



Alaska Railroad Corporation
327 W. Ship Creek Avenue, Anchorage, AK 99501
P.O. Box 107500, Anchorage, AK 99510-7500
Tel: 907.265.2355
Fax: 907.265.2439
BatesT@akrr.com

December 2, 2020

INVITATION TO BID 20-36-208577
RAILROAD SIGNAL CROSSING BATTERIES

Response Requested,

This form must be completed and returned to insure receipt of future addenda or additional information. Fax this form to (907) 265-2439 or email to: BatesT@akrr.com. All addenda will be forwarded to the contact name and number 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 _____

Fax _____

Email address _____

Website: www.AlaskaRailroad.com



INVITATION TO BID (ITB) NUMBER: 20-36-208577

RAILROAD SIGNAL CROSSING BATTERIES

THIS IS NOT AN ORDER

DATE ITB ISSUED: December 2, 2020

EMAILED BIDS WILL BE RECEIVED AT: Alaska Railroad Corporation
Supply Management Department
327 West Ship Creek Ave.
Anchorage, Alaska 99501
BatesT@akrr.com

EMAILED BIDS MUST BE SUBMITTED TO THE ABOVE ADDRESS PRIOR TO 3:00 PM ON DECEMBER 22, 2020, AT WHICH TIME THEY WILL BE PUBLICLY OPENED.

The Alaska Railroad Corporation ("ARRC") is soliciting bids from interested parties to supply ARRC approved lead acid signal batteries as 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 20-36-208577 clearly printed on the face of the envelope. Bids must be complete and in U.S. dollars. See instructions and conditions enclosed herein.

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 3.0 % in FY 2019-2021. 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.

BIDDER/VENDOR TERMS AND CONDITIONS: PROSPECTIVE BIDDERS ARE CAUTIONED TO PAY PARTICULAR ATTENTION TO THIS CLAUSE. Bidder/contractor imposed terms and conditions which conflict with this Invitation to Bid terms and conditions 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.



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 invitation to bid to Tim Bates, Alaska Railroad Corporation, Supply Management, 327 W. Ship Creek Avenue, Anchorage, AK 99501, telephone number 907-265-2355, fax number 907-265-2439, or email at batest@akrr.com.

Sincerely,

Timothy Bates
Contract Administrator
Alaska Railroad Corporation

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APPENDIX A

MINIMUM QUALIFICATIONS

Items to be purchased through this solicitation are important to the operation of the ARRC. Vendors who respond to this solicitation must meet the following minimum qualifications in order to be considered responsive:

1. Be the original manufacturer, or a distributor/dealer authorized by the original manufacturer to serve the State of Alaska; and
2. Has the authority and capacity to provide full support for all product warranties, including technical “trouble shooting” support; and
3. Be able to provide audited financial statements demonstrating the financial ability to meet the requirements of any order that may result from this solicitation if asked to do so.

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. Cost Schedule: Appendix G
2. Bidders Questionnaire: Appendix C
3. Supply Bid Form: Appendix H

APPENDIX B
SPECIFICATIONS

Alaska Railroad is seeking to purchase up to 149 new lead acid signal batteries per the following specifications FOB Anchorage, Alaska.

Item #1: 540 Ah lead-calcium batteries for telecom applications

Typical Units:

C&D Technologies KCT-540

External Dimensions:

Length – 167mm

Width – 265 mm

Height – 464 mm

Specifications:

- 8 hr AH @ 1.75 FV/Cell = 540AH
- Two 25mm square terminal posts with 2 cross-bolt holes.
- Thermoplastic, transparent, (SAN) container

Item #2: 360 Ah lead-calcium or lead-antimony batteries for telecom applications

Typical Units:

C&D Technologies KCT-360

External Dimensions:

Length – 167mm

Width – 265 mm

Height – 464 mm

Specifications:

- 8 hr AH @ 1.75 FV/Cell = 360AH
- Two 25mm square terminal posts with 2 cross-bolt holes.
- Thermoplastic, transparent, (SAN) container

Item #3: Battery Hardware Kits

Specifications:

- Battery bank installation/integration hardware for at least 7 cells per string

Alternates to typical units:

Prior to submitting a bid, all prospective bidders who wish to bid an alternate to the above listed Typical Units must submit a detailed spec sheet for ARRC review and approval. The submittal shall demonstrate the batteries compatibility with ARRC's existing KCT model battery banks.

