



**Alaska  
Department of  
Transportation  
and  
Public Facilities**

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**Statewide Public  
Facilities  
Construction  
Manual**

*Effective August 1, 2014*

# FOREWARD

Statewide Public Facilities (SWPF) was established as a separate office with statewide responsibilities on August 3, 2007 (See Section 18.5).

The SWPF section provides cradle to grave project management of vertical construction projects for the Department of Transportation and Public Facilities (Department) and other executive branch agencies. SWPF contributes to the Department's mission by improving the delivery of state services in Alaska and protecting the health and safety of Alaska's people by constructing safe, environmentally sound, reliable, and cost-effective buildings.

Core services provided by SWPF include site assessments, energy conservation services, facility planning, structural assessments, project programming, cost estimating, management and construction administration services necessary to design, construct, renovate, or repair state owned public facilities. Project planning requires architectural, engineering, environmental, and estimating services. Design carries the project through the completion of a bid-ready set of plans, specifications for the legal and technical contract terms, and an engineer's estimate for the cost of construction. Construction contracts are administered with project management personnel and on-site personnel.

This manual provides guidance to SWPF personnel administering the construction phase of project delivery contracts. Its main purpose is to provide consistency in the way SWPF administers the construction phase of projects. That said; there will often be unique circumstances on any project that may not fit within the guidance provided and require additional consultation between the Project Engineer and the Project Manager (PM).

This manual is a companion to the Alaska Construction Manual (ACM) for some federal aid projects. The ACM provides detailed guidance on contract administration requirements for projects funded by the Federal Highway Administration (FHWA), the Federal Transit Authority (FTA) and the Federal Aviation Administration (FAA). The ACM is referenced throughout this manual and should be consulted for FHWA, FTA or FAA funded projects.

This manual is not part of the construction contract. The construction contract governs the relationship between the Department and the Contractor, and the terms of the contract supersede any information or guidelines contained in this manual.

The following items apply to this manual:

1. The SWPF Construction Manual is written to the Project Engineer and PM unless otherwise noted.
2. The words Project Engineer, Department, and PM are capitalized throughout.

You may download this manual at the intranet site:

- <http://web.dot.state.ak.us/public-facilities/resources.shtml>
- You will need to enter your user name (without the preceding SOA\)
- You will need to enter your LDAP password (same as email password)

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# 1. Construction Overview

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- 1.1. Acronyms
- 1.2. Definitions
- 1.3. Organizational Structure
- 1.4. Channels of Authority
- 1.5. Project Staff – Assignments & Training
- 1.6. Employee Conduct
- 1.7. Federal-Aid Project Oversight Responsibility Agreements
- 1.8. Construction Manual Exceptions

## 1.1. Acronyms

The following acronyms are used in this manual:

AC	Account Code
A/E	Architect/Engineer
AKOSH	Alaska Occupational Safety and Health
AKSAS	Alaska State Accounting System
CC	Collocation Code
CPM	Critical Path Method
CSI	Construction Specifications International
CMGC	Construction Manager / General Contractor
BMP	Best Management Practice
DEC	Department of Environmental Conservation (state)
DB	Design Build
FAA	Federal Aviation Administration
FHWA	Federal Highway Administration
GC	General Conditions
IBC	International Building Code
ICAP	Indirect Cost Allocation Plan
IRIS	Integrated Resource Information System
IWA	Interim Work Authorization
LC	Ledger Code
M&O	Maintenance and Operations
NOI	Notice of Intent
NTP	Notice to Proceed
OSHA	Occupation Safety and Health Administration (federal)
OMB	Office of Management and Budget (state)
PDA	Project Development Authorization
PM	Project Manager
PR	Program Code
PSA	Professional Service Agreement
RFI	Request for Information
RFP	Request for Proposal
ROW	Right of Way
RSA	Reimbursable Service Agreement
SWPF	Statewide Public Facilities

SWPPP	Storm Water Pollution Prevention Plan
T&M	Time and Material

## 1.2. Definitions

The terms defined below are used in this manual or they are likely to be encountered during contract administration. If there is any conflict between these definitions and definitions contained in the project delivery contract, the language of the contract governs.

**Adjusted Bid Amount:** A basis for comparing bids after credits for Alaska bidder's preference, Alaska veteran owned business preference, and Alaska products preference have been subtracted. **The resulting amount is used to select the low bidder, but is not the same as the award amount.** Preferences do not apply to federally funded projects.

**Alaska Construction Manual** provides instructions to personnel who inspect and administer airport, highway and marine construction contracts for the Department. The ACM has application to some SWPF projects, primarily those funded by the FHWA and FAA. The ACM is available on the Departments web site under Statewide Design and Engineering Services.

**As-Advertised Documents:** The plans, project manual and addenda available to contractors prior to bid or technical and price proposals.

**Competitive Sealed Price Proposals:** Project delivery method where the contractor submits technical and sealed price proposals in response to an RFP containing complete plans and project manual. The contractor is selected based on the scoring and ranking of technical proposals, followed by a public opening of the sealed price proposals for final scoring adjustment.

**Construction Manager / General Contractor:** Project delivery method where the contractor submits technical proposals in response to RFP containing conceptual design documents. The contractor is selected based on qualifications, past experience or best-value. The contractor (construction manager) provides input regarding material, design, scheduling, pricing, phasing and other input that helps the designer (under separate contract to Department) develop a more constructible project. At approximately 90% design completion, the

Department and the construction manager negotiate a guaranteed maximum price for construction of project based on the defined scope and schedule. If this price is acceptable to both parties, they execute a contract for construction services, and the construction manager becomes the general contractor.

**Conformed contract:** The bound contract documents containing the plans and specifications, addenda, the fully-executed contract, payment and performance bonds, and completed bid schedule form. DB contracts include the contractor's proposal.

**Department:** Alaska Department of Transportation and Public Facilities.

**Division 0:** The sections listed under Bidding/Proposal and Contract Requirements and Contract Provisions and Specifications in the conformed contract table of contents. These sections delineate contract administration requirements.

**Division 1:** The sections listed under General Requirements in the conformed contract table of contents. These sections contain general administrative and procedural requirements as they apply to the Technical Specifications sections.

**Design-Bid-Build:** Project delivery method where the Department develops complete design and solicits bids. The contractor is selected based on low bid.

**Design-Build (DB):** Project delivery method where the contractor is selected at conceptual design phase through a RFP process. The contractor is responsible for final design. Selection is based on evaluation of technical proposals. Sealed cost proposals are also a rating factor; however, low cost proposal may or may not be the deciding factor.

**Encumbrance:** The accounting process of reserving project funds for a specific contract obligation.

**General Conditions:** Section 00700 of Division 0 in the conformed contract (design-bid-build and CMGC contracts), or Section 00920 of Division 0 in DB contracts. This section defines rights, responsibilities, relationships and administrative requirements and applies to all sections of specifications including Division 1.

**General Requirements:** See Division 1 definition.

**Inspector:** A person assigned to the Project Engineer with the sole responsibility of quality assurance.

**Office Engineer:** A person responsible for a construction project's clerical and administrative matters, with no field responsibilities.

**Project Manager:** The person responsible for managing the design and construction for one or more individual facilities projects. The PM has overall responsibility for cost, schedule, and quality performance. The PM will provide supervision, direction, guidance, conflict resolution, and coordination to the Project Engineers assigned to specific construction projects. In some instances, the PM will perform duties normally assigned to Project Engineers due to staffing shortages or other reasons.

**Project Manual:** Bound paper or consolidated electronic document(s) consisting of Divisions 0, 1, technical specifications and plan set. The plan set is usually separated, except for small projects.

**Project Engineer:** The Department's designated on site representative.

**Record Drawings:** Digitized or mylar plan set modified by designer of record to reflect the contractor's final red line record drawings.

**Red Line Record Drawings:** Plan set annotated by the contractor to show actual installation as it happens.

**Small Procurement:** Simplified contract procurement method for small projects as limited by Alaska Statute 36.30.015 and Alaska Administrative Code (2 AAC 12.740). Guidance is provided in the Department's Small Procurement Manual.

**Supplemental Conditions:** Section 00800 of the conformed contract modifies the General Conditions (Section 00700 in design-bid-build and CMGC contracts) specific to a project, its locale, and its unique requirements. DB contracts do not have supplemental conditions.

## 1.3. Organizational Structure

### Commissioner

The Governor appoints the commissioner of the Alaska Department of Transportation and Public Facilities and the legislature confirms the appointment. The commissioner is responsible for administration of all functions of the Department throughout the State. The commissioner exercises this responsibility through delegation of authority.

### Deputy Commissioners

Three Deputy Commissioners report to the Commissioner. One of them supervises the Chief of SWPF.

### **Chief of Statewide Public Facilities (the Chief)**

The Chief is responsible for directing the activities of design and construction administration for all projects assigned to SWPF. The Chief ensures that personnel performing these activities adhere to policies, procedures, and standards set by the Department and client agencies. **The Chief also serves as the Contracting Officer for most of the contracts administered by SWPF.** One example of an exception is when SWPF staff providing construction administration for a project at Ted Stevens Anchorage International Airport (ANC). In this case, the ANC Director of Environmental Engineering and Planning is the Contracting Officer. There may be other exceptions.

### **Client**

A client is any entity requesting support from SWPF and securing said support through a formal agreement. SWPF is a service provider. Services include public facilities project management, planning, programming, design and construction contract administration for clients. Clients include the Department and other state agencies, with the exception of the court system and the University of Alaska which have separate contracting authority.

SWPF does not own, operate or maintain any public facilities. The financial and administrative relationship between SWPF and clients is described in more detail in Section 2 of this manual.

### **Contracting Officer**

The person authorized by the Commissioner of the Department to enter into and administer the contract on behalf of the Department. The contracting officer for SWPF is usually the Chief, but there are exceptions. The project's Contracting Officer is always identified on the invitation to bid or the notice to proceed.

### **Project Manager**

The PM reports directly to their supervisor and is responsible for day to day management of one or more SWPF projects and is the primary point of contact for the client. The PM may or may not be the direct

supervisor of a project engineer assigned to a project managed by the PM.

A PM may be assigned responsible charge of several small to medium sized projects or be tasked with administering a large complex project.

### **Project Engineer**

The Project Engineer is the primary point of contact for the contractor and reports directly to a PM on a project by project basis. This means a Project Engineer often reports to more than one PM concurrently due to overlapping assignments for projects in closeout, startup and construction phases.

The Project Engineer may be either a Department employee or contract employee provided by a consulting engineering firm under a professional services agreement.

The Project Engineer (if a Department employee) is assigned a supervisor for timesheets, leave, performance evaluation purposes, and work assignments. This subject is covered in more detail in Section 6 of this manual.

The Project Engineer ensures that all work performed by the contractor conforms to the requirements of the contract in accordance with policies, procedures and standards established by the Department. The Project Engineer has responsibility to lead any assigned project staff.

### **Project Staff**

Project staff may include inspectors and technicians assigned to a project who report directly to the Project Engineer. Project staff may be either SWPF employees or contract employees provided by a consulting engineering firm under a professional services agreement.

### **Regional / Headquarters Support Staff**

There are Department employees outside the SWPF chain of command that have oversight roles that may influence contract administration decisions.

- **Quality Assurance Engineers (QAE)** report directly to regional construction engineers, who report to regional upper management, who report to the commissioner directly or indirectly. QAE's duties are described in Department policy and procedure: 05.01.050 Concurrent Review of Construction Projects. The QAE is only required to be involved in SWPF administered projects that are funded

by the FHWA, FAA or Federal Transit Authority; however the QAE my support other QA efforts if requested by SWPF and subject to availability. Most SWPF projects are not subject to mandatory QAE oversight.

- **Environmental Compliance Staff** exist at the Department regions and headquarters through a wide variety of supervisor chains of command that will not be detailed here for brevity. Environmental compliance staff from the Department, permitting or regulatory agencies may visit the project during construction and conduct informal or formal compliance inspections, either prearranged or unannounced. Procedures for accommodating these environmental compliance inspections are detailed in Section 9 of this manual.
- **Utility Staff** exist at the Department regions and headquarters to assist SWPF in utility contract coordination and contract development with local utility companies.

#### 1.4. Channels of Authority

It is the Department's policy to delegate authority and responsibility to the lowest level of management consistent with the Department's policies, sound business practices, and applicable statutes and regulations in order to achieve Departmental objectives efficiently and expeditiously (General Policy 01.01.010), available on Department web site homepage.

Decision making is the most important element of contract administration, and personnel at every level must take responsibility to make decisions within the authority delegated to them. Consequently, construction personnel are expected to follow the channels of authority as outlined herein.

Immediate supervisors will not be bypassed except in case of a contract administration emergency, and then only in the event the supervisor cannot be readily located.

The Project Engineer is the single point of contact between the Department and all other parties associated with the project delivery contract, except that the PM is the primary point of contact for the client. The PM may in some instances delegate some or all of the client contact responsibility to the Project Engineer. All communications from the contractor should be directed to the Project Engineer, allowing the Project Engineer to deal effectively with the

contractor. All communications from the client should be directed to the PM unless the PM has delegated this duty to the Project Engineer.

#### 1.5. Project Staff – Assignments & Training

Shortly after a contract is awarded, the PM prepares a delegation of authority letter signed by the Contracting Officer to the contractor identifying the Chief, PM, Project Engineer, and consultant assigned to administer the contract.

The PM is responsible for developing a staffing plan for a project. Positions are filled with available staff in accordance with collective bargaining agreements, or as described in a professional service agreement for consulting engineering services. All project staff members should receive written notification of their initial assignment to a project, but notification may be done verbally. The notification should list the Project Engineer as their lead, along with the specific staff responsibilities, authorities, and assignments.

The PM should review employee's qualifications and the requirements of the assignment. If any job task or safety-related training is needed (Alaska Statute 18.60.066 Employee Safety Education Programs), the PM should make required arrangements before the start of the assignment, if possible. As the PM familiarizes each employee with their assignment or reassignment, the PM should review the employee's responsibilities, authority, relationship with their supervisor and other project personnel, and any other information that will make the employee better able to perform in the assigned capacities.

#### 1.6. Employee Conduct

Employees should conduct themselves in an ethical, courteous, and helpful manner within the confines of their project role when dealing with contractors, clients, the public and other project staff. Rules of conduct apply to all Department employees, including consultant employees.

When in doubt, discuss the issue with your supervisor. Consult with the lead administrative assistant if you need help finding policy concerning employee conduct.

The Chief is the ethics advisor for SWPF. The Department's human resources office is another source of support and guidance for employee conduct questions or issues.

## **1.7. Federal-Aid Project Oversight Responsibility Agreements**

Overall responsibility and protocol for projects with federal funding from other agencies varies considerably. Such responsibility and protocol will be identified by the PM during the preconstruction phase of the project and included in the project delivery contract. Any special or unusual requirements that are not contained in the project delivery contract will be conveyed to the Project Engineer once assigned to a project.

## **1.8. Construction Manual Exceptions**

Due to variances in project staffing or to the nature of a project; there may be situations where full compliance with this manual is neither cost-effective nor practical. There will also be situations that are not adequately addressed in this manual. In such cases the Project Engineer should discuss exceptions with PM.

Exceptions may not violate federal, state, or local law, federal aid requirements, Department policy and procedure or the Department's Chief Engineer directives.

Exceptions not resolved through verbal consultation between the Project Engineer and PM will be documented in a memo. The memo will be sent to the Chief through the PM.



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## 2. Fiscal Management

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- 2.1. General
- 2.2. Project Numbering & Project Account Coding
- 2.3. Reimbursable Service Agreements
- 2.4. Utility Agreements
- 2.5. Project Development Authorization
- 2.6. Federal Funding
- 2.7. Memorandum of Agreement
- 2.8. Project Budget
- 2.9. Project Encumbrances
- 2.10. RSA Billings
- 2.11. Expenditure Monitoring
- 2.12. Unauthorized Expenditures

### 2.1. General

The PM will develop project budgets at project inception and update them each month, or more frequently as necessary to document significant changes. The PM may maintain a number of budgets for each project depending on the intended audience (detailed and summary).

The PM will encumber funds for all contractual financial obligations as contracts are awarded or amended by a change document. Failure to do so may result in insufficient funds for contractor payment.

Budget updates are distributed with the project status summary report each month. The project budget and status summary reports are management mandates and do not effect contract management. Failure to perform these duties is not subject to comment by regional concurrent review associated with FHWA, FTA or FAA funded projects and shall not be used to delay final payment to the contractor.

### 2.2. Project Numbering & Project Account Coding

Every project is identified by a unique five digit Alaska state accounting system (AKSAS) project number, whether the project is state-funded, federally-funded, or a combination of both. AKSAS is a legacy accounting system scheduled for replacement.

July 1, 2015 is the projected launch date for the new integrated resource information system (IRIS); which includes a new financial accounting system. After the IRIS accounting system is live and AKSAS is retired, much of the information here will need to be revised. Post IRIS implementation, projects will continue to be

identified by state and federal (if applicable) project numbers. Other accounting coding and terminology will change.

The following information is related to AKSAS. The launch date for IRIS is only a projection. Changeovers of accounting systems generally require a significant re-education and training for staff.

Many federally funded projects also have a federal project number or numbers assigned to it; this number relates to the federal funding agreement. During the preconstruction process the PM must determine if federal project numbers need to be shown in the contract.

Within AKSAS, there are two series of numbers that identify a project's financial account: an eight digit collocation code (CC) identifying the source of project funds, and an eight digit ledger code (LC), the first six of which identify the project, the seventh digit identifies the project phase (design, right-of-way, construction, utility) and the eighth digit identifies the eligibility of the expense (non-participating/state-only funds, participating/federally reimbursable funds, or deferred participating/state-funds until eligibility is resolved).

Additionally, there are two five-digit number codes that further identify a particular expense charged to a project: an account code (AC) identifying category of expense (payroll, per-diem, commodity, travel, contractual service), and a program code (PR) identifying both project phase (design, construction) and segment of the budget or support group that incurs the expense (Civil Rights Office, field engineering, contractor payments, construction administration, environmental unit, quality assurance/materials unit, utilities, project control unit).

For most projects, the CC and the first seven digits of the LC are usually the same for all of a project's construction expenses. The Project Engineer needs only to know how to use the PR and AC, and how to determine the federal funding eligibility (if any) of a particular expense (the last digit of the LC). Projects that have multiple funding sources may prove more of a challenge. Project Control and the SWPF Financial Coordinator should be consulted for guidance on unusual situations. The Departments A-87 Implementation Manual, available on line, explains the use of these codes and provides examples.

The Department assesses an overhead rate (officially called the Indirect Cost Allocation Plan, ICAP) on all capital projects. ICAP charges are applied to all capital expenses once a month. This ICAP revenue supports the overhead activity within the Department.

### **2.3. Reimbursable Service Agreements**

SWPF frequently performs work for other state agencies (clients). RSAs are formal agreements between two agencies whereby the requesting agency requests the services of the other, the servicing agency, and the requesting agency agrees to compensate the servicing agency for services rendered. SWPF is usually the servicing agency, although occasionally it will request the services of another agency through the RSA process. The servicing function is generally to plan, design and construct facility related projects for the client, including but not limited to new construction, rehabilitation, renovations, energy upgrades, demolitions, and hazardous material abatement.

The requesting agency does not actually give SWPF funds to perform the requested service. Instead, the agency gives SWPF authorization to spend the client's funds. SWPF pays its contractors, vendors, and payroll obligations from Department funds and bills the client's funding for reimbursement.

The RSA comprises the source documentation authorizing a project's funding from a client. From the RSA the following information can be learned:

- Scope of work
- Expiration date
- Project number and financial Coding
- Source of funds (non-federal and/or federal)
- Allocated of funding broken out by work items
- Schedule of maximum cost

As a cautionary note, if the box at the bottom of Section V on the RSA form is checked, the servicing agency may not change line items without approval of the client. This can cause significant delays if funds need to be shifted between funding allocations on short notice. PM's should carefully consider and discuss potential impacts with the client if a proposed schedule of maximum cost appears to be unnecessarily restrictive, before sending the RSA to the Chief for approval.

Clients may request RSA modifications to increase or reduce existing authorizations. During construction,

clients may request contract changes that increase the scope and cost of the project beyond the limits of available funding, including change order contingency funding. The RSA must be modified to increase funding before executing any such change documents.

Original and amended RSA's are co-signed by Departmental representatives (client and SWPF). The Chief is the approving authority for SWPF. The PM must initial the amended RSA to indicate the authorization increase is adequate to finance the additional work before sending the RSA amendment to the Chief for approval.

A client may believe the current authorized RSA funding level is too high and request a portion of it be returned. This is called a "negative RSA" and it reduces the authorization from the current amount to the new amount specified by the client. In this case the Chief requires "initials" sign off from the PM that the negative RSA is appropriate before approving any such action. It is imperative that careful attention be paid to negative RSA requests to preclude release of funding required to complete the project. Copies of the RSA should be kept in the project fiscal file.

### **2.4. Utility Agreements**

Utility companies sometimes pay for a portion of the work done under a contract administered by SWPF. These funding arrangements are set up under RSAs or Utility Agreements.

### **2.5. Project Development Authorization**

A PDA allows SWPF to perform work for the Department. A PDA places project funding on the books and into the proper phase.

PDA's provide the same basic information as an RSA:

- Project number and ledger code
- Authorized funding by phase (design, construction, utilities, land, etc.)
- Collocation codes

The PM may only spend up to what is authorized by phase and CC. The PM will initiate PDA amendments through the SWPF Financial Coordinator.

Copies of original PDA and amendments should be kept in the project fiscal file.

## 2.6. Federal Funding

On federally funded projects, the State enters into two contracts: one with the contractor and the other with the federal funding agency. Federal financial programs are set up and run differently, but all accomplish the same end – the transfer of federal funds to the receiving entity, which for the purposes of this manual is our clients (including the Department).

Federal funding sources have different rules and the PM must become familiar with the requirements detailed in individual federal grants or agreements. These federal agreements or grants sometime some with strict billing and reporting requirements and it is important that the PM study and become familiar with all the terms and conditions.

Since this can be an overwhelming amount of information for a single PM to absorb, SWPF generally assigns projects attached to similar or the same federal funding streams to a single PM initially. This PM becomes the subject matter expert for the particular funding source and passes this knowledge on to other PM's who encounter these funding types.

The Department has a long history, and support structure at Headquarter and the Regions to properly handle FHWA, FTA, and FAA federal funding sources.

RSA's with a client are sometimes funded partly or entirely by federal funding from various federal agencies. As an agent for our client, PM's must be familiar with the source(s) of federal funding (if any) associated with an RSA and what the requirements are for administering the funds.

PM's should get a copy of any federal funding agreement between the client and the federal funding agency. A client may or may not be very familiar with the terms and conditions of the federal funding agreements supporting their project. PM's are responsible for ensuring that projects administered by SWPF are in compliance with federal funding requirements that sometimes vary greatly from one federal agency to another.

## 2.7. Memorandum of Agreement

Occasionally a memorandum of agreement (MOA) is used in place of an RSA. Whereas an RSA applies to agreements between state agencies, MOAs may apply to agreement between SWPF and a municipality, tribal organization or even a federal entity. The MOA

serves a similar purpose as an RSA, but it is important that the PM study the MOA and become familiar with all the terms and conditions.

## 2.8. Project Budget

PM will prepare budget at project inception and updated monthly until final completion. After construction bids are received, PM will verify authorized funding and revise the budget as necessary. The PM will work with the SWPF Financial Coordinator to make any needed adjustments.

A budget form is available (see BLDG-Form 43, Section 17.43). The PM may modified format to meet project's particular needs, but as a minimum must include the following information:

- Current authorized funding
- Expenditure categories by PR
- Current expenditures
- Projected expenditures at completion
- Projected balance (authorized funding minus projected expenditures)

Columns in the budget form should be totaled for each phase (design, construction) and for total project. An overrun in one phase will require programming action to move funding between phases. A total project overrun will require supplemental funding.

Whenever a change to the project is made and at least monthly, the project budget should be updated. This is needed to verify that the authorized funding will not be exceeded and to provide as much warning as possible when supplemental funding must be sought. PM's will always provide a timely, honest and realistic appraisal of what the project will cost as presently designed and managed.

## 2.9. Project Encumbrances

Contracts and associated change orders or amendments cannot be executed without sufficient funds encumbered to make all anticipated payments. Encumbrances must be for the exact amount of the contract: i.e. no contingencies may be encumbered. The PM's will encumber funds for the contract, including professional service agreement (PSA) when initially executed and for each individual amendment or change order as it is executed. Excess funding will be unencumbered. Failure to do so opens the possibility of inadvertent overpayment to a contractor and also makes it difficult to monitor unencumbered project balances.

Encumbrances establish a priority for payment of project expenditures. The State accounting system makes payments on a first come, first served basis until the money runs out.

Technician will process project related errors, such as wrong coding on a project.

The PM will ensure sufficient funding is always encumbered to cover remaining contract payments as the project progress. All contractual obligations (consultant contracts or equipment purchases) and certain vendor stock requests are handled in a similar fashion.

PM's must ensure that encumbrances for each contract and each change document are made in a timely manner, or run the risk of being unable to pay the contractor's progress payments when they come due.

## **2.10. RSA Billings**

The RSA is charged for all project expenses. An "Execute RSA" report is produced monthly showing all prior month expenditures. The Finance Section sends these reports to the PM.

The PM reviews these reports and certifies expenditures. The Finance Section then sends the report to the client.

The PM responds to any client inquiries about individual charges.

## **2.11. Expenditure Monitoring**

The PM is the financial manager for all active projects. The PM (with the Project Engineer's support) will maintain the construction phase financial account in a positive condition at all times.

The PM will closely monitor construction phase expenditures to avoid exceeding the available funds. This is particularly important when the project encounters changed conditions or when additional work is contemplated. Current project financial information can be viewed daily in AKSAS or through monthly printed project expenditure reports or special audit trails. Project expenses will be paid only if sufficient funds are available in AKSAS to cover them.

## **2.12. Unauthorized Expenditures**

If a PM determines inappropriate expenditures were charged to a project, the PM requests an Alder Report from the SWPF Financial Coordinator. Adjustments for timesheet and travel errors will be processed by the Administrative Assistant. The Accounting

## 3. Preliminary Activities

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- 3.1. Review the Records
- 3.2. Prior to Bid Opening
- 3.3. Bid Opening and Evaluation
- 3.4. Protest Period
- 3.5. Letter of Award
- 3.6. Notice to Proceed
- 3.7. Federal Aviation Administration Notice to Proceed
- 3.8. Preconstruction Conference
- 3.9. Contractor's Progress Schedule
- 3.10. Project Staffing & the Construction Engineering Budget
- 3.11. Conflict Resolution
- 3.12. Partnering Conference
- 3.13. Pollution Prevention Plans
- 3.14. Preconstruction Site Inspection

### 3.1. Review the Records

Newly assigned Project Engineers should thoroughly review the contract and related documents. This holds true no matter what stage the project is in when the assignment is made.

The Project Engineer should obtain and review the following documents as applicable:

- **Conformed Contract** - including separate "information available to bidders"
- **Designer's Estimate** - useful when reviewing proposals and schedule of values
- **Environmental Documents (federal funding)** - including environmental commitments and permits
- **State Environmental Checklist (state funding)** - including environmental commitments and permits
- **Materials Report** - to anticipate conditions likely to be encountered during excavation
- **Property Plans** - usually shown on plan set or a separate information available to bidders
- **Utility Agreements** – for relocation or extension of utilities
- **Right of Way (ROW) Agreements** – for impacts to land not owned by the client

- **Lease Agreements** - for impacts to leased property (land and or facilities) not owned by the client

### 3.2. Prior to Bid Opening

**The most critical aspect of the advertising phase of a project is answering questions from bidders. The PM and the Project Engineer must ensure that all bidders receive the same information. The best method of accomplishing this is to write down all questions and any answers provided by the PM or Project Engineer. The questions and answers are then sent to our Contracts Section who incorporates them into an Addendum which is issued to all bidders.**

During the advertising period, the PM responds to bidders' inquiries through our Contractions Section only but may ask the Project Engineer for support. The PM also coordinates responses with the designer of record as appropriate.

The PM may delegate some pre-bid-opening duties, but not responsibilities, to the Project Engineer such as participating in pre-bid meetings or site visits. In this case it is imperative that the PM discuss communication protocol with the Project Engineer to ensure SWPF speaks with one voice to contractors prior to bid opening and that all the contractor questions are recorded in one place.

If contacted by a bidder, the PM should limit discussion to understanding questions being asked. If a response is warranted, the PM should issue the response in a written addendum through our Contracts Section only. The PM should keep a permanent record of all contacts made with bidders, suppliers, and subcontractors during the advertising period.

When answering potential bidder's questions it is critical that the PM ensure that **ALL** potential bidders have access to the exact same information provided by the Department. If the question is simply a matter of clarification of what is in the contract documents then the question could be answered verbally. For example: Question "Where is the geotechnical report?" Answer "Sheet 18". Any other questions and answers should be recorded in writing through an Addendum. Answering bidders question via phone calls is a dangerous practice.

Prior to the bid opening, the only information on project cost the Department releases to the public is a range of estimated contract prices the designer's estimate fits within. The designer's estimate is not made public until bid opening.

### 3.3. Bid Opening and Evaluation

After the bid opening, the Central Region Chief of Contracts (Chief of Contracts) releases certified bid tabulations and the PM evaluates the bids with the support of the consultant designer to determine that there are no irregularities. On unit bid items, irregularities could include significant variation in price for a particular bid item between bidders. Variations of 30% usually warrant analysis and comment. Other irregularities could be unbalancing the bid by greatly inflating the cost of a unit bid item that will be constructed early in the project.

SWPF projects are often lump sum and most contain very few unit bid items. Irregularities on a lump sum contract could include an unusually wide spread between the low bidder and other bidders, particularly if the low bidder is significantly below the designers estimate. This would warrant analysis and comment.

The PM will sometimes ask the Project Engineer for assistance in the bid evaluation. When the evaluation is complete, the PM prepares a memo from the Contracting Officer to the Chief of Contracts recommending issuing the intent to award letter.

The Chief of Contracts issues a subcontractor's list letter to the apparent low bidder once identified; this may be concurrent with the bid evaluation by the PM. This letter triggers the requirement that within five working days after the identification of the apparent low bidder (AS 36.30.115); the apparent low bidder must provide the Department with the subcontractors list (Form 25D-5). On this form, the apparent low bidder certifies they will subcontract one-half of one percent or less of the contract amount, or list all subcontractors with the items of work that each will perform. The apparent low bidder may be declared non responsive if they miss the 5 day deadline.

Alaska Statutes mandate preferences for Alaska bidders and for bidders obligating themselves to use various Alaska products and Alaska Veterans Preference for State funded projects. **These preferences are in the form of deductions from the total bid amount only for purposes of determining the low bidder. These deductions are not actually**

**deducted from the contract amount paid to the successful contractor.**

Care must be exercised when reading the bid schedule in the conformed specifications or the bid tabulation. The line titled total bid is the contract amount, not the line titled adjusted bid amount.

Bidding preferences are **not allowed on federal-aid projects.**

After receipt of the bid evaluation and recommendation to precede memo, the Chief of Contracts sends a notice of intent to award letter to the apparent low bidder with a copy going to all the unsuccessful bidders. This starts the protest period as detailed in the next section.

The notice of intent to award letter indicates the following requirements:

- A request for the executed contract form
- Performance and payment bonds, if required
- Certificate of insurance
- EEO Certification (Form 25A-304)
- Disadvantaged business enterprise (DBE) utilization report (Form 25A-325C)
- The Contractor's Questionnaire (Form 25D-8)
- Buy American certificate (FAA – funding only)
- A request for written DBE commitment (Form 25A-326)

The apparent low bidder has 5 days to return the subcontractor's list and 15 days to return all of the forms indicated above, acceptably completed, to the Chief of Contracts. The Chief of Contracts then prepares a letter of award for the Contracting Officer's signature.

