



Railcar New and Turned Wheel Sets

Invitation to Bid #24-66-314156

Alaska Railroad Corporation
327 W. Ship Creek Avenue, Anchorage, AK 99501
P.O. Box 107500, Anchorage, AK 99510-7500

Email: Walkerr@akrr.com



ALASKA RAILROAD CORPORATION
327 W. Ship Creek Ave.
Anchorage, AK 99501

INVITATION TO BID
#24-66-314156

AAR CERTIFIED NEW AND TURNED WHEEL SETS

Response Requested,

This form must be completed and returned to ensure receipt of future addenda or additional information. Email the completed form to: WalkerR@akrr.com. All addenda will be forwarded to the contact's name and email listed below.

Firms that have not returned this cover sheet will not be informed of addendums and will only be alerted to addendums by checking with the ARRC procurement officer or by checking ARRC's internet site: www.alaskarailroad.com, select Suppliers and then Solicitations. Bidders must acknowledge the receipt of all issued addendums in their proposal/bid submittal.

Company _____

Address _____

Contact _____

Phone _____

Email _____

Website: www.alaskarailroad.com



INVITATION TO BID (ITB) NUMBER: 24-66-314156

AAR CERTIFIED NEW AND TURNED WHEEL SETS

OFFERS WILL BE RECEIVED AT: Alaska Railroad Corporation
Attn: Rob Walker
327 West Ship Creek Avenue,
Anchorage, Alaska 99501

SEALED BIDS MUST BE SUBMITTED TO THE ABOVE ADDRESS PRIOR TO 3:00 PM ON TUESDAY OCTOBER 9, 2024 AT WHICH TIME THEY WILL BE PUBLICLY OPENED.

The Alaska Railroad Corporation (“ARRC”) is soliciting bids from interested parties to provide New and Turned Wheel Sets specified herein. Interested parties are invited to submit a bid to provide said services to ARRC. Bids must be submitted on the bid forms contained herein and must be mailed or delivered to the above address. Bids received via facsimile transmission will be considered non-responsive. The bid shall be in a sealed envelope with the bid number 24-66-314156 clearly printed on the face of the envelope. Bids must be complete and in U.S. dollars. See instructions and conditions enclosed herein.

Please direct all responses and/or questions concerning this Invitation to Bid to Rob Walker, Alaska Railroad Corporation, Supply Management, 327 W. Ship Creek Avenue, Anchorage, AK 99501, telephone number 907-265-2218 or email at walkerr@akrr.com

ARRC Disadvantaged Business Enterprise (DBE) Program: ARRC is an equal opportunity corporation that encourages the participation of DBEs as prime contractors and subcontractors on its contracts funded in whole or in part by the Federal Transit Administration (FTA) or the Federal Highway Administration (FHWA). The ARRC has a race neutral DBE Program and does not set DBE goals on individual solicitations. Nonetheless, the ARRC aspires to achieve an overall DBE participation on federal contracts of 4% in FY 2022-2024. If this contract is funded in whole or in part by funds from the FTA or the FHWA, it is imperative that you consult the Federal Terms and Conditions portion of this solicitation.

Protests Per ARRC Procurement Rule 1800.2

A protest based on alleged improprieties or ambiguities in a solicitation must be filed at least 10 days before the due date of the bid or proposal, unless a later protest due date is specifically allowed in the solicitation. If a solicitation is made with a shortened public notice period and the protest is based on alleged improprieties or ambiguities in the solicitation, the protest must be filed before the due date of the bid or proposal.

The protest of an invitation to bid or a request for proposals, in which a pre-bid or pre-proposal conference is held within 12 days of the due date must be filed before the due date of the bid or proposal if the protest is based on alleged improprieties or ambiguities in the solicitation. A protest based upon alleged improprieties in an award of a contract or a proposed award of a contract must be filed within 10 days after a notice of intent to award a contract is issued by the procurement officer.



The Alaska Railroad is a member of Green Star (<http://www.greenstarinc.org/>). ARRC earned an initial Green Star Award in 1994 and a Green Star Air Quality Award in 2007. The Alaska Railroad considers Green Star membership to be a positive business attribute, and regards a Green Star award as a tangible sign of an organization's commitment to environmental stewardship and continual improvement within its operations.

Please direct all responses and/or questions concerning this Request for Proposals in writing no later than October 1, 2024 to Rob Walker, Alaska Railroad Corporation, Supply Management, 327 Ship Creek Avenue, Anchorage, AK 99501. Questions may be emailed to Walkerr@akrr.com . Any questions received after specified date may not be accepted.

Regards,

A handwritten signature in black ink, appearing to read "Rob Walker". The signature is fluid and cursive, with a large loop at the end.

Rob Walker
Logistics Manager
Alaska Railroad Corporation

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**APPENDIX A
ALASKA RAILROAD CORPORATION
REQUIRED DOCUMENTS**

Bids must be submitted in the spaces provided on the Cost Schedule of this invitation in accordance with the conditions of bid as stated herein. The bid will not be considered to be complete unless all spaces have been filled in. Consideration for award will be provided to complete bids only. If a bidder wishes to supply additional information, it may be included along with the bid in the sealed bid envelope.

