otherwise specified, all materials, supplies or equipment (“Goods”) offered by the contractor shall be new, unused, and of the latest edition, version, model or crop and of recent manufacture. All Goods supplied by Contractor shall be merchantable as defined under Alaska law. Any Goods supplied by Contractor to fulfill specific performance needs and requirements identified by Purchaser shall be fit for the specific identified purpose or application
3. Disputes: If the contractor has a dispute or claim arising in connection with the contract, it shall promptly provide notice and supporting documents and information pertaining to such dispute or claim within 14 days of the event giving rise to the dispute or claim. If Contractor cannot resolve the dispute or claim with Purchaser by mutual agreement, it shall pursue the claim, if at all, through litigation.
4. Default: In case of default by the contractor, for any reason whatsoever, Purchaser may procure the goods or services from another source and hold the contractor responsible for any resulting excess cost and may seek other remedies under law or equity.
5. 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 Purchaser.
6. No Additional Work or Material: No claim for additional supplies or services, not specifically provided in this contract to be 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 Purchaser.
7. 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 Purchaser in the performance of this contract.
8. 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 Purchaser under this contract.
9. 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.
10. Conflicting Provisions: Unless specifically amended and approved by the Purchaser’s Finance Director, 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 set forth in 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 City and Borough of Sitka’s sovereign immunity, (2) impose indemnification obligations on the City and Borough of Sitka, or (3) seek to limit liability of the contractor for acts of contractor negligence, are expressly superseded by this contract are void.
11. Officials Not to Benefit: Contractor must comply with all applicable federal or State laws regulating ethical conduct of public officers and employees.
12. Contract Prices: Contract prices for Goods and Services must be in U.S. funds and include applicable federal duty, brokerage fees, packaging, and transportation cost to the FOB point so that upon transfer of title the commodity can be utilized without further cost. Prices for services must be in U.S. funds and include applicable federal duty, brokerage fee, packaging, and transportation cost so that the services can be provided without further cost.
13. Contract Funding: Contractors are advised that funds are available for the initial purchase and/or the first term of the contract. Payment and performance obligations for succeeding purchases and/or additional terms of the contract are subject to the availability and appropriation of funds.
14. 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. The inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities is NOT considered a Force Majeure event.
15. Contract Extension: Unless otherwise provided, Purchaser and the contractor agree: (1) that any holding over 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) to provide written notice to the other party of the intent to cancel such month-to-month extension at least thirty (30) days before the desired date of cancellation.
16. Severability: If any provision of the contract is 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.
17. Continuing Obligation of Contractor: Notwithstanding the expiration date of this contract, the contractor is obligated to fulfill its responsibilities until warranty, guarantee, maintenance and parts availability requirements have completely expired.
18. To avoid conflicts of interest which are not in the best interest of Purchaser, Contractors are not permitted to hire or employ CBS Employees to perform any work associated to this contract without written authorization by the Municipal Administrator of Purchaser.
19. 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 in Sitka and not elsewhere.
20. Performance of Services. If this contract includes the providing of services by contractor, any services which are deficient, incomplete or inadequate shall be promptly corrected or replaced by services which meet all applicable contract and other requirements, at no additional cost to Purchaser.
21. Work on Purchaser Property. To the extent contractor will perform activities or provide services on Purchaser’s property, contractor shall provide Purchaser proof of insurance for Commercial General Liability, Commercial Automobile Liability and Worker’s Compensation coverages with minimum limits of \$1,000,000 for Commercial General Liability and Commercial Automobile Liability coverages. Purchaser shall be named as an additional insurance and granted a full waiver of any rights of subrogation by endorsement under all required policies. Contractor shall be exclusively responsible for all safety practices and procedures pertaining to its work on Purchaser’s property. Contractor shall indemnify, defend save, and hold Purchaser, and its employees and agents, harmless from any claims, lawsuits or liability to the extent arising from any wrongful or negligent act, error or omission of Contractor.