APPENDIX C

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. Description of Work and Contract Amount
(telephone, fax, and email)

<u>List any other business related experience:</u>	

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 D

STANDARD INSTRUCTIONS AND CONDITIONS FOR THE SUBMISSION OF BIDS TO THE ALASKA RAILROAD CORPORATION

1. 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 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.

2. Bidder's Terms and Conditions: Prospective bidders are cautioned to pay particular attention to this clause.

Bidder/Contractor imposed terms and conditions which conflict with this Invitation to Bid terms and conditions 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.

3. 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's responsibility to ascertain prior to submitting a bid that he/she has received all amendments issued.

4. Submission of Bids

4.1 Interested vendors shall submit an original and one copy of their bids 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. Bids must be received by ARRC no later than the local time at the place and on the date set for receipt of bids in the solicitation.

4.2 Any required samples must be submitted within the time specified for receipt of bids. 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.

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

5. Explanation to Prospective Bidders

Bidders 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 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 before the submission of their bid. 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 concerning a solicitation will be furnished promptly to all other prospective bidders as an amendment to the solicitation, if in the opinion of ARRC, such information is deemed necessary to submit bids or if the lack of it would be prejudicial to other prospective bidders.

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

6.1 Any bid 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.

6.2 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 wrapper or other documentary evidence of receipt maintained by ARRC.

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

7. Preparation of Bids/Proposals

7.1 Bidders 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 risk. Incomplete bids may be rejected as nonresponsive.

7.2 Each bidder shall furnish all information required by the solicitation. An officer or other official of the vendor's company who has legal authority to commit the vendor to the contract proposed must sign the bid. The person signing the bid must initial erasures or other changes.

7.3 Bids for supplies or services other than those specified, or bids 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.

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

8. Evaluation of Bids 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 will be evaluated on the basis of advantages and disadvantages to ARRC that might result from making more than one award (multiple awards).

9. Reservations

In addition to other rights in the solicitation, ARRC reserves, holds and may exercise at its sole discretion, the following rights and options:

9.1 ARRC may reject any or all bids, or any part thereof, and may waive technicalities and minor informalities if such action is deemed to be in its best interest. ARRC also may reject the bid of any vendor who has previously failed to perform adequately under a prior contract for furnishing supplies/services to ARRC.

9.2 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 and either award to another bidder or reject all bids.

9.3 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.

9.4 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.

9.5 ARRC may accept any item or group of items of a bid unless the bidder qualifies the bid by specific limitation.

9.6 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 specifies otherwise.

9.7 ARRC may supplement, amend, or otherwise modify or cancel this solicitation with or without substitution of another solicitation.

9.8 ARRC may conduct investigations of the bidders and their bids and request additional evidence or documentation to support the information included in any bid.

10. Aggrieved Bidder

An aggrieved bidder 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.

11. Incurred Costs

The issuance of a solicitation does not obligate ARRC to pay for any bid preparation costs incurred by bidders 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.

12. Availability of Funds

The 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.

13. Public Information

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

14. Price

ARRC shall receive the benefit of any general reduction in bidder's price prior to the delivery of supplies or services and in no event shall ARRC be charged higher prices than bidder's 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 E

GENERAL TERMS AND CONDITIONS (Supply Contracts) (Revised 4/17/08)

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.

"Vendor" shall mean the person or entity entering into the contract to provide the supplies 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.

"Supplies" shall mean the equipment, goods, materials or other items to be provided by Vendor to ARRC under the contract.

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

3. Claims. Any claim by Vendor for additional compensation or equitable adjustment arising under this contract which is not disposed of by mutual agreement must be made by Vendor 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 Vendor 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 Vendor 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 Vendor shall post in conspicuous places, available to employees and applicants for employment, notices setting out the provisions of this paragraph.

4.2 The Vendor 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 Vendor 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 Vendor'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, Vendor shall be entitled to receive payment in accordance with the payment provisions of this contract for supplies delivered to ARRC and, as to work in progress prior to receipt of notice, ARRC shall pay Vendor only for direct expenditures on work specifically identified to this contract. Vendor shall not be paid for any work done after receipt of a notice of cancellation or for any costs incurred by Vendor's suppliers or subcontractors which Vendor could reasonably have avoided. However, in no event shall ARRC be liable for incidental, consequential, or punitive damages, overhead or other direct or indirect costs, or lost profits. Payments made under this contract shall not exceed the aggregate price specified in this contract.