Bidder/contractor-imposed terms and conditions which conflict with the terms and conditions of this Invitation to Bid are considered counter offers and, as such, will cause the Alaska Railroad Corporation to consider the bid non-responsive. If a bidder attaches additional terms and conditions as part of the bid, such attachments must be accompanied by a disclaimer stating that in the event of conflict between the terms and conditions of this Invitation to Bid and the terms and conditions of the bidder/contractor, the terms and conditions of the Invitation to Bid will prevail.

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

1. Supply Bid Form [Form 395-0132]
2. Cost Schedule - [Appendix F]
3. Bidder's Questionnaire - [Form 395-0136] - [Appendix G]
4. Federal requirements: Appendix H:
 22. FTA BUY AMERICA CERTIFICATE
 25. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

APPENDIX B
STANDARD INSTRUCTIONS FOR THE SUBMISSION OF BIDS AND
PROPOSALS TO THE ALASKA RAILROAD CORPORATION

1. Amendments.

The ARRC procurement officer will attempt to notify all who are known to have received the solicitation documents if any amendments are issued, but it shall be the bidder/offerors responsibility to ascertain prior to submitting a bid/proposal that he/she has received all amendments issued.

2. Submission of Bids/Proposals.

2.1 Unless otherwise stated in the solicitation, interested vendors shall submit an original of their bids/proposals in sealed envelopes or packages (1) addressed to the office specified in the solicitation and (2) showing the time specified for receipt, the solicitation number, and the name and address of the bidder/offeror. Bids/proposals must be received by ARRC no later than the local time at the place and on the date set for receipt of bids/proposals in the solicitation.

2.2 Any required samples must be submitted within the time specified for receipt of bids/proposals. Unless otherwise specified in the solicitation, these samples shall be (1) submitted at no expense to the ARRC and (2) returned only upon the sender's request and at their expense.

2.3 ARRC may postpone the date and time announced for receipt of bids/proposals. Such postponement may be made at any time prior to the established date and time for receipt of bids/proposals by notice and addendum to the solicitation to all known potential bidders/offerors.

3. Explanation to Prospective Bidders/Offerors.

Bidders/offerors shall promptly notify ARRC of any ambiguity, inconsistency, conflict, or error which they may discover upon examination of the solicitation documents. All inquiries regarding a solicitation shall be directed to the ARRC representative specified in the solicitation. Any prospective bidder/offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing soon enough to allow a reply to reach all prospective bidders/offerors before the submission of their bid/proposal. To facilitate the exchange of information, vendors' questions regarding a solicitation may be communicated by telephone, and then confirmed in writing. Oral explanations or instructions given before award of the contract will not be binding. Oral explanations or instructions given to a prospective bidder/offeror concerning a solicitation will be furnished promptly to all other prospective bidders/offerors as an amendment to the solicitation, if in the opinion of ARRC, such information is deemed necessary to submit bids/proposals or if the lack of it would be prejudicial to other prospective bidders/offerors.

4. Late Submissions, Modifications, and Withdrawals of Bids/Proposals.

4.1 Any bid/proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless the delay was due to an ARRC error.

4.2 The only acceptable evidence to establish the time of receipt at the ARRC is the time/date stamp of ARRC's Procurement Office on the bid/proposal wrapper or other documentary evidence of receipt maintained by the ARRC.

4.3 Correction, modification, or withdrawal of bids/proposals will be allowed only as stated in ARRC Procurement Rule 1200.8.

5. Preparation of Bids/Proposals.

5.1 Bidders/offerors are expected to carefully examine the solicitation documents including all drawings, specifications, schedules, terms and conditions, and all instructions. Failure to do so will be at the bidder's/offerors risk. Incomplete bids/proposals may be rejected as nonresponsive.

5.2 Each bidder/offeror shall furnish all information required by the solicitation. The bid/proposal must be signed by an officer or other official of the vendor's company who has legal authority to commit the vendor to the contract proposed. Erasures or other changes must be initialed by the person signing the bid/proposal.

5.3 Bids/proposals for supplies or services other than those specified, or bids/proposals conditioned upon receiving award of all or a portion of the contract shall be deemed nonresponsive and shall be rejected unless authorized by the solicitation.

5.4 Time, if stated as a number of days, will include Saturdays, Sundays, and holidays.

6. Evaluation of Bids/Proposals and Contract Award.

ARRC shall review and evaluate each submission in accordance with the criteria established in the solicitation and ARRC's Procurement Rules. In addition to other factors, bids/proposals will be evaluated on the basis of advantages and disadvantages to ARRC that might result from making more than one award (multiple awards).

7. Reservations.

7.1 ARRC may reject any or all bids/proposals, or any part thereof, and may waive technicalities and minor informalities if such action is deemed to be in its best interest.

7.2 If an award is made and, prior to entering into a contract, subsequent information indicates that such award was not in the best interest of ARRC, ARRC may rescind the award without prior notice to bidders/offerors and either award to another bidder/offeror or reject all bids/proposals.

