



Fairbanks North Star Borough
General Services **PURCHASING DIVISION**
PO Box 71267 (809 Pioneer Road)
Fairbanks, Alaska 99707 (99701)
Phone 907.459.1297 Fax 907.459.1100

IFB NO. 13032

COVER SHEET

THIS IS NOT AN ORDER

IMPORTANT DATES:

BID SUBMITTAL:

TIME: **2:00 PM**

DATE: **November 30, 2012**

ISSUE DATE: November 15, 2012

PROJECT:

IFB NO. 13032

Dell EqualLogic Equipment

DELIVER BIDS TO:

FNSB Purchasing Div./General Svcs. Dept.

Physical Address:

2nd Floor

809 Pioneer Road

Fairbanks, AK 99701-2813

Mailing Address:

P. O. Box 71267

Fairbanks, AK 99707-1267

FOR ASSISTANCE, CONTACT:

Marnie Long-Boehl

FNSB Procurement Specialist

(907) 459-1297

Fax: (907) 459-1100

purchasing@fnsb.us

fnsb.us/bidsonline

THE ATTACHED TERMS & CONDITIONS SHALL BECOME PART OF ANY CONTRACT RESULTING FROM THIS INVITATION FOR BID.

BIDS SHALL BE SUBMITTED ON THE FORMS FURNISHED AND MUST INCLUDE ORIGINAL SIGNATURES.

DATE OF BID: _____

AK BUSINESS LICENSE NUMBER: _____

BUSINESS NAME: _____

MAILING ADDRESS: _____

PHYSICAL LOCATION: _____

TELEPHONE NUMBER: _____ FAX NUMBER: _____

BY: _____

Print Name

Signature

IN PROVIDING A SIGNATURE ON THIS COVER SHEET, THE BIDDER AGREES TO ALL TERMS AND CONDITIONS OF THIS IFB.

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A. INSTRUCTIONS TO BIDDERS

1. BID REVIEW

1.1 Bidders shall carefully review this IFB for defects and questionable or objectionable material. Bidders' comments concerning defects and questionable or objectionable material in the IFB must be made in writing and received by the FNSB General Services Purchasing Division (Purchasing) at least five (5) days before the bid opening date. Bidders should send any such comments to Purchasing listed on the front of this IFB. Comments can be sent via fax to (907) 459-1100 or e-mailed to purchasing@co.fairbanks.ak.us. Bidder protests based upon any omissions, or errors, or the content of the Invitation for Bid will be disallowed if not made known prior to the bid opening.

2. INTERPRETATION OR REPRESENTATIONS

2.1 The Fairbanks North Star Borough assumes no responsibility for any interpretation or representations made by any of its officers or agents unless interpretations or representations are incorporated in a written amendment to the IFB.

3. AMENDMENTS

3.1 If any amendments are issued to this IFB, the bidder shall acknowledge the receipt of such amendments in the space provided on the bid form. It is the bidder's responsibility to determine if any amendments have been issued to an IFB prior to the opening date and time of the IFB. Bids that fail to acknowledge receipt of amendments shall be considered non-responsive.


4. BID FORMS

4.1 Bidders shall use this and attached forms in submitting a bid. Bids must be hand delivered or mailed as pursuant to Section 5 below. A photocopied bid form may be submitted. Bids submitted electronically (email, fax, etc.) will be declared non-responsive and eliminated from further consideration.

5. SUBMITTING BIDS

5.1 Envelopes containing bids must be sealed, marked, and addressed as shown in the example below. Do not put the bid number and opening date on an envelope that contains only a request for bid information. Envelopes with bid numbers written on the outside will not be opened until the scheduled date and time.

U.S. Mail Address Format:

Bidder/Company Name Bidder's Return Address	
Fairbanks North Star Borough Purchasing Div/General Svcs Dept.	
USPS Express Mail: 2nd Floor 809 Pioneer Road Fairbanks, AK 99701-2813	
or	
1 st Class Mail: P. O. Box 71267 Fairbanks, AK 99707-1267	
IFB No: (print the IFB number on your envelope) Submittal Deadline: (print the date on your envelope)	

Courier and Hand Delivery Address Format:

Bidder/Company Name Bidder's Return Address	COURIER, Hand Delivery
Fairbanks North Star Borough General Services Department Purchasing Division-2nd Floor 809 Pioneer Road Fairbanks, Alaska 99701	
IFB No: (print the IFB number on your envelope) Submittal Deadline: (print the date on your envelope)	