On federally funded projects that contain DBE requirements, if the apparent low bidder is unable to meet the DBE goals, they must submit:

- DBE summary of good faith effort documentation (Form 25A-332A)
- DBE contact reports (Form 25A-321A)
- DBE utilization report (Form 25A-325C)

The Chief of Contracts and the Civil Rights Office (CRO) review these forms, which document the apparent low bidder's unsuccessful efforts at meeting the DBE goals. The Chief of Contracts and the CRO recommended to the Contracting Officer to either accept the good faith effort documentation or adjust the project's DBE goals or to award the contract to the

next lowest bidder. If the apparent low bidder has failed to demonstrate they made a good faith effort, then the apparent low bidder has three days from the date the Department notifies them of this determination to request an administrative reconsideration of the determination by the DBE liaison officer. If the apparent low bidder's reconsideration is denied, then the Department awards the contract to the next lowest responsive and responsible bidder that meets the DBE goals. If the Contracting Officer awards the bid based on good faith effort, then the Contracting Officer notifies the successful low bidder of the revised goals in the letter of award. If the Department decides to award the contract to the next lowest bidder, the above procedure is repeated.

### 3.4. Protest Period

The period between the letter of intent to award and letter of award is known as the protest period. Interested parties, generally understood to be the unsuccessful bidders, may protest the award of the contract to the Contracting Officer. Subcontractors are not recognized as interested parties. Questions regarding protests should be forwarded to the Chief of Contracts.

### 3.5. Letter of Award

Once all of the successful low bidder's documents are in order, and bid protest (if any) are resolved, the Contracting Officer signs the contract, the successful low bidder becomes the contractor, and they receive the letter of award. The amount of the successful low bid becomes the amount of award, and is known as the original contract amount. On FHWA, FTA and FAA funded projects this amount usually establishes the daily-liquidated damage charge that applies when actual construction time exceeds contract completion time. On most project administered by SWPF, the daily-liquidated damages are determined by the actual damages a delay to a project will cause the Department.

On all projects, the contractor receives a letter of award. The FAA requires FAA review of the conformed contract before giving its concurrence (Airport improvement program handbook, sections 1201 and 1204).

### 3.6. Notice to Proceed

The PM is responsible for drafting, signing and issuing the NTP if delegated the authority to do so;

otherwise the Contracting Officer signs the NTP. The NTP should be issued as soon as practicable immediately following the Contract award (see Sample 01, Section 17.45).

### 3.7. Federal Aviation Administration Notice to Proceed

On projects funded by the FAA, the NTP cannot be issued until FAA concurrence is obtained. FAA requires assurance that construction will conform to the FAA approved plans and specifications prior to issuing the NTP. The issuance of the NTP requires additional assurances from the sponsor (the Department):

- Conformed copy of the plans and specifications
- Bid tabs
- Good faith effort on DBE requirements
- Force account construction proposal

### 3.8. Preconstruction Conference

The preconstruction conference must be held before physical construction begins unless this requirement is specifically waived by the Contracting Officer.

The PM schedules the time and location of the preconstruction conference. The following key attendees should be contacted before scheduling the time for the preconstruction conference.

- Client representative
- Contractor
- Project Engineer
- Respective consultant(s)
- FAA PM (FAA Projects only)
- Alaska Department of Labor & Workforce Development
- Special inspection consultant (if required)

When a date for the preconstruction conference has been set, the PM sends an invitation with attached agenda (via letter, email or outlook invite, etc) which notifies all interested parties of the date, time and location of the conference. In addition to the above, the following should be on the distribution list for this invitation.

- Chief
- Client's maintenance supervisor
- Department environmental staff (if applicable)
- Civil Rights Office



The Project Engineer drafts the preconstruction conference agenda (see sample 02, Section 17.46). Ideally the agenda should be transmitted with the meeting notice, but may be transmitted separately if timing constraints make it necessary.

The agenda should be structured to allow parties with limited involvement to be excused early in the meeting.

The following items should be given to the Contractor at the preconstruction conference.

**Delegation of Authority Letter** (see sample 03)

**EEO Poster** (see sample 04)

### **Blank Forms**

- Contractor delegation (BLDG-Form 02)
- Subcontractor certification (BLDG-Form 05)
- Alaska forest products cert. (BLDG-Form 08)
- Substitution request (BLDG-Form 10)
- Submittal log (BLDG-Form 11)
- Request for information (BLDG-Form 14)
- Change notice (BLDG-Form 16)
- Cost of work (BLDG-Form 19)
- Schedule of values (BLDG-Form 23)
- Periodic est. for partial payment (BLDG-Form 25)
- Stored materials worksheet (BLDG-Form 26)
- Contractor's civil rights rep. (BLDG-Form 30)
- EEO-1 certification (BLDG-Form 31)
- Time impact evaluation form (BLDG-Form 37)

The PM should chair the meeting and the notes for the minutes should be kept by the Project Engineer. The meeting may be tape recorded on very large or complex projects at the discretion of the PM. It is generally best practice to have a significant portion of the discussion come from the Project Engineer to help establish the single point of contact concept. After the meeting, the Project Engineer drafts the minutes and submits them to the PM for approval. The minutes are distributed to each attendee by method acceptable to PM (email or transmittal letter for example).

### **3.9. Contractor's Progress Schedule**

The contractor must submit a construction progress schedule to Project Engineer by deadline established in contract. The Department may attempt to secure the schedule early, prior to the preconstruction conference, so the PM can develop a timely and meaningful staffing plan and field engineering budget.

Prior to the issuance of the NTP on FAA funded projects, the FAA will review the PM's construction management plan, which should be prepared based on the contractor's progress schedule. Early submittal of the progress schedule on FAA funded projects is very important.

The contract specifies the type of progress schedule the contractor is to submit; critical path method (CPM) or bar chart (for example). The schedule should show beginning and ending dates for the principal items of work, periods of multiple shift work, and periods of anticipated shutdown.

The PM reviews the schedule for adequacy and returns a signed and dated copy to the contractor if acceptable. The Project Engineer will post a copy of the accepted schedule in the field office.

The Project Engineer annotate actual schedule on the original accepted schedule as work progresses. This information is essential when analyzing the validity of any delay claims long after the fact. The Department's position will be significantly weakened if accurate records of actual vs. scheduled work are not maintained on an ongoing basis.

### **3.10. Project Staffing & the Construction Engineering Budget**

The PM will establish the project staffing plan and construction engineering budget. SWPF projects are typically staffed with a small contract administration team that often includes consultants. The Chief is responsible for assigning SWPF staff to each project.

### **3.11. Conflict Resolution**

At a minimum every project should include a discussion of how conflicts will be resolved. This discussion should include the parties who have primary responsibility and address how unresolved conflicts will be elevated.

### **3.12. Partnering Conference**

Partnering conferences are encouraged as appropriate for the size and complexity of the project. Partnering can very beneficial to the Department and the contractor on large, complex or high risk projects since it creates a forum for better communications and information sharing. Potential challenges can often be discussed and mutually resolved before disputes arise.

Partnering should only be attempted if both parties share a sincere interest in it. The PM should contact

the contractor shortly after contract award and inquire if the contractor is interested in the partnering process. Excess pressure should not be placed upon the contractor to partner. If the verbiage in the information to bidders clearly calls for sharing the costs of partnering, there will be no question regarding which party pays. If not, a change order is necessary which pays the full cost of partnering.

The principles of partnering may be applied to any contract between two parties. However, in the context of Department construction contracts, formal partnering is the use of an impartial third party facilitator in a neutral setting to formulate a project partnering agreement which sets forth a methodology for day to day project administration. This partnering agreement is outside the contract and depends on the cooperation of all parties. It is a "contract" in the sense that all parties sign a summary statement, but it is only bound by the personal integrity of the signers.

### **3.13. Pollution Prevention Plans**

The Department requires the contractor to:

- Prepare a storm water pollution and prevention plan (SWPPP) for all projects that disturb ground
- File a NOI with DEC for projects disturbing one or more acres of ground (and other selected projects)
- Prepare a hazardous materials control plan (HMCP) for all projects
- Prepare a spill prevention control and countermeasure plan if required by contract

Timelines for contractor submittals and Department reviews are identified in the contract. This subject is covered in more detail in Section 9.4.

### **3.14. Preconstruction Site Inspection**

The Project Engineer should make an on-site inspection with the client's M&O representative after contract award and prior to or concurrent with contractor mobilization to the site. During this inspection the following should be discussed:

- Project scope and schedule
- What M&O expects to gain from the project
- How the facility should be maintained during construction

The contract dictates when maintenance becomes the contractor's responsibility.

The Project Engineer should document all site conditions prior to start of construction using a video or still camera. The maintained condition of the facility and any Department furnished materials should be documented.

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## 4. Field Office Set-Up & Record Keeping

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- 4.1. Field Office
- 4.2. Vehicles
- 4.3. Housing, Travel and Per Diem
- 4.4. Equipment
- 4.5. Supplies
- 4.6. Required Postings
- 4.7. Meeting Minutes
- 4.8. Telephone Records and e-mail
- 4.9. Project Records
- 4.10. Central Office Records
- 4.11. Records Systems
- 4.12. Records Management
- 4.13. Source Documents
- 4.14. Materials Certification List (MCL)
- 4.15. Qualified Products List (QPL)
- 4.16. Disclosure of Records
- 4.17. Reference Books/Material

### 4.1. Field Office

The field office should be located at a site acceptable to the Project Engineer and convenient to the project as a whole. Not all projects have a field office.

The field office is usually provided by the contractor as part of the contract, if needed. The Project Engineer should review the contract for details on what is being provided. The Project Engineer and PM need to determine what additional furnishings, equipment and supplies are needed. Anything not in the contract as contractor provided is the responsibility of SWPF.

Some projects located within commuting distance of SWPF administrative offices may be administered out of those offices. Projects may also be administered out of a room in a public facility being renovated or even on occasion out of a vehicle. When in doubt check the contract and talk to the PM.

### 4.2. Vehicles

Vehicles are usually not provided for SWPF administered projects. The job site is often the duty station and the Project Engineer and staff provide their own private transportation to and from home, or home office, to the duty station.

For remote sites, the contract may require the contractor to provide a vehicle for the Project Engineer. As with the field office, check the contract and talk to the PM to determine what is or is not being provided.

For projects administered out of SWPF home offices, the Project Engineer and project staff may use a state vehicle if one is available. In some cases it may be appropriate to use a privately owned vehicle to go to and from the project site and home office.

The state is self-insured by the Alaska Office of Risk Management and state vehicles are owned and controlled by the Statewide Equipment Fleet (SEF) and governed by state statutes, regulations and Department policies and procedures. There are also travel rules under the Alaska Administrative Manual (AAM) concerning reimbursement for use of private vehicles for official business.

Be cautious making assumptions about the use of state vehicles or use of a privately owned vehicle for official business. There are potential personal liability and personal tax consequences (commuting) to the individual employee. The laws, regulations, rules, policies and procedures are available on the state and Department web sites. The best course of action to stay out of trouble and avoid unanticipated out of pocket cost is to clearly and carefully communicate and coordinate travel/vehicle needs with the SWPF administrative staff and the PM.

### 4.3. Housing, Travel and Per Diem

Project Engineer's and other project staff working at sites beyond commuting may have to find housing or use state furnished housing near the project site. The rules regarding temporary or permanent change in duty station and reimbursements for various cost associated with housing and allowable living expenses can be complex. The job site is often the temporary duty station.

There are tax responsibilities that Project Engineers should be aware of for both long term and short term per diem. Best practice is to discuss the details of potential housing arrangements, travel and per diem with the SWPF administrative staff and the PM as far in advance of physical project construction start up as possible. Sometimes this may occur on short notice.

### 4.4. Equipment

Equipment (including vehicles) is defined by the state as any item (excluding construction projects) costing over \$1,000 or any item having an assigned sensitive item class code, regardless of cost. All equipment is given a mandatory inventory control number. If in

doubt, talk to SWPF administrative staff to find out if the item in question has an inventory control number.

The Project Engineer is responsible for all assigned state equipment used on the project. In the case of loss or damage of assigned equipment, coordinate with SWPF administrative staff to ascertain the correct reporting procedures to reconcile the property control inventory.

#### **4.5. Supplies**

Supplies needed on the project for contract administration are expendable items and are not on the controlled property inventory. Each Project Engineer's purchase authorization limit may vary depending on delegated authority. SWPF administrative staff should be consulted for purchasing and stock request procedures to ensure compliance with Department policy and procedure.

#### **4.6. Required Postings**

Depending on the type of project and the funding source, the Project Engineer is responsible for displaying a number of posters at the field office. The specific posting requirements are shown in Section 18.2 of the ACM.

#### **4.7. Meeting Minutes**

Project meetings are often required by contract or by mutual agreement by both parties. They may include regular periodic progress meetings (monthly or weekly) pre-installation conferences and special agenda meetings like claims presentations, change order negotiations, or design clarification meetings.

All such meetings should be run similar to the Pre-construction Conference (see Section 3.8); i.e., sufficient time allotment, preparation of an agenda, and a documenting of the proceeding. In some cases the contract may specify that the contractor prepare the agenda, chair the meetings, and record and distribute minutes of the meetings. If the contract does not specify who is to chair the meetings, the PM or the Project Engineer shall reach an agreement with the contractor on this before the meeting is held.

Some basic guidelines regarding meetings are as follows:

- Scheduled in advance - three day's notice should be given, unless all parties agree otherwise
- Meetings should not last more than one hour, or as mutually agreed

- If the meeting cannot be concluded in one hour, a continuation meeting should be scheduled
- Designate someone to take notes in advance of meeting starting (not the chairperson)
- Transcribe notes into meeting minutes and distributed to all attendees within two work days
- Minutes should summarize all agreements reached, required action items, schedule for resolution, and time/ place for next meeting (s)
- Transmittal should state that minutes will become part of the project records unless corrections are received within two work days

Meetings are expensive for the contractor and the Department. Therefore, maximize efficient use of meeting time by adhering to the agenda and discouraging idle conversation.

#### **4.8. Telephone Records and E-mail**

Important telephone conversations and e-mail messages often take place on a project wherein decisions are made or directions are given. Not all telephone conversations are sufficiently important to warrant a permanent record. However, when it is anticipated that the content of the conversation will be important at a future date, a record should be made and sent to the other party. This should be handled similar to meeting minutes, i.e. opportunity to respond in a specified time. A Telephone Log can never substitute for a Directive, a Request for Information or an Interim Work Authorization. A blank Telephone Log is can be found in Section 17, BLDG-Form 03. Print e-mail and place in file when appropriate.

#### **4.9. Project Records**

The Project Engineer is responsible for maintaining project records. Records that originate or terminate at the project field office should be filed there with copies made and transmitted to the SWPF central office for their files. This includes hard copies of e-mail correspondence.

#### **4.10. Central Office Records**

In addition to the records maintained on the project site, records are maintained in the SWPF central office in Anchorage. Records that originate or terminate at the central office should be filed there with copies made and transmitted to the project field office for their files.

When the project field office is closed, the Project Engineer blends the project files with the central office files by discarding duplicate copies.

#### 4.11. Records Systems

SWPF has developed a project filing system (See Section 18.4). The filing system is the general framework within which project staff store the documents generated by contract administration.

The Project Engineer and project staff are responsible for establishing and maintaining a system of accurate and complete records covering all project activities. Administrative staff can help create these files. These records must substantiate the acceptability and the quantity of the contractor's work and certify the disbursement of funds. In addition to covering quality, quantity, and payment, project documentation must cover all of the important administrative matters including contract modifications (time, money, and contract language), differing site conditions and their resolutions, and contractor compliance with all of the administrative aspects of the contract (labor and payroll, DBE, EEO, origin-of-manufacture requirements). The importance of developing and maintaining proper records is basic to successful construction contract administration.

The Project Engineer must tailor the filing system to meet the needs of each project. On any given project, some elements of that system may be used hardly at all, while others will be developed extensively; the extent and direction of development is largely a matter of the Project Engineer's judgment. For the filing system to be effective, project records must be sufficiently clear and complete and must be filed in such a manner that they are readily accessible, either manually or electronically. Hard copies of all records are required at the project field office for ready access by PM's or another Project Engineer who has to take over the project unexpectedly for any reason.

The filing system for each project should include the basic elements shown in Section 18.4.

Accomplishing these organizational steps prior to the start of construction will make it much easier to document the work as it is being performed. It will also allow more time to be focused on the primary job of ensuring that the project is constructed in accordance with the contract.

#### 4.12. Records Management

**Accurate and well organized project records are critical to ensuring a successful project. When the Department becomes involved in a claim or a lawsuit accurate and well organized project records are the most vital tool the Department has to protect itself.**

Records developed during the course of the project consist of both loose leaf records (which may be hand written, typed, or computer-stored, and which may include the Project Engineer's diary, inspector's daily reports, specialized daily reports, photographic records, materials test results, correspondence, progress summary, progress payments, change documents, construction progress reports) and bound book records (hand written records which may include the Engineer's diary, inspector's daily reports, specialized daily reports, field books, progress summary). All project records, particularly loose-leaf records, must contain the project name and project number for identification purposes.

Project records are used to support payments to the contractor, determine the acceptability of materials, verify conformance of the work to the contract, develop a record of the completed project, and, on federally-funded projects or under reimbursable agreements, substantiate the eligibility for reimbursement of construction phase expenses. On contracts with multiple projects or funding sources, the project records must account for the separation of charges to each project or source.

Computers may be used to record and store the records of project progress. The master index, as well as the Project Engineer's diary, inspector's daily reports, and the Construction Progress Report all may be prepared on a computer and the records stored in computer files. Computers may also be used to calculate quantities and prepare progress estimates, prepare change documents, calculate and prepare materials test results and reports, and prepare general project correspondence. Computer-generated forms may be used in place of any form listed in this manual as long as the computer form contains the same information, in the same or in a different format, and maintains the essential integrity and legal requirements, if any, of the original form.

**Computer records** used as source documents must be printed, signed and dated by the person creating the record.

All documentation recorded on a computer bank must be downloaded onto data storage devices for backup and storage no less frequently than once each week; depending on the volume of data being generated on the project, more frequent backup may be advisable. The Project Engineer should maintain two sets of portable hard drives for all project documentation; one of those sets should be stored at a location other than the project office.

**Loose-leaf records** may contain field notes, calculations, transcriptions of audiotape records (such as the Project Engineer's diary or the minutes of meetings), and other information necessary to document the progress and acceptance of the work. Project name and number must identify each loose-leaf record. Signature and dating requirements vary for loose leaf records, depending on the type of record: calculation sheets and records serving as pay quantity source documents must be signed and dated by both the author and the checker, if applicable, on the front page with initials and dates used on subsequent pages. If it is necessary to change an entry on any written project record, the original entry should be lined out and initialed, with the corrected entry immediately following.

**Bound book records** may contain survey measurements, field notes, staking data, calculations and other information necessary to document the progress and acceptance of the work. Certain Department forms may also be available in bound book form, as well as loose-leaf form, including inspector's daily reports and scales diary forms. The number, type and content of field and computation books will vary with the type of project. Each book should have its own index on the first pages, and each project staff member making entries in a book should print and sign their name and initials near the front of the book. The pages in bound books should be numbered as they are used, for ease in cross-referencing the contents. Calculations made in bound books must be initialed and dated by both the person who calculates and the person who checks. If it is necessary to change an entry on any written project record, the original entry should be lined out and initialed, with the corrected entry immediately following.

**Photographic records**, including video are usually kept electronically and backed up with portable hard drive.

The following are typical items requiring photographic documentation:

- Unusual construction techniques
- Accidents or damages
- Unsafe or hazardous working conditions
- Job visits by prominent personnel
- Areas or activities where claims or change orders are anticipated (photo or video.)
- Work that is to be concealed. i.e.; rebar, electrical conduit, and piping in walls and slabs
- Monthly progress photos

The photographer should set the digital camera/video recorder with the date/time feature turned on. The Project Engineer is responsible for sending photos/video segments to central office for filing at the end of the project.

#### 4.13. Source Documents

Source documents are required for certain federally funded project (FHWA and FAA for example) and State funded projects that contain unit price pay items. Source document are the basis for determining that work on a unit price pay item in the SOV (See Section 8.7) has been acceptably performed and is eligible for payment. To be complete and valid, the source document must:

- Identify the project by name and number
- Identify the pay item and the location of the installation, placement, or acceptance
- Be made on the site at the time the action (acceptance or rejection of the item) is taken, and by the person taking the action
- Contain a validation or acceptance statement, indicating that the item substantially conforms to the plans and specifications and was incorporated into the project
- Be dated and signed by the person creating or receiving it

Source documents that are used in determining contract quantities may include materials certifications, field notes, calculations, receipts, invoices, or time equipment records, survey measurements, and reports.

The Project Engineer should never destroy an original source document; if the Project Engineer must replace one (to clarify the information or to correct an error),

the Project Engineer should line out the original information and label it as original, and label the replacement as a copy. Cross-reference and retain both documents in the project records; add an explanatory note to the original record along with the date and the signature of the person making the change.

#### **4.14. Materials Certification List (MCL)**

A MCL is a listing of all the material certifications required by the contract for certain federally funded projects; primarily projects funded by the FHWA or FAA.

SWPF typically uses special inspections and submittal schedules to accomplish the same result. These processes are discussed in Sections 5.2 and 8.3.

If applicable, the MCL requirements will be included in the PDC. For more information consult chapter four of the ACM.

#### **4.15. Qualified Products List (QPL)**

The QPL identifies products that meet the Department's standard specifications for highway, aviation projects. The QPL only applies to SWPF projects that incorporate elements of highway or aviation standard specifications.

Chapter four of the ACM and the SWDES Materials web site should be consulted for more information.

#### **4.16. Disclosure of Records**

All project records are available for review by the contractor and the public (under AS 09.25.110 – AS 09.25.220), except for personnel files, labor compliance interviews (Section 7.4), and correspondence between the Department and their attorneys that is marked CONFIDENTIAL – ATTORNEY CLIENT PRIVILEGE. Attorney client privilege correspondence should be kept in a separate file to make its inadvertent release less likely. The Project Engineer should keep a record of all requests to review the project records and should coordinate all reviews in advance with the PM.

#### **4.17. Reference Books/Material**

The Project Engineer should equip the field office with a small library of reference material that may be useful during construction. The Project Engineer and PM should discuss which reference materials are needed at the field office to meet specific project requirements.



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## 5. Field Lab Laboratory and Special Inspections

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- 5.1. Field Laboratory
- 5.2. Special Inspections - General
- 5.3. International Building Code Special Inspections
- 5.4. Third Party Inspections

### 5.1. Field Laboratory

SWPF rarely sets up field laboratories, but relies instead on special inspections performed by consultants working for SWPF under a PSA. The field laboratory, if required, is set up at approximately the same time as the project office. The ACM contains additional details and should be consulted if the need for a field laboratory arises (FHWA or FAA funded projects for example).

### 5.2. Special Inspections - General

Materials to be incorporated into the project must meet the quality standards that are established in the contract. Some materials are accepted based on manufacturer's certifications and the results of tests or inspections performed off-site.

Other materials or construction methods require on-site special inspections to demonstrate that they meet quality standards as established by the technical specifications in the contract and the international building code (IBC) requirements as adopted by the authority having jurisdiction (AHJ). **Special inspection requirements in adopted building codes apply even if not specifically called out in the plans and technical specifications.**

The Project Engineer should carefully review the plans, technical specifications and adopted building codes to confirm the total number of and detailed requirements for special inspections. Special Inspections are an owner (not a contractor) expense and responsibility and the PM must include them in the construction engineering budget.

Unless the Project Engineer or the design consultant is qualified to perform specific special inspection(s), the PM shall execute a PSA for the services of special inspector(s), or use a term PSA if one is in place. The PM procures these services and provides contact information to the Project Engineer in order to coordinate inspections.

At the start of a project, it is important to have a pre-special inspection meeting. The contractor is

responsible for setting up this meeting, which should include the contractor, any relevant subcontractors, Project Engineer, special inspector(s), designer(s) of record and AHJ. Discuss procedures for inspections and re-inspections, time lines for notifications, and special conditions with respect to the project.

### 5.3. International Building Code Special Inspections

The IBC does not allow this responsibility to be passed on to the construction contractor. The IBC does not allow the special inspector(s) to be employed by or under the contract to the construction contractor, including DB contracts. The design consultant is responsible for identifying required special inspections and the PM is responsible for procuring the required consulting services for special inspections that cannot be performed by the Project Engineer or the design consultant.

Special inspections are required for such things as (but not limited to):

- Steel construction
- Welding
- Reinforcing steel
- High strength bolts
- Concrete
- Masonry
- Soils
- Foundations
- Wind requirements
- Seismic resistance

The special inspector(s) shall prepare a special inspection report for each special inspection. Copies of each report must be provided to:

- Project Engineer
- AHJ
- Designer of record
- Contractor

The AHJ official will typically not visit the job site to perform acceptance inspections until the special inspection report(s) have been received.

The AHJ's in Alaska are (list may not be all inclusive):

- City and Borough of Juneau
- City and Borough of Sitka
- City of Fairbanks

- City of Kenai
- City of Ketchikan
- City of Kodiak
- City of Seward
- City of Wasilla
- City of Soldotna
- Municipality of Anchorage
- University of Alaska Fairbanks
- State Fire Marshall (if not covered above)

#### 5.4. Third Party Inspections

In addition to the special inspections required by the IBC as adopted by the State and amended by AHJ, there are additional inspections required by the technical specifications. These inspections are referred to as “third party inspections”. The third party inspector may be an agent of an AHJ unaffiliated with the SWPF, the contractor or the client. Other types of third party inspections include independent testing firms hired by either the contractor (as called for in the technical specifications) or hired by the SWPF directly.

One typical example would be where the contractor or the Department pays for permit reviews, the permit itself and ultimately the third party acceptance inspection by the AJH. This could include a municipal permitting office that is verifying compliance with all local building permit requirements as issued.

Another example would be State or local fire marshal inspections for life safety issues, including, but not limited to: egress, fire alarms, and fire suppression systems. At remote sites outside the limits of the AJH’s listed above, the State Fire Marshall’s office may perform this function at its discretion.

Other examples may include:

- DEC inspections for permitted storm drains or water systems or to check compliance with approved SWPPP
- DEC inspections for permitted operations, such as commercial kitchens
- DOL Wage & Hour Inspections
- DOL State Plumbing Inspections
- DOL State Electrical Inspections
- DOL Mechanical Inspections
- DOL Elevator Inspections
- AKOSH
- OSHA

Federal funding agencies, State and federal safety offices, the State Ombudsman’s office, federal office of the Inspector General, bonding companies and others with legal jurisdiction to do so could conceivably enter the work site and conduct 3<sup>rd</sup> party inspections to ensure compliance with contract, State and federal law, including implementing regulations.

The Project Engineer should contact the PM if unable to determine if the third party inspector has jurisdiction. The Project Engineer should ask for identification and record the name of the inspector and who the inspector is representing in the daily log.

## 6. Managing Staff and Safety

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- 6.1. Project Staff Administration
- 6.2. Staff Logistics
- 6.3. Authority and Duties
- 6.4. Channels of Authority
- 6.5. Personal Safety
- 6.6. Emergencies
- 6.7. Accident Reporting
- 6.8. Employee Safety Concerns Program
- 6.9. Contractor Safety

### 6.1. Project Staff Administration

The on-site contract administration team typically consists of the Project Engineer, with full time or intermittent support from design and special inspection consultants. On large or complex projects the Project Engineer may have one subordinate Office Engineer and one or more subordinate inspectors on a more a less full time basis.

The Project Engineer's personnel administration duties, when staff is assigned, include assigning duty and shift assignments, managing overtime and leave, monitoring ethics and conflicts of interest, accident reporting and approving time sheets.

### 6.2. Staff Logistics

The logistics of setting up a field office and transporting, housing, equipping and supplying the on-site contract administration team are covered in Section 4. The rules, policies and procedures related to staff logistics planning should be discussed with the PM and administrative staff as far in advance of the physical construction start up as possible.

### 6.3. Authority and Duties

The Contracting Officer will delegate specific contract administration authority to project staff (including consultants) in writing based on their position, assignment, level of experience and expertise. The specific delegated authority is identified in a letter to the contractor (Section 17.47, Sample 03).

### 6.4. Channels of Authority

Decision making is the most important element of contract administration. SWPF staffs at every level are responsible for making decisions within their delegated authority. Consequently, all SWPF staff involved in contract administration is expected to follow the channels of authority as outlined herein. An immediate supervisor will not be bypassed except

in case of a contract administration emergency and then only in the event the immediate supervisor cannot be readily located. Channels of authority will likewise apply in the descending order in the SWPF chain of command.

Instructions, comments, suggestions, or criticisms directed at contract administration staff during a site visit by an official outside the SWPF chain of command should be redirected to the SWPF official with the appropriate delegated authority to respond. Typically inspectors should direct all such communications to the Project Engineer. The Project Engineer may further redirect the official up the SWPF chain of command if the issue is beyond the Project Engineer's delegated authority. It is important not give an official outside the SWPF chain of command the impression that you personally will respond to or even accept receipt of or responsibility for, an issue that is above the Project Engineer's delegated level of authority.

### 6.5. Personal Safety

Personal safety and safe working conditions are the top priority on construction project sites, where the exposure to potential accident and injury is higher than in most work environments. Assigned staff should maintain safe working conditions and bring safety concerns to the Project Engineer's attention. The Project Engineer should hold monthly safety meetings with assigned staff (if any). The topics of discussion should fit the type of project and the particular construction activities under way at the time. Safety meetings should be documented.

All necessary safety equipment, required for the particular field conditions, must be made available to any employee who needs it (AS 18.60.075). The Departments Safety Manual references personal protective equipment and required assessments. Check with the PM and SWPF administrative staff concerning safety equipment purchases to avoid unauthorized expenditures since not all items are covered (steel toe boots are not covered - for one example). Department policy and procedure 10.01.022 Unauthorized Expenditures/Purchases provides additional guidance.

Each employee should familiarize themselves with the contents of the Safety Manual that applies to their working conditions. The manual is available on the

Department's internal website. Section 5.3 of the ACM covers safety precautions that must be taken around toxic and hazardous substances that may be present on the project site.

## **6.6. Emergencies**

A list of emergency contact telephone numbers should be posted on the wall of the Project Engineer's office. At a minimum, police, fire department, paramedics, PM, AKOSH, contractor and client contact numbers should be listed.

## **6.7. Accident Reporting**

The ultimate responsibility for reporting job site accidents to proper legal authorities rests with the person or entity directly paying the employee involved. SWPF is not responsible for reporting job site accidents on behalf of contractors (including subcontractors or consultants) for accidents involving any loss time on-the-job injury or fatality to a contractor employee, or any fatality, injury or property damage to a third party within project limits. However, the Project Engineer should notify the PM as soon as possible and record the accident in the inspector's daily log with as much detail as personally witnessed. The PM may provide additional guidance depending on the situation.

For accidents involving State employees, the Project Engineer must notify the employee's supervisor as soon as possible and provide as much information that is known at the time, and record the information in the daily inspection log. A "Supervisor's Accident Investigation Report" must be completed by the employees supervisor and submitted to the Chief for any on-the-job fatality, injury or property damage accident involving a state employee. The supervisor may contact the Project Engineer for additional information to complete the report or assist in the investigation. For more information, guidance, and forms visit the Safety, Security & Emergency Management Office on the Department's internal web site.