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

(1) The Vendor 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 Vendor 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 Vendor's expected performance and Vendor 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) Vendor 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, Vendor shall immediately discontinue all work and it shall immediately cause any of its suppliers or subcontractors to cease such work unless the notice directs otherwise. In the event of termination for default, Vendor shall be liable for any damage to ARRC resulting from the Vendor's nonperformance. 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 Vendor 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. No such approval shall relieve Vendor from any of its obligations or liabilities under this contract.

7. Independent Contractor. The Vendor'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.

8. Payment of Taxes. As a condition of performance of this contract, the Vendor shall pay all federal, state, and local taxes incurred by the Vendor 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. Vendor shall exercise reasonable care and diligence to prevent any actions or conditions which could be a violation of Alaska Statute 39.52 et seq. Vendor 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 Vendor'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 Vendor or its employees violate the provisions of this section.

11. Covenant Against Contingent Fees. Vendor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Vendor, 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.

12. Warranty. Vendor warrants that the equipment, goods, materials or other supplies sold to ARRC under this contract: (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. Vendor 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.

13. Indemnification. The Vendor shall indemnify, save harmless and defend ARRC, its officers, agents and employees from all liability of any nature or kind, including costs and expenses, for all actions or claims resulting from injuries or damages sustained by any person or property arising directly or indirectly as a result of any error, omission, product defect, negligent or wrongful acts of the Vendor, its subcontractors or anyone directly or indirectly employed by them in the performance of this contract, provided that Vendor's aforesaid

indemnity and hold harmless agreement shall not be applicable to any liability based upon the sole negligence of ARRC.

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

15. 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.

16. 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.

17. 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.

18. 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.

19. Conflict of Interest. Vendor 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 Vendor's employees and agents in their relationships with ARRC's employees, their families, vendors, subcontractors and third parties accomplishing work under this contract.

20. Publicity. Vendor shall not release any information for publication or advertising purposes relative to this contract or to the material, equipment and other supplies furnished under this contract without the prior written consent of the ARRC.

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

22. Internal Controls and Record Keeping. Vendor 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.

23. Force Majeure. Neither ARRC nor Vendor 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 equal or unequal 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.

24. Set Off. If ARRC has any claim against the Vendor 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.

25. Observance of Rules. The Vendor's personnel performing work hereunder on ARRC's premises shall observe all fire prevention, security, and safety rules in force at the site of the work.

26. 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.

27. Entire Agreement. This contract represents the entire and integrated agreement between ARRC and the Vendor 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 Vendor.

28. Invalid Provision. The invalidity or unenforceability of any provision of this contract shall not affect the other provisions hereof, and this contract shall be construed in all respects as if such invalid or enforceable provisions were omitted.

29. Packing, Marking and Shipping. All supplies shall be properly packaged to prevent damage or deterioration and to obtain the lowest transportation rates. ARRC will pay no charge for preparation, crating, dunnage or other materials unless separately stated in this contract. Each packing slip, bill of lading, invoice, container, tag and correspondence shall bear the applicable contract number and the location to which the supplies are to be shipped. A waterproof Master Packing Slip shall accompany each shipment and shall be included in one of the packages marked "Packing Slip Inside" or in the case of a carload shipment, be conspicuously displayed on the inside of the freight car. The original Bill of Lading shall be mailed to the attention of ARRC Supply Management Department on date of shipment.

30. Improper Delivery. If for any reason the Contractor fails to make timely delivery, ARRC may, at its option, approve a revised delivery schedule, request shipment via air or expedited routing (at Contractor's expense) or terminate this contract without any liability. Contractor will not, however, be liable for damages resulting from delays in delivery due to causes beyond Contractor's reasonable control, provided Contractor promptly notifies ARRC in writing of any such delay or expected delay as soon as such delay or expected delay becomes or should have become apparent. The remedies provided in this paragraph shall be cumulative and in addition to any other or further remedies ARRC may have.

31. Shipping Release. The Contractor shall not ship any of the supplies covered by this contract, unless specific delivery dates or written instructions are furnished to Contractor by ARRC. ARRC shall have no responsibility for supplies for which delivery dates or other written instructions have not been provided. Shipments in excess of those authorized may be returned to Contractor and Contractor shall pay ARRC for all expenses incurred in connection with such shipments. ARRC may change or temporarily suspend shipping schedules specified in this contract or written instructions.