- 5.2 The Fairbanks North Star Borough, its officers or employees shall not be responsible for the premature opening of or failure to open a bid not properly addressed and identified.
- 5.3 The office of the General Services Department/Purchasing Division and Chief Procurement Officer is located at 809 Pioneer Road, Second Floor, Fairbanks, Alaska, 99701; and is open for business from 8:00 a.m. to 5:00 p.m., Monday through Friday. Acceptance of Special Delivery mail is not available Saturday, Sunday, or holidays. It shall be the responsibility of the bidder to insure that their bid is delivered to the General Services Department prior to the time set for opening of the bids.
- 6. **PRICES**
 - 6.1 The bidder shall state prices in the units of issue on this IFB. Prices quoted for commodities or 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, or the services can be provided, without further cost. Prices quoted in bids must be exclusive of federal, state and local taxes. If the bidder believes that certain taxes are payable by the Borough, the bidder may list such taxes separately, directly below the bid price for the affected item.
- 7. **ALTERNATE BIDS**
 - 7.1 Alternate bids will not be considered unless specifically requested.
- 8. **WITHDRAWAL, MODIFICATION, OR CORRECTION**
 - 8.1 After depositing a bid, a bidder may withdraw, modify, or correct his bid, providing Purchasing receives the request for such withdrawal, modification, or correction before the time set for opening bids. The original bid, as modified by such written communication will be considered as the bid. No bidder will be permitted to withdraw his bid after the time set for opening bids.
- 9. **VENDOR TAX ID NUMBER**
 - 9.1 If goods or services procured through this IFB must be included on a Miscellaneous Tax Statement, as described in the Internal Revenue Code, a valid tax identification number must be provided to the Fairbanks North Star Borough before payment will be made.
- 10. **BID BOND /BUSINESS LICENSE**
 - 10.1 An Alaska business license, certificate of insurance, signed contract documents and any bonds or cash sureties must be received from the successful bidder, by the Purchasing Division within ten (10) days after issue of the Letter of Award. Failure to provide the required documents within the stated time may, at the borough's discretion, result in the termination of the award.
 - 10.2 A bid bond, when specifically requested, shall be submitted with the vendor's bid in the sum of not less than five percent (5%) of the amount of the bid.

11. FILING A PROTEST

- 11.1 Any actual or prospective bidder or contractor who is aggrieved in connection with the bid or award of a resulting contract may protest to the Chief Procurement Officer. A protest with respect to an invitation for bid shall be submitted in writing prior to the opening of bids, unless the aggrieved person did not know and should not have known of the facts giving rise to such protest prior to the bid opening. The protest shall be submitted within five calendar days after such aggrieved person knows or should have known of the facts giving rise thereto.
- 11.2 The protest must be filed in writing and include the following information: (1) the name, address, and telephone number of the protestor; (2) the signature of the protestor or the protestor's representative; (3) identification of the bid at issue; (4) a complete statement of the legal and factual grounds of the protest, including copies of relevant documents; and (5) a non-refundable filing fee of \$75. Protests will be handled in accordance with FNSB Code of Ordinances 16.65.010.
- 11.3 Notwithstanding any other provision of this section, an interested person is free at any time to contact the Chief Procurement Officer for the purpose of clarifying selection procedures.

12. RESPONSIBILITY TO KEEP INFORMED

- 12.1 Note that it is the potential bidders responsibility to keep informed. Failure to do so may result in their bid being declared non-responsive.

13. COMPLIANCE

- 13.1 In the performance of a contract that results from this IFB, the contractor must comply with all applicable federal, state, borough and other local regulations, codes, and laws; and be responsible for all required insurance, licenses, permits, and bonds.

14. SUITABLE MATERIAL

- 14.1 Unless otherwise specified, all materials, supplies, or equipment offered by a bidder shall be new, unused, of recent manufacture, and suitable for the manufacturer's intended purpose.
- 14.2 The bidder warrants all articles, materials, and equipment supplied under a contract resulting from this bid conform to the specifications of this contract, to be fit and sufficient for the use specified, to be of merchantable quality, and to be free from defect of materials or workmanship. Equipment, articles, and/or materials received, which do not conform to the above warranties, may be held at the bidder's risk of loss or damages, or returned at the bidder's expense at the discretion of Purchasing.

15. BRAND NAME OR EQUAL:

- 15.1 The use of a "brand name only" specification is for the purpose of describing the sole item that will satisfy the borough's requirements. Bids offering alternate products will be declared non-responsive.
- 15.2 The use of a "brand name or equal" specification is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition. An item shall be considered to be substantially equivalent, or "equal" to the specified brand in the opinion of the Chief Procurement Officer, the Borough can reasonably anticipate sufficiently similar quality, capacity, durability, performance, utility and productivity as provided by the specified brand.
- 15.3 The use of a "brand name or pre-approved equal" specification with a reference to a brand name or model number does not preclude an offer of a comparable or better product, if full specifications and descriptive literature are provided for the product. Bidder shall submit a Substitution Request form for a proposed equal to Purchasing at least seven (7) days prior to the bid opening date and time to allow the Fairbanks North Star Borough to make a determination of equality to the brand specified. If the borough approves the proposed equal, an amendment to the bid will be issued specifically identifying the item as a pre-approved equivalent. Failure to provide such specifications and descriptive literature may be cause for rejection of the offer.

16. SPECIFICATIONS

- 16.1 If the specifications describing an item conflict with a brand name or model number describing the item, the specifications govern.

17. FIRM OFFER

17.1 Offers made in accordance with this IFB must be valid and firm for a period of ninety (90) days from the date of bid opening.