## **6.8. Employee Safety Concerns Program**

The Department's employee safety concerns program is managed by the Statewide Safety Officer. The program is intended to handle safety concerns from employees who do not choose to raise concerns with their immediate supervisors. For more information visit the Safety, Security & Emergency Management

Office on the Department's internal web site and read the Employee Concerns Manual.

## **6.9. Contractor Safety**

Safety of the contractor's work force is the responsibility of the contractor. The contract requires the contractor to obey all laws and regulations. State safety laws and regulations are enforced by AKOSH. Enforcement of the federal Occupational Health and Safety Act is the responsibility of OSHA. The Project Engineer has no contractual or legal obligation to administer any safety plans or laws for the contractor or OSHA, and the Project Engineer should refrain from doing so in anyway.

Notwithstanding the above, it is prudent for the Project Engineer to be familiar with 29 CFR 1910, section 1926 of the federal Occupational Health and Safety Act, the Alaska Department of Labor safety regulations, and the Department's own Safety Office guidance. If the contractor is observed ignoring or violating the Act or regulations, the Project Engineer should discuss this verbally with the contractor. If the contractor continues to ignore or violate the Act or regulations, the Project Engineer should notify AKOSH. AKOSH will not respond unless they receive a formal complaint, phone calls do not constitute a formal complaint.

Above all, if the Project Engineer or inspector observes a condition where there is an imminent danger of serious injury or loss of life, the Project Engineer should immediately report this to the PM. If, in the judgment of the Project Engineer, there is not sufficient time to report the condition to the PM, the Project Engineer should write a directive to the contractor to stop work in the affected area.

## 7. Program Administration

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- 7.1. General
- 7.2. External Affirmative Action Program
- 7.3. Internal Reporting Requirements
- 7.4. Labor Compliance
- 7.5. Buy American
- 7.6. Buy America
- 7.7. Alaska Product Preferences

### 7.1. General

Federal and state mandated administrative programs fall into two groups:

- External affirmative action programs
- All other administrative programs

The following is a summary of these administrative programs. Consult the ACM for more detailed guidance.

### 7.2. External Affirmative Action Program

The Civil Rights Office (CRO) is the Department's program authority (ref. policy and procedure 01.02.010). The Project Engineer should contact the CRO with questions concerning program administration.

External affirmative action has three major components:

- Equal employment opportunity (EEO)
- Disadvantaged business enterprise (DBE)
- On-the job training (OJT)

The **EEO program** applies to state and federally funded projects. The contract provides specific:

- Goals
- Good faith effort definition
- Reporting requirements

The **DBE program** applies to federally funded projects. The contract provides specific:

- DBE goals
- Requirements and definitions
- Reporting requirements

The **OJT program** applies to select FHWA funded projects. The contract provides specific:

- Program requirements
- Contractor obligations

### 7.3. Internal Reporting Requirements

The Project Engineer will collect information and provide reports to the CRO as required.

For contracts with DBE requirements, a commercially useful function (CUF) monitoring report, Form 25A-298, is needed regardless of the amount of the established DBE goal.

The Project Engineer (or designee) will interview each DBE's representative the first time they come onto the job site. A CUF report must be completed for each construction season, on a multi season project. Each CUF report must be signed and dated by the interviewer.

A CUF report should also be completed whenever there are significant changes to the DBE's day-to-day operations: such as a change in, or the lack of, an on-site representative. The Project Engineer will verify that the DBE on-site representative is a key employee.

The CRO should be immediately notified if the interview reveals a potentially adverse finding. Some examples of potentially adverse findings include:

- A "Yes" answer to the two-party check question
- Employee working for both DBE and prime contractor
- DBE is renting or leasing equipment
- No DBE on-site representative present

Discuss findings and significant changes with the CRO.

A copy of the report(s) may be provided to the contractor upon request. The Project Engineer will notify the contractor of potentially adverse findings and discuss ways to resolve issues.

The Project Engineer will send a copy of all reports to the CRO. They may be paper copies or electronic PDF files.

### 7.4. Labor Compliance

All contracts require the contractor to pay workers not less than the laborers and mechanics minimum rate of pay. These rates are bound into each project manual. The general provisions require the contractor and all

subcontractors to submit weekly certified payrolls to the Alaska Department of Labor (DOL). Submitting certified payrolls to the Contracting Officer is discretionary unless required by the supplemental conditions.

DOL is responsible for enforcing minimum rates of pay on state funded projects. The Project Engineer may rely on DOL or chose to review the certified payroll (optional).

### **7.5. Buy American**

Steel and manufactured products produced in the United States have a preference on FAA funded. Other federally (non FHWA) funded projects may also have this requirement.

### **7.6. Buy America**

This applies only to FHWA funded contracts. The terms of Public Law 98-229 require that under most conditions only certain domestic materials may be incorporated into the project (23 CFR 635.410).

### **7.7. Alaska Product Preferences**

Under the provisions of the Alaska product preferences in AS 36.15.050, the use of Alaska agricultural and fisheries products, including Alaskan timber and products manufactured in the state from timber and lumber, is required on state-funded contracts when the Alaskan items are priced no more than seven percent above similar outside products. Additionally, under AS 36.30.324, the Department encourages the use of Alaskan products and recycled Alaskan products in all Department procurements. Bidding preferences and monetary penalties for the use of or for the failure to use such products are established for all products except timber, lumber, and manufactured lumber products. The Alaska product preferences are not acceptable for federally funded projects.

The Alaska Department of Commerce and Economic Development (DCED) maintain a list of all Alaskan products eligible for the program. Contracts containing Alaska product preferences reference the availability of the “Alaska Product Preference Program Preparation Pamphlet” in the Special Notice to Bidders. The Project Engineer and assigned staff should review this pamphlet. It contains complete information on the program including: instructions to bidders for completing the Alaska product preferences worksheet; required product specification and installation schedule submittals; inspection procedures

and procedures for correcting absent, nonconforming or not substantiable Alaskan products; documentation required to substantiate the declared value of Alaskan products (3AAC 92.050); and instructions for calculating applicable preferences and penalties.

## 8. Contract Administration in the Office

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- 8.1. Subcontract Process
- 8.2. Subcontract Approval Process
- 8.3. Submittal Schedule
- 8.4. Substitution Request
- 8.5. Shop Drawings, Material Certifications, Product Submittals, Warranties, O&M Manuals, Spare Parts, and Training
- 8.6. Schedule Assurance
- 8.7. Schedule of Values
- 8.8. Recording As-built Changes
- 8.9. Other Administrative Approvals
- 8.10. Administrative Reviews & Inspections by Others

### 8.1. Subcontract Process

Most contracts prohibit subcontracting work without the Contracting Officer's prior written approval. Except for DB and Small Procurement contracts, AS 36.30.115 requires the contractor to submit a list of first tier subcontractors within five days of being notified of being apparent successful bidder. DB RFP's sometimes require major subcontractors to be listed in the contractor's proposal.

Listed first tier subcontractors may only be changed for the special circumstances listed in the contract. The contractor is thus obligated to a subcontractor well before being allowed to enter into a subcontract.

The Department recognizes this contractual situation and allows the contractor to sign a subcontract and obtain approval from the Contracting Officer after being notified of being apparent low bidder. In order for the Contracting Officer to retain the ability to reject a subcontract, subcontractors are not allowed to work on site until their subcontract is approved by the Contracting Officer. This includes all (first, second, third, etc.) tiers of subcontractors. This must be made clear to the contractor at the pre-construction conference.

Subcontractors may attempt to begin work without an approved subcontract. The Project Engineer will verbally notify the contractor if this situation is observed. If a contractor does not take immediate corrective action and uses or attempts to use a subcontractor not on the approved subcontractor list, the Project Engineer should write a letter advising the contractor that doing so is in violation of AS 36.30.115 and subject to penalty.

### 8.2. Subcontract Approval Process

There are two acceptable processes for approving subcontracts. The PM may review each subcontract and all subordinate documentation and then draft and sign a subcontract approval letter; or the PM may sign the contractor's Subcontractor Certification Form. The later process is the most commonly used process.

The Contracting Officer typically delegates authority to approve subcontracts to the PM. The PM may in turn delegate this authority to the Project Engineer.

The following requirements must be met before the subcontract is approved.

#### OPTION 1

1. A first tier subcontractor must be on the subcontractor list; not required if subcontract is less than ½ of 1% of contract amount.
2. Subcontract must contain the required EEO document; BLDG-Form 30 (25A302) and BLDG-Form 31 (25A304) for federal projects.
3. Subcontractor must have insurance coverage in amounts required by the contract documents or that the subcontractor is covered on the general contractor's insurance policy.
4. Subcontract must provide documentation of the required electrical or mechanical administrators licenses if they are electrical or mechanical subcontractors.
5. Subcontract must have a provision for payment of subcontractor within 7 days of being paid by the Department.
6. Subcontractor must have a current Alaska business license.
7. Subcontractor must have a current Alaska contractor's license.
8. Amount of the subcontract must be clearly identified in the subcontract.

The PM is responsible for drafting and signing subcontract approval letters. The approval letter must name the subcontractor and the effective date of the approval. More than one subcontract may be approved in the same letter (Sample 08).

#### OPTION 2

**The preferred and most commonly utilized method is to have the contractor fill out and sign a**



**Subcontractor Certification Form (BLDG-Form 05)**; the contractor, not the subcontractor, is to make this certification and sign this form. The PM is responsible for accepting the contractor's certification by signing the form after the contractor (no letter required).

### **8.3. Submittal Schedule**

The specifications require the contractor to submit and maintain a schedule detailing submission dates for shop drawings, product data, and samples. The schedule should also indicate the date submittals are required to be returned by the Department and list decision dates for selection of finishes. Unless amended by supplemental conditions, the contractor is required to deliver a submittal schedule within fifteen days after the effective date of the NTP; this should be communicated in writing and at the pre-construction conference. The schedule should be checked for completeness (ensure that each submittal required by the contract documents is scheduled) and practicality (the design consultant should be consulted on this) and the contractor notified in writing (see sample 07) of its acceptability or need for revision. Like the progress schedule, the submittal schedule must be accepted by the PM prior to processing the contractor's first application for payment.

A properly prepared submittal schedule is a valuable tool for planning and tracking the submittal process. It should be discussed regularly at progress meetings and revised by the contractor as needed to reflect accurately the contractor's actual submission progress. Adherence to the schedule should be required of the consultants since shop drawing approval delays can result in impact claims by the contractor.

### **8.4. Substitution Request**

Substitution requests will be permitted during the period identified in the contract, typically a set number of days after the NTP. Only one substitution will be considered for each item. The Project Engineer should verify these requirements and deadlines by reviewing Division 1 of the contract (not applicable to DB contracts).

All substitution requests must be made on the substitution request form (BLDG-Form 10). Use of this form ensures that the proper certifications required by the GC's and Division 1.

### **8.5. Shop Drawings, Material Certifications, Product Submittals,**

### **Warranties, O&M Manuals, Spare Parts, and Training**

Prior to the pre-construction conference, the Project Engineer is responsible for reading the technical specifications and making a list of all required submittals, e.g., shop drawings, product data, samples, manufacturer's instructions, material certifications, operation and maintenance manuals, warranties, spare materials, training, etc. The Department's design consultant may be tasked with preparing the list.

This list shall be used in reviewing the contractor's submittal schedule and as a checklist to monitor actual submittal activity. Each item on the list is assigned a consecutive submittal number and a designated reviewer (usually the A/E of Record).

The contractor will submit all copies of each submittal directly to the Project Engineer. Submittals accepted by the Project Engineer shall be logged on the submittal log (BLDG-Form 42).

The GC's require the contractor to stamp or otherwise indicate in writing that each submittal has been reviewed by the contractor and is in compliance with the contract, except as may be noted otherwise. It is the Project Engineer's responsibility to check for compliance with this requirement and to ensure that the submittal is sufficiently complete for review. Any submittal failing this test must be logged and immediately returned to the contractor with a note explaining the rejection. The log entries for "To A/E" and "From A/E" are skipped. The status is "rejected" and requires resubmission.

Upon receipt of a submittal, the Project Engineer will give the submittal to the designated reviewer with notice that the submittal has been received for review. This transmittal/notification needs to be documented. The date that the designated reviewer is notified is recorded on the log in the "To A/E" column. The submittal number shall be marked on the corresponding submittal item (the submittal number shall be marked on each copy in the event of multiple copies of the same submittal).

The designated reviewer will recommend action (usually by means of checking a box on the Department's submittal stamp) on each copy of the submittal, retain one copy and send the remainder to the Project Engineer.

The Project Engineer receives the submittal, logs the receipt date under "From A/E". The Project Engineer

reviews the reviewer's recommended action and decides to either accept the submittal or return the submittal to the contractor for further action. The Project Engineer will stamp each copy of the submittal, check the appropriate box, and retain one copy of the submittal for field.

The Project Engineer will retain one copy for the permanent record, one copy for the owner's facility maintenance personnel and update the submittal log and send the remaining copies to the contractor.

## 8.6 Schedule Assurance

The specifications may require the contractor to submit an anticipated CPM schedule for review at the Preconstruction Conference. The anticipated CPM schedule will cover the contractor's activities in detail for up to the first 60 days after issuance of the NTP, and in summary form through the milestone of final completion. The contractor is required to submit a finalized CPM schedule prior to submitting the first application for payment.

The specifications may call for a bar chart or a network analysis schedule. Detailed instructions for the preparation of the schedules are included in Division 1 and should be referenced in the review of the schedules. Schedules that do not meet the format required should be immediately returned for correction in strict accordance with the contract. There should also be a correlation between the progress schedule and the payment SOV for ease of reviewing payment requests.

The Department "**accepts**" rather than "approves" progress schedules. The progress schedule should realistically represent the contractor's labor, equipment, and materials projections; indicate any periods during which no work will be performed; and allow sufficient contingency for long lead items and equipment maintenance and repair. Pay items on progress schedule should match identical items on the SOV.

If it appears in light of all considerations that the work could reasonably be completed as shown, the Project Engineer shall draft a letter (see sample 06) for the PM's signature (Unless PM delegates responsibility to Project Engineer) notifying the contractor that DOT&PF has received and reviewed the schedule and that the schedule appears reasonable, contingent upon the furnishing of adequate materials, labor, and equipment to carry out the schedule.

If, however, the proposed schedule appears overly optimistic, unnecessarily protracted, or otherwise unreasonable, the Project Engineer should seek the guidance of the PM before further action is taken.

The contractor may be required on some projects to submit a revised progress schedule with each Application for Payment. Detailed requirements regarding this are included in the Division 1 specifications (01310, 01311). These schedules should be carefully reviewed just like the original schedule to be sure they realistically represent actual conditions. As with the original submittal, any unacceptable schedule should be formally returned to the contractor and the contractor put on notice that the current Application for Payment will not be processed until the schedule has been corrected. The contractor should be advised to resubmit before the next pay estimate to preclude unnecessary delay in processing that payment.

If it becomes apparent that the contractor may not be able to complete work on time or is otherwise failing to make satisfactory progress, **a letter should be written alerting the contractor of the probability of having funds withheld (retained) on the next progress payment for falling behind schedule and/or incurring liquidated damages and requesting a plan for improving the rate of progress.** This letter should be prepared by the Project Engineer and signed by the PM with a copy sent to the Contracting Officer. No funds will be withheld (retained) without written approval of the Contracting Officer.

The current schedule should be filed in the project office for ready reference and actively used for scheduling inspections, staff assignments, and marking key construction activity dates.

## 8.7. Schedule of Values

The contractor is required to submit a schedule of values (SOV) on a BLDG-Form 23 or a contractor furnished form that clearly depicts the required information. The deadline is usually tied to the NTP and is defined in Division 1 of the Contract Documents. No payment can be made to the contractor until the SOV has been submitted and accepted.

The PM accepts the SOV. The Project Engineer is responsible for reviewing the SOV and recommending acceptance or recommending revisions required for

acceptance. The Project Engineer should review the SOV for the following conditions.

- Total work must be separated into pay items that can be easily evaluated for degree of completion
- Pay items on SOV should match identical items on the progress schedule
- Value of early pay items cannot be exaggerated at the expense of later items (front loaded)
- Submittals may be included as a pay item
- Subcontract work must be in separate pay items
- Stored Materials cannot be included as pay items
- Contract closeout must be included as a pay item with a reasonable amount specified
- Contingent Sum pay items must be included consistent with the bid schedule
- Total scheduled amount must equal the total contract amount
- The Project Engineer may use cost estimate prepared during design as a tool to truth the value of specific items in the SOV

If the SOV is acceptable, the Project Engineer drafts a letter (see sample 05) for the PM's signature accepting it for the limited purpose of approximating progress payments and disclaiming any determination that it represents the contractor's actual costs.

## 8.8 Recording As-Built Changes

Although the contractor is required by contract to keep a set of red line drawings to document current as-built conditions, the Project Engineer should clearly identify to project staff the Department's set of drawings set aside for recording red-line changes. Throughout the project, as changes occur, project staff must revise and update the designated set of red-line drawings in the field office on a timely basis. The Project Engineer should check the contractor's red line drawings against Department's red line drawings at each pay estimate.

The Project Engineer should enter all corrections, revisions, or additions to the work on the red-line drawings. New drawings or sketches should be added to the set as appropriate. Certain information on the drawings does not need to be updated, particularly information of no significance to the finished project like temporary construction features, staged construction schedules, or temporary traffic control measures.

Any change made during construction to a permanent feature of the project, should be correctly shown on the final record drawings.

## 8.9 Other Administrative Approvals

If the Project Engineer receives notice of the loss of a contractor's insurance coverage or bonding coverage, through cancellation or insolvency, the contractor must immediately be notified of the requirement to completely restore the lost coverage. The contract specifies the time frames, if any, that apply and the procedures the contractor must follow in replacing the coverage.

If a contractor wishes to designate a third party to receive the payments on the contract or wishes to transfer the remaining work to another contractor, this is known as an assignment. The approvals of the Contracting Officer and of the contractor's bonding agent are both required. The contractor must present a written request to the Project Engineer, in accordance with the contract. The request will be subject to the review of the Contracting Officer. If an assignment of payments is approved, it is for the contractor's convenience only, and does not relieve the contractor of any contract obligations. When applicable, if payments and/or liquidated damages are withheld, it is the same as if the assignment had not occurred.

## 8.10 Administrative Reviews & Inspections by Others

The Project Engineer and project staffs are subject to inspections and reviews by numerous groups. Periodically the PM will visit the project site, as may the Contracting Officer and client.

### 8.10.1 Visitors

Generally, casual visits to the various projects should be discouraged due to safety considerations. Preferably, official visits will be scheduled and arranged through the PM. Safety is your primary concern. Do not allow visitors on-site if the project area is not safe. If visitors are not allowed on-site, the Project Engineer needs to inform the visitors of the safety concerns.

**All visitors on site must receive a safety briefing by either the Project Engineer or the contractor's safety officer prior to entering the work site.**

When visitors do visit the project, the Project Engineer will extend all courtesies and cooperation, provide visitors' hard-hats, vests, etc. as necessary,

and personally escort or provide escort for all visitors to the project. Records, charts and reports will be current and available for review of visitors, as approved by the PM. The Project Engineer will maintain a register that visitors are to sign.

#### ***8.10.2 Regional Quality Reviews***

On FHWA and FAA funded projects, the regional quality assurance/review unit may make periodic field reviews to check project documentation, record keeping and progress payment quantity calculation procedures, as well as to inspect field laboratory equipment, record keeping, and testing procedures.

#### ***8.10.3 Other State Reviews and Audits***

Auditors from the Department and the Legislature may review project's records related to financial matters such as contractor and consulting engineering contract payments and reimbursement requests to federal and other agencies. DOLWD may conduct AKOSH safety inspections. DEC may conduct SWPPP inspections.

#### ***8.10.4 Federal Reviews***

On federally funded projects, federal agencies can inspect the contractor's operations and the field operations of the Department (14 CFR 151.49a). The funding agency, the Office of Management and Budget, and the Inspector General may inspect the project's records.

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## 9. Contract Administration in the Field

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- 9.1. Request for Information
- 9.2. Directives
- 9.3. Contractor's Equipment
- 9.4. Erosion, Sediment, and Pollution Control
- 9.5. Environmental Permits and Commitments

### 9.1. Request for Information

The contractors will periodically ask verbal and written questions (including email) regarding contract requirements. Verbal questions best answered by directing the contractor to a specific statement or drawing in the contract will be answered verbally and recorded in daily inspection report. Email questions will be treated in the same manner as verbal questions, answered verbally and recorded in the daily inspection report.

If the contractor desires a written response to questions, the Project Engineer should remind the contractor to submit a completed and signed request for information (RFI) form (BLDG-Form 14) as discussed in preconstruction conference.

The filled out RFI form may be transmitted back and forth as a PDF file via email. Original signatures are not required.

RFI's received by other construction management team members must be forwarded to Project Engineer as soon as possible. All RFI's must flow through the Project Engineer.

Logging RFI's

- Establish RFI log (BLDG-Form 42)
- Assign every RFI a sequential number starting with 001 and log it
- Don't re-use numbers even if the RFI is later rescinded, withdrawn or modified and resubmitted
- The contractor may assign numbers to the RFI form, if so, note the contractor's number in log under description
- Put sequential number on RFI form above or below the contractor's number (if applicable) before sending RFI to designer of record or returning RFI to the contractor

Evaluating RFI's

- Return unclear, incomplete or ambiguous RFI forms to the contractor with request for clarification or more information
- Return RFI forms requesting change or substitution to the contractor with request to submit change notice or substitution request
- Log RFI's returned to the contractor in comments column

Answering technical RFI's

- Forward RFI regarding drawings or technical specifications to respective designer of record
- Project Engineer prepares response after designer of record comments are received

Answering RFI's dealing with Division 1, General and Supplemental Conditions or field conditions

- Project Engineer prepares response immediately and designer of record review is discretionary

Transmittal to the contractor

- Project Engineer signs and dates RFI form when response is complete
- Log reply in comments column
- Signed RFI is sent to the contractor

### 9.2. Directives

Directives are written communications to the contractor from Contracting Officer interpreting or enforcing a contract requirement or ordering commencement of an item of work. Directives provide "no cost" written clarification or interpretation of the contract.

Contractually, directives can take on any form so long as they constitute formal written direction from an authorized representative of Contracting Officer to the contractor. Authority to issue directives is limited to delegations contained in authorities and limitation letter issued to the contractor at pre-construction conference. Project Engineers should use BLDG-Form 36 when issuing directives.

Logging directives

- Establish directive log (BLDG-Form 42)
- Assign every directive a sequential letter starting with A. After 26 directives, use double letters

### 9.3. Contractor's Equipment

When the contractor first mobilizes equipment to project site and as each additional piece of equipment arrives on site, the Project Engineer and project staff should inventory equipment. The contract, with a few exceptions, only requires the contractor to provide equipment spread capable of completing contract within contract time; the choice of equipment is left up to the contractor. Contractor vehicles and equipment requiring licensing must be licensed in Alaska at all times during their use.

When Project Engineer and project staff inventory equipment, they should gather basic information on each piece. Information should include the classification, make, model, year of manufacture, horsepower, attachments and optional features, capacity, engine fuel, serial number, and the contractor's number. This information will help Project Engineer establish a rental rate for each piece of equipment, if necessary. The project staff should use still photographs and videotape to document the initial condition of the contractor's equipment.

### 9.4. Erosion, Sediment, and Pollution Control

The magnitude of work required by the contractor and Project Engineer to comply with erosion, sediment and pollution control contractual and permitting requirements depend on many factors, but two are particularly important.

- Is there any soil disturbing activity associated with the construction?
- If so, is the total soil disturbance one acre or more in area?

If there is no known potential for soil disturbance during construction, an erosion and sediment control plan (ESCP) is not required to be part of the contract. If there is known potential for soil disturbance during construction, the PM is responsible for including an ESCP in the contract indicating location and estimated area (in acres or fraction thereof) of soil disturbance.

There are subtle differences in contractual and contract administration requirements for projects with less than an acre or soil disturbance and projects with one or more acres of disturbance. The PM must ensure contract adequately addresses these requirements.

The PM is responsible for ensuring the contract includes:

- Latest version of Section 01 57 10 Erosion, Sediment and Pollution Control
- ESCP in Drawings (if potential for soil disturbing activities exists)
- Reference ESCP in Drawing index
- Reference Section 01 57 10 in
  - Summary of work – need to tell the contractor if construction general permits applies (1 acres or more) or not
  - Work restrictions
  - Project meetings
  - Submittals
  - Quality control
  - Construction facilities & temporary controls - if applicable
  - Contract closeout

If the ESCP estimates less than one acre of soil disturbance, but the contractor does something unexpected, like lease, clear and grub an adjacent lot for a project lay down area, for example, the more stringent contractual and contract administration requirements may apply if the total disturbed area equals or exceeds one acre.

The Project Engineer must carefully read and understand Section 01 57 10 of the contract. The Project Engineer is responsible for reviewing and approving the SWPPP and performing other SWPPP related duties. The Project Engineer must be qualified in conformance with the contract requirements and certification shall be current prior to performing any duties related to the SWPPP. The Project Engineer is also responsible for reviewing and approving hazardous material control plan (HMCP) which may be an appendix to the SWPPP (if required) or a standalone document.

There are significant potential penalties for both the Department and the contractor for failure to properly implement and maintain pollution prevention plans. The Project Engineer must be thoroughly versed in contractually required pollution prevention for each project before the contractor begins work on site.

Additional guidance is available on the Departments web site under SWDES under Resources:

- Construction: ACM Chapters 3 & 9
- Environmental: Storm Water & Water Quality
- Bridge: Alaska Highway Drainage Manual, Chapter 16

While the above guidance may have a highway and aviation construction focus, the information within has broad application useful to SWPF as applicable.

Any penalties accumulated by the contractor under Section 01 57 10 must be dealt with by a deductive change order at the end of the project or in the form of a billing to the contractor. FHWA and FAA (and perhaps other federal aid providers) will not participate in these deductive change orders, so the only option in these cases is to bill the contractor.

## **9.5. Environmental Permits and Commitments**

The contractor must comply with all environmental permits and commitments required to construct a project. The PM is responsible for ensuring that environmental permits and commitments obtained or agreed to by the Department are included in the contract.

The entity granting the permit generally has enforcement authority. The Project Engineer's role is to verbally notify the contractor if permit violations are observed, followed by written notification if corrective action is not taken in a timely manner.

Additional guidance is available on the Departments web site under SWDES, Environmental Resources: Alaska Environmental Procedures Manual.



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## 10. Quality Control and Quality Assurance

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- 10.1. General
- 10.2. Quality Control
- 10.3. Quality Assurance
- 10.4. Warranty and Guarantee
- 10.5. Defective Work
- 10.6. Minor Non-Compliance
- 10.7. Non-Compliance Notification (NCN)
- 10.8. Failed Test Results
- 10.9. Corrective Action Proposal
- 10.10. Corrective Action Proposal Approval
- 10.11. NCN Close Out
- 10.12. NCN Log / Payments
- 10.13. Nonresponsive Contractor
- 10.14. Other Potential Remedies
- 10.15. Detailed Records of Disputes
- 10.16. Deviations From Contract

### 10.1. General

There are subtle differences between quality control (QC) and quality assurance (QA) as defined in contract. The PM will ensure QC and QA are correctly defined in contract. The Project Engineer must understand the difference between QC and QA and seek guidance from the PM if confusion arises about correct application of the two concepts.

### 10.2. Quality Control

QC is defined in the contract in several places. Division 0 of contract defines QC as “Tests and inspections by the CONTRACTOR to insure the acceptability of materials incorporated into the work. QC test reports are used as a basis upon which to determine whether the Work conforms to the requirements of the Contract Documents and to determine its acceptability for payment”.

The contract technical specifications sometimes use the term QA interchangeably with the term QC, which can be confusing. Division 0 of the contract compensates for this by defining QA as “Where referenced in the technical specifications (Division 2 through 16), Quality Assurance refers to measures to be provided by the CONTRACTOR as specified”.

QC is further defined in Division 1; Section 01400. The term “QC Program” may also be defined in the contract as a supplementary condition to the GC’s.

The contract does not establish any obligation for the Department to assist the contractor with QC. Failure

of the Department to inspect or observe work does not excuse or waive any requirement of the contract. The Project Engineer must not allow the contractor’s contractual QC obligation to be performed by the contract administration team at the Department’s or client’s expense.

### 10.3. Quality Assurance

QA is a program comprised of tests and inspections performed to evaluate the methods, accuracy and precision of the contractor’s QC tests. SWPF is responsible for implementing its QA program. QA is done by SWPF at its expense to verify the contractor’s QC measures are adequate and to confirm the contractor is performing work in accordance with the contract. As such, QA does not duplicate or replace QC.

The PM is responsible for retaining under a PSA the services for QA testing and inspection, which will include but not be limited to IBC special inspections. During construction the Project Engineer must obtain the contractor’s QC plan and use it to help develop a QA plan to schedule the type and frequency of QA tests and inspections.

### 10.4. Warranty and Guarantee

The contractor must warranty and guarantee all work will be in accordance with the contract and will not be defective. The Project Engineer is responsible only for approving payment for work acceptably completed in accordance with the contract.

### 10.5. Defective Work

Work deviating from the contract is defective work. The Project Engineer should bring defective work to the contractor’s attention.

Deviations include:

- Unauthorized extra work
- Unacceptable materials
- Unacceptable workmanship

### 10.6. Minor Non-Compliance

In general, a minor non-compliance may be verbally communicated to the contractor and correction observed and confirmed. Where verbal notification does not produce correction within 24 hours, written notification of non-compliance will be issued referencing previous verbal notification.

## **10.7. Non-Compliance Notification (NCN)**

If the contractor is non-responsive to verbal notification after 24 hours, or a major non-compliance issue is observed, written notification should be issued immediately. The Project Engineer will notify the contractor (other than tests corrected on the same day) using a non-compliance notification form (NCN), BLDG-Form 12. The NCN will identify non-conforming work or non-compliance and if re-work is extensive or complicated or time consuming, the contractor is required to submit a corrective action proposal.

## **10.8. Failed Test Results**

If QC or QA test results indicate work does not meet specified minimum requirements, the test report is the written NCN for work represented by the test result.

The failed test will be noted on NCN form for ease and consistency of record keeping and logged as a non-compliance notice. The effective date of NCN is the time and date of failed test.

## **10.9. Corrective Action Proposal**

For extensive or complicated NCNs, the contractor must provide a corrective action proposal to resolve a non-compliance issue. The Project Engineer (and respective consultant if applicable) will review the contractor's corrective action proposal.

If the contractor's corrective action proposal (page 2 of BLDG-Form 12) is not acceptable, the Project Engineer (and A/E of record as required) will sign the NCN as unapproved and annotate additional contractor action required.

## **10.10. Corrective Action Proposal Approval**

If the contractor's corrective action proposal is acceptable, the Project Engineer will sign NCN as approved. The PM's or design A/E's approval may also be required depending on the nature of the non-compliance issue. The contractor's actual proposal will either be on NCN form or noted as an attachment. A copy of signed NCN will be given to the contractor.

## **10.11. Non-Compliance Notice (NCN) Close Out**

When the contractor completes corrective action and work is accepted, the PM signs the bottom line of NCN and gives it to the contractor. The Project Engineer may sign the form if delegated this authority.

Acceptance of work should be recorded promptly in the NCN log to ease review and ensure accuracy of contractor's next payment requests.

## **10.12. Non-Compliance Notice (NCN) Log / Payments**

Whether a NCN is handed, faxed, Emailed or mailed to a contractor it must be logged in NCN Log, including failed test results. The Project Engineer is responsible for maintaining the NCN Log (BLDG-Form 42).

The Project Engineer must review the NCN log when analyzing each request for contractor payment. **The Project Engineer will not recommend payment for any work covered by an unresolved NCN.**

## **10.13. Nonresponsive Contractor**

If the contractor disregards an NCN and continues to work, The Project Engineer should inspect work. The Department's decision to inspect and measure defective or unauthorized extra work does not constitute acceptance of work or commitment to pay the contractor for work.