7.3 ARRC may cancel any contract, if in its opinion the vendor fails at any time to perform adequately, or if there is any attempt to willfully impose goods/services upon ARRC which are, in ARRC's opinion, of an unacceptable quality. Any action taken pursuant to this latter stipulation shall not affect or impair any rights or claim of ARRC to damages for breach of any covenants of the contract by the vendor. ARRC also may reject the bid/proposal of any vendor who has previously failed to perform adequately under a prior contract for furnishing supplies/services to ARRC.

7.4 If the vendor fails to furnish any item or to complete the required work included in the contract, ARRC may withdraw such items or required work from the operation of the contract without incurring further liability.

7.5 ARRC may accept any item or group of items of a bid/proposal unless the bidder/offeror qualifies the bid/proposal by specific limitation.

7.6 ARRC may make an award on any item or quantities less than the quantity offered, at the unit cost or prices offered, unless the bidder/offeror specifies otherwise.

8. Aggrieved Bidder/Offeror.

An aggrieved bidder/offeror may protest an ARRC procurement action by filing a written protest with the procurement officer in accordance with the procedures and time limits specified in ARRC Procurement Rules 1800.1-1800.11.

9. Incurred Costs.

The issuance of a solicitation does not obligate ARRC to pay for any bid/proposal preparation costs incurred by bidders/offerors and does not obligate ARRC to award a contract for supplies/services. All costs incurred as a result of a solicitation or contract negotiations resulting from a solicitation, including travel and personal expenses, are the sole responsibility of the bidder/offeror.

10. Availability of Funds.

ARRC's obligation under any contract is contingent upon the availability of funds to pay for contract purchases. No legal liability on the part of ARRC may arise until funds are made available for a contract and until the Contractor receives written notice of such availability from the procurement officer. Signature by an authorized ARRC representative on the contract award document constitutes written notice of availability of funds.

11. Public Information.

All submitted bids/proposals will be considered confidential until notice of intent to award is issued. After notice of intent to award is issued, all bids/proposals will become public information.

12. Price.

ARRC shall receive the benefit of any general reduction in bidder's/offerors price prior to the delivery of supplies or services and in no event shall ARRC be charged higher prices than bidder's/offerors similar customers who purchase substantially similar supplies or services under substantially similar circumstances. All prices bid shall be exclusive of any federal, state, or local taxes from which ARRC is exempt.

APPENDIX C MINIMUM QUALIFICATIONS

The items to be purchased through this bid are critical to the operation of the ARRC. Any vendor who responds to this bid must meet the following minimum qualifications in order to be considered responsive:

- A. Be the original manufacturer, or be a distributor / dealer authorized by the manufacturer that routinely maintains an inventory of the requested product as part of its normal business and is authorized by the original manufacturer to serve the State of Alaska.
- B. Be able to provide audited financial statements demonstrating the financial ability to meet the requirements of any order that may result from this solicitation.

ARRC may conduct an inspection of the supplier's facility to include its offices and inventory of the items being solicited prior to contract award. All bids submitted in response to this invitation to bid must be signed by an individual with the legal authority to submit the offer on behalf of the company. Bids received from manufacturers/suppliers that do not meet these qualifications will not be considered.

APPENDIX D
SPECIFIC TERMS AND CONDITIONS

SERVICES: Contractor shall provide ARRC with the following materials on an as required basis: *AAR CERTIFIED NEW AND TURNED WHEEL SETS*

OTHER AGREEMENTS: ARRC reserves the right to enter into separate agreements with any contractor or supplier for any services. Seller shall not retain any subcontractors for the services described herein without written approval of ARRC.

TERMINATION: ARRC reserves the right to terminate this contract order, without any termination charges or penalties to ARRC by giving thirty (30) days written notice of cancellation.

PERIOD OF PERFORMANCE: Purchase Order Contract will be in effect for one year with the Alaska Railroad Corporation's option to renew the contract for four additional one-year terms. Total contract duration is not to exceed five years.

PRICE ESCALATION: Price escalation shall only be granted upon sixty (60) days notification by vendor to Contract Officer. Approval for contract price escalation shall only be granted based on historic price/cost data supplied by vendor that clearly and convincingly is verifiable and shows a vendor cost that reflects the same gross profit percent as the base offer herein. Vendor's profit margin cannot be increased during the term of this agreement and any renewals/extensions granted.

FOB POINT/FREIGHT PAYMENT TERMS: Regardless of other FOB points and/or freight terms cited and/or referenced elsewhere herein all deliveries pursuant to this offer shall be FOB origin "Collect" bill to Alaska Railroad Corporation.

OBLIGATIONS: ARRC and Seller further expressly acknowledge and agree that no express or implied promises have been made by ARRC to purchase any definite quantities nor to expend any dollar amount with respect to purchases which may be made under the provisions of this agreement, and that the parties hereto have not limited nor restricted the frequency of any purchases which may be made under the provisions of this agreement.

EXAMINATION OF RECORDS: ARRC and its duly authorized representatives shall have access at all reasonable times, for a period of three years following execution of any release against this agreement and following completion or termination of same, to all Seller's personnel, books, records, correspondence, instructions, plans, drawings, receipts, vouchers and memoranda of every description relating to this agreement and subsequent releases executed in connection herewith for the purpose of auditing and verifying costs that are charged to ARRC on a reimbursable basis including, but not limited to, the computation and verification of escalation, or for any other reasonable purpose. Said representatives shall have the right to copy the aforesaid documents. ARRC shall have sufficient audit access to Seller's costs in the fixed rate area to satisfy itself that all services that are supposed to be included in said fixed rates are so included.