18. EXTENSION OF PRICES

18.1 In the case of error in the extension of prices in the bid, the unit price will govern; in a lot bid, the lot price will govern.

19. BID PREPARATION COSTS

19.1 The Borough is not liable for any costs incurred by the bidder in bid preparation.

20. CONTRACT FUNDING

20.1 Borough funds are available for the initial purchase and/or the first term of the contract resulting from this IFB. Payment and performance obligations for future purchases and/or contract renewals are subject to the availability and appropriation of funds.

21. ETHICS

Bidder acknowledges that Section 16.70.030 of the Fairbanks North Star Borough Code provides as follows:

21.1 "It shall be unethical for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advise, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore.

21.2 It shall be unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order."

21.3 Bidder agrees to follow the terms of this ordinance.

22. LATE BIDS

22.1 Late bids are bids received after the time and date established for opening of the IFB. Bids will be received only at the place stated on the IFB Cover Sheet. It is the sole responsibility of the bidder to see that his bid is submitted in time. Any bid received after the scheduled opening time will not be considered, but will be held unopened in the bid file, unless other disposition is requested or agreed to by the bidder. Other disposition will not take place until after award.

23. LOCAL BIDDER PREFERENCE

23.1 Bidder acknowledges that Section 16.35.050 of the Fairbanks North Star Borough Code provides as follows:

"In the award of contracts for goods or services, if otherwise in full conformity with the invitation for bids, a local bidder who has a valid business license to provide such goods or services shall be considered as low bidder if its bid is the lesser of five percent or forty thousand dollars in excess of the lowest bid received from a nonlocal bidder located elsewhere in Alaska, or the lesser of ten percent or eighty thousand dollars in excess of the lowest bid received from non-Alaska bidders. *This local bidder preference shall be applied to all invitation for bids unless:*

(1) *Prohibited by federal or state law or a grant requirement or*

(2) *The purchased good or service will be included in the cost allocation pool from which the administrative fee is determined.*

FNSB Code of Ordinances 16.21.020,X, defines a "local bidder" as a person who has a place of business located in the Fairbanks North Star Borough; which is staffed by an employee or employees as their permanent employment year round in the normal course of business.

24. MANUFACTURER'S AUTHORIZATION:

24.1 The low bidder must be the manufacturer of the product offered or shall provide, if requested, within ten (10) days from the publish date of the Notice Of Award, evidence from an official of the manufacturer, stating that the bidder is qualified AS AN AUTHORIZED DEALER OR RESELLER and has the authority to sell the product being offered and pass the manufacturer's warranty through to the borough with all first holder benefits of the warranty. Failure to provide the required document within ten (10) days after issue of the Notice of Award may, at the borough's discretion, result in the termination of the award.

25. ACCEPTANCE OR REJECTION OF BIDS

25.1 The Fairbanks North Star Borough may accept or reject any or all bids for good cause shown, to waive minor deviations from the specifications, and to waive any informality in bids received, when such acceptance, rejection, or waiver is in the best interest of the Fairbanks North Star Borough. Informalities in bids are matters of form rather than substance evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders; that is, the effect on price, quantity, quality, delivery, or contractual conditions is negligible, and waiver of the informality does not grant the bidder a competitive advantage.

25.2 The Fairbanks North Star Borough may cancel the IFB if such cancellation is in the best interest of the Borough.

25.3 A bid may be rejected when (1) bidder is not in a position to perform the contract; (2) the bid is not signed by hand; (3) the bidder fails to furnish bid bonds or surety deposits, plans, specifications, samples, and so forth, when any were specifically called for in the IFB; (4) the bidder has failed to use this bid form; (5) the bidder fails to provide, with the bid, descriptive literature necessary to determine the responsiveness of the bid; (6) the bidder otherwise fails to qualify as a responsible and responsive bidder under FNSB 16.21.020 and 16.21.020; or (7) the Borough Assembly does not approve the award.

26. PRE-BID CONFERENCE

26.1 A pre-bid conference, if required, will be held at the time and place specified on the face of this IFB. The purpose of this conference is to allow for detailed discussion and clarification. All prospective bidders are encouraged to attend.

26.2 If the pre-bid conference is mandatory, this will be noted on the cover sheet of this IFB. Bidders who fail to attend the mandatory pre-bid conference shall be declared non-responsive and eliminated from consideration.

27. UNBALANCED AND BUY-IN BIDS

Bids that, in the sole opinion of the FNSB, are determined to be "unbalanced" or "buy-in" bids may be declared non-responsive and eliminated from further consideration.