The Project Engineer should issue a directive to the contractor to correct or remove defective work and notify the PM that a directive was issued. Unless the situation is critical or the PM is unavailable, the Project Engineer should seek verbal concurrence from the PM in advance of issuing a directive.

If the contractor disregards a directive to correct or remove defective work, the Contracting Officer is authorized to stop the contractor's work. Stopping the contractor's work is a very drastic and potentially costly decision requiring coordination with the PM and the Contracting Officer prior to preparing a stop work letter.

If the Contracting Officer decides to stop the contractor's work, the Project Engineer will prepare a draft stop work letter for review by the PM prior to submitting the letter to the Contracting Officer for signature.

## **10.14. Other Potential Remedies**

The Contracting Officer may accept defective work with (or without) a decrease in the contract price. This option is usually undesirable and should only be considered after the Project Engineer and PM have explored and evaluated all other options.

The Contracting Officer may also elect to correct defective work with state forces or by separate the contract and deduct payment from the contract. Again, this option is usually undesirable and should only be considered after the Project Engineer and PM have explored and evaluated all other options.

### **10.15. Detailed Records of Disputes**

The Project Engineer must keep detailed records of any disputes in the daily report. If the Project Engineer is unable to resolve the situation the PM must be notified.

### **10.16. Deviations From Contract**

The Project Engineer should notify the PM immediately if the contractor encounters physical conditions different from those described in the contract. The PM should also be immediately notified if permit modifications or additional permits appear necessary.

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## 11. Claims

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- 11.1. Contractor Claims
- 11.2. Claims Against the Contractor for Damage
- 11.3. Claims Against the Contractor for Money

### 11.1. Contractor Claims

The contract requires the contractor immediately bring to the Department's attention in writing any act or occurrence which may become the basis of a claim for additional compensation or time. Under some circumstances, the contractor may not believe timely notice is in the contractor's best interest and this requirement will be ignored. Therefore, the Project Engineer should always be watching for potential claims.

The contractor is required to provide notice before beginning any work upon which a claim may be based, insofar as possible, or as soon as the contractor encounters such circumstances, as to when differing site conditions are found. The specifications require the contractor to continue diligent performance of the work.

The PM will immediately acknowledge receipt of the contractor's notice with a letter and will forward a copy of the notice to the Contracting Officer. At this point the contract administration team will make every effort to equitably solve the problem, by contract change document, or whatever means may be correct and proper within the policies, procedures, and specifications.

If after seven days no resolution has been reached, the contractor has fourteen days to submit a formal written notice of intention to claim. The intent to claim must be addressed to the PM and should include the reasons for requesting additional compensation or time, substantiating facts, and an understandable derivation of the amount of money and/or time requested.

The PM should immediately acknowledge receipt in writing of the intent to claim. The written receipt should state the deadline for submission of the claim. The PM should also request any missing information needed to support the contractor's intended claim, but must not make reference to the validity of the claim.

The contractor has 60 days from the intent letter to file the formal claim with the PM. During this period,

before the dispute becomes a formal claim, negotiations between the contractor and the contract administration team may continue, in an effort to resolve the matter at the lowest possible level.

A letter acknowledges receipt of the formal claim. If necessary, additional information can be requested during this time to fully review the claim. Meetings should be held to ensure both parties clearly understand each other's positions.

These informational meetings should follow an agenda. In the event that negotiations are entered into, those meetings should also follow a general agenda but should not be tape recorded in order to maintain confidentiality of the negotiations.

It should be emphasized that maximum effort must be exerted to resolve the claim below the Contracting Officer level. No claim is to be passed on to the Contracting Officer for a Contracting Officer's Decision until the PM has exhausted all research into the claim and has reached an impasse in negotiations. If all efforts do prove futile during the 60 days allotted, a finding of fact letter shall be prepared by the PM denying the claim (or portion thereof if a partial settlement was reached) and informing the contractor that the only recourse is to submit the claim to the Contracting Officer. The PM will then prepare a report of the facts and circumstances, documented with all the data relative to the claim. The data must not be edited and shall include all correspondence, contract documents, test reports, diary entries, etc., that have any bearing on the matter. This report shall be transmitted to the Contracting Officer for consideration prior to the formal Contracting Officer's decision.

### 11.2. Claims Against the Contractor for Damage

Claims received by the Department for alleged damage to third party property or injury resulting from the contractor's operations should be investigated, and referred to the contractor for settlement, if considered by the PM to have been the result of the contractor's operations.

Copies of correspondence pertaining to impending claims should be transmitted to the Contracting Officer. The Attorney General's office may be asked

for advice if the responsibility of the State or contractor is not clearly defined.

### **11.3. Claims Against the Contractor for Money**

When the Department receives claims for money owed by the contractor, the claimant should be advised to file a lien against the contractor's payment bond in accordance with AS 36.25.020(c). A copy of the contractor's payment bond should be included with the correspondence. If the claim has not been satisfied by the time the final estimate is submitted by the contractor, the contractor should provide written acknowledgment of the existence of outstanding claims by subcontractors, suppliers, etc. when submitting certification of payment.

Wage or tax complaints received from the State Departments of Labor or Revenue should be handled as detailed in Section 12.8.

## 12. Contractor Payments

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- 12.1. General
- 12.2. Pay Estimate
- 12.3. Payment Verification Process
- 12.4. Retainage
- 12.5. Payment for Stored Materials and Equipment
- 12.6. Withholding Payment
- 12.7. Interest
- 12.8. Assignment of Payments

### 12.1. General

A primary duty of the Project Engineer and PM is to see that the contractor receives timely progress payments for work acceptably completed. Complementary to this duty is the requirement to prevent overpayment by ensuring that the contractor is not inadvertently paid for work that is unacceptable, not yet acceptably completed, or for deductions that may apply in compliance with contract requirements. SWPF has 30 days to process pay estimate for State funded and 21 days for Federal funded projects. However, it is good practice to review and notify the contractor within 7 days if there are any issues. Alaska Statute 36.90.200 (c) requires this notification to be made in writing within eight working days after receipt of the payment request.

### 12.2. Pay Estimate

The contractor is allowed to submit a pay estimate each month, or twice a month with approval of the PM. The contractor must use the periodic estimate for partial payment (BLDG-Form 25) unless the PM approves the use of a contractor generated form. Any substitute form must have all of the same information as the SWPF form and be based on total work completed to date, not work performed this period.

The pay estimate is prepared and signed by the contractor and then transmitted to the Project Engineer. There is no requirement for the contractor to coordinate the pay estimate with the Project Engineer prior to submission, but it may be worth reminding the contractor that prior coordination usually expedites the process.

### 12.3. Payment Verification Process

Due to the high importance of this task, dedicating sufficient time and attention to the effort is essential. The Project Engineer is responsible for reviewing or

confirming the following aspects of pay estimates submitted by the contractor.

- Original SOV must be accepted by PM (or Project Engineer if delegated this authority) before approving first pay estimate.
- SOV must be amended and accepted by Project Engineer if a change order adds new pay items to SOV and / or changes the amount of existing pay items prior to approving payment for change order work.
- Verify the contractor's estimate of percentage complete for each work item and each change order. Discuss apparent irregularities with the contractor and seek agreement. Discuss with PM if agreement cannot be reached.
- For FHWA or FAA projects complete a Progress Summary form (BLDG-Form 24) for each item and each change order, for every pay estimate.
- Do not approve payment for any change order work without a fully executed change order and an amended SOV approved by PM (or Project Engineer if delegated this authority).
- Change Orders for non-participating (not eligible for federal funding) work should be separated and totaled/referenced to the correct line of coding before sending it to Region (for FHWA/FAA work).
- Check the cost of completed work extensions for mathematical accuracy.
- "Stored Material or Equipment" must be verified by physical inventory (See Section 12.5)
- Verify payment for materials stored on site by checking contractor submitted documentation (See Section 12.5).
- Deduct from "Stored Material or Equipment" any materials previously paid on this line which have subsequently been incorporated into the work. (See Section 12.5). Use BLDG-Form 26.
- Verify "Less Previous Payments" by checking accounting records.
- Verify "Amount Payable this estimate" by checking all math.
- **Verify that a progress schedule update has been submitted since the last pay estimate if required by the contract.**
- **Verify that the contractor's red line record drawings have been updated since the last pay estimate**



- For federally funded projects, verify certified payroll is up to date in project files
- For federally funded projects, verify DBE monthly summary reports have been submitted

When the Project Engineer is satisfied that the pay estimate accurately reflects a reasonable estimate of the work performed and accepted, the Project Engineer signs it and forwards it to the PM, typically by Email as a PDF attachment. The PM completes the pay estimate by entering the encumbrance number and amount to be paid in the appropriate lines and signs it. The PM delivers the payment request to the SWPF Financial Coordinator.

The SWPF Financial Coordinator is responsible for checking math, encumbrances, obtaining the Chief's signature, forwarding the original to the Finance Section for payment, and forwarding a copy of the signed pay estimate to the contractor.

Due to the time sensitive nature of contractor payments, it is considered best practice for each person processing a pay estimate keep their own log indicating the date they processed and forwarded it. Pay applications shall be processed by the Project Engineer within seven days of receipt. Processed may mean returning to the contractor for corrections and resubmitting. Every effort should be taken to process the application for payment immediately upon receipt.

#### 12.4. Retainage

The contract GC's permit the Department to retain up to 10% of payments due the contractor when the Department finds that satisfactory progress is not being made. This is intended to protect the State from making overpayment in the event the contractor fails to complete the job. It is not intended to be a penalty against the contractor. Because it is not a penalty, the State is required by statute to pay interest which accrues from the date of approval of the pay request until the date of payment to the contractor on all retainage. At the time the statute was written, the interest rate was specified as 10.5% per annum. Therefore, retainage should only be considered when it is absolutely necessary to protect the State's best interests.

The procedures shown below are to be followed when contemplating any retainage action:

- The PM, upon finding cause for withholding retainage shall prepare justification with

- supporting documentation such as progress schedules, etc. for forwarding to the Chief
- Documentation should include a draft encumbrance memorandum for the 10.5% per annum interest on the proposed retainage until scheduled substantial completion
- Approval of the Chief to retain contractor payments shall be for one month only and shall be renewed only if the PM demonstrates that prior justification is still valid
- Approval authority for retainage shall not be re-delegated

#### 12.5. Payment for Stored Materials and Equipment

Progress payments may include allowance for materials and equipment not yet incorporated in the work, or deposit payments for manufacturers per the contract GCs Articles 13.2 and 13.5. The PM is responsible for ensuring that the contract supplementary conditions specify the minimum amounts that will be considered for payment.

The material and/or equipment must meet contract requirements and be stored on the project site or other location accessible to and approved in writing by the Project Engineer. Unless stated otherwise in the PDC or approved by the PM, the contractor must produce evidence of payment or other documentation that warrants that the Department has received the materials free and clear of all charges, security interests, and encumbrances. The contractor must also produce evidence of property insurance sufficient to protect the Department's interest. Test reports, certifications, approved shop drawings, and other necessary literature must also be on file.

When payment is made for stored material or equipment delivered and suitably stored, the contractor is no longer free to dispose of it in any manner chosen. Any transfers, waste, etc. must be noted and debited out. Similarly, when material is removed for incorporation in the project an appropriate reduction in stored material or equipment allowance must be made on the next application for payment.

Allowance is normally given for the invoice price of material or equipment plus freight charges as delivered to the project. Occasionally, stockpiling of material or equipment at a location other than the project site may be approved. In such cases, the allowance should include the invoice price of the

materials plus freight charges to the approved stockpile location.

The value of stored material or equipment paid must provide a reasonable allowance for sufficient funds to cover installation the items based on the SOV. As a general rule, an item in the SOV may be expected to be about 50% materials and 50% labor. If the contractor presents a request for payment of stockpiled materials or equipment that appears to be unbalanced, the contractor should be asked to provide evidence of sufficient remaining funds to install the item, or be given the option of modifying the SOV.

If the accepted schedule indicates an item is to be installed within the next 60 days, payment requests for stockpile materials should usually be disallowed. Minimum thresholds for payment of stored material or equipment (dollar amount or percent of contract) may be established in the contract; if so, requests for payment below these thresholds must be disallowed.

Stockpiled payment will not be made for the following:

- Materials that do not meet the specifications
- Materials valued below minimum threshold established in contract supplementary conditions
- Materials without necessary documentation of suitability, evidence of payment, and insurance
- Materials that have not been personally inventoried by an employed or contracted representative of the State
- Materials which will not become a permanent part of the completed facility (such materials are eligible for payment under mobilization costs or as a percentage of completion on a given item of work; however, they are not considered stockpiled materials per se for the purpose of this section). Examples would be lumber for falsework, visqueen for concrete curing, and temporary lighting materials.
- Perishable materials, such as Portland cement, epoxies and seed, unless properly stored to prevent loss of these materials due to weather or moisture intrusion. Living plants will not be paid for until planted.
- Small warehouse items such as nails, screws, and miscellaneous shelf items

Materials that are damaged, but which are repairable may be paid for with an appropriate reduction for repair costs, providing the Client is in agreement;

otherwise no payment will be made until repairs are satisfactorily completed.

If materials are stored at a location other than on site, the contractor shall pay for Department to inspect. This can include airfare, car rental, hotel, etc.

## 12.6. Withholding Payment

The contract GCs allow the Department to withhold payment for:

- Defective work
- Department having to correct defective work
- Evidence of the contractor being in default of the contract
- Claims against the Department on account of the contractor's actions
- Nullifying previous payment for work subsequently discovered to be defective
- Nullifying previous payment for work subsequently discovered to have been overpaid on previous pay estimate
- Other violations of the contract

If payment is withheld for any reason, the PM should bring this to the attention of all parties by attaching an explanatory memorandum to the first pay estimate from which money is withheld.

## 12.7. Interest

Alaska statutes provide for payment of interest on amounts due a contractor if payment is not made within 30 days after receipt of a pay estimate from the contractor that complies with the contract. Interest accumulates from the 31st day through the payment date. Therefore, all progress and final estimates must show the date received from the contractor and the date approved for payment. The date paid can be found in the Alaska State Accounting System.

Statutory interest is 10.5% per annum.

Payment of interest is not automatic; the contractor must request interest payment in a letter to the Project Engineer. Such a letter will be treated as a change notice.

## 12.8. Assignment of Payments

Do not assign any contractor payments to another party unless specifically directed in writing by the Contracting Officer. The Contracting Officer will require consent of Surety before the request will be considered. Requests from the contractor, Alaska

Department of Labor or by an Officer of the Alaska Court System may be forwarded to the Contracting Officer for consideration.

Subcontractors, suppliers and lenders should be notified of the existence of the payment bond and the performance bond before their request for assignment is accepted. If after being so advised a request for assignment is received, it should be forwarded to the Contracting Officer for reply. Most sureties will not consent to assignments where a bond claim is more appropriate.

## 13. Contract Changes and Supplemental Agreements

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- 13.1. General
- 13.2. Interim Work Authorization
- 13.3. Requests for Changes
- 13.4. Evaluating Change Request
- 13.5. Supplemental Agreements
- 13.6. Change Orders
- 13.7. Funding and Encumbrance
- 13.8. Requests for Proposals
- 13.9. Contract Changes and Change Order Procedures
- 13.10. Requirements for Professional Seals
- 13.11. Procurement of Supplies vs. Procurement of Construction

### 13.1. General

Contract changes may include modifications to:

- Material requirements
- Specifications
- Contract time
- Details of construction

Contract changes may also be used for:

- Resolution of disputes
- Equitable adjustments
- Other deviations from the original contract

Changes are authorized differently depending on type of contract. The Project Engineer must review change procedures in the contract.

The change is part of the contract once executed.

### 13.2. Interim Work Authorization

Under some circumstances, an interim work authorization (IWA) may be used to initiate work until a subsequent contract change is executed.

Contract changes outside the scope of original contract are made according to the procurement code (AS 36.30). If the work is awarded to the current prime contractor, a supplemental agreement to the contract will be executed (see Section 13.7).

For changes within the scope of the original contract, the PM and Project Engineer can initiate work, within their delegated authority through an:

- IWA
- Change Order
- Directive (for contingent sum items only)

- Contingency authorizations for CMGC contracts

The change document is considered executed when the Department signs and issues the written order. No payment for proposed changes will be made to the contractor until after the change document is executed.

In some cases the change document or the supplemental agreement related to a federal-aid project requires federal agency authorization prior to execution. PM's are responsible for being aware of, and communicating these project specific requirements to the Project Engineer. Additional information concerning FHWA or FAA funded projects is available in the ACM.

Contracts administered for a client may require client approval prior to execution of a change document. PM's will refer to the individual project agreements.

When emergency conditions occur that threaten the safety, health, welfare, or sanitary conditions of the public, DOT&PF infrastructure, or the environment, the Project Engineer may verbally initiate changes to the contract with change documents to follow on the same day. The Department employee with delegated authority must approve the verbal authorization prior to beginning work, unless communications are unavailable or delayed. In this case, the Project Engineer may assume this responsibility and will notify the Department employee with delegated authority as soon as practicable.

An issue should not be separated into multiple change documents in order to avoid circumventing delegated authority limits. **Unless an emergency exists, the Project Engineer must inform the PM of any pending action which may increase or decrease the contract amount or may increase or decrease the contract time.**

### 13.3. Requests for Changes

Requests for changes may be made by:

- Client
- Contractor
- Designer(s)
- Regulatory agencies
- Department

All requests must be in writing and be routed through the Project Engineer. **The Project Engineer must forward the request to the PM for a determination concerning availability of funding and the correct procurement method.**

Contractor requested changes, including those originating with a subcontractor, must be submitted on a Change Notice (BLDG-Form 16).

### 13.4. Evaluating Change Request

A change order must meet all three conditions:

- Compelling reason for changing contract instead of issuing a separate contract for added work.
- Must be within the general scope and result in substantially same end product as original contract.
- Must be within the project limits of the original contract.

Any change not meeting all three criteria is a supplemental agreement.

### 13.5. Supplemental Agreements

Supplemental agreements are a negotiated written agreement between the Department and the contractor authorizing performance of work beyond the general scope of, but in conjunction with, the original contract. Supplemental agreements are new procurement under the State procurement code, AS 36.30.

Supplemental agreements cover changes outside the scope of the contract. The Chief Contracting Officer determines whether the proposed additional work falls within or outside the scope of the contract.

Supplemental agreements are awarded to the current prime contractor. All supplemental agreements are bilateral agreements.

Supplemental agreements for federally funded projects usually require funding agencies approval before adding the work. Depending on federal funding source, send:

- A cover letter and a copy of the waiver request for alternate procurement methods and the draft supplemental agreement to the FHWA for approval.
- A cover letter and the draft Supplemental Agreement to the FAA for approval.

### 13.6. Change Orders

Change orders are written by the Project Engineer, reviewed and approved by the Project Engineer if within the Project Engineer's delegated authority or the PM (under \$25,000), or the Contracting Officer (over \$25,000). Change orders are consecutively numbered in the order of issuance.

### 13.7. Funding and Encumbrance

The PM must ensure funding is available and encumbered prior to change document or IWA being executed.

The project's change order reserve (if any) should not be used to fund client requested program changes.

If the PM has set up a program contingency fund to cover client directed discretionary changes, funding for program changes should come from the project's program contingency funds. In cases where there is no program contingency and it is anticipated that the change order reserve is not sufficient for "extra" work, the client should be advised that additional funds will be necessary to fund the work and all related design, inspection and administration costs. A contract change should not be issued prior to a funding commitment by the client.

### 13.8. Requests for Proposals

The Department uses a RFP (BLDG-Form 17) to request price proposal from the contractor for extra work. The Project Engineer drafts the RFP and sends it to the contractor with a copy to the PM. The RFP usually results from one of the many forums of a request for a change. The Project Engineer processes the RFP or CN as follows.

- Log item on the RFP/CN Log (BLDG-Form 42).
- A contractor generated CN must be submitted to the Project Engineer before any work is performed. The Project Engineer and PM need the opportunity to mitigate costs for the perceived "change". A RFP may need to be issued or a change document may be required.
- For CN's, the Project Engineer and PM confirm that the issue is a change to the contract. If it is not, the Project Engineer prepares a letter for signature by the PM to the contractor rejecting the CN. If the issue is a legitimate change to the contract documents, proceed to the next step.

- The Project Engineer prepares a draft RFP.
- The Project Engineer circulates the draft RFP for review by the PM and the design consultant if applicable.
- If applicable, the Project Engineer circulates the draft to CRO or Regional Environmental Sections if DBE goals or environmental commitments are affected (federal funds only).
- The Project Engineer establishes and communicates a specific due date for comments, stating that if no comments are received by the due date, processing will proceed without modification.
- The Project Engineer prepares final RFP by resolving/incorporating all comments, establishing deadline for response.
- Transmit the RFP to the contractor and distribute copies to the PM, and if appropriate, the design consultant.
- The Project Engineer requests an estimate from the respective consultant or prepares one himself
- Upon receipt of estimate and contractor's proposal, Project Engineer resolves any scope differences with the contractor so that both estimates cover the same scope of work.
- The Project Engineer schedules a change order negotiation meeting with Contractor.
- The PM (or Project Engineer if delegated this authority) negotiates with the contractor and the Project Engineer records the negotiations.
- If an agreement can be reached on both price and time, the Project Engineer drafts a change order in accordance with the procedures below.
- If an agreement cannot be reached, the Project Engineer may prepare a unilateral change document. It is executed when the Department signs it. If the contractor refuses to do the work – a directive is issued. After the unilateral change document is executed it is part of the contract and therefore a directive can be used.
- If an agreement cannot be reached, the Project Engineer may also consider not doing the work or doing the work under separate contract when the job is done.

### 13.9. Contract Changes and Change Order Procedures

There are two parts to every change order, the change document itself and the change order backup. The change order backup is not part of the contract change document, but is very important for other reasons.

**Change Document:** The change order is prepared on a BLDG-Form 20. The text of the change order describes the work to be done in terms of plan, specification, quantity changes (if any), references any related RFP's or RFI's and summarizes changes in contract time and cost. Any necessary attachments (drawings, catalog cuts, specifications, etc.) are identified as such by reference in the narrative. The change order may also reference documents that are not attached; e.g., building codes, existing contract specifications, previously transmitted drawings, and directives. However, it is recommended for clarity that each change order be as self contained as possible. The complete assembly constitutes the revision to the contract.

**Change Order Backup:** Documentation for every change order **must be sufficient to justify** the amount of compensation agreed upon and the necessity for the change. Personnel preparing back up must realize that the change order **must stand up to review**, sometimes **years after it is written**, and that almost any change is a potential dispute which can take years to settle. Documentation must contain information such as the following:

- Origin and necessity of the change
- Description of the change (supplementary to that described on the change document) as needed to fully explain the work
- Copies of, or reference to, all correspondence to and from the contractor that is pertinent to the change
- RFP's and RFI's pertinent to the change
- Copies of the designer and/or Project Engineer's estimate, or copies of the contractor's proposal with Project Engineer's initials signifying review and concurrence

It is not necessary that a formal document be written to summarize all the above information. It is essential, however, that all change order backup, in whatever form, be consolidated into a single file that can be easily reviewed.

IWA's are used to establish entitlement to be compensated, not to establish change to the contract price. IWA's give the contractor assurance to proceed with changed work with the understanding the Department will not dispute the contractor's right to be paid for the work.

The IWA shall be used as an exception when time is of the essence and it is not possible to negotiate a

change order before the work is performed. The Project Engineer shall endeavor to negotiate the change order in a timely manner and shall not use IWA's as a routine way of managing contract changes.

### 13.9.1 Procedures

To avoid disputes, a contractor should not be allowed to commence work on any contemplated change until after a change order is fully executed for that work. However, it is recognized that in certain cases the parties to the contract cannot afford to wait until a formal document is signed for necessary work. In such cases an IWA is issued to get the work started on a Cost of the Work basis while the two parties enter into negotiations to settle the time and cost adjustments to the contract. In accordance with the GC's, only a change order formalizes the settlement and changes the contract price.

The IWA must stipulate:

- The not-to-exceed amount of the work
- The Scope of the work
- That the IWA shall be converted into a change order based upon T&M backup
- The basis of compensation for the change order, i.e. lump sum, or time and material (T&M)

The PM shall encumber the amount of the IWA and shall disencumber the amount when encumbering the amount for the associated change order.

It may be necessary in some instances where impasse is reached in the negotiations to authorize payment for the work on a Cost of the Work (T&M) basis in the change order. In the event the work is completed prior to agreement on price, use of Cost of the Work is again the practical approach since T & M records will already have been generated to support payment, or the negotiation of a lump sum change order. The negotiation of a lump sum change order based upon T&M records may result in fewer complications during project closeout and is often a preferred approach.

If a contractor is issued an IWA to perform specific work in accordance with a Cost of the Work, **a Cost of the Work Report (BLDG-Form 19) must be filled out each day** from the date of the IWA until the work is complete. The Cost of the Work report may be filled out by the Project Engineer, but it is generally best

practice to have the contractor fill out the report daily and provide it to the Project Engineer each day for signature. **A Report must be completed even on workdays that no work is performed on the IWA.** The Project Engineer and contractor must sign the Cost of the Work report each day. If the contractor's representative will not sign the report, this fact must be reported immediately to the PM.

The cost of the work report will provide all of the information needed for executing the change order when the work is complete. Requiring agreement each day on labor, materials and equipment will eliminate the need for negotiations later.

The normal procedure for processing change orders is as follows:

- After review of the RFP and subsequent negotiations, the Project Engineer drafts the change order and forwards two originals on yellow paper and all necessary backup information to the person who will sign the approval block (approving authority.) In the case of federally funded projects three copies are forwarded. It is best practice to retain one extra original change order until the contractor returns one of the signed originals. The extra original can be destroyed once the original signed by the contractor is received.
- The approving authority reviews and signs all originals of the change order.
- For FAA funded projects, the Project Engineer transmits all three originals to the FAA. The FAA generally will retain one of the copies for their files. After FAA approval, the Project Engineer sends a transmittal letter to the contractor with copies to the Office Engineer, Chief and PM. The Project Engineer requests the SWPF Financial Coordinator encumber the change order amount. The contractor retains one original; the other is returned to the Project Engineer. On a project by project basis, the FAA may allow change orders to be approved electronically (e-mail.) If this procedure is used, only two originals are routed. The e-mail approval is filed with the change order back up.
- For state funded projects the Project Engineer sends a transmittal letter to the contractor with copies to the PM. The PM requests the SWPF Financial Coordinator encumber the change order amount, unless this duty has been delegated to the Project Engineer. The contractor retains one

original; the other is returned to the Project Engineer.

- The returned signed original document is kept in the project files.

The change order is effectively executed when signed by the Department, i.e. it becomes a unilateral change order. The change order form has two boxes next to the contractor's signature block. The contractor checks "accepted" in order to indicate concurrence and acceptance of the terms of the change order, the work ordered, as well as the compensation allowed. Occasionally a contractor may not agree with the terms of a change order, in which case the contractor may check "acknowledged". This preserves the contractor's right to file an "Intent to Claim", provided that the contractor follows the claims and disputes clauses of the contract (including timely notice).

Every effort should be made to reach accord regarding price and time on every change order. However, if negotiations reach an agreement on price, but not time, the unilateral change order allows the contractor to be paid for the work on the next pay estimate and continue to dispute the time extension. This removes costly interest payments when the time extension dispute is settled.

### 13.10. Requirements for Professional Seals

Policy and Procedure 70-1003 requires that plans, drawings, plats, and all reports or similar documents that the public relies on for the design or construction of a project must be sealed by the designer of record or by the person under whose direct supervision they were prepared. This requirement can be found at the SWDES Construction Standards website.

Technical change orders made during construction that fall within the practice of architecture, engineering, or land surveying must be sealed by the designer of record or shall bear the seal, date and signature of those making the design change or under whose direct supervision the change was made. See AS 08.48.341 (9, 10, and 11) for the definitions of the practice of architecture, engineering, or land surveying.

#### Seal Required

Some examples of technical change orders that require a professional seal are:

- Mechanical design changes to heating and ventilation systems, piping systems, pumps, etc.

- Structural design changes to a building, column, piling, footing, retaining wall, structural member, etc.
- Changes related to type or quality of material requirements.
- Revisions in geometric design (width, length, height).
- Revisions of pavement structural section.
- Changes to safety appurtenances.
- Technical specification changes.
- Typical section modifications.

#### Seal Not Required

Some examples of nontechnical change orders are:

- Administrative matters, such as quantities and payment amounts.
- Extension of contract time.
- Changes to methods of measurement and basis of payment.
- Changes to specifications not related to structural elements (seed specifications, color selections, temporary facilities, etc.)
- Changes to utilities requested by the utility owner, or repairs to utilities, that do not affect the public facility structure.
- Changes to drainage features that do not affect the function of the facility or impact adjacent property owners.
- Temporary erosion, sediment and pollution control best management practices (BMP).

The seal must comply with 12 AAC 36.180. The regulation allows for a similar electronic or digital representation of the seal.

If other registered professionals prepare portions of plans, documents, or other professional work, a registrant may seal only the portion of the work for which it has direct professional knowledge and direct supervisory control (12 AAC 36.185.7[b], Use of Seals).

The Project Engineer, in consultation with the PM, should decide early in the change order process if the change is technical and if it is necessary for the change to be sealed.

The change order form does not have an area for a seal to be applied or inserted. If required, the seal must be affixed to an attachment. Note on the change order form that the attachment is sealed.



### **13.11. Procurement of Supplies vs. Procurement of Construction**

Items that normally would be procured as supplies (furniture, technology, service agreement, etc.) are often incorporated into a contract as part of the procurement for construction. Sometimes towards the end of a construction contract a client may request additional “supplies” if the project still has remaining funds.

The Project Engineer needs to be aware that procurement of these requested “supplies” may or may not be eligible for procurement as part of the construction contract. **As with all changes, the Project Engineer must forward the request to the PM for a determination concerning availability of funding and the correct procurement method.**

## 14. Contract Time

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- 14.1. General
- 14.2. Temporary Suspension of Work
- 14.3. Seasonal Suspension of Work
- 14.4. Extension of Contract Time
- 14.5. Liquidated Damages

### 14.1. General

The contractor must complete the project within time specified in the contract. The contract establishes the completion time or date based on the designers estimate of the time reasonably required to complete the work. Some contracts contain interim completion dates for portions of the work.

The most commonly specified completion times are:

- Fixed completion date
- Set number of calendar days

A contractor failing to complete the work on time may be assessed liquidated damages. These damages are meant to compensate the Department for additional construction engineering costs and / or loss of use impacts to client or the public.

The liquidated damages are calculated during design and shown in the contract.

On a calendar day contract, the count of contract time starts on the day stated in the NTP. Time is not counted during designated shut down periods (if any) specified in the contract. The count of contract time ceases upon substantial completion.

### 14.2. Temporary Suspension of Work

The Contracting Officer may temporarily suspend work for reasons specified in the contract. Contract time may continue to be charged during those periods.

If the temporary suspension impacts work on a pay item that is on the contractor's critical path schedule and it is a controlling factor in project progress, the suspension may entitle the contractor to an extension of contract time.

The Contracting Officer (or designee with delegated authority) will issue all temporary suspension orders and orders to resume work in writing. The directive (BLDG-form 36) or a letter to the contractor will be used. Orders to resume work will state the remaining contract time.

When the temporary suspension of work changes the completion date, or adds calendar days to the contract time, a change document must be issued. Only whole days of contract time are charged, beginning and ending at midnight.