FAVORED CUSTOMER: Should the Seller, during the term of this agreement, sell similar material in equal or less quantities than that purchased hereunder or furnish similar services to any other domestic consumer at a lower price, determined on a delivered basis as would be applicable under this agreement and any subsequent releases issued hereunder, then ARRC shall receive the benefit of such lower price on all shipments made while such lower price is effective.

EQUAL OPPORTUNITY PROVISIONS: Bidders must comply with Civil Rights and Equal Opportunity Acts. By signature on this form, Seller certifies that it is complying with the applicable portion of the Federal Civil Rights Act of 1964 and the Equal Employment Opportunity Act and the regulations issued thereunder by the State and Federal Government. If Seller fails to comply with the Act or the Regulations issued thereunder, ARRC reserves the right to terminate the contract.

PACKING SLIPS: All shipments under this agreement shall be accompanied by delivery tickets or sales slips, which shall contain:

- A. The complete Purchase Order Number.
- B. Description of the material and/or services, quantities, and the respective costs.
- C. All reimbursable, prepaid freight charges shall be listed as separate line items on the invoice. A copy of the freight invoice, as well as, the Bill of Lading, must be attached to each invoice regardless of whether freight charges are currently being billed or will be billed at a later date. Lack of any of the above data is cause for rejection and return of the invoice to the Seller. All freight charges must be approved by Procurement Department prior to the shipment of the goods involved.

CERTIFICATION: Seller certifies and warrants that it has not been debarred from Federal/State contracts and Federally/State assisted construction contracts and that no proceeding is threatened or pending for those purposes and that it has the skill, experience and financial ability to supply the goods and/or services contemplated herein.

COMPLIANCE: Seller warrants that all services, equipment, work and other items supplied by Seller pursuant to this Agreement and any subsequent releases will comply with all applicable Federal, State and Municipal laws, ordinances and regulations including the Fair Labor Standards Act. Further, Seller warrants that all services, equipment and materials furnished by Seller in the performance of this Agreement will comply fully with the Occupational Safety and Health Act of 1970 (84 U. S. Stat. 1590) and all amendments thereto and regulations thereunder to the extent applicable. Seller shall indemnify Purchaser from and against all claims, loss or liability arising from failure of such services, equipment, work and materials to comply therewith.

INSURANCE: Vendor certifies that by the acceptance of this order he will procure and maintain Workers Compensation Insurance and any additional insurance coverage required by law. Successful contractor shall provide the ARRC with a copy of their certificate of insurance.

REPORTS: It is solely the Vendor's responsibility to issue usage reports on an annual basis. In addition, a report can be requested by ARRC at any time, and must be provided within 3 business working days.

METHOD OF BIDDING: Bids must be submitted in the spaces provided on the bid sheets of this invitation in accordance with the conditions of bid as stated herein. The bid will not be considered to be complete unless all spaces have been filled. Consideration for award will be provided to complete bids only. If a bidder wishes to supply additional information, it may include same along with the bid in the sealed bid envelope.

ASSIGNMENT: The agreement to be established as a result of this solicitation shall not be assigned by the contractor in whole or in part without the express written consent of the Alaska Railroad Corporation, nor shall the contractor have the right to authorize or permit the use of the Alaska Railroad Corporation's equipment or service facilities by third parties without the express written consent of the Alaska Railroad Corporation.

HOLD HARMLESS: The contractor shall indemnify the Alaska Railroad Corporation against liability and hold it harmless from loss in respect to any and all claims and demands whatsoever rising out of the performance of this agreement, save and except the contractor shall not be liable for acts of negligence of Alaska Railroad Corporation employees acting within the scope of their employment. The Alaska Railroad Corporation shall not be liable for any costs incurred by the bidder in bid preparation.

WARRANTY: Contractor shall warrant all equipment offered to be free of defects in materials and workmanship. In the event of defects in materials and workmanship, Contractor's liability obligations shall be to repair or replace defective parts.

GOVERNING LAW: This contract shall be governed by all applicable Federal, State and Municipal laws. All concerning actions shall be brought in the Superior Court of the State of Alaska.

SIGNATURE: All offers shall be signed by an individual authorized to bind the respondent to its provisions, dated, have proper address, and provide contact telephone number. Prices will be firm for ninety (90) days from the closing date of this solicitation. Prices accepted for an award will be firm throughout the duration of the contract.

TERMS AND CONDITIONS: Any resulting contract from this Invitation to Bid shall incorporate the attached general terms and conditions contained in this bid package.

APPENDIX E
GENERAL SPECIFICATIONS

SCOPE OF WORK

An AAR certified contractor shall supply all labor, tools, materials, shop equipment and consumables for manufactured wheel sets.

Testing Standards:

All testing will be done per AAR specifications.

Quality Control:

Contractor shall inspect all wheel sets and approve them to AAR Specifications.