B. TERMS AND CONDITIONS

The following conditions shall be part of any contract resulting from this bid:

1. GENERAL TERMS AND CONDITIONS

- 1.1 No modifications of any of the terms or conditions of this order, including, but not limited to, delivery, price, quality, quantities, and specifications, will be effective without the prior written consent of Purchasing.
- 1.2 Time of delivery is of the essence of this contract and the order is subject to cancellation for failure to deliver on time. Any exception to the delivery date specified in the Purchase Order must be approved in writing by Purchasing prior to the specified delivery date.
- 1.3 No charges will be allowed for delivery preparation, packing, containers, etc., unless such allowance is specifically stated.
- 1.4 Unless otherwise specified, shipments will be prepaid, via most economical common carrier, FOB destination. The Fairbanks North Star Borough is exempt from federal excise and transportation taxes. A federal tax identification number will be furnished upon request. Fairbanks North Star Borough cannot accept COD shipments.
- 1.5 Vendor warrants the equipment, articles and/or materials furnished under the terms of this contract are unencumbered and not subject to any lien or claim.
- 1.6 A purchase order number MUST appear on all invoices, packing lists, packages, shipping notices, instruction manuals, and any correspondence.
- 1.7 A Memorandum of Contents shall be enclosed in each box or package.
- 1.8 The waiver of any breach of the terms of this contract by Fairbanks North Star Borough shall not constitute a waiver of any subsequent breach, nor shall any payment for goods delivered constitute such waiver.
- 1.9 Cash discount period on all invoices shall begin on the date shipment is received by the Borough. In the event of adjustment or damage to a shipment subject to cash discount, the discount period will begin on the date the shipment is finally accepted.

2. IMPOSSIBILITY TO PERFORM

- 2.1 The contractor is not liable for any failure to perform its obligations under this agreement, if that failure is caused by any unforeseeable force beyond the control of, and without the fault or negligence of, the contractor. For the purposes of this agreement, such forces shall mean any emergency under the Alaska Disaster Act (AS 26.23); war (whether declared or not); revolution; invasion; insurrection; riot; 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.

3. CONTRACT EXTENSION

- 3.1 The Borough and the successful bidder agree: (1) that any holding over of a contract resulting from this IFB, excluding any exercised renewal options, will be 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.

4. TERMINATION

- 4.1 Both parties may agree in writing to terminate this agreement at any time; either party may terminate the contract if the other party fails to perform in the manner called for in the contract; the Borough may terminate the contract for its own convenience on three (3) days written notice; and the agreement will terminate if the Borough Assembly fails to appropriate necessary funds or repeals all or substantially all of the appropriations which fund this agreement.
- 4.2 In case of default by the contractor, for any reason whatsoever, the Borough may procure the goods or services from another source and hold the contractor responsible for any resulting excess cost or other remedies under law or equity.

- 4.3 If this contract is terminated, the contractor has no further duty to perform other than that work reasonably necessary to stop work in a safe and workmanlike manner. Likewise, if this contract is terminated, the Borough has no further duty to pay the contractor except for the work satisfactorily completed or goods delivered and accepted, as of the date of termination, and the additional work completed as being reasonably necessary to stop work in a safe and workmanlike manner.
- 5. DISPUTES**
- 5.1 Any dispute arising out of a contract resulting from this IFB shall be resolved under the laws of Alaska. Any appeal of an administrative order and any original action to enforce any provision of a contract resulting from this IFB or to obtain any relief from remedy in connection with said contract may be brought only in the Superior Court for the Fourth Judicial District of Alaska.
- 6. CONTINUING OBLIGATION OF CONTRACTOR**
- 6.1 Notwithstanding the expiration date of a contract resulting from this IFB, the contractor is obligated to fulfill its responsibilities until warranty, guarantee, maintenance, and parts availability requirements have completely expired.
- 7. AFFIRMATIVE ACTION/EQUAL OPPORTUNITY**
- 7.1 The Fairbanks North Star Borough is an Affirmative Action/Equal Opportunity Employer.
- 7.2 The Fairbanks North Star Borough, and all contractors, vendors, and suppliers, agree and certify that they shall comply with the requirement of all pertinent federal and state laws relating to equal opportunity in contracting and procurement activities.
- 8. CONTRACT DOCUMENT**
- 8.1 A procurement of goods valued in excess of \$50,000 or greater will require a written contract between the successful bidder and the Fairbanks North Star Borough.
- 9. INDEMNIFICATION, DEFENSE AND HOLD HARMLESS PROVISION**
- 9.1 The Bidder shall defend, hold harmless and indemnify the Borough, its officers, agents, and employees, against any claims, loss, and/or damages directly or indirectly arising from or claiming to arise from any injury to any person(s), damage to any property, or any economic loss, arising out of, in whole or in part, (1) the Bidder's performance or non-performance of its duties under this contract; and/or (2) any defect in any services provided by the Bidder. This duty to defend, indemnify, and hold harmless shall include the Bidder's responsibility for any and all foregoing claims, even if such claims are groundless, false, and/or fraudulent and any and all equitable relief, damages, costs and attorney fees except those caused by either the Borough's sole negligence or its willful misconduct.
- 9.2 This obligation shall be continuing in nature and extend beyond the term of this agreement. The doctrine of equitable tolling extends the time within which an action for breach of this provision may be filed.
- 9.3 "Bidder" and "Borough" as used in this section, include the employees, agents, sub-contractors, and any other persons who are directly employed by or otherwise legally responsible, respectively to each party.
- 10. INDEFINITE QUANTITY**
- 10.1 The award of this bid shall result in an indefinite quantity contract for the items solicited. Award will be contingent upon availability of funds. The Fairbanks North Star Borough reserves the right to make additional purchases of substantially similar units for a period of one (1) year from the date of award. The option to make future purchases is the unilateral right of the Fairbanks North Star Borough.
- 11. ASSIGNMENT**
- 11.1 Assignment of rights and duties under a contract resulting from this IFB is not permitted unless authorized in writing by the Chief Procurement Officer.
- 12. INSURANCE**
- 12.1 Prior to commencing any work under a purchase order/contract resulting from this IFB, the successful bidder will provide a certificate of insurance in a form acceptable to the Borough showing that they have the required insurance coverage. The required coverage must be obtained and maintained with an insurance company rated "Excellent" or "Superior" by A.M. Best Company, or specifically approved by the Borough risk manager.