### 14.3. Seasonal Suspension of Work

On calendar day contracts, the count of contract time stops only during the calendar dates specified in the contract (if any). Seasonal suspension of work is rarely a factor in SWPF projects.

The timing of the seasonal shutdown, if allowed in the contract, as well as the resumption of work, is dependent on the weather, the nature of the project, the contractor's plans, and the concurrence of the PM.

Depending on the language in the contract, either the contractor or the Department may be responsible for maintenance during the seasonal suspension.

It is incumbent on the Project Engineer, contractor, and client's maintenance and operations representative to work together in advance of the shutdown to document the condition of a partially-completed facility and to assure that it is in safe maintainable condition before the contractor suspends work.

Prior to the work suspension, the Project Engineer should record the condition of the facility using a video camera (if available) or a still camera. Project Engineer should repeat the recording following the seasonal suspension.

With approval of the PM, the Project Engineer will issue the seasonal suspension order and the resume work order in writing. The directive (BLDG-form 36) or a letter to the contractor will be used.

The order to resume work should state the remaining contract time, and should provide notice to the contractor that the client will be terminating seasonal maintenance if applicable.

### 14.4. Extension of Contract Time

If additional work is added by change order or supplement agreement, contract time may be increased based on the amount and difficulty of the additional work and/or the estimated time to complete it.

If the Department suspends work that is a controlling factor in job progress and the contractor request an equitable extension of contract time; it should be granted using a change document.

The time impact evaluation form (BLDG Form 37) should be used to calculate an equitable extension of contract time. The primary evaluation factor is how the contractor's critical path schedule, as accepted by the Department, has been impacted.

#### **14.5. Liquidated Damages**

A contractor's failure to complete the project by the completion date or within the allotted contract time, establishes the basis for the assessment of liquidated damages. These damages, shown in the contract, are meant to compensate the Department for its additional construction engineering costs and / or loss of use impacts to client or the public, resulting from the contractor's failure to complete the project in the time allowed.

If it becomes apparent the contractor may not be able to complete the work on time or is otherwise failing to make satisfactory progress, **the Project Engineer prepares and PM signs a letter alerting the contractor of the probability of being assessed retainage for falling behind schedule and/or incurring liquidated damages and requesting a plan for improving the rate of progress.** The Contracting Officer will be sent a copy of the letter. No retainage will be assessed without written approval of the Contracting Officer.

When the Department must assess liquidated damages, it calculates them in accordance with the contract, using the established daily charge.

Before assessing liquidated damages, the Project Engineer will discuss the situation with the PM and then the contractor. The Project Engineer must give the contractor written notice. The PM may contact the bonding agent only after Contracting Officer consultation and approval.

Liquidated damages are shown as deductions on all subsequent progress payments, including the final estimate. Contracts that contain intermediate completion dates may require the assessment of liquidated damages at specified rates for failure to complete by that intermediate date. These liquidated damages are shown in the same manner on all subsequent progress payments, including the final estimate.

## 15. Contract Completion

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- 15.1. Start-up, Commissioning, and System Demonstration
- 15.2. Partial Acceptance
- 15.3. Requirements for Substantial Completion Inspection
- 15.4. Substantial Completion
- 15.5. Inspection Procedures
- 15.6. Verifying Substantial Completion
- 15.7. Certificate of Substantial Completion
- 15.8. Final Completion Inspection
- 15.9. Final Completion

### 15.1. Start-up, Commissioning, and System Demonstration

The Project Engineer coordinates with the contractor and client to arrange for start-up, operations training, and systems demonstration required by contract. The Project Engineer also attends meetings called by the PM and client relating to tenant move-in.

### 15.2. Partial Acceptance

The Department may partially accept completed usable units or portions of the work, as allowed by contract.

Partial acceptances permit early occupancy of units and allow different timelines for warranty periods.

The Project Engineer should follow procedures below for substantial completion and final inspections. The certificate of substantial completion and final completion acceptance letter should include statements as to the limitations of the acceptance. A conditional certificate of occupancy must be obtained for each unit partially accepted.

### 15.3. Requirements for Substantial Completion Inspection

The Project Engineer receives the following from the contractor prior to scheduling substantial completion inspection:

- Written request for substantial completion inspection.
- Written list of items not complete or needing correction.
- All operation and maintenance manuals received and accepted by Department.
- All commissioning requirements have been met.
- All equipment and systems tested, adjusted, balanced and fully operational.

- All demonstration and training requirements have been met.
- All automated and manual controls are fully operational.
- Operation of all equipment and systems have been demonstrated to the Department.
- Certificate of occupancy is submitted.
- Certificate of inspection for required inspections have been submitted.
- Project record documents for work or portion of the work being accepted are submitted and approved.
- Spare parts and maintenance materials are turned over to the Department.
- All keys are turned over to the Department.
- All warranties and bonds are submitted and approved.
- Final cleaning has been completed to the satisfaction of the Department.

### 15.4. Substantial Completion

The contractor may request inspection and acceptance of project or portion of project as being "substantially complete". This means there is still unfinished work, but work is complete enough for facility to be put to its intended use (i.e., occupied and operated). All mechanical, electrical, and architectural features must be completed to the extent that work on punch list items will not adversely affect or disrupt the occupancy and use of the facility or the life and safety of the occupants of the facility.

Substantial completion is contractually important because it establishes cutoff date for assessing liquidated damages, if any, and starts the warranty period for equipment and systems not previously turned over to the Department. All operational function tests must be complete in compliance with the contract requirements before substantial completion.

### 15.5. Inspection Procedures

The contractor must request substantial completion inspection **in writing** and list all items that are not complete. Sufficient time (per contract) must be allowed to notify all attendees; 14 days advance notice is typically specified.

The Project Engineer, inspectors (if any) and contractor jointly conduct walk through to verify work

is sufficiently complete for occupancy. The Project Engineer also verifies all special inspection reports are complete and in hand before scheduling substantial completion inspection.

The Project Engineer should invite the following people in writing:

- Chief
- PM
- Inspectors
- Contractor's representative
- Critical subcontractors
- Respective design consultant
- Critical design sub-consultants
- Client designee with authority to make decisions concerning issues relating to occupancy
- FAA PM (FAA funded projects only)
- Client maintenance personnel

The Project Engineer creates a punch list of known deficiencies prior to inspection and provides list to inspection party. The Project Engineer organizes and leads inspection party.

Operational tests of all systems should be conducted for inspection party even though the contractor previously tested individual systems for Project Engineer.

All members of inspection party should compile own punch lists and transmit lists to the Project Engineer for consolidation. The Project Engineer sends consolidated punch list to the PM.

Consolidated punch list item should include:

- Deficiency
- Location
- Specific instruction on required correction

The Project Engineer transmits consolidated punch list to contractor with or before issuance of the certificate of substantial completion.

### **15.6. Verifying Substantial Completion**

The Project Engineer and client must mutually concur on acceptability of the facility. When accepted, the Project Engineer prepares and issues a certificate of substantial completion (BLDG-Form 27) within 14 days of the inspection. The PM and contractor sign the form. The acceptable date is the date of the inspection.

If unacceptable, the Project Engineer issues a letter to the contractor including:

- Reason(s) work isn't substantially complete
- Reminder - one re-inspection allowed at no charge to the contractor
- Reminder – Department's cost for all subsequent re-inspections are borne by the contractor
- Consolidated punch list as attachment

The Project Engineer recovers Department's cost for re-inspections (2<sup>nd</sup> re-inspection and subsequent) through a deductive change order.

### **15.7. Certificate of Substantial Completion**

The certification serves a threefold purpose:

- Establishes date project (or portion thereof) was ready for beneficial occupancy
- Documents the contractor's agreement to rectify deficient and uncompleted punch list work
- Establishes both parties' responsibilities for security, operation, safety, maintenance, heat, utilities, insurance, and warranties pending final completion of entire project

The PM and contractor each sign two original certificates. The contractor retains one original and other is kept in project file.

### **15.8. Final Completion Inspection**

The Contractor notifies the Project Engineer in writing that work (or portion thereof) is complete, including all punch list items previously identified. The contractor's certification of final completion (either a form or letter) must state work is ready for final inspection. Upon such notice the PM and Project Engineer make the inspection.

If deficiencies are found on final completion inspection, the Project Engineer gives the contractor a letter stating project is not accepted for final completion and the contractor is responsible for all re-inspection costs until the work is done.

### **15.9. Final Completion**

Once the Project Engineer verifies the contractor satisfactorily completed all physical construction on project, including all punch list items and final clean up, the project is ready for project completion. The Project Engineer prepares final completion letter (Sample 09) for the PM's signature.

## 16. Project Closeout

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- 16.1. Overview
- 16.2. Checklist for State Funded Projects Closeout
- 16.3. Federally Funded Projects (FHWA & FAA) Closeout
- 16.4. Federally Funded Projects (Other) Closeout
- 16.5. Building Facilities Form
- 16.6. Final Acceptance
- 16.7. Obligations to Client
- 16.8. Bonds
- 16.9. Warranties
- 16.10. Final Construction Completion Report

### 16.1. Overview

The project closeout process has two primary goals:

- Verification that contractual obligations have been met
- Timely final payment to Contractor

The following steps should be followed upon receipt of contractor's application for final payment.

### 16.2. Checklist for State Funded Projects Closeout

The Project Engineer and PM will jointly:

- Review checklist (see section 17.35)
- Initial all acceptable items
- Notify contractor of missing or unacceptable items (if any)
- Review final pay estimate when checklist is complete
- Forward checklist, documents and final pay estimate to Senior PM when complete

The Senior PM will review the documents for accuracy and completeness regarding:

- Liquidated damages (if any)
- Statement of accounts
- Notice of completion (Dept. of Labor)
- Original Contractor's Release

The Senior PM then does the following:

- Requests corrections (if required)
- Initials-off on checklist when complete
- Initials-off on final pay estimate

- Submits final pay estimate to the SWPF Financial Coordinator for processing

### 16.3. Federally Funded Projects (FHWA & FAA) Closeout

The Project Engineer will:

- Complete the closeout checklist (see section 17.35)
- Review contract for other requirements
- Submit checklist along with all required documents to Central Region Quality Assurance Engineer (QAE) for review. Documents must be submitted with the appropriate transmittals.
- Make any requested corrections and re-submit to QAE
- Receive Certification of Final Estimate (BLDG-Form 29) from QAE and obtain necessary signatures. Return the signed form to QAE.
- Receive the Final Acceptance letter prepared by QAE and obtain signature of the Contracting Officer. Mail the original signed letter to the contractor and distribute copies to all necessary persons.
- Receive project documents returned from QAE and prepare them for archiving.
- Receive the final pay estimate assembly from QAE

The PM will:

- Submit final pay estimate to the SWPF Financial Coordinator for processing

### 16.4. Federally Funded Projects (Other) Closeout

The PM should develop a checklist that includes the closeout requirements for the funding type.

The Project Engineer will:

- Receive and review items on the PM's checklist (if available)
- Review contract for any additional required documentation
- Submit checklist along with all required documents to Supervisor for review
- Make corrections requested by Supervisor
- Submit final pay estimate assembly to PM

## 16.5. Building Facilities Form

The State of Alaska is self insured. The Office of Risk Management maintains an inventory of state owned facilities for insurance purposes.

For new construction or project adding space to existing state facility, the Project Engineer will:

- Complete the Building Facilities Form used by the particular client agency. Confirm with the Facility Manager that the form being used is the appropriate form.
- Do not complete the AKSAS Coding section of the form.
- Send the completed form to the Facility Manager for signature, completion of the AKSAS Coding section and submission to the Office of Risk Management.
- Obtain a copy of the completed form for the project files.  
(Rev. 12-8-14)

## 16.6. Final Acceptance

After the PM signs the final pay estimate, the Project Engineer prepares the Final Acceptance letter (see section 17.56) and obtains the Contracting Officer's signature. The Project Engineer then mails the original signed letter to the contractor, and distributes copies to all necessary persons.

## 16.7. Obligations to Client

The PM and Project Engineer will review the RSA and ensure all obligations to the client are being met.

The Project Engineer will:

- Transmit original certifications, O&M Manuals, Warranties & Bonds (retain one for file) to client
- Arrange for drafting of Record Drawings using existing PSA if possible, or new PSA if necessary
- Transmit copies of contractor's as-built drawings and Record Drawings to client (retain originals for SWPF archives).

The PSA PM must draft a consultant performance evaluation(s) and submit to the Chief.

## 16.8. Bonds

The PM must ensure contract specifications are clear on format and manner contractor prepares individual warranties and bonds. The contract secures one-year correction period by requiring contractor's performance

and payment bonds to remain in effect for one year after date of Final Acceptance.

## 16.9. Warranties

The Project Engineer must ensure contractor responds to all warranty deficiencies noted during warranty period unless specifically waived by client in writing. The PM (or Project Engineer) should communicate with client regularly to confirm warranty issues are being resolved and no new issues have arisen.

The Project Engineer should set up and conduct a warranty inspection with client approximately one month prior to expiration of warranty period.

Contracts require contractor to correct defective work for one year after date of substantial completion. The one year correction period does not relieve the contractor from fixing defective work discovered after one year correction period.

In addition to the one-year correction period, the specifications may require certain equipment and work items to be guaranteed for a longer period. Certain portions of the work may also have their warranty periods start earlier than the substantial completion date if that work has been taken over and put into use by the department or client before the substantial completion date.

Each warranty in effect before the final/substantial completion date should have its beginning date filled in; otherwise, the date used will be the date of the final/substantial completion inspection.

## 16.10. Final Construction Completion Report

The PM and Project Engineer jointly complete the project closeout data sheet (BLDG-Form 32). This form is given to the Administrative Assistant for entry into the SWPF data base.

## 17. Exhibits – Index, Forms, Worksheets, Letters, and Memos


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- 17.1. Meeting Sign In: BLDG-Form 01
- 17.2. Contractor Delegation of Authority: BLDG-Form 02
- 17.3. Telephone Log: BLDG-Form 03
- 17.4. Site Visit Sign-in: BLDG-Form 04
- 17.5. Subcontractor Certification: BLDG-Form 05
- 17.6. Labor Compliance: BLDG-Form 06
- 17.7. Permit Log: BLDG-Form 07
- 17.8. Alaska Forest Products Certification: BLDG-Form 08
- 17.9. Daily Inspection Report: BLDG-Form 09
- 17.10. Substitution Request: BLDG-Form 10
- 17.11. Submittal Log: BLDG Form 11
- 17.12. Non Compliance Notice: BLDG Form 12
- 17.13. Non-Compliance Notice Log: BLDG-Form 13
- 17.14. Request for Information: BLDG-Form 14
- 17.15. Request for Information Log: BLDG-Form 15
- 17.16. Change Notice: BLDG-Form 16
- 17.17. Request for Proposal: BLDG-Form 17
- 17.18. Request for Proposal/Change Notice Log: BLDG-Form 18
- 17.19. Cost of Work: BLDG-Form 19
- 17.20. Change Order: BLDG-Form 20
- 17.21. Supplemental Agreement: BLDG-Form 21
- 17.22. Interim Work Authorization: BLDG-Form 22
- 17.23. Schedule of Values: BLDG-Form 23
- 17.24. Progress Summary: BLDG-Form 24
- 17.25. Periodic Estimate for Partial Payment: BLDG Form 25
- 17.26. Stored Materials: BLDG-Form 26
- 17.27. Certificate of Substantial Completion: BLDG-Form 27
- 17.28. Contractor's Release: BLDG-Form 28
- 17.29. Certification of Final Estimate: BLDG-Form 29
- 17.30. Contractors Civil Rights Representatives: BLDG-Form 30
- 17.31. EEO-1 Certification: BLDG-Form 31
- 17.32. Project Closeout Data: BLDG-Form 32
- ~~17.33. Insurance Memorandum: BLDG-Form 33 Deleted 12-8-14~~
- 17.34. Final Estimate Funding Breakout: BLDG-Form 34
- 17.35. Construction Contract Closeout Checklists: BLDG-Form 35 and FAA & FHWA Checklist
- 17.36. Directive: BLDG-Form 36
- 17.37. Time Impact Evaluation: BLDG-Form 37
- 17.38. Project Completion Form Certification – Design: BLDG-Form 38
- 17.39. Project Completion Form Certification – Construction: BLDG-Form 39
- 17.40. CSI Division 1 Checklist: BLDG-Form 40
- 17.41. Project Engineer Responsibility Checklist: BLDG-Form 4
- 17.42. Contractors Log: BLDG Form 42 (Option to Replace Multiple Forms)
- 17.43. Project Budget: BLDG-Form 43
- 17.44. Project Status Report
- 17.45. Notice to Proceed Letter: Sample 01
- 17.46. Preconstruction Conference Agenda: Sample 02
- 17.47. Authorizations and Limitations Letter: Sample 03
- 17.48. EEO Poster: Sample 04
- 17.49. Schedule of Values Acceptance Letter: Sample 05
- 17.50. Progress Schedule Acceptance Letter: Sample 06




- 17.51. Submittal Schedule Acceptance Letter: Sample 07
- 17.52. Subcontract Approval Letter: Sample 08
- 17.53. Final Completion Letter: Sample 09
- 17.54. Labor Tax Clearance Memo: Sample 10
- 17.55. Revenue Tax Clearance Memo: Sample 11
- 17.56. Final Acceptance Letter: Sample 12
- 17.57. Flow of Information Diagram: Sample 13 – For Preconstruction Meeting Handout

**17.1. Meeting Sign In: BLDG-Form 01**

STATE OF ALASKA DOT & PF STATEWIDE PUBLIC FACILITIES	DATE: LOCATION:	
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Print Name	Firm	Phone	email

17.2. **Contractor Delegation of Authority: BLDG-Form 02**

<p><b>STATE OF ALASKA DOT &amp; PF PUBLIC FACILITIES BRANCH</b></p>	<p><b>CONTRACTOR DELEGATION OF AUTHORITY</b></p>	
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Contractor: \_\_\_\_\_

Project Name: \_\_\_\_\_ Project # \_\_\_\_\_

The contract documents contain several requirements that the Contractor identify employees with various authorities and/or responsibilities. This form is provided for your convenience in meeting the requirements common to most contracts. Other requirements may exist. The referenced paragraphs in General Provision (00700) sections do not apply to Small Procurement Contracts.

Please complete the applicable portions of this form and return it to the Project Manager. A letter will be furnished to you that defines the authorities and responsibilities of Department, Using Agency and Consultant personnel.

<u>Authority to sign Applications for Payment</u>	
_____ Printed Name	_____ Sample Signature
_____ Printed Name	_____ Sample Signature
<u>Authority to Sign Change Orders and Change Notices</u>	
_____ Printed Name	_____ Sample Signature
_____ Printed Name	_____ Sample Signature
<u>Safety Representative</u>	
_____ Printed Name	

BLDG-Form 02  
Page 1 of 2  
H:/BUILDDOC/OFFICE/FORMS/FR02.CONTR.DELEG

Rev 5/01

Project Superintendent

\_\_\_\_\_

Printed Name Telephone Number

\_\_\_\_\_

Local Address

Shop Drawing/Submittals

\_\_\_\_\_

Printed Name Sample Initials

Sample Stamp:

I certify that the above personnel have been delegated the authorities and responsibilities referenced in the contract documents:

\_\_\_\_\_  
Signature of Owner, Partner or Corporate Officer Date

\_\_\_\_\_  
Name, printed or typed

17.3. Telephone Log: BLDG-Form 03

STATE OF ALASKA DOT & PF STATEWIDE PUBLIC FACILITIES	TELEPHONE LOG	
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Project: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Call To: \_\_\_\_\_ With: \_\_\_\_\_

Call From: \_\_\_\_\_ With: \_\_\_\_\_

Re:


BLDG-Form 03


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17.4. Site Visit Sign-in: BLDG-Form 04

<p>STATE OF ALASKA DOT &amp; PF</p> <p>STATEWIDE PUBLIC FACILITIES</p>	<p>Statewide Project Name &amp; Number</p> <p><b>SITE VISIT SIGN-IN</b></p>	
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Date	Name	Firm	Time In	Time Out

**17.5. Subcontractor Certification: BLDG-Form 05**

<b>STATE OF ALASKA DOT &amp; PF STATEWIDE PUBLIC FACILITIES</b>	<b>SUBCONTRACTOR CERTIFICATION</b>	
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**Note:** The Contractor shall provide this form for ALL subcontractors working on this project. This form is applicable to all projects, including Small Procurement Contracts, and must be completed in full.

PROJECT: \_\_\_\_\_ PROJ. #: \_\_\_\_\_

PRIME CONTRACTOR: \_\_\_\_\_

Pursuant to the Contract Documents, we hereby stipulate the following concerning the award of Work to the last Subcontractor on the following list:

- 1. First Tier Subcontractor: \_\_\_\_\_ DBE? Yes  No
- Second Tier: \_\_\_\_\_ DBE? Yes  No
- Third Tier: \_\_\_\_\_ DBE? Yes  No
- Fourth Tier: \_\_\_\_\_ DBE? Yes  No

2. Date of Subcontract: \_\_\_\_\_

3. Amount of Subcontract: \$ \_\_\_\_\_

4. Scope of Work: \_\_\_\_\_  
\_\_\_\_\_

5. Are the following documents kept on file by both the Contractor and the Subcontractor (check the appropriate answer)?

- EEO-1 Certification (Form 25A304), federally funded projects only Yes  No
- Contract Minimum Wage Schedule Yes  No
- Civil Rights Representative (Form 25A302) Yes  No

6. Does the Subcontract contain provisions for prompt payment, release of retainage, and interest on late payment and retainage conforming to AS 36.90.210? Yes  No

7. Does the Subcontract specifically bind the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the Department and does it contain waiver provisions and termination provisions as required by the Contract Documents? Yes  No

8. a. Does the Subcontractor have adequate insurance coverages as specified in the Contract Documents? Yes  No

If not, does the Contractor stipulate that the insurance limits of the Subcontractor are acceptable to the Contractor and that he has notified his insurance carrier of the reduced insurance limits? Yes  No

b. Does the evidence of insurance certify that the policies described thereon comply with all aspects of the insurance requirements for this project? Yes  No

c. Does the evidence of insurance list the Department as an "Additional Insured" or "Certificate Holder"? Yes  No

**PROJECT:** \_\_\_\_\_ **PROJ. #:** \_\_\_\_\_

**Subcontractor Name:** \_\_\_\_\_

d. Does the evidence of insurance commit to providing written notice in accordance with the policy provisions before cancellation or reduction of any coverage or reduction in any limits of liability?  
**Yes**  **No**

e. Insurance Expiration dates:  
Comprehensive or Commercial General Liability: \_\_\_\_\_  
Automobile: \_\_\_\_\_ Workers' Compensation: \_\_\_\_\_  
(Other): \_\_\_\_\_

9. Does the Contractor certify firms or individuals debarred or suspended by the Department, FAA, or FHWA are not employed or subcontracted under this construction project?  
**Yes**  **No**

10. Copies of the following professional certifications, licenses, and registrations are attached (circle all that apply):  
Business License (mandatory)  
Contractor License (mandatory)  
Land Surveyor's License  
Electrical Administrator's License (mandatory for electrical subs)  
Mechanical Administrator's License (mandatory for mechanical subs)  
Engineer/Architect  
Other: \_\_\_\_\_

11. Exceptions to any of the above are explained as follows: \_\_\_\_\_  
\_\_\_\_\_

**CERTIFICATION (to be completed and signed by PRIME CONTRACTOR):** I certify all the above to be true and correct.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Company: \_\_\_\_\_

Date: \_\_\_\_\_

**DEPARTMENT'S APPROVAL/DISAPPROVAL**

The subject subcontract is **APPROVED**. Nothing in this approval should be construed as relieving the Prime Contractor of the responsibility for complete performance of the work or as a waiver of any right of the Department to reject defective work.

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_  
Project Engineer

The subject subcontract is **NOT APPROVED** for the following reasons:  
\_\_\_\_\_  
\_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_  
Project Engineer



**17.6. Labor Compliance: BLDG-Form 06/25D-040**

**LABOR COMPLIANCE INTERVIEW**

PROJECT NO. (Federal/AKSAS) \_\_\_\_\_

PROJECT NAME: \_\_\_\_\_

NAME OF EMPLOYEE INTERVIEWED: \_\_\_\_\_

PRESENT ADDRESS: \_\_\_\_\_

PERMANENT ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

EMPLOYED BY: \_\_\_\_\_

*If a subcontractor, check files for an approved subcontract. If there is no subcontract, notify Project Engineer.*

WORK PERFORMED BY EMPLOYEE: \_\_\_\_\_

*Be specific as to type and size of equipment used or duties performed so work can be correctly classified.*

HOW MUCH DO YOU MAKE AN HOUR? \_\_\_\_\_

PAID FOR ALL HOURS WORKED? Yes \_\_\_\_\_ No \_\_\_\_\_

ARE STRAIGHT TIME AND OVERTIME HOURS CORRECT? Yes \_\_\_\_\_ No \_\_\_\_\_  
 (Paid time & 1/2 over 8 hours per day or 40 hours per week?)

ARE YOU PAID WEEKLY & PAYROLL DEDUCTIONS PROPER? Yes \_\_\_\_\_ No \_\_\_\_\_

COMMENTS: \_\_\_\_\_

INTERVIEWED BY: \_\_\_\_\_ Date: \_\_\_\_\_

*Information from contract and wage bulletins:*

	State Minimum Wage		Federal Minimum
Basic Hourly Rate:	_____	Basic Hourly Rate:	_____
Fringe Benefit Rate:	_____	Fringe Benefit Rate:	_____
Total State Rate:	_____	Total Federal Rate:	_____


*Information from payrolls:*

Payroll # or date: \_\_\_\_\_  
 Job Class (stated on payroll): \_\_\_\_\_ (ex., laborer II, operator IV, truck driver I, etc.)  
 Is Job Classification from Interview Correct? \_\_\_\_\_  
 Basic Hourly Rate: \_\_\_\_\_  
 Overtime Rate: \_\_\_\_\_  
 Fringe Benefit Rate: \_\_\_\_\_  
 Total Rate Paid: \_\_\_\_\_

Checked by: \_\_\_\_\_ Date: \_\_\_\_\_

**Note: If Contract is over 24 months old, new State wage rates apply.**

17.7. Permit Log: BLDG-Form 07

<b>STATE OF ALASKA</b> DOT & PF <b>STATEWIDE PUBLIC FACILITIES</b>	<b>CONSTRUCTION RELATED PERMIT LOG</b>					
Project No.:	Project Name:					
Contractor:	Project Engineer:					
PERMIT DESCRIPTION	PARTY RESPONSIBLE FOR PERMIT APPLICATION	FIRST SCHEDULED WORK ITEM DEPENDENT ON PERMIT	SCHEDULED START DATE OF DEPENDENT WORK ITEM	DATE OF APPLICATION	DATE OF RECEIPT IN PROJECT OFFICE	COMMENTS

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BLDG-Form 07

17.8. Alaska Forest Products Certification: BLDG-Form 08

<p><b>STATE OF ALASKA DOT &amp; PF</b></p> <p><b>STATEWIDE PUBLIC FACILITIES</b></p>	<p><b>ALASKA FOREST PRODUCTS CERTIFICATION</b> (State Funded Projects Only)</p>	
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Project Name:	Project No.:
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In accordance with AS 36.30.322 and Article 7, paragraph 7.12.3 of the General Conditions, I certify the following:

Check One

- No wood products will be used in the permanent construction of this project.
- All Alaska forest product suppliers listed by the Alaska Department of Commerce and Economic Development have been contacted and none is able to supply the wood products as specified by this contract.
- All Alaska forest product suppliers listed by the Alaska Department of Commerce and Economic Development have been contacted and none is able to supply the wood products as specified by this contract within a cost of seven percent of the price of open market woods.
- All Alaska forest product suppliers listed by the Alaska Department of Commerce and Economic Development have been contacted and the Alaska wood products and the following list of qualifying products shall be used in this contract. The remaining wood products are either not available or in excess of seven percent higher in the cost of the product.

\*\*\*\*\*


List Alaska Wood Products to be used in this project:

Product	Supplier
_____	_____
_____	_____
_____	_____
_____	_____

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

17.9. Daily Inspection Report: BLDG-Form 09

STATE OF ALASKA DOT & PF STATEWIDE PUBLIC FACILITIES		DAILY INSPECTION REPORT PROJECT NO: PROJECT NAME:						
CONTRACTOR:		INSPECTOR:		DATE:				
		PROJECT ENGINEER:		WEATHER:				
		START TIME:		FINISH TIME:				
<b><i>Contractor's Manpower</i></b> (Note if Prime or Subcontractor)								
Contractors/Sub								
Contractors								
Superintendent								
Foreman								
Operators								
Carpenters								
Ironworkers								
Laborers								
Other								
<b>Equipment on Site</b>								
Agreements:								
Material Delivered to Site:								
Safety Precautions Recommended:								
Action Taken:								

Additional Contract Activities or Contract Change Order Activities this date. (indicate which)

Activities Inspected or Observed this Date (Note activity number and associated start/stop time):

Continue on Attached Sheet if Necessary

Follow-Up Actions

Notices Issued/Received:

Checklists Prepared:

CPM Scheduled Activities Started and Ended today

**Distribution**

Original - Project Engineer  
Copy - Contract File

**Inspector** \_\_\_\_\_  
Signature

**Project Engineer** \_\_\_\_\_  
Signature

**DAILY INSPECTION REPORT (CONT'D)**

Activities Inspected or Observed this Date (Continued):

[Empty box for reporting activities inspected or observed]


***Distribution***

Original - Project Engineer  
Copy - Central Office File

***Inspector*** \_\_\_\_\_  
Signature

***Project Engineer*** \_\_\_\_\_  
Signature

## 17.10. Substitution Request: BLDG-Form 10

<b>STATE OF ALASKA DOT &amp; PF STATEWIDE PUBLIC FACILITIES</b>	<b>SUBSTITUTION REQUEST FORM (after Award)</b>	
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Project:

Project No.:

Contractor:

Specified item for which substitution is requested:  
(reference specification section and paragraph)

The following product is submitted for substitution:

(describe proposed substitution and differences from specified item; attach complete technical, performance, and test data; state whether substitution affects dimensions and functional clearances shown on drawings or affects other trades, and include complete information for changes to drawings and/or specifications which proposed substitution will require for its proper installation.)