Qualification:

The contractor must be an AAR certified wheel shop under Standard M1003. Verifiable, proof shall be provided by bidder with pricing schedule to be considered responsive.

**APPENDIX F
COST SCHEDULE**

A Bidder's failure to provide the information requested in this Appendix may be cause for rejection of the offer on the basis of non-responsiveness. All prices listed must be F.O.B. Shipping point. Bidder shall indicate their shipping point in the space provided. All wheel sets must be AAR Certified.

| <u>DESCRIPTION :</u> | Per Specifications of Appendix E |
|----------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1. AKRR ITEM 316681 36" Freight Turned Wheel Set 6-1/2 X 12 Bearing | Outright Purchase Price: _____ ea. Core Return Purchase Price: _____ ea. |
| 2. AKRR ITEM 316694 36" Freight Turned Wheel Set 6-1/2 X 9 Bearing | Outright Purchase Price: _____ ea. Core Return Purchase Price: _____ ea. |
| 3. AKRR ITEM 316701 33" Freight Turned Wheel Set 6 X 11 Bearing | Outright Purchase Price: _____ ea. Core Return Purchase Price: _____ ea. |
| 4. AKRR ITEM 316707 28" Freight New Wheel Set 6 X 11 Bearing | Outright Purchase Price: _____ ea. Core Return Purchase Price: _____ ea. |
| 5. AKRR ITEM 316702 33" Freight New Wheel Set 6 X 11 Bearing | Outright Purchase Price: _____ ea. Core Return Purchase Price: _____ ea. |
| 6. AKRR ITEM 314814 36" Freight New Wheel Set 6-1/2 X 12 Bearing | Outright Purchase Price: _____ ea. Core Return Purchase Price: _____ ea. |

7. **AKRR ITEM 316708**
36" Freight New Wheel Set
6-1/2 X 9 Bearing

Outright Purchase Price: _____ **ea.**

Core Return Purchase Price: _____ **ea.**

Shipping Point: _____ **Zip Code** _____

AWARD CRITERIA

An award of a contract will be made to the low, responsive, responsible bidder(s) that meets the requirements as set forth in the specifications and compliance thereof. Award may be based on line item or in the aggregate, whichever is in the best interest of the ARRC, This may result in multiple awards. Prior to final inspection ARRC reserves the right in visit and inspect the contractor's facility per minimum qualifications. The bid award is contingent on the availability of Alaska Railroad Corporation funds.

COMPANY NAME

SIGNATURE BY AND FOR THE BIDDER

COMPANY ADDRESS

PRINTED NAME OF ABOVE BIDDER

DATE OF BID

CONTACT PHONE NUMBER

CONTACT EMAIL

**APPENDIX G
BIDDER'S QUESTIONNAIRE**

Note: Failure to provide the information requested in this questionnaire may be cause for rejection of your bid or offer on the grounds of nonresponsiveness and/or nonresponsibility.

Solicitation Number: _____

Name of Your Business: _____

Street Address: _____

Mailing Address if Different: _____

City: _____ State: _____ Mailing Zip: _____

Telephone: _____ Fax: _____ E-Mail: _____

Date Firm Established: _____

How many years has the business been under the above name? _____

Previous business name(s) if any: _____

Federal Tax ID Number: _____

Business License Number: _____

Contractor License Number (For Construction): _____

Bid Acceptance Period _____ Days. (Bids providing less than thirty-day (30) calendar days for acceptance may be considered nonresponsive and may be rejected.)

Discount for prompt pay _____ % _____ days.

Veteran Owned Business _____ Disabled _____

The bidder shall list any variations from or exceptions to the Terms, Conditions or Specifications of the Solicitation:

List the three most recent contracts performed by your company where the commodity or service requested in this solicitation was the primary commodity or service supplied. Include the client's name, contract amount, contract date, person to contact regarding performance, their telephone, facsimile number and e-mail.

| Clients name, Contact person, Contact info. (telephone, fax, and email) | Description of Work and Contract Amount |
|----------------------------------------------------------------------------|-----------------------------------------|
| | |
| | |
| | |

Are you acting as a broker or the primary supplier in this transaction?

- Broker
- Primary Supplier

Business Information (Please check all that apply):

- The business is Individual
- The business is a Partnership
- The business is a Non-Profit
- The business is a Joint-Venture
- The business is a Corporation incorporated under the laws of the State of _____
- The business is full-time
- The business is part-time
- The business is not a certified Disadvantaged Business (DBE)
- Business is a certified DBE
- DBE was certified by State DOTPF
- DBE was certified by the Municipality of Anchorage
- Business is an 8(a)/WBE/MBE and is certified by SBA
- Business was certified by _____
- DBE Certification # is _____

Firms Annual Gross Receipts:

- <\$500,000
- \$500,000 - \$999,999
- \$1,000,000 - \$4,999,999
- \$5,000,000 - \$9,999,999
- \$10,000,000 - \$16,999,999
- >\$17,000,000

Completed by: _____ Title: _____

Signature: _____ Date: _____

APPENDIX H
GENERAL TERMS AND CONDITIONS
(General Service Contracts)
(Revised 4/29/08)

The following terms and conditions supersede the terms and conditions on the reverse side of ARRC's purchase order to the extent that they are inconsistent therewith and shall be deemed to have the same force and effect as though expressly stated in any such purchase order into which this document is incorporated.