If a bidder has a question as to their ability to provide the required coverage they should consult with their agent or broker prior to submitting a response to the bid.

- 12.2 Limits: The successful bidder shall obtain insurance for not less than the following limits:
- Commercial general liability, occurrence basis: \$1,000,000 limit per occurrence;
 - Comprehensive automobile liability: \$1,000,000 combined single limit;
 - Workers' Compensation coverage including Employer's Liability with limits of: \$100,000 each accident, \$500,000 disease--policy limit, and \$100,000 disease--each employee.
- 12.3 Automobile Liability Insurance: All autos, or all owned, non-owned, and hired automobiles must be insured when the successful bidder is using them to do work resulting from this bid.
- 12.4 Workers' Compensation: Any employee of the successful bidder must be covered by workers' compensation insurance during the term of work resulting from this bid. Sole Proprietors - The successful bidder must sign a workers' compensation release on a form provided by the borough; Partnerships - Every partner must sign a workers' compensation release on a form provided by the borough. Bidder's workers' compensation policy shall be endorsed to include a waiver of subrogation in favor of the Borough.
- 12.5 Alternate Coverage: A combination of primary and excess/umbrella policies may be used to fulfill the insurance requirements of this section.
- 12.6 Additional Insured: During the term of work, the bidder shall add and maintain the Borough as an additional insured in the Bidder's commercial general liability policy. This policy will provide primary coverage for the Borough, and it will provide that the policy treats each additional insured as though the insurer had issued separate policies.
- 12.7 Cancellation: The insurer shall send the Borough thirty (30) days written notice before it cancels, refuses to renew, or materially alters coverage required by this contract. The successful bidder shall assure that the insurance policies include a provision requiring this prior notice.
- 13. COOPERATIVE PURCHASING**
- 13.1 All State of Alaska governmental entities may, at their option, purchase from the contract resulting from this IFB process. State of Alaska governmental agencies include the Legislative branch, the Alaska Court System, the University of Alaska, Boards and Commissions and all State of Alaska political subdivisions--cities, boroughs and school districts, at all of their operation locations. In no event shall the Fairbanks North Star Borough have any financial liability to the bidder for any goods or services purchased by any State of Alaska governmental entity.

C. SCOPE OF SERVICES/SPECIFICATIONS

The Fairbanks North Star Borough (FNSB) is soliciting bids from Dell Authorized vendors for EqualLogic Network Storage equipment. No Substitutions.