I certify the following:

- | Yes                      | No                       |  |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | The substitute will perform adequately and achieve the results called for by the general design.   |
| <input type="checkbox"/> | <input type="checkbox"/> | The substitute is similar, of equal substance, suited to the same use, and will provide the same warranty as the product specified.  |
| <input type="checkbox"/> | <input type="checkbox"/> | An equivalent source of replacement parts is available.  |
| <input type="checkbox"/> | <input type="checkbox"/> | The evaluation and approval of the proposed substitute will not delay the Substantial or Final Completion of the project.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Any change in the design necessitated by the proposed substitution will not delay the Substantial or Final Completion of the project.  |
| <input type="checkbox"/> | <input type="checkbox"/> | The cost of any change in the design necessitated by the proposed substitution, including engineering and detailing costs, and construction costs caused by the substitution will be paid by the contractor at no cost to the State. |
| <input type="checkbox"/> | <input type="checkbox"/> | The cost of any license fee or royalty necessitated by the proposed substitution will be paid by the contractor at no cost to the State.   |

The undersigned states that the function, appearance and quality are equivalent or superior to the specified item.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Authorized Contractor Signature

---

Architect/Engineer Recommendation:

Accepted       Accepted as Noted       Not Accepted       Received Too Late

Remarks:

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Architect/Engineer

---


Recommend Acceptance / Rejection \_\_\_\_\_ Date: \_\_\_\_\_  
(circle one) Resident Engineer

Accepted  
 Rejected \_\_\_\_\_ Date: \_\_\_\_\_  
Project Manager






17.11. Submittal Log: BLDG Form 11

<b>STATE OF ALASKA DOT &amp; PF STATEWIDE PUBLIC FACILITIES</b>			<b>SUBMITTAL LOG</b>						
PROJECT NO:			PROJECT:						
PROJECT MANAGER:			RESIDENT ENGINEER:						
CONTRACTOR:									
SUBMITTAL #	DESCRIPTION & SPECIFICATION REFERENCE	CONTR TRANS NO.	DATE REC'D	TO A/E	FROM A/E	Project Manager		TO CONTRACTOR	STATUS
						TO	FROM		
1. No exceptions taken			2. Make corrections noted			3. Revise and resubmit		4. Rejected	

17.12. Non Compliance Notice: BLDG Form 12

<b>STATE OF ALASKA DOT &amp; PF STATEWIDE PUBLIC FACILITIES</b>	<b>NON-COMPLIANCE NOTICE</b>  No.: _____	
PROJECT:	PROJECT NO.:	
CONTRACTOR:	VERBAL NOTICE DATE/TIME:	
TO: _____ FROM: _____		
The following item(s) is/are in non-compliance with the Contract Documents. Corrective action is to be taken immediately. If applicable, until the corrective action is completed, no monies may be paid for the item(s) and the cost of all corrective action shall be borne by the Contractor.		
Contractor corrective action applicable: YES <input type="checkbox"/> NO <input type="checkbox"/>		
Spec. Ref.:	Plan Ref.:	
Description:		
_____ Project Engineer		

BLDG-Form 12  
H:/BUILDDOC/OFFICE/FORMS/FR12.NON.COMPLIANCE.NOT

Rev 5/01

CONTRACTOR'S CORRECTIVE ACTION PROPOSAL:

Date: \_\_\_\_\_

\_\_\_\_\_  
Contractor's Project Manager

\_\_\_\_\_  
Project Engineer

Design Engineer Comments:

Proposal is Acceptable:                      Is not Acceptable-Resubmit

Need More Back-up Data                      Submit Sketch/Drawings/

See Attached Comments                      Materials/Calculations

\_\_\_\_\_  
Architect/Engineer of Record

CORRECTIVE ACTION COMPLIANCE

The Contractor has complied with corrective action proposals. The remedial work has been inspected and accepted for payment.


Date: \_\_\_\_\_

\_\_\_\_\_  
Project Manager

DISTRIBUTION: ORIGINAL: CONTRACTOR: COPIES: FILE

**A1-34**

17.13. Non-Compliance Notice Log: BLDG-Form 13

<p><b>STATE OF ALASKA</b> <b>DOT &amp; PF</b> <b>PUBLIC FACILITIES BRANCH</b></p>	  <p><b>NON-COMPLIANCE</b> <b>NOTICE</b> <b>LOG</b></p>
---	--


<b>PROJECT NO.:</b>	<b>PROJECT:</b>
<b>PROJECT MANAGER:</b>	<b>RESIDENT ENGINEER:</b>
<b>CONTRACTOR:</b>	

DATE	N.C.N. #	DESCRIPTION	TO CONTRACTOR		TO DESIGN		APPROVE RESOLUTION	DATE CORRECTED	STATUS/REMARKS
			SENT	RET'D	SENT	RET'D			

BLDG-Form 13  
H:/BUILDDOC/OFFICE/FORMS/FR13.NON.COMPLIANCE.LOG

Rev 5/01

17.14. Request for Information: BLDG-Form 14

STATE OF ALASKA DOT & PF STATEWIDE PUBLIC FACILITIES	REQUEST FOR INFORMATION	
PROJECT NO:		PROJECT:
:		
<input type="checkbox"/> MECHANICAL	<input type="checkbox"/> CIVIL	
<input type="checkbox"/> STRUCTURAL	<input type="checkbox"/> ELECTRICAL	
<input type="checkbox"/> ARCHITECTURAL	<input type="checkbox"/> LANDSCAPE	
	<input type="checkbox"/> OTHER	
TO:		FROM:
RFI #:	DATE REQ'D:	CONTRACTOR:
REQUEST:		
Contractor Signature: _____		Date: _____
RESPONSE:		
Engineer/Architect of Record Signature: _____		Date: _____

**RESPONSE:**

Project Engineer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

COPY: Prime Design Consultant/Project Manager

ATTACHMENTS:

17.15. Request for Information Log: BLDG-Form 15

<b>STATE OF ALASKA DOT&amp;PF PUBLIC FACILITIES BRANCH</b>	<b>REQUEST FOR INFORMATION LOG</b>	
--	------------------------------------	---

PROJECT NO:	PROJECT:
PROJECT MANAGER:	RESIDENT ENGINEER:
CONTRACTOR:	

DATE REC'D	RFI #	DESCRIPTION	REVIEWER	TO REVIEWER		TO CONTRACTOR	
				SENT	RET'D	RET'D	RFP

BLDG-Form 15  
H:/BUILDDOC/OFFICE/FORMS/FR15.RFI.LOG Rev 5/01





**17.17. Request for Proposal: BLDG-Form 17**

<p><b>STATE OF ALASKA DOT &amp; PF STATEWIDE PUBLIC FACILITIES</b></p>	<p><b>No: _____</b> <b>REQUEST FOR PROPOSAL</b> PJ Name: _____ PJ Number: _____</p>	
--	---	---

To: (Contractor) Address:	From: (Project Manager)
------------------------------	-------------------------

Please provide a proposal for the following description of work:

Justification for Change:

Signed: \_\_\_\_\_  
Project Manager

CONTRACTOR RESPONSE:  
COST IMPACT: (submit breakdown of cost on separate sheet if necessary.)

SCHEDULE IMPACT: (time extension, if necessary)


Per Alaska Statute 36.30.400 I hereby certify that to the best of my knowledge and belief, the data submitted is accurate, complete and current and is the actual cost of performing the additional work and/or supplying the additional materials. Authorization to Proceed needed by \_\_\_\_\_ to avoid additional costs and time

Contractor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Authorization to Initiate Change Order: \_\_\_\_\_ Date: \_\_\_\_\_  
Project Manager

Xc: Design Consultant  
Project Engineer

17.18. Request for Proposal/Change Notice Log: BLDG-Form 18

<p><b>STATE OF ALASKA DOT &amp; PF PUBLIC FACILITIES BRANCH</b></p>	<p><b>RFP/CHANGE NOTICE LOG</b></p>	
---	-------------------------------------	---


PROJECT NO.:	PROJECT:
PROJECT MANAGER:	RESIDENT ENGINEER:
CONTRACTOR:	

CN No.	DATE Rec'd	RFP No.	DESCRIPTION	RFP TO CON-TRACTOR	RFP FROM CON-TRACTOR	AUTH. To INITIATE	CCO NO.	CCO AMOUNT	REMARKS

Rev 5/01

BLDG-Form 18  
H/BUILDDOC/OFFICE/FORMS/FR18 RFP.CN.LOG


17.19. Cost of Work: BLDG-Form 19

<b>STATE OF ALASKA DOT &amp; PF STATEWIDE PUBLIC FACILITIES</b>	<b>COST OF THE WORK FORM</b>					
PROJECT NAME: _____ PROJECT NO.: _____ AUTHORIZING DOCUMENT.: _____ REPORT NO.: _____ DATE: _____ CONTRACTOR: _____ WEATHER: _____ a.m. _____ p.m. TEMPERATURE: _____ a.m. _____ p.m. RAINFALL: _____						
<b>I. Contractor's Force (to include all persons used on this extra work):</b>						
No. Workers	Work Classification	Hours	Rate	Wages	Worker's Comp & Ins.	TOTALS
<b>II. Materials and Supplies (attach certified invoices as applicable):</b>						
Item	Description	Use	NET COST			
<b>III. Machinery and Equipment (only for time used on this work):</b>						
Type	Use	Hours Used	AMOUNT			
<b>IV. Description of Work Accomplished:</b>  _____ _____ _____						
<b>V. Description of Original Work That Will Not Be Performed (if any):</b>  _____ _____ _____						

\_\_\_\_\_ Project Engineer

\_\_\_\_\_ Contractor's Representative

17.20. Change Order: BLDG-Form 20

STATE OF ALASKA DOT&PF STATEWIDE PUBLIC FACILITIES	CHANGE ORDER NO.: _____	
---	----------------------------	---

Project Number: \_\_\_\_\_

Project Name:  
and Location: \_\_\_\_\_

Contractor:  
Address: \_\_\_\_\_

**SUMMARY OF CONTRACT AMOUNTS:**  
 ORIGINAL CONTRACT AMOUNT: \_\_\_\_\_  
 PREVIOUS CHANGES AMOUNT: \_\_\_\_\_  
 ESTIMATE THIS CHANGE: \_\_\_\_\_  
**ADJUSTED CONTRACT AMOUNT: \$0.00**

Recommended by: \_\_\_\_\_ DATE: \_\_\_\_\_

Approved by: \_\_\_\_\_ DATE: \_\_\_\_\_

Accepted by:  \_\_\_\_\_ DATE: \_\_\_\_\_  
 Acknowledged by:  \_\_\_\_\_  
 CONTRACTOR'S REPRESENTATIVE

The time provided for the completion of the contract is  UNCHANGED  INCREASED  DECREASED PER DESCRIPTION BELOW

The following change(s) in the above Contract are hereby made in accordance with the terms of the contract, and under the terms and conditions stated below. Price adjustments resulting from inaccurate cost and pricing data are subject to the provisions of AS 36.30.400c. This document shall become an amendment to the Contract and all provisions of the Contract will be applicable.

**DESCRIPTION OF CHANGE**


IN ACCORDANCE WITH THE GENERAL CONTRACT PROVISIONS, THE FOLLOWING CHANGE TO THE CONTRACT IS MADE:

ITEM No.	Description	Price Change
Includes all materials, equipment, and labor -- TOTAL:		\$0.00

AMOUNT SHOWN INCLUDES ALL IMPACT, DELAYS, AND OTHER COSTS.

End of Change Order # \_\_\_\_\_

17.21. Supplemental Agreement: BLDG-Form 21

STATE OF ALASKA DOT & PF STATEWIDE PUBLIC FACILITIES	SUPPLEMENTAL AGREEMENT  NO.: _____	
--	--	---

Project No.:

Project Name  
And Location:

Contractor:

Address:

**SUMMARY OF CONTRACT AMOUNTS:**

Original Contract Amount: \_\_\_\_\_  
 Amount of Previous Changes: \_\_\_\_\_  
 Estimate of This Change: \_\_\_\_\_  
 Adjusted Contract Amount: \_\_\_\_\_

Recommended By: \_\_\_\_\_ Date \_\_\_\_\_

Approved By: \_\_\_\_\_ Date \_\_\_\_\_

Accepted By: \_\_\_\_\_ Date \_\_\_\_\_  
**Authorized Contractor Signature**

The time provided for completion of the contract is  unchanged  increased  decreased per description below.

The following change(s) in the above Contract are hereby made in accordance with the terms of the Contract, and under the terms and conditions stated below. This agreement is supplemental to the above Contract which is, by reference, made a part hereof. Price adjustments resulting from inaccurate cost and pricing data are subject to the provisions of AS 36.30.400c. This document shall become an amendment to the Contract and all provisions of the Contract will be applicable.

**DESCRIPTION OF CHANGE**

In accordance with Article 9 of the General contract Provisions, the following change to the Contract is made:

ITEM NO.	DESCRIPTION	PRICE CHANGE
	Includes all materials, equipment, and labor — TOTAL	

**AMOUNT SHOWN INCLUDES ALL IMPACT, DELAYS, AND OTHER COSTS.**

End of Supplemental Agreement #

17.22. Interim Work Authorization: BLDG-Form 22



STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION  
AND PUBLIC FACILITIES  
STATEWIDE PUBLIC FACILITIES

**Interim Work Authorization**

Project No.: \_\_\_\_\_ IWA No. \_\_\_\_\_

Project Name: \_\_\_\_\_

Contractor: \_\_\_\_\_ Estimated dollar amount of the

Address: \_\_\_\_\_ IWA is: \_\_\_\_\_

Issued By: \_\_\_\_\_ Date: \_\_\_\_\_

Project Engineer

Acknowledged By: \_\_\_\_\_ Date: \_\_\_\_\_

Contractor's Representative

Permission for previously approved subcontractor(s) to perform all or portions of the work described herein is as checked:  Yes  No  N/A.

The following change(s) in the above Contract are hereby made in accordance with the terms of the Contract and under the terms and conditions stated below. Price adjustments resulting from inaccurate cost and pricing data are subject to the provisions of AS 36.30.400(c). This document shall become an interim amendment to the Contract and all provisions of the Contract will be applicable. Items not mentioned shall not be affected by this document. This document shall be superseded by a subsequent Change Order, which will address any adjustments to contract time.

**Basis of Payment (Check One)**

Payment for the following work will be paid per Section 10.3.2 or 10.3.3 and 10.3.4 of the General Conditions.

Payment for the following work will be paid the following unit prices and method of measurement stated herein.

**DESCRIPTION OF CHANGE (Use a Continuation Sheet as Required)**


I.W.A. # \_\_\_\_\_ Page 1 of \_\_\_\_\_

17.23. Schedule of Values: BLDG-Form 23

State of Alaska DOT&PF Public Facilities Branch		SCHEDULE OF VALUES FOR CONTRACT PAYMENTS				Project Number: _____ Project Name: _____ Sheet _____ of _____
Name and Address of Contractor: _____						
Contract Description: _____						
Item No.	Description of Item	Quantity	Unit of Measure	Cost per Unit	Total Cost of Item	
(1)	(2)	(3)	(4)	(5)	(6)	
TOTALS						
Submitted by: _____ Approved: _____ Contractor _____ Date _____ Project Manager _____ Date _____						
<b>Note:</b> If a lump sum bid, contractor to complete columns 1, 2 & 6. If unit price bid or if some items are unit price, contractor to complete all columns for the unit price items.						



17.24. Progress Summary: BLDG-Form 24

STATE OF ALASKA DOT & PF  STATEWIDE PUBLIC FACILITIES	PROGRESS SUMMARY  PAY ESTIMATE NO.: _____	
---	---	---

Project No.:	Project Name:
Item No./CCO No.:	Item Name:
Percentage Complete Requested:	Percentage Complete Allowed:

**Required for Any Payment:**

- | Yes                      | No                       | N/A                      |  |
|--------------------------|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Shop Drawings Approved for this item                               |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Material Certifications are on file for this item                  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Product Submittal Approved for this item                           |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Manufacturer's Installation Instructions for this item are on file |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Alaska Products listed by Contractor for this item were used       |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Record Drawings updated to show this work                          |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Permits required for this work are on file                         |

**Required for >95% Payment:**

- |                          |                          |                          |  |
|--------------------------|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | O&M Manuals have been submitted & approved |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Warranties have been submitted & approved  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Spare Materials have been received         |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Training has been provided                 |

**Basis for Percentage Complete Allowed:**

- Counted or measured units. Source document attached.
- Reviewed completed work on record documents.
- No change from last pay estimate.
- All physical work complete.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
                     Project Engineer

**17.25. Periodic Estimate for Partial Payment: BLDG Form 25**

STATE OF ALASKA DOT & PF STATEWIDE PUBLIC FACILITIES					PERIODIC ESTIMATE FOR PARTIAL PAYMENT			
Name of Project: _____					Name of Contractor: _____			
Location of Project: _____					Contractor Address: _____			
Project No.: _____								
Periodic Estimate No.: _____ for Period _____					19 _____ through _____ 19 _____			
<b>1. COST OF THE COMPLETED WORK TO DATE UNDER THE ORIGINAL CONTRACT ONLY</b>								
Columns (1)-(5): Entries must be limited to work and costs under the original contract only, (Work and cost data under change orders is to be shown on sheet 2.). Line items and values must match approved Schedule of Value for Contractor Payments.								
Columns (6) and (7): Show all work completed to date under original contract.								
Column (8): Enter the difference between columns (5) and (7).								
Column (9): Show percent ratio of column (7) to column (5).								
CONTRACT					COMPLETE TO DATE			
Item No. (1)	Description of item (2)	Quantity (3)	Cost per Unit (4)	Total Cost of Item (5)	Quantity (6)	Total Cost (7)	Cost of Uncompleted Work (8)	% Completed (9)
Totals:								

Project No. \_\_\_\_\_

Pay Estimate No.: \_\_\_\_\_

### CHANGE ORDERS

C.O. NO.	DESCRIPTION	(1) INCREASE	(2) DECREASE	(3) AMOUNT DUE FOR COMPLETED ITEMS	% COMPLETE
TOTALS:					

Adjusted Contract Amount to Date  
(Total Col.5, Sheet 1, plus 1 and less 2 above) \_\_\_\_\_

#### Analysis of Work Performed

- a. Total Work completed to date (Col. 7) \_\_\_\_\_
- b. Material Stored on Site \_\_\_\_\_
- c. Change Orders Performed (3 minus 2 above) \_\_\_\_\_
- d. Subtotal \_\_\_\_\_
- e. Less Previous Payments \_\_\_\_\_
- f. Amount Payable this estimate \_\_\_\_\_

#### CERTIFICATION OF CONTRACTOR

I certify that all items and amounts are in accordance with the contract requirements and that the undersigned have complied with the labor provisions of said contract, or that there is an honest dispute with respect to the provisions.

CONTRACTOR'S SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_  
(For State use only)

Encumbrance # \_\_\_\_\_ PAY THIS AMOUNT:\$ \_\_\_\_\_

REVIEWED AND APPROVED FOR PAYMENT BY:

Project Engineer \_\_\_\_\_ DATE: \_\_\_\_\_

Project Manager \_\_\_\_\_ DATE: \_\_\_\_\_

Facilities Chief \_\_\_\_\_ DATE: \_\_\_\_\_

17.26. Stored Materials: BLDG-Form 26

STATE OF ALASKA DOT & PF STATEWIDE PUBLIC FACILITIES		STORED MATERIALS WORKSHEET				Project Number: Project Name: Sheet ___ of ___	
Name and Address of Contractor:							
Contract Description:							
Pay Estimate							
Description	Stored Materials From Previous Pay Request Period	New Material This Pay Request Period	Materials Incorporated Into Work During This Pay Request Period	Materials Incorporated In Previous Pay Estimate	Stored Ending This Pay Request Period		
(1)	a	b	c	d	(a+b)-c(-d)		
<b>Total Stored This Pay Request</b>					<b>(last sheet only)</b>	<b>\$ -</b>	

Submitted by: \_\_\_\_\_ Contractor      Date: \_\_\_\_\_

Rev 07/2008

BLDG-Form 26  
H:\BUILDDOC\OFFICE\FORMS\FR26.STORED.MATERIALS

17.27. Certificate of Substantial Completion: BLDG-Form 27

<p><b>STATE OF ALASKA DOT &amp; PF STATEWIDE PUBLIC FACILITIES</b></p>	<p><b>CERTIFICATE OF SUBSTANTIAL COMPLETION</b></p>	
--	---	---

<p><b>Date of Inspection:</b> Project or Specified Part Shall Include:</p>	<p><b>Project No.:</b> Project Name and Location:</p>

**Contractor:**

**Address:**

The work performed under this contract has been inspected by authorized representatives of the DEPARTMENT, the Using Agency, CONTACTOR, and Architect/Engineer, and the project (or specified part described above) is hereby declared to be substantially complete on the date and time set forth below.

**DEFINITION OF SUBSTANTIAL COMPLETION**

The Work (or a specified part thereof) has progressed to the point where, in the opinion of the Contracting Officer, as evidenced by the DEPARTMENT'S written notice, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it was intended.

A list of items to be completed or corrected is appended hereto. This list may not be exhaustive, and the failure to include an item on it does not relieve the CONTRACTOR of its responsibility to complete all the Work in accordance with the Contract Documents.

The CONTRACTOR accepts the above Certificate of Substantial Completion and agrees to complete and correct the items on the attached list within the time limits indicated.

\_\_\_\_\_ Date: \_\_\_\_\_  
Authorized Contractor Signature

The DEPARTMENT accepts the project or specified area of the project as substantially complete at \_\_\_\_\_, on \_\_\_\_\_, whenupon the Using Agency shall assume full possession of the project or specified area of the project, and the responsibility for heat, utilities, security and insurance under the contract documents, unless specifically addressed under "Remarks" below.

\_\_\_\_\_ Date: \_\_\_\_\_  
DOT&PF Project Manager

**Remarks:**

- Xc: Facilities Chief  
Project Engineer  
Design Consultant  
Client Agency Rep.

**17.28. Contractor's Release: BLDG-Form 28**

25D-117 (1/07)

**STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION  
AND PUBLIC FACILITIES**

**CONTRACTOR'S RELEASE**

<p><b>RE:</b> Project No(s) _____ Project Name _____</p>	<p>Final Amount \$ _____ Less Liquidation Damages \$ _____ Total Final Sum \$ _____ Estimate(s), 1 thru _____ \$ _____ Final Payment Due \$ _____</p>
--	---

Pursuant to the terms of the written contract dated \_\_\_\_\_, 20\_\_ for the construction of \_\_\_\_\_ and in consideration of the total final sum of \_\_\_\_\_ Project No(s).

Dollars (\$ \_\_\_\_\_) which has been or is to be paid under the contract to \_\_\_\_\_  
( Contractor's Name and Address )

(hereinafter called the Contractor) or its assignees, if any, the Contractor, upon payment of the said sum by the STATE OF ALASKA, does remise, release and discharge the STATE OF ALASKA, its officers, agents and employees, of and from all liabilities, obligations, claims, and demands whatsoever under or arising from said contract, whether known or unknown and whether or not ascertainable at the time of the execution of this instrument except specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor, as follows:

The Contractor agrees, in connection with the claims which are not released as set forth above, that (s)he will comply with all the provisions of the said contract, including without limitation those provisions relating to notification of the Contracting Officer and relating to the prosecution of claims.

IN WITNESS WHEREOF, this release has been executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Witness	Contractor
Witness	By _____
	Title _____

**(NOTE: IN THE CASE OF A CORPORATION, WITNESSES ARE NOT REQUIRED, BUT CERTIFICATE ON PAGE TWO MUST BE COMPLETED BY A CORPORATE OFFICER OTHER THAN THE ONE WHO SIGNS ABOVE.)**

## CERTIFICATE

I \_\_\_\_\_, certify that I am the \_\_\_\_\_ of the  
(Official Title)  
corporation named as Contractor in the foregoing release; that \_\_\_\_\_  
who signed said release on behalf of the Contractor was then \_\_\_\_\_  
(Official Title)  
of said corporation; that said release was duly signed for and in behalf of said corporation by  
authority of its governing body and is within the scope of its corporate powers.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this  
\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

My Commission

Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**(Note: The above Certificate must be completed by a corporate officer other than the one who signs the Contractor's Release form).**

## 17.29. Certification of Final Estimate: BLDG-Form 29

25D-116 (4/91)

**STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION  
AND PUBLIC FACILITIES**

**CERTIFICATION OF FINAL ESTIMATE**

Project No.: \_\_\_\_\_ Total Amount of Project: \_\_\_\_\_

Project Name: \_\_\_\_\_

---

**DEPARTMENT CERTIFICATION**

The undersigned certifies that (s)he was in charge of the construction engineering work for the State of Alaska for this project and that the foregoing final estimate was prepared under her/his direction and supervision, that to the best of her/his knowledge and belief the work set forth in said estimate has been performed in accordance with the plans and specifications and that the quantities and amounts set forth in said estimate are correct.

\_\_\_\_\_ Project Engineer Date \_\_\_\_\_

The undersigned certifies that (s)he has reviewed the foregoing final estimate and that payment for the quantities shown therein conforms with the contract and is true and correct to the best of her/his knowledge and belief.

\_\_\_\_\_ Regional Reviewer Date \_\_\_\_\_

The undersigned certifies that the construction engineering for this project was under the supervision of authorized representatives of her/his office, that the foregoing final estimate has been prepared and reviewed by such authorized representatives that (s)he has reviewed the work and the estimate, that the work has been performed in substantial conformance with the specifications and that the quantities and amounts shown in the estimate are true and correct to the best of her/his knowledge and belief.

\_\_\_\_\_ Chief, Statewide Public Facilities Date \_\_\_\_\_

---

**CONTRACTOR CERTIFICATION**

The undersigned hereby certifies that (s)he was the contractor on the above named project, that the work and materials for which payment is being included in this final estimate have been performed or furnished; that payment is just and due, and has not been made in full; and that her/his signature hereon authorizes final payment therefor.

The undersigned hereby certifies: That all commitments or obligations made to property owners and other covering materials royalties, access rights, waste areas, and other such rights of any nature, have been fully paid and satisfied; that all Federal, State and local taxes incurred by the contractor, subcontractor, or other person or persons, in the performance of this contract have been fully paid and discharged; and that the contractor has not extended any loan, gratuity, or gift of money in any form whatsoever to any employee of the Department, nor has (s)he rented or purchased any equipment or materials from any such employee.

Contractor: \_\_\_\_\_

By: \_\_\_\_\_, Authorized Agent Date \_\_\_\_\_



17.30. Contractors Civil Rights Representatives: BLDG-Form 30

<p><b>STATE OF ALASKA DOT &amp; PF STATEWIDE PUBLIC FACILITIES</b></p>	<p><b>CONTRACTOR'S CIVIL RIGHTS REPRESENTATIVES</b></p>	
--	---	---

In accordance with equal employment opportunity provisions contained in the contract identified below, the following information is furnished to the Alaska Department of Transportation and Public Facilities:

1. Home Office Representative Responsible for Overall Administration and Promotion of the Firm's EEO Program:

Name	Title or Position in Firm
Mailing Address (Include zip code)	Telephone Number

2. Home Office Representative responsible for Overall Administration and Promotion of the Firm's Minority Business Enterprise Program:

Name	Title or Position in Firm
Mailing Address (Include zip code)	Telephone Number

3. Project Site Representative Responsible for Equal Employment Opportunity Contract Provisions on the project site:

Name	Title or Position in Firm
Mailing Address (Include zip code)	Telephone Number

4. Check One:     Contractor     Subcontractor     Consultant

Contract/Project _____	Company Name _____
Contract/Project _____	Address _____
_____	Signature _____
Dollar Value _____	Title _____
DOT&PF Region _____	Date _____


The Contractor must submit three copies of this form to the DOT&PF Project Engineer at the Pre-Construction Conference and at the time any subcontract documents are submitted for approval. All contractors and subcontractors are required to update this information within 10 days after a personnel change involving the above named individuals occur.

XC: DOT&PF Regional Contract Compliance Officer

BLDG-Fom 30  
R:/STWD forms/Updated forms/FR30.CIVIL.RIGHTS.REP

Rev 6/12/13  
Form 25A302 (3/82)

17.31. EEO-1 Certification: BLDG-Form 31

<p><b>STATE OF ALASKA DOT &amp; PF STATEWIDE PUBLIC FACILITIES</b></p>	<p><b>EEO-1 CERTIFICATION</b> (Federal Aid Contracts Only)</p>	
--	--	---

This certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor [41 CFR 60-1.7 (b) (1)] and must be completed by each Bidder and proposed Subcontractor participating in this contract

**PLEASE CHECK APPROPRIATE BOXES**

The  Bidder  proposed Subcontractor hereby CERTIFIES:

**PART A.** Bidders and proposed Subcontractors with 50 or more employees and a federal contract amounting to \$50,000 or more are required to submit one federal Standard Report Form 100 during each year the two conditions (50 employees and a \$50,000 federal contract) exist.

The company named below (Part C) is exempt from the requirements of submitting the Standard Report Form 100 this year.

NO (go to PART B)  YES (go to PART C)

Instructions and blank Standard Report Form 100's may be obtained from a local U.S. Department of Labor office, or by writing to:

The Joint Reporting Committee  
P.O. Box 779  
Norfolk, Virginia 23501

Telephone number: (757) 461-1213

**PART B.** The company named below has submitted the Standard Report Form 100 this year.

YES  NO

**Note:** Bidders and proposed Subcontractors who have not filed the required Standard Report Form 100 and are not exempt from filing requirements will not be awarded this contract or subcontract until Form 100 has been filed for the current year ending June 30.

**PART C.**

\_\_\_\_\_  
Signature of Authorized Representative of Company

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Company

(\_\_\_\_)\_\_\_\_\_  
Phone

\_\_\_\_\_  
Address of Company

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Project No.

\_\_\_\_\_  
Project Name

BLDG-Fom 31

Rev 6/12/13

R:/STWD forms/Updated forms/FR31.EEO-1.CERT

Form 25A304

17.32. Project Closeout Data: BLDG-Form 32

**PROJECT CLOSEOUT DATA SHEET**

**Project Name:** \_\_\_\_\_ **Project Number:** \_\_\_\_\_

Location: \_\_\_\_\_ Project Ledger Codes: \_\_\_\_\_

Brief Project Description: \_\_\_\_\_

Facility Square Footage: \_\_\_\_\_ Renovation Square Footage: \_\_\_\_\_

DOT&PF Project Manager: \_\_\_\_\_ Client Agency: \_\_\_\_\_

DOT&PF Other Key Staff: \_\_\_\_\_

**DESIGN**

Design Consultant Name: \_\_\_\_\_ RFP Date: \_\_\_\_\_ NTP Date: \_\_\_\_\_

Name 6 Major Sub's. 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_

4 \_\_\_\_\_ 5 \_\_\_\_\_ 6 \_\_\_\_\_

Original Design Contract: \$ - +Ph2 Amends \$ - =TOTAL \$ -

Number of Amendments: \_\_\_\_\_ Total Design Consultant contract (57213)

Date Design Completed: \_\_\_\_\_

Estimated Construction Cost: \_\_\_\_\_ Basic Bid: \_\_\_\_\_ Alt.#1: \_\_\_\_\_

Alt.#2: \$ - Alt.#3: \$ -

Alt.#4: \$ - Alt.#5: \$ -

Total Est. Const. Cost: \$ -

DOT&PF Design Administration costs (57210): \$ -

DOT&PF Overhead Costs (57201): \$ -

Advertise, Bid & Award (57271,57274,57275,57277,57279): \$ - DOT&PF Total Design costs \$

DOT&PF Other Design costs (57214,57232,57252,57264,57280,57285,57290,57291): \$ - \$ -

**Design Phase TOTAL:** \$ -

DESIGN COMMENTS: \_\_\_\_\_

**CONSTRUCTION**

Contractor's Name: \_\_\_\_\_ Bid Date: \_\_\_\_\_

Six Major Sub's 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_

4 \_\_\_\_\_ 5 \_\_\_\_\_ 6 \_\_\_\_\_

Number of Bid Addendums: \_\_\_\_\_

Construction Bid: \_\_\_\_\_ Basic Bid: \$ - Alt.#1: \$ -

Alt.#2: \$ - Alt.#3: \$ -

Alt.#4: \$ - Alt.#5: \$ -

TOTAL AWARDED CONTRACT = \$ - Award Date: \_\_\_\_\_ NTP Date: \_\_\_\_\_

TOTAL COST of CHANGE ORDERS = \$ - Total Number of Change Orders: 0

TOT.CONSTRUCTION CONTRACT(57450)= \$ - C.O.due to unforeseen condition # \$ -

C.O.due to Scope Change # \$ -

C.O.due to Errors & Omissions # \$ -

C.O.due to Supplemental Agree # \$ -

C.O.due to other conditions # \$ -

COMPLETION DATES: Scheduled: \_\_\_\_\_ Substantial: \_\_\_\_\_ Final: \_\_\_\_\_

DOT&PF Construction Administration (57403): \$ -

DOT&PF On-site Inspections (57402): \$ -

DOT&PF Overhead Costs (ICAP) (57406): \$ -

DOT&PF Other Costs (57430,57437,57490,57494): \$ -

Consultant Bid & Construction Services (57497): \$ -

Art in Public Places (57455): \$ -

Permits and Special Inspections (57422): \$ -

**Construction TOTAL** \$ -

**PROJECT TOTAL (Design Ph. Total + Constr. Total)** \$ -

Construction Comments: \_\_\_\_\_

17.33. (Deleted 12-8-14)

17.34. Final Estimate Funding Breakout: BLDG-Form 34

State of Alaska Department of Transportation & Public Facilities Statewide Public Facilities					<b>FINAL ESTIMATE FUNDING BREAKOUT</b>			
Name of Project: Project No:					Name of Contractor:			
<b>1. COST OF THE COMPLETED WORK TO DATE UNDER THE ORIGINAL CONTRACT ONLY</b> Columns (1) - (5): Entries must be limited to work and costs under the original contract only, (Work and cost data under change orders is to be shown on Sheet 2). Line items and values must match approved Schedule of Amounts for Contractor Payments. Columns (6) and (7): Show all work completed to date under original contract. Column (8): Enter the difference between columns (5) and (7). Column (9): Show percent ratio of column (7) to column (5).								
CONTRACT					COMPLETE TO DATE			
Item No. (1)	Description of Item (2)	Quantity (3)	Cost Per Unit (4)	Total Cost of Item (5)	Quantity (6)	Total Cost (7)	Cost of Uncompleted Work (8)	% Complete (9)
TOTALS THIS PAGE:								

Project Number: \_\_\_\_\_

Pay Estimate No.: \_\_\_\_\_

**CHANGE ORDERS**

C.O. NO.	DESCRIPTION	(1) INCREASE	(2) DECREASE	(3) AMOUNT DUE FOR COMPLETED ITEMS	% Complete
Totals:					

**Adjusted Contract Amount to Date**  
 (Total Col.5, Sheet 1, plus 1 and less 2 above) \$ \_\_\_\_\_

**Analysis of Work Performed**

- a. Total Non-Participating Original Contract (Col. 7).....
- b. Change Orders Non-Participating (3 minus 2 above).....
- c. Total Non-Participating Work.....