32. Inspection/Rejection. Notwithstanding prior shipment, all supplies are subject to inspection and acceptance by ARRC within a reasonable time after they arrive at destination. ARRC shall notify Contractor

if any supplies are rejected for any reason or if there are shortages. At ARRC's election, rejected supplies may be held for Contractor's account or returned to Contractor at Contractor's risk and expense. No replacement or correction of defective or nonconforming supplies shall be made by Contractor without written authorization from ARRC. Contractor shall promptly ship any shortages after notification of the same by ARRC.

33. Compliance with Laws and Regulations. Contractor agrees that in the performance of this contract it will comply with the requirements of all applicable Federal, State and local statutes, regulations and orders and will indemnify and save ARRC harmless from any claim, loss or damage arising from Contractor's violation or alleged violation of them.

34. Reduction in Contractor's Cost Any reduction in Contractor's costs resulting from a reduction in freight rates, custom duties, import taxes, excise taxes and/or sales taxes from those in force on the date of the contract is to be paid to ARRC by Contractor in reduction of the price of the ordered supplies.

35. Payments. Payments for supplies furnished under this contract will be due thirty (30) days after the later of (1) receipt of the supplies established in the contract, (2) receipt of proper billing for such supplies, and (3) receipt of all documents required by this contract. ARRC shall not be liable for interest charges on late payments.

APPENDIX F
SPECIFIC TERMS AND CONDITIONS

F.O.B. POINT:

All prices are F.O.B. ARRC; 485 Ocean Dock Road Anchorage, Alaska

TERMS AND CONDITIONS:

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

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 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.

PRICES:

Prices will be firm for duration of contract after bid opening date.

ALASKA RAILROAD CORPORATION RIGHTS IN REGARD TO BID:

The Alaska Railroad Corporation reserves the right to reject any or all bids, to waive any informality in bids, to accept in whole or in part such bid or bids as may be deemed in the best interest of the ARRC.

BIDDER/VENDOR TERMS AND CONDITIONS:

PROSPECTIVE BIDDERS ARE CAUTIONED TO PAY PARTICULAR ATTENTION TO THIS CLAUSE. Bidder/contractor imposed terms and conditions which conflict with this Invitation to Bid terms and conditions 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.

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.

MATERIAL:

ARRC reserves the right to determine if the equipment meets the specifications intended.

**APPENDIX G
COST SCHEDULE**

**Railroad Signal Crossing Batteries
ITB No. 20-36-208577**

A bidder's failure to provide the information requested in this appendix will be cause for rejection of the offer on the basis of non-responsiveness. Each vehicle must comply with the specifications as spelled out in Appendix B.

All prices quoted must be F.O.B. Anchorage, Alaska

<u>Description</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Extended Price</u>
1. KCT-540 or ARRC approved equal	49 ea	\$ _____	\$ _____
2. KCT-360 or ARRC approved equal	74 ea	\$ _____	\$ _____
3. Battery bank hardware kit	23 kits	\$ _____	\$ _____

Additive Alternate #1 – To be delivered with base bid if executed. Quantity will be determined by bid prices and remaining budget.

<u>Description</u>	<u>Quantity</u>	<u>Unit Price</u>
4. KCT-540 or ARRC approved equal	1-14 ea	\$ _____

Additive Alternate #2 – To be delivered with base bid if executed. Quantity will be determined by bid prices and remaining budget.

<u>Description</u>	<u>Quantity</u>	<u>Unit Price</u>
5. KCT-360 or ARRC approved equal	1-12 ea	\$ _____

Delivery Date:

Your bid should indicate the earliest firm delivery date after receipt of award. ARRC shall fully expect the successful contractor to completely satisfy contract performance requirements in accordance with firm delivery date offered in the Cost Schedule.

Delivery date: Please indicate the earliest possible delivery date after receipt of order:

_____ Weeks ARO

Railroad Signal Crossing Batteries
ITB No. 20-36-208577

Award Criteria:

An award will be made to the low, responsive, responsible bidder that meets the requirements as set forth in the specifications and compliance thereof. Award will be based on all units, including the maximum number of option units that budget will allow. The Alaska Railroad Corporation reserves the right to determine that all offered materials will serve the application intended. Award will be made in the aggregate or by line item, whichever is deemed in the best interest of the Alaska Railroad by the Contract Administrator.

The bid award is contingent on the availability of Alaska Railroad Corporation funds.

COMPANY NAME

BY AND FOR THE BIDDER

COMPANY ADDRESS

PRINTED NAME OF BIDDER

DATE OF BID

CONTACT PHONE NUMBER

CONTACT E-MAIL

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