1. Equipment:

A. Two (2) Dell EqualLogic PS6500E SAN units, 48 TB capacity (48x1TB NL-SAS hard drives); Dual controllers.

B. One (1) secondary Controller for existing Dell EqualLogic 5000E

2. Warranty

A. Three (3) year support/maintenance for all equipment.

End of Scope of Services Section

Standard Form of Agreement

CONTRACT DATE:	_____
IFB NO	13032
PROJECT:	_____

1. PARTIES. The parties to this contract are the FAIRBANKS NORTH STAR BOROUGH ("Borough") and SEEKINS FORD-LINCOLN-MERCURY, INC.. ("Seller").
2. DUTIES. The Seller shall perform the "Scope of Services / Specifications" as set forth in Borough solicitation **IFB NO 13032**. The Seller will perform its duties under this agreement as an independent seller.
3. FACILITIES AND LICENSES.
 - A. The Seller will provide all facilities, equipment, supplies, services, and personnel necessary to carry out its duties under this agreement.
 - B. The Seller will obtain all necessary permits and other authorizations, which are required by law to deliver its goods or to perform its services.
4. QUALITY OF GOODS AND WORK. The Seller will provide all goods and services pursuant to the specifications in the Invitation for Bid (IFB) and the Seller's specifications or representations in its Bid Schedule. The Seller will perform its duties in a professional, workmanlike manner, and in compliance with the highest standards of the Seller's trade.
5. RISK OF LOSS. The risk of loss from any casualty to the goods, regardless of the cause, shall be on the Seller until the goods have been accepted by the Borough.
6. DELIVERY.
 - A. The Seller shall sell, and transfer to the Borough, the goods specified in solicitation **IFB NO 13032** and deliver same to Fairbanks, Alaska on or before 30 days ARO (after receiving order).
 - B. Shipment shall be made in accordance with the "Scope of Services / Specifications."
 - i. If the shipping terms are F.O.B. shipping point, the Seller will prepay the shipping charges and list them separately on invoices, less federal transportation tax. The Borough is exempt from federal excise and transportation taxes. Substantiation of prepaid freight and express must be attached to the Seller's invoice.
 - ii. If the shipping terms are F.O.B. to the Borough, the Seller is required to have insurance as detailed in Section 10. INSURANCE. Exception: If the delivery is accomplished by common carrier and not by the vendor, then only proof of workers' compensation coverage will be required from the vendor. The bid must include a statement that delivery will be accomplished by common carrier.
7. INSPECTION AND ACCEPTANCE. The Borough shall have the right to inspect the goods on arrival, and within ten (10) business days after delivery, the Borough must give notice to the Seller of any claim for damages on account of condition, quality, or grade of the goods, and the Borough must specify the basis of the claim in detail. The failure of the Borough to comply with these conditions shall constitute acceptance of the goods unless there are hidden defects. Payment Terms and Net 30 after acceptance of goods, and the Borough's receipt and approval of an original invoice.

8. INVOICE. The PO number MUST appear on all invoices, packing lists, packages, shipping notices, and any correspondence. The Seller shall invoice in duplicate and bill to:
- Accounts Payable
 - Fairbanks North Star Borough
 - P.O. Box 71267
 - Fairbanks, Alaska 99707-1267
9. CONTRACT PRICE. The Borough will pay **\$xxxxx.xx** to the Seller for the "Scope of Services / Specifications" as detailed in the Borough's Invitation for Bid and in the Seller's Bid Schedule submitted for such goods or services. Payment will be made by Key Government Finance Corporation a Division of Key Corporation Capital, Inc." upon acceptance of goods. Payment shall not be made until receipt of Certificate of Origin/Manufacturer's Statement of Origin.
10. INSURANCE The required coverage must be obtained and maintained with an insurance company rated "Excellent" or "Superior" by A.M. Best Company, or specifically approved by the Borough risk manager.
- A. Limits: The Seller shall obtain insurance for not less than the following limits:
 - Commercial general liability, occurrence basis: \$1,000,000 limit per occurrence;
 - Comprehensive automobile liability: \$1,000,000 combined single limit;
 - Workers' Compensation coverage including Employer's Liability with limits of: \$100,000 each accident, \$500,000 disease--policy limit, and \$100,000 disease--each employee.
 - B. Automobile Liability Insurance: All autos, or all owned, non-owned, and hired automobiles must be insured when the Seller is using them to do work resulting from this bid.
 - C. Workers' Compensation: Any employee of the Seller must be covered by workers' compensation insurance during the term of work resulting from this bid. *Sole Proprietors* - The Seller must sign a workers' compensation release on a form provided by the borough; *Partnerships* - Every partner must sign a workers' compensation release on a form provided by the borough. Seller's workers' compensation policy shall be endorsed to include a waiver of subrogation in favor of the Borough.
 - D. Alternate Coverage: A combination of primary and excess/umbrella policies may be used to fulfill the insurance requirements of this section.
 - E. Additional Insured: During the term of work, the Seller shall add and maintain the Borough as an additional insured in the Seller's commercial general liability policy. This policy will provide primary coverage for the Borough, and it will provide that the policy treats each additional insured as though the insurer had issued separate policies.
 - F. Cancellation: The insurer shall send the Borough thirty (30) days written notice before it cancels, refuses to renew or materially alters coverage required by this contract. The Seller shall assure that the insurance policies include a provision requiring this prior notice.
11. SELLER'S REPRESENTATIONS. In order to induce the Borough to enter into this agreement, the Seller makes the following representations:
- A. The Seller has examined and carefully studied the Contract Documents and any other related data identified in the Bidding or Contract Documents.
 - B. The Seller has given the Borough written notice of all conflicts, errors, ambiguities, or discrepancies that Seller has discovered in the Contract Documents, and the written resolution thereof by the Borough is acceptable to Seller.