.....  
**RECAPITULATION**

<b>Total Contract</b>	\$
<b>Less Non-Participating:</b>	
Non-Participating	\$
Reimbursable RSA # _____	\$
State Funded Project # _____	\$
_____	\$
_____	\$
<b>Net Participating</b>	\$

**17.35. Construction Contract Closeout Checklists: BLDG-Form 35 and FAA & FHWA Checklist**

**STATE FUNDED FACILITIES PROJECTS  
CONSTRUCTION CONTRACT CLOSEOUT CHECKLIST**

PROJECT NO.: \_\_\_\_\_  
 PROJECT NAME: \_\_\_\_\_  
 PROJECT MANAGER: \_\_\_\_\_  
 PROJECT ENGINEER: \_\_\_\_\_

**REQUIRED FOR FINAL PAYMENT:**

- Copy of Contract Award for Small Procurements (<\$100,000)
- All Contract Change Orders and Pay Estimates
- Notice to Proceed Letter
- Statement of Adjustment of Accounts (*Proof of Payments from AKSAS or ALDER*)
- Final Change Order (*unexecuted; if applicable*)
- Certificate of Substantial Completion
- Copy of Final Completion Letter
- Record Showing Payment of All SWPPP Fines
- Final Pay Estimate
- Original Contractor's Release (must be original)
- Department of Labor /Revenue Tax Clearances
- Department of Labor Notice of Completion (NOC)

**PROCEDURAL REQUIREMENT:**

- Certificate of Occupancy or Permit Completion
- Contractor's Transmittal Letter: O&M Manuals
- Contractor's Transmittal Letter: Warranty/Bonds
- Contractor's Transmittal Letter: As-Built Record Documents
- Spare Parts, Maintenance Materials Receipts
- Contractor's Transmittal Letter: Keys & Schedule
- Contractor's Certification of Insurance
- Submittals and Misc. Registers

**EXPLANATIONS (needed for every N/A):**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### PROJECT FINAL CLOSEOUT CHECKLIST

#### *Facilities Projects*

PROJECT NO.: \_\_\_\_\_  
PROJECT NAME: \_\_\_\_\_

- Copy of Contract Award for Small Procurements (<\$100,000)<sup>1</sup>
- All Contract Change Orders and Pay Estimates<sup>2</sup>
- Notice to Proceed Letter<sup>1</sup>
- Certificate of Occupancy<sup>1</sup>
- Contractor's Transmittal Letter: O&M Manuals<sup>1</sup>
- Contractor's Transmittal Letter: Warranty/Bonds<sup>1</sup>
- Contractor's Transmittal Letter: As-Built Record Documents<sup>1</sup>
- Spare Parts, Maintenance Materials Receipts<sup>1</sup>
- Contractor's Transmittal Letter: Keys & Schedule<sup>1</sup>
- Contractor's Delegation of Authority
- Contractor's Certification of Insurance<sup>1</sup>
- Statement of Adjustment of Accounts (*Proof of Payments from AKSAS or ALDER*)<sup>1</sup>
- EEO Compliance Certification<sup>1</sup>
- Final Change Order (*unexecuted; if applicable*)<sup>1</sup>
- Submittals and Misc. Registers<sup>1</sup>
- Certificate of Substantial Completion<sup>1</sup>
- Copy of Final Completion Letter<sup>1</sup>
- Original Final Pay Estimate<sup>1</sup>
- Contractor's Release<sup>1</sup>
- Department of Labor /Revenue Tax Clearances<sup>1</sup>
- Department of Labor Notice of Completion (NOC)<sup>1</sup>

<sup>1</sup> Include in "green" folder

<sup>2</sup> Include in "green" folder if project is "closeout only"

#### ADDITIONAL DOCUMENTATION REQUIRED FOR FEDERAL-AID PROJECTS

- Certification of Final Estimate
- Materials Certificate
- As-built plans (FHWA<sup>3</sup>-funded projects)
- 1446C Final Inspection form (FHWA<sup>3</sup>-funded projects)
- Final Construction Report Summary
- Alaska Railroad Release, if applicable
- Project History (AIP<sup>4</sup>-funded projects)
- Reports (as required): Report on Design Recommendations (required)  
Report on Claims (if a claim was submitted)
- Explanation of Overruns, Underruns and Change Documents. List only contract major bid items whose final quantity varied more than 25% from the estimated quantity and an explanation of all change document items.
- Proof of Construction for Right-of-Way (Form 25D-173) -- Completed only if the right-of-way involves public land.
- Proof of Use for Material Sources (Form 25D-174) with Material Site Record -- Completed only if sites are State furnished or controlled.

<sup>3</sup> Federal Highway Administration

<sup>4</sup> Airport Improvement Program


#### ADDITIONAL DOCUMENTATION REQUIRED FOR FINAL AIP GRANT CLOSEOUT

- FAA Sponsor Certification
- Airport Master Record (FAA Form 5010)
- As-Built Plans (AIP-funded projects)

12/9/2013



17.36. Directive: BLDG-Form 36

	<b>STATE OF ALASKA DOT &amp; PF</b>	DIRECTIVE NO.:
	<b>STATEWIDE PUBLIC FACILITIES</b>	PROJECT NO.:
	<b>DIRECTIVE</b> _____	CONTRACT NO.:
PROJECT:	SCOPE OF THIS DIRECTIVE	
LOCATED AT:	<input type="checkbox"/> COMMENCEMENT OF WORK	
CONTRACTOR:	<input type="checkbox"/> SUSPENSION OF WORK	
ADDRESS:	<input type="checkbox"/> CONTRACT NON-CONFORMANCE	
	<input type="checkbox"/> CONTRACT CLARIFICATION	
Directive Issued By: _____ Date: _____ Title: Authorized DEPARTMENT Representative		
Receipt Acknowledged By: _____ Date: _____ Title: Authorized CONTRACTOR's Representative		
This Directive compliments, and is used in accordance with the terms and provisions of the above referenced Contract, and shall not serve to authorize a change in Contractual responsibility. If the CONTRACTOR believes that any condition in this document may effect Contract Time, Price, or Requirement the CONTRACTOR shall immediately notify the DEPARTMENT of such conditions. Contract Performance is required as follows:		
<b>DESCRIPTION (Use Continuation Sheet 25D-065 as Required)</b>		



PROJECT NO:	PROJECT:
CONTRACTOR:	TIE NUMBER:

Analysis of the change on the accepted Current Schedule and the Contract durations and milestones:

Attach Additional Sheets as Needed

Include a schedule diagram that:

- Depict how the changed Work affects other schedule activities and impacts the accepted Current Schedule and the CONTRACT durations and milestones.
- Tie into the main sequence of schedule activities to enable ADOT&PF to evaluate the impact of changed Work to the schedule.

Attach all documentation to support the delay, including information from Subcontractors, Vendors, Suppliers, and Manufacturers.

**CERTIFICATION:** I certify all the above to be true and correct.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Company: \_\_\_\_\_

Date: \_\_\_\_\_

17.38. Project Completion Form Certification – Design: BLDG-Form 38

STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES  
**PROJECT COMPLETION FORM (PCF) CERTIFICATION**  
**Phase 2 - Design**

Movement of the following phase to completed and/or closed status has been initiated;  
your signature certifies that all activity related to this phase is complete.

- \* Indicate a resubmit date, if phase cannot be closed now.
- \* Liquidate all encumbrances.
- \* Please return the completed PCF within three days of receipt.

Project Name:  
AKSAS Project Number:  
Ledger Code:  
Contract Award Date:  
Project Manager:

\*Attach Final NTP & Billing Summary for Design Consultant.

	<input type="checkbox"/> Complete <b>Design Section</b>		<input type="checkbox"/> Complete <b>Utilities Section</b>
	Sign/date: _____		Sign/date: _____ N/A
<b>FIRST RESUBMIT</b>	Phase 2 unobligated funding balance as of: _____		<b>FIRST RESUBMIT</b>
	Encumbrance Balance: \$ _____		Encumbrance Balance: \$ _____ 0
	Note Date to Resubmit: _____		Note Date to Resubmit: _____
	Outstanding Tasks/Remarks _____		Outstanding Tasks/Remarks _____
	Cost to Complete: \$ _____		<b>Cost to Complete:</b> \$ _____
<b>SECOND RESUBMIT</b>	Phase 2 Funding balance as of: _____		<b>SECOND RESUBMIT</b>
	Encumbrance Balance: \$ _____		Encumbrance Balance: \$ _____
	Note Date to Resubmit: _____		Note Date to Resubmit: _____
	Outstanding Tasks/Remarks _____		Outstanding Tasks/Remarks _____
	Cost to Complete: \$ _____		Cost to Complete: \$ _____

RETURN TO PROJECT CONTROL (MS 2525)

17.39. Project Completion Form Certification – Construction: BLDG-Form 39

STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES  
**PROJECT COMPLETION FORM (PCF) CERTIFICATION**  
**Phase 4 - Construction**

Movement of the following phase to completed and/or closed status has been initiated;  
your signatures certifies that all activity related to this phase is complete.

- \* Indicate a resubmit date, if phase cannot be closed now.
- \* **Liquidate all encumbrances.**
- \* Please return the completed PCF within three days of receipt.

**Project Name:** \_\_\_\_\_  
**AKSAS Project Number:** \_\_\_\_\_  
**FAA Grant Number(s):** \_\_\_\_\_  
**Ledger Code(s):** \_\_\_\_\_  
**Construction Final Acceptance Date:** \_\_\_\_\_

- Construction Contract Final Estimate Paid - Date: \_\_\_\_\_
- AS-Built on CD received for FAA Final Bill package - Date: \_\_\_\_\_
- AS-Built ALP Complete - Date: \_\_\_\_\_
- 5010 Update Complete - Date: \_\_\_\_\_
- Right of Way Closeout Checklist & PCF Complete - Date: \_\_\_\_\_
- All Consultants Paid in Full and all ENs Zeroed out - Date: \_\_\_\_\_
- Leasing Occupancy map updated-all T&E charges processed - Date: \_\_\_\_\_ (n/a if LO not part of this phase)

**Phase Complete**

\*Attach Final NTP & Billing Summary for Consultant.

**Sign/date:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_

FIRST RESUBMIT		Phase 4 Funding balance as of:		FIRST RESUBMIT
FIRST RESUBMIT	Encumbrance Balance: \$	_____	Cost to Complete: \$	_____
	Note Date to Resubmit:	_____		
	Outstanding Tasks/Remarks:	_____		
SECOND RESUBMIT		Phase 4 Funding balance as of:		SECOND RESUBMIT
SECOND RESUBMIT	Encumbrance Balance: \$	_____	Cost to Complete: \$	_____
	Note Date to Resubmit:	_____		
	Outstanding Tasks/Remarks:	_____		

**RETURN TO PROJECT CONTROL (MS 2525)**

## 17.40. CSI Division 1 Checklist: BLDG-Form 40 (Proposed)

### REVIEW CHECKLIST FOR CSI DIVISION 1

- If the project is renovation of an existing building, delete the requirement for Builder's Risk Insurance.
- Ensure that either liquidated or actual damages are addressed in 00800.
- Verify that there is an estimate of damages in the files that justifies the liquidated damages.
- For Federally Funded Projects, verify section 00800 deletes article 7.12 – Applicable Alaska Preferences and article 7.13 – Preferential Employment located in section 00700; and adds federal preference.
- For State Funded Projects, generally section 00800 also deletes article 10.11 – Disadvantage and Women's Business Enterprises (DBE & WBE) Program.
- Is the scope of work for Additive Alternatives clearly defined and distinguishable from basic bid work?
- Ensure that there is a Section 011219 Certification of Subcontractors in the assembly.
- Ensure that periodic meetings are specified and discretionary, or that you plan to always have a weekly meeting.
- Ensure that there is a "closeout line item" specified for the Schedule of Values in 012973.
- Ensure that tests and testing frequency are clearly stated and adequate.
- Ensure that there is a requirement in 014500 for the Contractor to submit a Contractor Quality Control Plan and that there is an enforceable early milestone for submission.
- Verify that only one substitution will be considered per item.
- Verify that substitutions will only be considered for a set period (usually 15 or 30 days) after NTP issuance.

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## 17.41. Project Engineer Responsibility Checklist: BLDG-Form 41

### PROJECT ENGINEER RESPONSIBILITIES CHECKLIST

The PM may assume a number of the responsibilities listed in Appendix B or the PM may assign responsibility to the Project Engineer. The PM and Project Engineer should agree to division of responsibilities prior to the start of project to avoid confusion and delays.

#### Pre-Construction Phase Services:

- Review the project design and scope of construction. Provide recommendations for construction sequencing, scheduling and temporary controls to minimize impact on using agency operations, minimize construction cost, and assure quality construction.
- Review construction budgets. (Project Engineer budgets, Consultant budgets, Special Inspections budget, etc.)
- Prepare a detailed construction implementation plan for each construction contract. Address temporary facilities access and staging, haul routes, site development, construction sequencing, utilities, logistical plans and schedule for the main elements of the work including impact or changes to using agency operations.
- Review bidding and contract requirements, Division One, and Technical Specifications for each set of Bidding Documents. Provide comments and recommendations for changes.
- Review construction documents for constructability.
- Review testing requirements and responsibilities.
- Review permit requirements and status.
- Review requirements for IBC Special Inspectors.
- Prior to advertising, review the construction duration in calendar days and provide interim milestone completion dates for inclusion in the bid documents.
- Verify utility agreements are in place

#### Bid/Award Phase Services:

- Assist the PM in the preparation of contract documents including general and supplementary conditions, contract formats and technical specifications. Review bidding documents for completeness, contractual terms and conditions.
- Review all plans and specifications before advertising for bids and addenda as issued.
- Assist in preparation and administration of pre-bid conferences and evaluation of bids received.

#### Construction Phase Services:

- Monitor and administer assigned prime construction contracts.
- Draft a Notice to Proceed for review by PM and signature by Chief.
- Monitor Contractor compliance with Alaska Product Preference program (State funded)
- Monitor Contractor compliance with Alaska Forest Product program by submission of form ALASKA.FOREST.PRODUCTS (State funded)
- Schedule date, time and location of Pre-construction Conference.
- Draft Pre-construction Conference notification letter and agenda for PM's review and signature.
- Assemble Pre-Construction forms and instruction package.

## PROJECT ENGINEER RESPONSIBILITIES CHECKLIST

- Draft Delegation Letter for review by PM and signature by Chief.
- Draft Pre-construction Conference minutes and transmittal letter for PM's review and signature. (Tape Record Meeting)
- Review Progress Schedule and draft letter to Contractor accepting or rejecting schedule. The PM signs this letter.
- Attend scheduled progress meetings with the Contractor and PM.
- Review Submittal Schedule and draft letter to Contractor accepting or rejecting schedule. The PM signs this letter.
- List all required submittals and assign a number to each.
- Review and process submittals as received by the Contractor, per Section 8.3
- Review Schedule of Values and draft letter to Contractor accepting or rejecting schedule. The PM signs this letter.
- Review and approve or reject subcontracts certified by the Contractor, per Section 8.2
- Draft and sign subcontractor approval letter
- Schedule special inspections or other consultant inspections as required
- Ensure that no subcontractor works on the job without approved subcontract
- Conduct labor compliance interview (federal aid contracts only)
- Maintain Construction Related Permit Log with copies of permits
- Ensure that no construction work is started without applicable permits
- Monitor Contractor compliance with all required permits
- Perform SWPPP inspections if project requires coverage under the APDES storm water permits
- Supervise and direct subordinate Inspectors and Office Engineer as assigned.
- Verify that all materials and workmanship meet contract requirements (ongoing)
- Issue Non-compliance Notices (NCN), if necessary, per Section 10.8 and maintain NCN log
- Discuss defective work with Contractor management.
- Maintain/prepare project daily reports (diary) of daily construction activities summarizing significant events, directions given, disputes, etc.
- Review and sign Inspector Daily Reports.
- Submit Report of Accident for on-the-job accidents.
- Review and process Requests for Information (RFI). Send RFI's to design consultants for response as necessary
- Coordinate and Process Change Notices (CN) and Requests for Proposals (RFP).
- Document labor, material and equipment for Cost of the Work Directives or IWA's
- Prepare change orders for approval.
- Prepare supplemental agreements for PM review and Contracting Officer approval
- Maintain construction management logs, including RFI's, RFP's, Directives, IWA's, and Change Orders
- Document prime construction contract disputes and claims. Submit a recommendation for resolution to the PM and Contracting Officer for review.
- Monitor contractor progress, monitor schedule control and make schedule reports with recommendations to the PM when contractual action is required to avoid schedule slippage.
- Complete a Progress Summary for each pay item at each pay estimate (federal contracts only)



## PROJECT ENGINEER RESPONSIBILITIES CHECKLIST

- Review and check pay estimates and recommend payment to PM.
- Perform quality assurance inspections and maintain quality assurance records and reporting system
- Prepare special reports for the PM of urgent or immediate actions required on problems that arise from actions or inaction on the part of prime construction contractors, subcontractors or suppliers.
- Verify that the construction contractor's redline record drawings are maintained. Review monthly progress of redline record drawings are maintained. Review monthly progress of redlined as-builts in coordination with pay request approvals. Review final redlined as-builts prior to transmittal to Design Consultant.
- Assure completed as-built documents and discs/CD-Roms are received back from Design Consultants and distributed to the administrative file clerk.
- Maintain records and accountability system for contractor-supplied spare parts, if applicable
- Provide photographic coverage of construction activities properly identified and dated for assistance in claims determinations, and to provide a pictorial record of construction progress.
- Perform walk through inspection in response to Contractor request for Substantial Completion Inspection.
- Schedule the Substantial Completion Inspection (and re-inspections as necessary). Issue invitations to the appropriate persons.
- Prepare a final completion punch list from inspection team notes and supervise completion of it.
- Draft a Certificate of Substantial Completion for PM signature.
- Assemble all written guarantees, warranties, and O&M manuals from prime construction contractors, subcontractors, material suppliers and equipment suppliers and deliver to the Client
- Verify that Contractor has coordinated and conducted systems demonstrations and training
- Perform Final Completion Inspection with Client
- Verify that all Contractor deliverables have been received
- Draft a Letter of Final Completion for PM.

### Post Construction Phase Services:

- Assemble contract close out package for submission to Concurrent Review, or Office Engineer
- Resolve Concurrent Review recommendations or obtain waiver.
- Prepare Final Acceptance letter for Contracting Officer's signature.
- Coordinate and expedite the resolution of any post construction related problems
- Process Contractor's final pay estimate
- Assist Client/Owner in coordinating move-ins and occupancy.
- Closeout construction contracts.
- Prepare a Project Closeout Data Sheet.
- Deliver permanent files to administrative file clerk for storage.

17.42. Contractors Log: BLDG Form 42 (Option to Replace Multiple Forms)

Subcontractors

SUBCONTRACTOR LOG:  
PROJECT NAME:  
PROJECT NUMBER:  
CONTRACTOR:

Company	Address	City	Zip	Business Expiration		Contractors License	Expiration Date	Scope of Work	Amount	General	Comp	Auto	Approved	Comments
				License	Date									
GENERAL CONTRACTOR														

**BADGING**  
**PROJECT NAME:**  
**PROJECT NUMBER:**  
**CONTRACTOR:**

(Note: This is for the Airport)

Name	Company	Received from Contractor	Date of Finger Print Letter	Finger Print Results	Date of Badge Letter	Comments

Design Memos

**DESIGN MEMO / INFORMATION BULLETINS/ARCHITECTURAL SUPPLEMENTAL INSTRUCTIONS**

**PROJECT NAME:**

**PROJECT NUMBER:**

**CONTRACTOR:**

Number	Description	Date		Directive	RFP	Attachments / Comments
		Received				

RFI

Request for Information (RFI) LOG  
 PROJECT NAME:  
 PROJECT NUMBER:  
 CONTRACTOR:

Number	Description	Received from Contractor	To A/E	From A/E	Returned to Contractor	Comments
001						
002						
003						
004						
005						
006						
007						
008						
009						
010						
011						
012						
013						

RFP

Request For Proposal (RFP) LOG  
 PROJECT NAME:  
 PROJECT NUMBER:  
 CONTRACTOR:

Number	Description	From Contractor				To Contractor				Costs				Comments	
										Submitted	Approved	CCO	CA		Directive
1															
2															
3															
4															
5															

IWA

Interim Work Authorization (IWA) Log

PROJECT NAME:

PROJECT NUMBER:

CONTRACTOR:

Number	Description	Date		Returned	Costs		RFP	CCO	Comments
		Sent	Returned		Submitted	Approved			
1									
2									
3									
4									
5									

Directives

DIRECTIVE LOG  
 PROJECT NAME:  
 PROJECT NUMBER:  
 CONTRACTOR:

Number	Description	Sent	Received	Scope				Contractor Notification	Comments
				Clarification	Non-Conformance	Commencement	Suspension		
A									
B									
C									
D									
E									
F									
G									
H									
I									
J									
K									
L									
M									
N									
O									
P									
Q									
R									
S									
T									
U									
V									
W									
X									
Y									
Z									



CHANGE NOTICE  
 PROJECT NAME:  
 PROJECT NUMBER:  
 CONTRACTOR:

Number	Description	Date Received	Date of DOP/PF Response	RFP	Directive	IWA	Intent to Claim Received	Comments
001								
002								
003								
004								
005								
006								
007								

Contingency Authorization (C-A) (Note: This is for CMGC contracts)

PROJECT NAME:  
PROJECT NUMBER:  
CONTRACTOR:

Item	Description	Reason for Use (Owner Request / Regulatory /Unforeseen Conditions/E&O)	Estimated Amount	Final Amount	Approved By	Date Approved
<b>CONSTRUCTION CONTINGENCY (OWNERS)</b>						
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
23						
24						
25						
26						

Subtotal: \$0  
Contractual Amount: \$1,234

Balance: \$1,234  
\$1,234

**Pay Estimate**

**PAY ESTIMATE LOG:  
PROJECT NAME:  
PROJECT NUMBER:  
CONTRACTOR:**

Number	Date Received	Amount Billed	Amount Approved	Amount Paid to Date	Date to Accounting	Copy to Contractor	Comments
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							

PROJECT SUMMARY (Last Updated: xx/xx/xxxx) (NOTE: This is for CMGC)

PROJECT NAME:

PROJECT NUMBER:

CONTRACTOR:

**CHANGE ORDERS**

Change Orders to Date (1-?) \$ -

**CONTINGENCY**

Total Contract Contingency

Change Orders that increase or decrease amount \$ -

Change Orders that increase or decrease amount \$ -

Change Orders that increase or decrease amount \$ -

Change Orders that increase or decrease amount \$ -

Subtotals \$ -

Contingency Authorizations to Date \$ -

**Contingency Amount Available to Date \$ -**

**RFPs**

RFPs received but not negotiated \$ -

RFPs issued but not received (ROM) \$ -

Total Outstanding RFP Costs \$ -

**Potential Costs**

Potential Costs to Date (ROM) \$ -

Contingency Amount Available to Date \$ -

Total Outstanding RFP Costs \$ -

Potential Costs \$ -

**TOTAL AMOUNT LEFT TO DATE \$ -**

PROJECT SUMMARY (Last Updated: xx/xx/xxxx) (NOTE: This is for Design/Bid/Build)

PROJECT NAME:

PROJECT NUMBER:

CONTRACTOR:

**CHANGE ORDERS**

Change Order Contingency Amount

Change Orders to Date (1-?) \$ -

Remaining Change Order amount \$ -

**RFPs**

RFPs received but not negotiated \$ -

RFPs issued but not received (ROM) \$ -

Total Outstanding RFP Costs \$ -

**Potential Costs**

Potential Costs to Date (ROM) \$ -

Remaining Change Order Amount \$ -

Total Outstanding RFP Costs \$ -

Potential Costs \$ -

---

**TOTAL AMOUNT LEFT TO DATE \$ -**

### 17.43. Project Budget: BLDG-Form 43

<b>OVERALL PROJECT BUDGET</b> PROJECT NAME: PROJECT NO: TBD DESIGN MANAGER: CONSTRUCTION MANAGER: CLIENT AGENCY: CONTACT:					Date Budget Prepared: Budget Revision No.: Client Concurrence: _____ (initials)
<b>STAGE OF PROJECT:</b> _____ Startup _____ Programming _____ Schematic Design _____ Design Development _____ Construction Document _____ Bid Period _____ Award _____ Construction (% Complete) _____ Closeout					
<b>DESIGN PHASE:</b>	<b>BUDGET</b>	<b>Expenditures</b>	<b>Encumbrances</b>	<b>ITD EXP.+Enc.</b>	<b>COMMENTS:</b>
Design Fees				\$0	
Design Administration Bldg				\$0	
Pre-award Audit				\$0	
<b>Additional Services</b>					
Septic Survey				\$0	
Septic Design				\$0	
Campus HVAC Controls				\$0	
Utilities				\$0	
Contracts				\$0	
Project Control				\$0	
<b>Regulatory Reviews</b>					
State Fire Marshal				\$0	
Local Reviews				\$0	
Other				\$0	
<b>Site Purchase</b>					
ICAP 1.29%				\$0	
Contingency				\$0	
<b>DESIGN PHASE TOTAL</b>				\$0	
PDA PROGRAMMED AMNT.				\$0	
<b>PROJECTED SURPLUS/(DEFICIT)</b>	\$0				<b>Total Design Phase Costs</b>
<b>BUDGET APPROVED :</b> _____					
(Design Manager's Signature)					
<b>CONSTRUCTION PHASE:</b>	<b>BUDGET</b>	<b>Expenditures</b>	<b>Encumbrances</b>	<b>ITD EXP.+Enc.</b>	<b>COMMENTS:</b>
Construction Contract				\$0	
Add Alt. #1 -				\$0	
Add Alt #2 -				\$0	
Subtotal				\$0	
Change Order Reserve				\$0	
<b>Total Construction</b>				\$0	
Construction Assistance				\$0	
Construction Administration				\$0	
IBC Req'd Special Inspections				\$0	
Furnishings, fixtures and equipment				\$0	
Artwork				\$0	
Legal				\$0	
<b>Internal Services</b>					
Concurrent Review				\$0	
Project Control				\$0	
Closeout				\$0	
ICAP @ 1.29%				\$0	
Contingency				\$0	
<b>CONSTRUCTION TOTAL</b>				\$0	
PDA PROGRAMMED AMNT.				\$0	
<b>PROJECTED SURPLUS/(DEFICIT)</b>	\$0				<b>Total Construction Phase Costs</b>
<b>BUDGET APPROVED :</b> _____					
(Construction Manager's Signature)					
<b>GRAND TOTALS</b>	\$0	\$0	\$0	\$0	
<b>CURRENT CFA AMOUNT</b>					
<b>PROJECTED SURPLUS/(DEFICIT)</b>	\$0				
					Project No.: File No.: 003

# 17.44. Project Status Report

## MEMORANDUM

STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES  
STATEWIDE PUBLIC FACILITIES

### MONTHLY PROJECT STATUS REPORT - DOT&PF

TO:

DATE: \_\_\_\_\_  
FILE NO.: \_\_\_\_\_ 30

FROM: \_\_\_\_\_  
Project Manager

PROJECT NO.: \_\_\_\_\_  
PROJECT NAME: \_\_\_\_\_  
CONSULTANT: \_\_\_\_\_  
Contractor: \_\_\_\_\_  
SCOPE: \_\_\_\_\_

SCHEDULE SUMMARY						
TASK	Scheduled Start	Schedule End	Actual End			Comments
Design RFP						
Task 1 - site investigation/planning						
Task 2 - Conceptual Design/Cost Analysis						
Task 3 - Schematic Design						
Design Completion						
Construction						
Contract Closeout						
Project Closeout						

COMMENTS:

BUDGET SUMMARY									
TASK	Anticipated Budget TBD	FY XX Appropriation	FY XX Appropriation	Total Budget Appropriated	amount of remaining required funds	Proposed Funding in RSA	Total Expenses	Contract Encumbrance	Balance of current funding
<b>Design Phase</b>					TBD				
DOT&PF Design Admin Services				\$ -					
Consultant Firm Design				\$ -					
Conceptual Design				\$ -					
Design Expenses				\$ -					
Meetings&Presentations				\$ -					
Environmental Services				\$ -					
Surveying				\$ -					
Geotechnical evaluation				\$ -					
Energy and Life Cycle Design				\$ -					
Design Team Travel				\$ -					
Demolition Design				\$ -					
Schematic Design				\$ -					
Design Development				\$ -					
Construction Documents				\$ -					
<b>Consultant Firm Design subtotal</b>				\$ -					
Plan Review/Permitting fees				\$ -					
Project Contingency				\$ -					
ICAP				\$ -					
<b>Design Phase subtotal</b>	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Construction Estimate</b>									
Consultant Services									
DOTPF Services									
contingency									
<b>Demo Phase Subtotal</b>	\$ -	\$ -		\$ -		\$ -			
<b>Construction Phase</b>	TBD					TBD			
<b>Construction Phase subtotal</b>	TBD					TBD			
<b>TOTAL</b>	TBD	0	0	0	TBD	0			0

Comments: Total budget will be designated once initial planning efforts are complete. Encumbrances and expenses are current.

cc: Chief, SWPF  
COWI

## 17.45. Notice to Proceed Letter: Sample 01

Date

**Re: Project Name**  
**DOT&PF Project Number**

**NOTICE TO PROCEED**

Contractor Name  
Contractor Street  
City, State Zip

You are authorized to proceed in accordance with the Contract Documents effective (Date – spell out date).

The contract stipulates that the project be substantially completed by (Date, spelled out). The Final Completion date will be (Date, spelled out).

If you have any questions regarding this Notice to Proceed, please contact me at (Project Manager phone number).