1. Definitions.

"ARRC" shall mean the Alaska Railroad Corporation.

"Contractor" shall mean the person or entity entering into the contract to perform the work or services specified therein for ARRC.

"Contract" shall mean these General Terms and Conditions, the contract form to which they are annexed, and all other terms, conditions, schedules, appendices or other documents attached to the contract form or incorporated by reference therein.

"Services" shall mean any work, labor, time, effort or other services furnished by Contractor to ARRC under the contract.

2. Inspection and Reports. ARRC may inspect all of the Contractor's facilities and activities under this contract in accordance with the provisions of ARRC Procurement Rule 1600.9. The Contractor shall make progress and other reports in the manner and at the times ARRC reasonably requires.

3. Claims. Any claim by Contractor for additional compensation or equitable adjustment arising under this contract which is not disposed of by mutual agreement must be made by Contractor in accordance with the time limits and procedures specified in sections 1800.12 et seq. of ARRC's Procurement Rules, which by this reference are hereby incorporated herein.

4. Nondiscrimination.

4.1 The Contractor may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical or mental handicap, sex, marital status, change in marital status, pregnancy or parenthood when the reasonable demands of the positions do not require distinction on the basis of age, physical handicap, sex, marital status, changes in marital status, pregnancy, or parenthood. To the extent required by law, 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, physical or mental handicap, 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 cooperate fully with ARRC efforts which seek to deal with the problem of unlawful discrimination, and with all other ARRC 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.

4.3 Full cooperation in Paragraph 4.2 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.

4.4 Failure to perform under this section constitutes a material breach of the contract.

5. Cancellation/Termination.

5.1 ARRC may, for its sole convenience, cancel this contract in whole or in part, at any time by giving written notice of its intention to do so. In the event of such cancellation, Contractor shall be entitled to receive payment in accordance with the payment provisions of this contract for services rendered or charges incurred prior to the effective date of termination. Contractor shall not be paid for any work done after receipt of a notice of cancellation or for any costs incurred by Contractor's suppliers or subcontractors which Contractor could reasonably have avoided. In no event shall ARRC be liable for unabsorbed overhead or anticipatory profit on unperformed services.

5.2 In addition to ARRC's right to cancel this contract for its convenience, ARRC may, by written notice of default to Contractor, terminate the contract in whole or in part in the following circumstances:

(1) The Contractor refuses or fails to perform its obligations under the contract, or fails to make progress so as to significantly endanger timely completion or performance of the contract in accordance with its terms, and Contractor does not cure such default within a period of ten (10) days after receipt of written notice of default from ARRC or within such additional cure period as ARRC may authorize; or

(2) Reasonable grounds for insecurity arise with respect to Contractor's expected performance and Contractor fails to furnish adequate assurance of due performance (including assurance of performance in accordance with the time requirements of the contract) within ten (10) days after receipt of a written request by ARRC for adequate assurance; or

(3) Contractor becomes insolvent or makes an assignment for the benefit of creditors or commits an act of bankruptcy or files or has filed against it a petition in bankruptcy or reorganization proceedings.

5.3 Upon receipt of a notice of cancellation or termination, Contractor shall immediately discontinue all service and it shall immediately cause any of its suppliers or subcontractors to cease such work unless the notice directs otherwise and deliver immediately to ARRC all reports, plans, drawings, specifications, data, summaries or other material and information, whether completed or in process, accumulated by Contractor in performance of the contract. In the event of termination for default, Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the amount to be paid on this contract exceeds the expense of finishing the work, compensation for additional managerial and administrative services and such other costs and damages as ARRC may suffer as a result of Contractor's default, such excess shall be paid to Contractor. If such expense, compensation, costs and damages shall exceed such unpaid balance, Contractor shall be liable for and shall pay the differences to ARRC. The rights and remedies of ARRC provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

6. No Assignment or Delegation. The Contractor may not assign, subcontract 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 prior written consent of ARRC. The hiring or use of outside services, subcontractors or consultants in connection with the work shall not be permitted without the prior written approval of ARRC. No such approval shall relieve Contractor from any of its obligations or liabilities under this contract.

7. Independent Contractor. The Contractor's relationship to ARRC in performing this contract is that of an independent contractor and nothing herein shall be construed as creating an employer/employee

relationship, partnership, joint venture or other business group or concerted action. The personnel performing services under this contract shall at all times be under Contractor's exclusive direction and control and shall be employees of the Contractor, and not of ARRC.

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 ARRC under this contract.

9. Governing Law. This contract, and all questions concerning the capacity of the parties, execution, validity (or invalidity) and performance of this contract, shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of Alaska.