12. NON-WAIVER. The acceptance of the goods described in this agreement is not a waiver of any right of action that the Borough may have for breach of warranty or any other cause. The failure of the Borough to insist upon the performance of any of the terms and conditions of the Contract Documents or the waiver of any breach of any of the terms and conditions of the Contract Documents shall not be construed as thereafter waiving any such terms and conditions.
13. WARRANTIES.
- A. The Seller warrants that the goods are now free, and that at the time of delivery shall be free, from any security interest or other lien or encumbrance.
 - B. The Seller warrants that at the time of signing this agreement, Seller neither knows, nor has reason to know, of the existence of any outstanding title or claim of title hostile to the rights of the Seller in the goods.
 - C. The Seller warrants that the goods to be supplied pursuant to this agreement are fit and sufficient for the purpose intended, the goods are merchantable, of good quality, and free from defects, whether patent or latent, in material or workmanship, and the goods conform to the standards required by solicitation **IFB NO 13032**.
 - D. All warranties made in this agreement, together with service warranties and guarantees, shall run to the Borough and its successors, agents, or assigns.
14. INDEMNIFICATION, DEFENSE AND HOLD HARMLESS PROVISION.
- A. The Seller shall defend, hold harmless and indemnify the Borough, its officers, agents, and employees, against any claims, loss, and/or damages directly or indirectly arising from or claiming to arise from any injury to any person(s), damage to any property, or any economic loss, arising out of, in whole or in part, (1) the Seller's performance or non-performance of its duties under this contract; and/or (2) any defect in any services provided by the Seller. This duty to defend, indemnify, and hold harmless shall include the Seller's responsibility for any and all foregoing claims, even if such claims are groundless, false, and/or fraudulent and any and all equitable relief, damages, costs and attorney fees except those caused by either the Borough's sole negligence or its willful misconduct.
 - B. This obligation shall be continuing in nature and extend beyond the term of this agreement. The doctrine of equitable tolling extends the time within which an action for breach of this provision may be filed.
 - C. "Seller" and "Borough" as used in this section, include the employees, agents, sub-contractors, and any other persons who are directly employed by or otherwise legally responsible, respectively to each party.
15. TERMINATION.
- A. Both parties may agree in writing to terminate this agreement at any time; either party may terminate the contract if the other party fails to perform in the manner called for in the contract; the Borough may terminate the contract for its own convenience on three (3) days written notice; and the agreement will terminate if the Borough Assembly fails to appropriate necessary funds or repeals all or substantially all of the appropriations which fund this agreement.
 - B. In case of default by the Seller, for any reason whatsoever, the Borough may procure the goods or services from another source and hold the Seller responsible for any resulting excess cost or other remedies under law or equity.

- C. If this contract is terminated, the Seller has no further duty to perform other than that work reasonably necessary to stop work in a safe and workmanlike manner. Likewise, if this contract is terminated, the Borough has no further duty to pay the Seller except for the work satisfactorily completed or goods delivered and accepted, as of the date of termination, and the additional work completed as being reasonably necessary to stop work in a safe and workmanlike manner.
16. IMPOSSIBILITY TO PERFORM. The Seller is not liable for any failure to perform its obligations under this agreement, if that failure is caused by any unforeseeable force beyond the control of, and without the fault or negligence of, the Seller. For the purposes of this agreement, such forces shall mean any emergency under the Alaska Disaster Act (AS 26.23); war (whether declared or not); revolution; invasion; insurrection; riot; 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.
17. CONTRACT DOCUMENTS.
- A. The following documents constitute the whole agreement of the parties, and they prevail in the following order in the event of any inconsistency between them: this agreement, specifications in the Borough's Invitation For Bid, and the Seller's Bid Schedule.
- B. The Borough purchase order to be issued for this work is a contract document. The terms specified on the Borough purchase order for this work are subordinate to those in all other contract documents. This clause does not alter the order of predominance of contract documents as specified in other subsections of this section.
18. OTHER.
- A. The Seller may not assign, in whole or in part, the Seller's duties or interests under any of the contract documents without the prior written consent of the Borough.
- B. This contract binds the successors, heirs, personal representatives, and any assigns of the parties.
- C. Time is of the essence of this contract.
- D. Before paying the Seller, the Borough may deduct the amount of any debt from any source that the Seller owes to the Borough.
- E. The laws of the State of Alaska will govern the interpretation of this agreement. Any action arising from this agreement will be filed in Fairbanks, Fourth Judicial District, State of Alaska.
- F. The Contract Documents may be amended only in writing.
- G. Any provision or part of the Contract Documents held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the parties. The parties agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- H. The Contract Documents constitute the entire agreement between the parties, and supersede all prior agreements, representations, and negotiations.
- I. Any terms of this Agreement that, by their nature, extend beyond the expiration or termination of this contract shall remain in effect until fulfilled.

19. REPRESENTATIVES. Each party may deliver notices under this agreement to the representative and address listed below:

Borough Representative: Steve Smith, Network Services Manager
Department of Transportation
Fairbanks North Star Borough
3175 Peger Road
Fairbanks, AK 99709

Seller Representative: _____
Business Name: _____
Address: _____

This document has important legal consequences; consultation with an attorney is encouraged with respect to its completion or modification.