10. Alaska Executive Branch Ethics Act Requirements. No officer or employee of the State of Alaska or of the ARRC and no director of the ARRC or legislator of the state shall be admitted to any share or part of this contract or to any benefit that may arise therefrom. Contractor shall exercise reasonable care and diligence to prevent any actions or conditions which could be a violation of Alaska Statute 39.52 et seq. Contractor shall not make or receive any payments, gifts, favors, entertainment, trips, secret commissions, or hidden gratuities for the purpose of securing preferential treatment or action from or to any party. This obligation will apply to the activities of Contractor's employees and agents in their relations with ARRC employees, their families, vendors, subcontractors, and third parties arising from this contract and in accomplishing work hereunder. Certain gratuities may be given or accepted if:

- (1) there is no violation of any law or generally accepted ethical standards;
- (2) the gratuity is given as a courtesy for a courtesy received and does not result in any preferential treatment or action;
- (3) the gratuity is of limited value (less than \$150) and could not be construed as a bribe, payoff or deal; and
- (4) public disclosure would not embarrass ARRC.

ARRC may cancel this contract without penalty or obligation in the event Contractor or its employees violate the provisions of this section.

11. Non-Disclosure of Confidential Information. Contractor acknowledges and agrees that for and during the entire term of this contract, any information, data, figures, projections, estimates, reports and the like received, obtained or generated by Contractor pursuant to the performance of this contract shall be considered and kept as the private, confidential and privileged records of ARRC and will not be divulged to any person, firm, corporation, regulatory agency or any other entity except upon the prior written consent of ARRC. Furthermore, upon termination of this contract, Contractor agrees that it will continue to treat as private, privileged and confidential any information, data, figures, projections, estimates, reports and the like received, obtained or generated by Contractor during the term of the contract and will not release any such information to any person, firm, corporation, regulatory agency or any other entity, either by statement, deposition or as a witness except upon the express written authority of ARRC. ARRC shall be entitled to an injunction by any competent court to enjoin and restrain the unauthorized disclosure of such information.

Contractor's agreement of non-disclosure as specified in this section applies except to the extent required for (1) performance of services under this contract; (2) compliance with standards of conduct for preservation of the public safety, health, and welfare (so long as Contractor has given ARRC prior notice of the potential hazard and ARRC has had a reasonable opportunity to correct the hazard prior to disclosure); (3) compliance with a court order or subpoena directed against Contractor (so long as Contractor has given ARRC prior notice of such and ARRC has had an opportunity to contest the same in a court of law); or (4) Contractor's defense against claims arising from performance of services under this contract.

12. Covenant Against Contingent Fees. Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this contract, and that it has not paid or agreed to pay any person, company, individual, or firm any commission, gift, percentage, fee, contingent upon or resulting from the award or making of this contract. For the breach or violation of this warranty, ARRC may terminate this contract without liability and, at its discretion, deduct from the contract price or otherwise recover the full amount of the commission, percentage, gift, or fee.

13. Standard of Performance. Contractor shall perform its services with care, skill and diligence in accordance with normally accepted industry standards and shall be responsible for the quality, accuracy, and completeness all services furnished under this Contract. Contractor shall comply with all applicable federal, state and local laws and ordinances, codes, and regulations in performing its services. If any failure to meet the foregoing standard of performance appears within one (1) year after the services are accepted by ARRC, Contractor shall, at a minimum, reperform the work at no cost to ARRC and shall reimburse ARRC for any additional costs that may be incurred by ARRC or any of its contractors or subcontractors as a result of such substandard work. If Contractor should fail to reperform the work, or if ARRC determines that Contractor will be unable to correct substandard services before the time specified for completion of the project, if any, ARRC may correct such unsatisfactory work itself or by the use of third parties and charge Contractor for the costs thereof. The rights and remedies provided for in this section are in addition to any other remedies provided by law.

14. Warranty. In the event Contractor supplies equipment, goods, materials or other supplies in addition to services under this contract, Contractor warrants that said items: (a) shall be of good quality and free from all defects and deficiencies in workmanship, material and design; (b) shall be fit, suitable and operate successfully for their intended purpose; (c) shall be new; (d) shall be free from all liens, claims, demands, encumbrances and other defects in title; and (e) shall conform to the specifications, if any, stated in the contract. Contractor shall honor all guarantees and warranties offered by the manufacturer of the equipment, goods, materials or other supplies provided under this contract. The rights and remedies provided for in this section are in addition to any other remedies provided by law.

15. Indemnification. Any liability of the Contractor to ARRC shall be governed by common law and statutory rules of liability applicable to an attorney-client relationship. In this connection ARRC is considered to be the client. In any action brought by ARRC to establish such liability, ARRC shall be entitled to recover its reasonable attorneys' fees and costs if it is the prevailing party.

16. Insurance. 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, ARRC 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 30-day prior notice of cancellation, non-renewal or material change. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach and grounds for termination of the Contractor's services.

16.1 Workers' Compensation Insurance. The Contractor shall provide and maintain, for all employees of the Contractor engaged in work under this contract, worker's compensation insurance as required by applicable law. This coverage must include statutory coverage for states in which employees are engaging in work and employer's liability protection not less than \$100,000 per person, \$100,000 per occurrence. Where applicable, coverage for all federal acts (i.e. U.S.L. & H. and Jones Acts) must also be included.

16.2 Comprehensive (Commercial) General Liability Insurance. With coverage limits not less than \$1,000,000 combined single limit per occurrence and annual aggregates where generally

applicable and shall include premises-operations, independent contractors, products/completed operations, broad form property damage, blanket contractual and personal injury endorsements.