FOR THE SELLER:

FOR THE FAIRBANKS NORTH STAR BOROUGH:

Authorized Representative

Luke Hopkins, Borough Mayor

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

ATTEST:

Borough Attorney

Mona Lisa Drexler, Borough Clerk

Date: _____

Date: _____

E. SAMPLE SIGNER'S ACKNOWLEDGMENT

*This is a sample of the form that the successful bidder will be required to execute and return to the FNSB with any signed contract documents.
The signer of the agreement and the signer of this Acknowledgment must be the same person.*

(Mark only one – all signatures must be notarized)

STATE OF ALASKA)
)SS
_____ JUDICIAL DISTRICT)

The Contractor is a sole proprietorship
The foregoing Contract was signed and acknowledged before me this
_____ day of _____, 20____,
by _____
(Print Name of Proprietor)
Of _____
(Print Name of Company)

(Signature of Proprietor)

The Contractor is a partnership
The foregoing Contract was signed and acknowledged before me this
_____ day of _____, 20____,
by _____, partner (or agent) on
(Print Name of Acknowledging partner or agent)
behalf of _____, a partnership.
(Name of partnership)

(Signature of Acknowledging Partner or Agent)

The Contractor is a corporation
The foregoing Contract was signed and acknowledged before me this
_____ day of _____, 20____,
by _____
(Print Name of Officer)
_____ (Title of Officer)
of _____
(Name of Corporation)
a/an _____ Corporation,
(State of Incorporation)
on behalf of said Corporation.

(Signature of Officer*)

The Contractor is a limited liability company
The foregoing Contract was signed and acknowledged before me this
_____ day of _____, 20____,
by _____
(Name of Manager or Managing Partner)

(Title)
of _____
(Name of Limited Liability Company)

(Signature of Manager or Managing Partner)

(CORPORATE SEAL)

Attest _____
(Corporate Secretary)

*The signer of the contract should be a corporate officer unless there is a corporate resolution attached authorizing the person to bind the corporation.

Attach Letter of Partners indicating Manager's or Managing Partner's authority to enter into agreement.

**Regardless of the type of company, the signature must be notarized.
The signer of the contract or agreement and the signer above of this Acknowledgment must be the same person.**

(NOTARY SEAL)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20____.

Notary Public in and for the State of _____
My commission expires: _____

G. BIDDER'S CHECK LIST

Bidders are advised that, notwithstanding any instructions or inferences elsewhere in this Invitation for Bid, only the documents shown on this sheet need be submitted with and made part of their bid. Other documents may be required after bid time, but prior to award. Bidders are advised that failure to submit the documents shown on this sheet and return the forms in the condition indicated SHALL RENDER THE BID NON-RESPONSIVE.

BIDS MAY NOT BE CONSIDERED if the following documents and/or attachments are not completely filled out, in the condition indicated, and submitted with the bid.

NOTE: Only those items marked by an (X) are required

X	An original signature must be on the Cover Sheet, Page 1 of the Invitation for Bid.
X	The person signing the bid must initial erasures or other changes made to the Bid form sheet. Note: "White Out" or other liquid correction methods must be initialed.
X	At least one complete set of descriptive literature brochures and/or data, if available, must accompany the bid.
X	Non-collusion affidavit must be completed and turned in with their bid.
X	All amendments issued that require acknowledgment shall be acknowledged in the space provided on the Bid form or by manually signing (original signature) the Amendment Sheet and submitting it prior to the bid opening.
Within ten days from publishing Notice to Award	The bidder must be the manufacturer of the product offered or if requested, shall attach to their bid evidence from an official of the manufacturer or manufacturer's authorized distributor, stating that the bidder is qualified as an authorized dealer or reseller and has the authority to sell the product being offered and pass the manufacturer's warranty through to the FNSB with all first holder benefits of the warranty.
Within ten days from publishing Notice to Award	The bidder must provide insurance as noted in bid document, and as required, within ten days of notice of award.
Within ten days from publishing Notice to Award	The bidder must include their current Alaska Business License number on the cover sheet of this IFB prior to bid submittal, or provide a copy of the business license, within ten days of notice of award.

H. BID FORM

1. METHOD OF AWARD:

Award will be made to the low responsive, responsible bidder meeting all requirements. This award is for the specified equipment and services only.

2. FOB POINT:

Fairbanks North Star Borough
PO Box 72167
Fairbanks, AK 99701

3. PROMPT PAYMENT DISCOUNT:

Indicate discount for prompt payment here: _____. Note that the discount will not be used to evaluate the bid and is not a factor in the method of award.

Please Note:

Prices quoted for commodities or 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, or the services can be provided, without further cost. Prices quoted in bids must be exclusive of federal, state and local taxes. If the bidder believes that certain taxes are payable by the Borough, the bidder may list such taxes separately, directly below the bid price for the affected item.

3. LOT ONE

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	EXTENDED PRICE
Item No. 1	Dell EqualLogic PS6500E SAN units, 48 TB capacity (48x1TB NL-SAS hard drives); Dual controllers	2	Each	\$	\$
Item No. 2	Secondary Controller for existing Dell EqualLogic 5000E	1	Each	\$	\$
Item No. 3	Three (3) year support/maintenance for all equipment	3	Year	\$	\$
LOT ONE TOTAL					\$

Brand/Model of item(s) Bid: _____

Required Delivery Date: 30 days ARO Indicate Delivery Date: _____

Amendment No.(s) _____ is/are hereby acknowledged.

Original Signature Vendor's Name (Print or Type)

Title/Name (Print or Type) Address

Telephone Number City, State, Zip

Facsimile Number Email