16.3 Comprehensive Automobile Liability Insurance. Covering all owned, hired and non-owned vehicles with coverage limits not less than \$100,000 per person/\$300,000 per occurrence bodily injury and \$50,000 property damage.

16.4 Professional Liability Insurance. Covering all errors, omissions or negligent acts of the Contractor, subcontractor or anyone directly or indirectly employed by them, made in the performance of this contract which result in financial loss to ARRC. Limits required are \$1,000,000 per occurrence/annual aggregate.

17. ARRC's Rights Not Waived by Payment. No payment made by ARRC shall be considered as acceptance of satisfactory performance of Contractor's obligations under this contract. Nor shall any payment be construed as acceptance of substandard or defective work or as relieving Contractor from its full responsibility under the contract.

18. Nonwaiver. A party's failure or delay to insist upon strict performance of any of the provisions of this contract, to exercise any rights or remedies provided by this contract or by law, or to notify the other party of any breach of or default under this contract shall not release or relieve the breaching or defaulting party from any of its obligations or warranties under this contract and shall not be deemed a waiver of any right to insist upon strict performance of this contract or any of the rights or remedies as to any subject matter contained herein; nor shall any purported oral modification or rescission of this contract operate as a waiver of any of the provisions of this contract. The rights and remedies set forth in any provision of this Agreement are in addition to any other rights or remedies afforded the nonbreaching or nondefaulting party by any other provisions of this contract, or by law.

19. Savings Clause. If any one or more of the provisions contained in this contract shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this contract, but this contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

20. Headings. The headings of sections and paragraphs of this contract are for convenience of reference only and are not intended to restrict, affect, or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

21. Forum Selection. The parties shall not commence or prosecute any suit, proceeding or claim to enforce the provisions of the contract, to recover damages for breach or default under the contract, or otherwise arising under or by reason of the contract, other than in the courts of the State of Alaska for the Third Judicial District at Anchorage. The parties hereby irrevocably consent to the jurisdiction of said courts.

22. Conflict of Interest. Contractor shall act to prevent any actions or conditions which could result in a conflict with ARRC's best interests. This obligation shall apply to the activities of Contractor's employees and agents in their relationships with ARRC's employees, their families, vendors, subcontractors and third parties accomplishing work under this contract.

23. Publicity. Contractor shall not release any information for publication or advertising purposes relative to this contract or to the material, equipment and/or services furnished under this contract without the prior written consent of the ARRC.

24. Audit. ARRC has the right to audit at reasonable times the accounts and books of the Contractor in accordance with the provisions of ARRC Procurement Rule 1600.10.

25. Internal Controls and Record Keeping. Contractor shall keep full and accurate records and accounts of all of its activities in connection with this contract, including, without limitation, reasonable substantiation of all expenses incurred and all property acquired hereunder.

26. Force Majeure. Neither ARRC nor Contractor shall be responsible for failure to perform the terms of this contract when performance is prevented by force majeure, provided that: (1) notice and reasonably detailed particulars are given to the other party and (2) the cause of such failure or omission is remedied so far as possible with reasonable dispatch. The term "force majeure" shall mean acts of God, earthquakes, fire, flood, war, civil disturbances, governmentally imposed rules, regulations or other causes whatsoever, whether similar or dissimilar to the causes herein enumerated, which is not within the reasonable control of either party and which through the exercise of due diligence, a party is unable to foresee or overcome. In no event shall force majeure include normal or reasonably foreseeable or reasonably avoidable operational delays.

27. Permits and Licenses. The Contractor shall, at its own expense, obtain all necessary permits, licenses, certifications and any other similar authorizations required or which may become required by the government of the United States or any state or by any political subdivision of the United States or of any state except where laws, rules or regulations expressly require the ARRC to obtain the same.

28. Environmental Protection. When performing all obligations under the contract, Contractor shall comply with all specific instructions of ARRC with regard to environmental concerns, regardless of whether such instructions are based upon specific law, regulation or order of any governmental authority.

29. Set Off. If ARRC has any claim against the Contractor related or unrelated to this contract, it may set off the amount of such claim against any amount due or becoming due under this contract.

30. Observance of Rules. The Contractor's personnel performing work or services hereunder on ARRC's premises shall observe all fire prevention, security, and safety rules in force at the site of the work. ARRC may, in writing, require the Contractor to remove from the work site any employee ARRC deems to be incompetent, careless, or otherwise detrimental to the progress of the work, but ARRC shall have no duty to exercise this right.

31. No Third-Party Beneficiary Rights. No provision of this contract shall in any way inure to the benefit of any third parties (including the public at large) so as to constitute any such person a third-party beneficiary of the contract or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

32. Entire Agreement. This contract represents the entire and integrated agreement between ARRC and the Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. This contract may be amended only by a written instrument signed by both ARRC and the Contractor.

33. Key Personnel Changes. Contractor shall secure prior written approval from ARRC for any changes of key personnel assigned to perform services under this contract. ARRC reserves the right to reject any of Contractor's employees whose qualifications and/or experience in ARRC's good faith and reasonable judgment do not meet the standards necessary for the performance of the services required under this contract.