Sincerely,

(Project Manager Name)  
Project Manager

cc: David M. Kemp, P.E., PMP, Director of Statewide Public Facilities and Tribal Relations Liaison  
\_\_\_\_\_, Project Engineer  
File

File: 050



## 17.46. Preconstruction Conference Agenda: Sample 02

Preconstruction Conference Agenda

**Project Name**

**Project Number**

**Date**

### **PRECONSTRUCTION CONFERENCE**

- I. Opening Remarks – Project Manager
- II. Introductions – each person – name and position or responsibility  
Ex. Alaska Dept. of Labor, Wage Reporting Requirements, Administrative Items

**CONTRACTING AGENCY:**

**PROJECT MANAGER:**

**PROJECT MANAGER PHONE NUMBER:**

**RESIDENT ENGINEER:**

**RESIDENT ENGINEER PHONE NUMBER:**

**USER AGENCY:**

**USER AGENCY REPRESENTATIVE:**

**PROJECT CONSULTANT:**

**NOTICE TO PROCEED DATE:**

**CONTRACT AMOUNT: \$**

**CONTRACT COMPLETION DATE:**

**LIQUIDATED DAMAGES:**

- III. SCOPE OF WORK

Provide a brief description of the scope. This is often copied from the Invitation for Bids.

- IV. CONTRACTOR

Contractor Name

Contractor Address

City, State Zip

Contacts: Name – Project Manager (Phone #)

Name – Field Superintendent

Preconstruction Conference Agenda

V. MEETING OVERVIEW

- a. Notice to Proceed
- b. A discussion of lines and limitation of authority for the contractor, the construction management team, the client agency and the DOT&PF
- c. Submittal and RFI procedures
- d. Change Notices, Change Proposal Requests and Change Order procedures
- e. Progress schedule and updating procedures
- f. Client operations and emergencies
- g. Security issues
- h. Badging requirements
- i. Parking limitations
- j. Wage reporting requirements and labor compliance interviews
- k. Subcontractor approvals
- l. DBE requirements
- m. Liquidated damages
- n. Pay request procedures
- o. Safety requirements
- p. Special Inspection schedules
- q. Environmental concerns
- r. Unusual conditions, potential construction difficulties or specialty items
- s. Other items pertinent to the project
- t. Questions and Answers

## 17.47. Authorizations and Limitations Letter: Sample 03

Date

(Contractor Name)

(Contractor Address)

Phone:

FAX:

Gentlemen:

**Re: (Project Name)  
ADOT&PF Project No.  
Delegation of Authority**

The persons listed below are delegated to act for the Contracting Officer in the administration of this contract. Names, titles, and extent of authority are as follows:

**Contracting Officer**

**David Kemp, P.E., PMP, Director of Statewide Public Facilities and Tribal Relations Liaison**

Full authority to decide all questions, which may arise as to quality and acceptability of materials furnished and work performed, compliance with the progress schedule and interpretation of the contract documents. Authority for execution of change orders over \$50,000. Negotiation and execution of change orders and interim work authorizations. Co-approval on pay estimates. Involvement on higher-level contract administrative matters, claims, and interpretation of the Contract Documents.

**[Name], Project Manager**

Overall supervisory capacity of the design and construction effort. Secondary contact point for all correspondence and communications pertaining to the administration of the construction contract. Coordination of inspection and quality control. Full authority to decide all questions that may arise as to quality and acceptability of materials furnished and work performed, compliance with the progress schedule and interpretation of the contract documents. Authority to issue directives. Negotiation and execution of change orders and interim work authorizations up to \$50,000. Co-approval on pay estimates. Involvement on higher-level contract administrative matters, claims, and interpretation of the Contract Documents.

**[Name], Project Engineer**

Primary contact point for all correspondence and communications pertaining to the administration of construction contract. Coordination of inspection and quality control. Full authority to decide all questions that may arise as to quality and acceptability of materials furnished and work performed, compliance with the progress schedule, and interpretation of the contract documents. Authority to issue directives. Negotiate and execute change orders and interim work authorizations up to \$10,000. Co-approval on pay estimates.

**[Consultant Company Name], Design Consultant**

Authority to determine acceptability of shop drawings/submittals/tests for compliance with the contract documents. Assist in quality control and interpretation of the design documents. Consultants have no authority to decide matters involving changes of contract time or cost.

**User Agency Personnel**

Contractual matters and requests emanating from Using Agency personnel are to be referred to the DOT&PF project management team. Site visits and inspections by Using Agency personnel will be coordinated through the Project Manager.

Clarifications to the contract documents or changes to the contract documents are only valid if issued by the DOT&PF project management team as delegated above. Any changes or directives issued by others have no contractual standing. Any requests by others must be forwarded to the DOT&PF project management team.

We will advise you of any changes in the delegated authority. Please acknowledge the receipt and reading of this letter, by signing the acknowledgement line below, and returning a signed copy to the project manager. Please call [Project Manager name] at [number] if you have any questions.

Dave Kemp, P.E., PMP  
Director of Statewide Public Facilities and Tribal Relations Liaison, ADOT&PF

Acknowledged: \_\_\_\_\_ Date: \_\_\_\_\_  
[Contractor Company Name]

Cc: [Name], P.E., ADOT&PF Project Manager  
[Name], ADOT&PF Project Engineer  
[Consultant Point of Contact, Company Name]  
[User Agency Point of Contact, User Agency Name]

# Equal Employment Opportunity is **THE LAW**

## **Private Employers, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations**

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under Federal law from discrimination on the following bases:

### **RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**

Title VII of the Civil Rights Act of 1964, as amended, protects applicants and employees from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy), or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship.

### **DISABILITY**

Title I and Title V of the Americans with Disabilities Act of 1990, as amended, protect qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship.

### **AGE**

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination based on age in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment.

### **SEX (WAGES)**

In addition to sex discrimination prohibited by Title VII of the Civil Rights Act, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in the payment of wages to women and men performing substantially equal work, in jobs that require equal skill, effort, and responsibility, under similar working conditions, in the same establishment.

### **GENETICS**

Title II of the Genetic Information Nondiscrimination Act of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

### **RETALIATION**

All of these Federal laws prohibit covered entities from retaliating against a person who files a charge of discrimination, participates in a discrimination proceeding, or otherwise opposes an unlawful employment practice.

### **WHAT TO DO IF YOU BELIEVE DISCRIMINATION HAS OCCURRED**

There are strict time limits for filing charges of employment discrimination. To preserve the ability of EEOC to act on your behalf and to protect your right to file a private lawsuit, should you ultimately need to, you should contact EEOC promptly when discrimination is suspected:

The U.S. Equal Employment Opportunity Commission (EEOC), 1-800-669-4000 (toll-free) or 1-800-669-6820 (toll-free TTY number for individuals with hearing impairments). EEOC field office information is available at [www.eeoc.gov](http://www.eeoc.gov) or in most telephone directories in the U.S. Government or Federal Government section. Additional information about EEOC, including information about charge filing, is available at [www.eeoc.gov](http://www.eeoc.gov).

## Employers Holding Federal Contracts or Subcontracts

Applicants to and employees of companies with a Federal government contract or subcontract are protected under Federal law from discrimination on the following bases:

### **RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**

Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

### **INDIVIDUALS WITH DISABILITIES**

Section 503 of the Rehabilitation Act of 1973, as amended, protects qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship. Section 503 also requires that Federal contractors take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level.

### **DISABLED, RECENTLY SEPARATED, OTHER PROTECTED, AND ARMED FORCES SERVICE MEDAL VETERANS**

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, prohibits job discrimination and requires affirmative action to employ and advance in employment disabled veterans, recently separated veterans (within

three years of discharge or release from active duty), other protected veterans (veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized), and Armed Forces service medal veterans (veterans who, while on active duty, participated in a U.S. military operation for which an Armed Forces service medal was awarded).

### **RETALIATION**

Retaliation is prohibited against a person who files a complaint of discrimination, participates in an OFCCP proceeding, or otherwise opposes discrimination under these Federal laws.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately.

The Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D. C. 20210, 1-800-397-6251 (toll-free) or (202) 693-1337 (TTY). OFCCP may also be contacted by e-mail at [OFCCP.Public@dol.gov](mailto:OFCCP.Public@dol.gov), or by calling an OFCCP regional or district office, listed in most telephonic directories under U.S. Government, Department of Labor.

## Programs or Activities Receiving Federal Financial Assistance

### **RACE, COLOR, NATIONAL ORIGIN, SEX**

In addition to the protections of Title VII of the Civil Rights Act of 1964, as amended, Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal financial assistance.

### **INDIVIDUALS WITH DISABILITIES**

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with or without reasonable accommodation, can perform the essential functions of the job.

If you believe you have been discriminated against in a program of any institution which receives Federal financial assistance, you should immediately contact the Federal agency providing such assistance.

*EEOC 9/02 and OFCCP 8/08 Versions Usable With 11/09 Supplement*

*EEOC-P/E-1 (Revised 11/09)*

## 17.49. Schedule of Values Acceptance Letter: Sample 05

Date

**Re: Project Name:**  
**Project Number:**  
**Schedule of Values**

Contractor Project Manager Name  
Contractor Name  
Contractor Address  
City, State zip

Dear Mr. Name:

The Schedule of Values dated [date] is accepted as the basis for progress payments during construction.

The Department makes no assurance that items can be performed profitably for the amounts shown.

Sincerely,

Name  
Project Manager

Attachment: Schedule of Values

Xc: Project Engineer w/attachment  
Design Consultant w/attachment

Sample 05

## 17.50. Progress Schedule Acceptance Letter: Sample 06

Date

**Re: Project Name:**  
**Project Number:**  
**Progress Schedule**

Contractor Project Manager Name  
Contractor Name  
Contractor Address  
City, State zip

Dear Mr. Name:

The Progress Schedule submitted and dated [date] is accepted subject to the following conditions:

1. Materials ordered before the date of the Notice to Proceed are at the contractor's sole risk.
2. Materials ordered before submittals are approved are at the contractor's sole risk.
3. The progress of the work is dependent on the application of resources over which the Contractor, not the Department, has control.

Sincerely,

Name  
Project Manager

Attachment: Progress Schedule

Xc: Project Engineer w/attachment  
Design Consultant w/attachment

Sample 06



## 17.51. Submittal Schedule Acceptance Letter: Sample 07

Date

**Re: Project Name:**  
**Project Number:**  
**Submittal Schedule**

Contractor Project Manager Name  
Contractor Name  
Contractor Address  
City, State zip

Dear Mr. Name:

The Submittal Schedule submitted and dated [date] is accepted subject to the following conditions:

1. Materials ordered before the date of the Notice to Proceed are at the contractor's sole risk.
2. Materials ordered before submittals are approved are at the contractor's sole risk.

Sincerely,

Name  
Project Manager

Attachment: Submittal Schedule

Xc: Project Engineer w/attachment  
Design Consultant w/attachment

Sample 07

## 17.52. Subcontractor Approval Letter: Sample 08

Date

**Re: Project Name:**  
**Project Number:**  
**Subcontractor Approval**

Contractor Project Manager Name  
Contractor Name  
Contractor Address  
City, State zip

Dear Mr. Name:

The following subcontractor is approved for work on the above project. The signed original Subcontractor Certification is transmitted for your files.

<u>Subcontractor</u>	<u>Effective Date</u>
Subcontractor Name	[date]

The following subcontractors were previously approved.

<u>Subcontractor</u>	
Subcontractor Name	[date]
Subcontractor Name	[date]
Subcontractor Name	[date]
Subcontractor Name	[date]
Subcontractor Name	[date]
Subcontractor Name	[date]
Subcontractor Name	[date]

Sincerely,

Name,  
Project Engineer

Xc: Name, Project Manager  
Alaska Department of Labor and Workforce Development

Sample 08

## 17.53. Final Completion Letter: Sample 09

Date

**Re: Project Name:**  
**Project Number:**  
**Final Completion**

Contractor Project Manager Name  
Contractor Name  
Contractor Address  
City, State zip

Dear Mr. Name:

The Final Completion inspection was held on [DATE] and the project was found to have been completed in substantial conformance with the approved contract documents and all contract change orders.

The project is therefore accepted for Final Completion effective the date of the inspection.

Sincerely,

Name,  
Project Manager

Xc: Name, Project Engineer  
Name, Design Consultant  
Name, Chief, Statewide Public Facilities  
Name, Title, User Agency

Sample 09

17.54. Labor Tax Clearance Memo: Sample 10



**MEMORANDUM STATE OF ALASKA**

Department of Transportation and STW Public Facilities

**To:** Adam Gould: Department of Labor  
Division of Employment Security  
Anchorage Field Tax Office  
Phone: 269-4838 Fax: 269-4845

**Date:**

**File:** Green Closeout Folder

**Subject:** Labor Tax Clearance

**From:** Karol Collyer  
Statewide Public Facilities  
Anchorage Office/Central Region  
Phone: 269-0810 Fax: 269-0805

**Project Name:**

**Project:**

In accordance with the Department of Administration's accounting regulation, Article 6824, "Payment of Taxes on Construction Projects", we request clearance for the following:

**Contractor:** Name  
Street Address  
City, State Zip

**Tax I.D. EIN:**

**Tax Clearance is Requested From:** [Start Date] to [End Date]

---

---

**STATEMENT TO PRIME CONTRACTORS**  
(Alaska Statue 23.20.265)

The Department of Labor/Employment Security Division hereby:

(  ) Grants Tax Clearance to the above named Contractor

(  ) Deny Tax Clearance to the above named Contractor

**Through the period:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Cc: Tax Clearance File – Copy  
Cc: Regina Sellers/ Accounting Tech. II/DOT & PF

17.55. Revenue Tax Clearance Memo: Sample 11



**MEMORANDUM STATE OF ALASKA**

Department of Transportation and STW Public Facilities

To: Bill Thompson  
Department of Revenue  
Tax Division  
Phone: 465-2385 Fax: 465-2375

Date:  
File: Green Closeout Folder  
Subject: Revenue Tax Clearance

From: [Name]  
Statewide Public Facilities  
Anchorage Office/Central Region  
Phone: 269-0810 Fax: 269-0805

Project Name:  
Project:

In accordance with the Department of Administration's accounting regulation, Article 6824, "Payment of Taxes on Construction Projects", we request clearance for the following:

Contractor: Name  
Street Address  
City, State Zip

Tax I.D. EIN:  
Tax Clearance is Requested From: [Start Date] to [End Date]

=====

**STATEMENT TO PRIME CONTRACTORS**  
(Alaska Statute 23.20.265)

The Department of Revenue/Income & Excise Audit Division hereby:

- ( ) Grants Tax Clearance to the above named Contractor
- ( ) Deny Tax Clearance to the above named Contractor

Through the period: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Cc: Tax Clearance File - Copy  
Cc: Regina Sellers/ Accounting Tech. II/DOT & PF

## 17.56. Final Acceptance Letter: Sample 12

[Month, Day, Year]

[Contractor]

[Address]

[City, State Zip]

RE: Project Name

Project No.

**FINAL ACCEPTANCE**

Gentlemen:

This letter serves as Final Acceptance for the above-referenced project. All contract requirements have been satisfied.

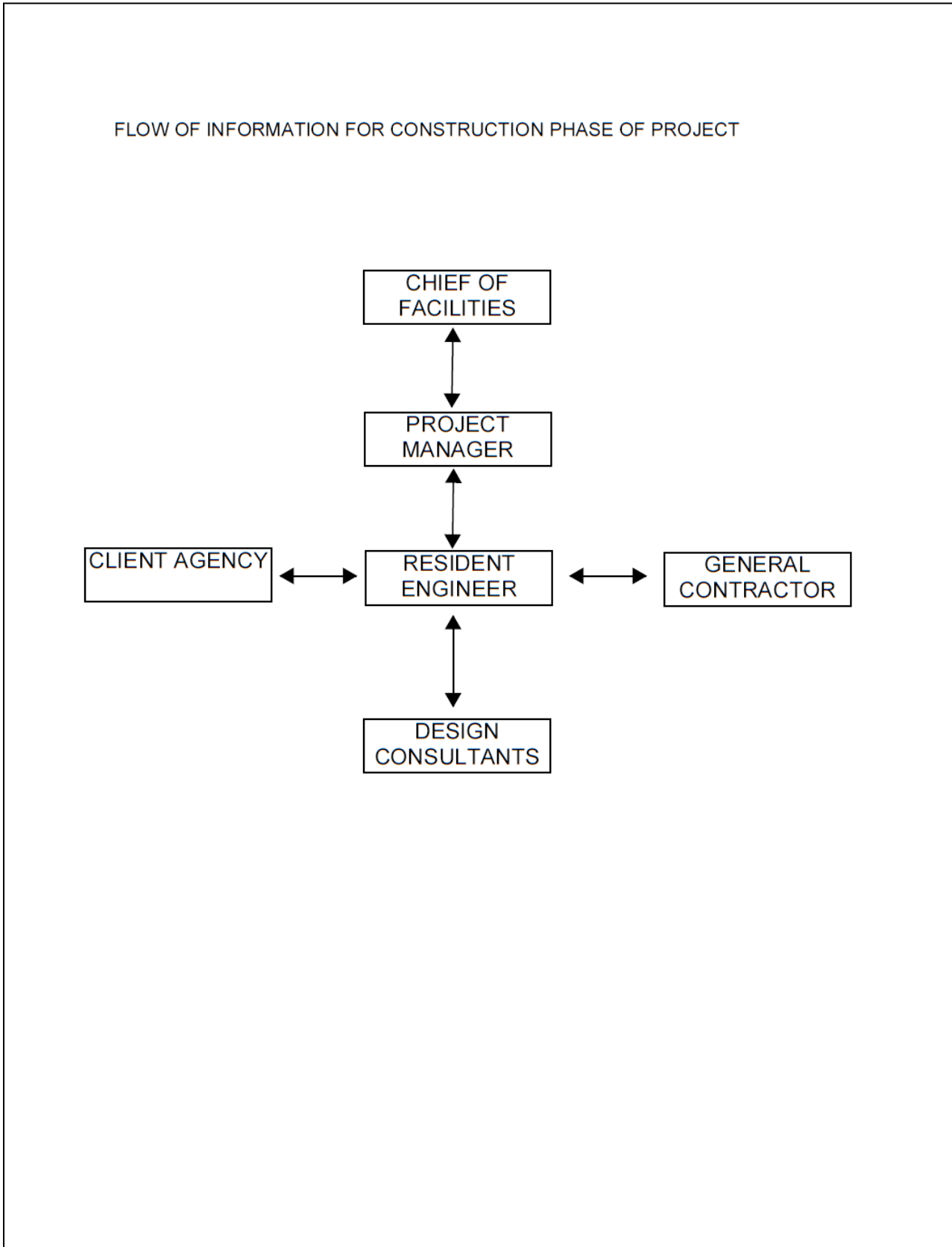
Sincerely,

David M. Kemp, P.E., PMP

Director of Statewide Public Facilities and Tribal Relations Liaison

cc: [Name], Project Manager  
David M. Kemp, P.E., PMP, Director of Statewide Public Facilities and Tribal Relations Liaison  
Sandra Barzilay, Engineering Assistant II  
Sharon Smith, P.E., Chief of Contracts  
Wage and Hour Division, State of Alaska, Dept. of Labor  
Regina Sellers, Accounting Technician II  
Karen Kristy, Aviation/Misc. Program Mgr.  
File

17.57. Flow of Information Diagram: Sample 13 – For Preconstruction Meeting Handout



## **18. Appendix**

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- 18.1. General Conditions for Design-Bid-Build Contracts
- 18.2. General Conditions Modified for CM/GC Contracts
- 18.3. RESERVED (General Conditions Modified for Design – Build Contracts)
- 18.4. Statewide Public Facilities (SWPF) Filing System
- 18.5. Commissioner Leo von Scheben Memorandum



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## 18.1. General Conditions for Design-Bid-Build Contracts

STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES  
DOCUMENT 00700 - ISSUED DECEMBER 2011

**GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT FOR BUILDINGS**

**ARTICLE 1 - DEFINITIONS**

**ARTICLE 2 - AUTHORITIES AND LIMITATIONS**

- 2.1 Authorities and Limitations
- 2.2 Evaluations by Contracting Officer
- 2.3 Means and Methods
- 2.4 Visits to Site

**ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE**

- 3.1 Incomplete Contract Documents
- 3.2 Copies of Contract Documents
- 3.3 Scope of Work
- 3.4 Intent of Contract Documents
- 3.5 Discrepancy in Contract Documents
- 3.6 Clarifications and Interpretations
- 3.7 Reuse of Documents

**ARTICLE 4 - LANDS AND PHYSICAL CONDITIONS**

- 4.1 Availability of Lands
- 4.2 Visit to Site/Place of Business
- 4.3 Explorations and Reports
- 4.4 Utilities
- 4.5 Damaged Utilities
- 4.6 Utilities Not Shown or Indicated
- 4.7 Survey Control

**ARTICLE 5 - BONDS AND INSURANCE**

- 5.1 Delivery of Bonds
- 5.2 Bonds
- 5.3 Replacement of Bond and Surety
- 5.4 Insurance Requirements
- 5.5 Indemnification

**ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES**

- 6.1 Supervision of Work
- 6.2 Superintendence by CONTRACTOR
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#### ACKNOWLEDGMENT

"The State of Alaska, General Conditions of the Construction Contract for Buildings" is based on the "Standard General Conditions of the Construction Contract" as published by the National Society of Professional Engineers (document number 1910-8, 1983 edition) on behalf of the Engineers Joint Construction Documents Committee. Portions of the NSPE General Conditions are reprinted herein by the express permission of NSPE. Modifications to the NSPE text are made to provide for State laws, regulations, and established procedures.

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## ARTICLE 1 - DEFINITIONS

Wherever used in the Contract Documents the following terms, or pronouns in place of them, are used, the intent and meaning, unless a different intent or meaning is clearly indicated, shall be interpreted as set forth below.

The titles and headings of the articles, sections, and subsections herein are intended for convenience of reference.

Terms not defined below shall have their ordinary accepted meanings within the context which they are used. Words which have a well-known technical or trade meaning when used to describe work, materials or equipment shall be interpreted in accordance with such meaning. Words defined in Article 1 are to be interpreted as defined.

**Addenda** - All clarifications, corrections, or changes issued graphically or in writing by the DEPARTMENT after the Advertisement but prior to the opening of Proposals.

**Advertisement** - The public announcement, as required by law, inviting bids for Work to be performed or materials to be furnished.

**Application for Payment** - The form provided by the DEPARTMENT which is to be used by the CONTRACTOR in requesting progress or final payments and which is to include such supporting documentation as is required by the Contract Documents.

**Approved or Approval** - 'Approved' or 'Approval' as used in this contract document shall mean that the Department has received a document, form or submittal from the contractor and that the Department has taken "No exceptions" to the item submitted. Unless the context clearly indicates otherwise, approved or approval shall not mean that the Department approves of the methods or means, or that the item or form submitted meets the requirements of the contract or constitutes acceptance of the Contractor's work. Where approved or approval means acceptance, then such approval must be set forth in writing and signed by the contracting officer or his designee.

**Architect** - Where used in the contract documents, "ARCHITECT" shall mean the DEPARTMENT'S ENGINEER.

**Architect/Engineer** - Where used in the contract documents, "ARCHITECT/ENGINEER" shall mean the DEPARTMENT'S ENGINEER.

**A.S** - Initials which stand for Alaska Statute.

**Award** - The acceptance, by the DEPARTMENT, of the successful bid.

**Bid Bond** - A type of Proposal Guaranty.

**Bidder** - Any individual, firm, corporation or any acceptable combination thereof, or joint venture submitting a bid for the advertised Work.

**Calendar Day** - Every day shown on the calendar, beginning and ending at midnight.

**Change Order** - A written order by the DEPARTMENT directing changes to the Contract Documents, within their general scope.

**Consultant** - The person, firm, or corporation retained directly by the DEPARTMENT to prepare Contract Documents, perform construction administration services, or other Project related services.

**Contingent Sum Work Item** - When the bid schedule contains a Contingent Sum Work Item, the Work covered shall be performed only upon the written Directive of the Project Manager. Payment shall be made as provided in the Directive.

**Contract** - The written agreement between the DEPARTMENT and the CONTRACTOR setting forth the obligations of the parties and covering the Work to be performed, all as required by the Contract Documents.

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**Contract Documents** - The Contract form, Addenda, the bidding requirements and CONTRACTOR's bid (including all appropriate bid tender forms), the bonds, the Conditions of the Contract and all other Contract requirements, the Specifications, and the Drawings furnished by the DEPARTMENT to the CONTRACTOR, together with all Change Orders and documents approved by the Contracting Officer, for inclusion, modifications and supplements issued on or after the Effective Date of the Contract.

**Contracting Officer** - The person authorized by the Commissioner to enter into and administer the Contract on behalf of the DEPARTMENT. He has authority to make findings, determinations and decisions with respect to the Contract and, when necessary, to modify or terminate the Contract. The Contracting Officer is identified on the construction Contract.

**CONTRACTOR** - The individual, firm, corporation or any acceptable combination thereof, contracting with the DEPARTMENT for performance of the Work.

**Contract Price** - The total moneys payable by the DEPARTMENT to the CONTRACTOR under the terms of the Contract Documents.

**Contract Time** - The number of Calendar Days following issuance of Notice-to-Proceed in which the project shall be rendered Substantially Complete, or if specified as a calendar date, the Substantial Completion date specified in the Contract Documents

**Controlling Item** - Any feature of the Work on the critical path of a network schedule.

**Defective** - Work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents.

**DEPARTMENT** - The Alaska Department of Transportation and Public Facilities. References to "Owner", "State", "Contracting Agency", mean the DEPARTMENT.

**Directive** - A written communication to the CONTRACTOR from the Contracting Officer interpreting or enforcing a Contract requirement or ordering commencement of an item of Work.

**Drawings** - The Drawings which show the character and scope of the Work to be performed and which have been furnished by the DEPARTMENT or the DEPARTMENT's Consultant and are by reference made a part of the Contract Documents.

**ENGINEER** - The DEPARTMENT'S authorized representative of the Contracting Officer, as defined in the DEPARTMENT'S *delegation of authority letter* to be issued after notice-to-proceed, who is responsible for administration of the contract.

**Equipment** - All machinery together with the necessary supplies for upkeep and maintenance, and also tools and apparatus necessary for the proper construction and acceptable completion of the work.

**Final Acceptance** - The DEPARTMENT's written acceptance of the Work following Final Completion and the performance of all Contract requirements by the CONTRACTOR.

**Final Completion** - The Project (or specified part thereof) has progressed to the point that all required Work is complete as determined by the Contracting Officer.

**Furnish** - To procure, transport, and deliver to the project site materials, labor, or equipment, for installation or use on the project.

**General Requirements** - Sections of Division 1 of the Specifications which contain administrative and procedural requirements as well as requirements for temporary facilities which apply to Specification Divisions 2 through 16.



**Holidays** - In the State of Alaska, Legal Holidays occur on:

1. New Years Day - January 1
2. Martin Luther King's Birthday - Third Monday in January
3. President's Day - Third Monday in February
4. Seward's Day - Last Monday in March
5. Memorial Day - Last Monday in May
6. Independence Day - July 4
7. Labor Day - First Monday in September
8. Alaska Day - October 18
9. Veteran's Day - November 11
10. Thanksgiving Day - Fourth Thursday in November
11. Christmas Day - December 25
12. Every Sunday
13. Every day designated by public proclamation by the President of the United States or the Governor of the State as a legal Holiday.

If any Holiday listed above falls on a Saturday, Saturday and the preceding Friday are both legal Holidays. If the Holiday should fall on a Sunday, except (12) above, Sunday and the following Monday are both legal Holidays. See Title 44, Alaska Statutes.

**Inspector** - The Engineer's authorized representative assigned to make detailed observations relating to contract performance.

**Install** - Means to build into the Work, ready to be used in complete and operable condition and in compliance with Contract Documents.

**Interim Work Authorization** - A written order by the Engineer initiating changes to the Contract, within its general scope, until a subsequent Change Order is executed.

**Invitation for Bids** - A portion of the bidding documents soliciting bids for the Work to be performed.

**Laboratory** - The official testing laboratories of the DEPARTMENT or such other laboratories as may be designated by the Engineer or identified in the contract documents.

**Materials** - Any substances specified for use in the construction of the project.

**Notice of Intent to Award** - The written notice by the DEPARTMENT to all Bidders identifying the apparent successful Bidder and establishing the DEPARTMENT's intent to execute the Contract when all conditions required for execution of the Contract are met.

**Notice to Proceed** - A written notice to the CONTRACTOR to begin the Work and establishing the date on which the Contract Time begins.

**Payment Bond** - The security furnished by the CONTRACTOR and his Surety to guarantee payment of the debts covered by the bond.

**Performance Bond** - The security furnished by the CONTRACTOR and his Surety to guarantee performance and completion of the Work in accordance with the Contract.

**Preconstruction Conference** - A meeting between the CONTRACTOR and the Engineer, and other parties affected by the construction, to discuss the project before the CONTRACTOR begins work.

**Project** - The total construction, of which the Work performed under the Contract Documents is the whole or a part, where such total construction may be performed by more than one CONTRACTOR.

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**Project Manager** - The authorized representative of the Contracting Officer who is responsible for administration of the Contract.

**Proposal** - The offer of a Bidder, on the prescribed forms, to perform the Work at the prices quoted.

**Proposal Guaranty** - The security furnished with a Proposal to guarantee that the bidder will enter into a Contract if his Proposal is accepted by the DEPARTMENT.

**Quality Assurance (QA)** - Where referred to in the technical specifications (Divisions 2 through 16), Quality Assurance refers to measures to be provided by the CONTRACTOR as specified.

**Quality Control (QC)** - Tests and inspections by the CONTRACTOR to insure the acceptability of materials incorporated into the work. QC test reports are used as a basis upon which to determine whether the Work conforms to the requirements of the Contract Documents and to determine its acceptability for payment.

**Regulatory Requirements** - Laws, rules, regulations, ordinances, codes and/or orders.

**Schedule of Values** - The DEPARTMENT's document, submitted by the CONTRACTOR and reviewed by the Contracting Officer, which shall serve as the basis for computing payment and for establishing the value of separate items of Work which comprise the Contract Price.

**Shop Drawings** - All drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for the CONTRACTOR to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a Supplier and submitted by the CONTRACTOR to illustrate material, equipment, fabrication, or erection for some portion of the Work. Where used in the Contract Documents, "Shop Drawings" shall also mean "Submittals".

**Specifications** - Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative and procedural details applicable thereto.

**Subcontractor** - An individual, firm, or corporation to whom the CONTRACTOR or any other Subcontractor sublets part of the Contract.

**Substantial Completion** - Although not fully completed, the Work (or a specified part thereof) has progressed to the point where, in the opinion of the Contracting Officer, as evidence by the DEPARTMENT's written notice, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended. The terms "Substantially Complete" and "Substantially Completed" as applied to any Work refer to Substantial Completion thereof.

**Supplemental Agreement** - A written agreement between the CONTRACTOR and the DEPARTMENT covering work that is not within the general scope of the Contract.

**Supplementary Conditions** - The part of the Contract Documents which amends or supplements these General Conditions.

**Supplier** - A manufacturer, fabricator, distributor, materialman or vendor of materials or equipment.

**Surety** - The corporation, partnership, or individual, other than the CONTRACTOR, executing a bond furnished by the CONTRACTOR.

**Traffic Control Plan (TCP)** - A drawing of one or more specific plans that detail the routing of pedestrian, and/or vehicular traffic through or around a construction area.

**Unit Price Work** - Work to be paid for on the basis of unit prices.

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**Using Agency** - The entity who will occupy or use the completed Project.

**Utility** - The privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway or street drainage, and other similar commodities, including publicly owned fire and police signal systems, street lighting systems, and railroads which directly or indirectly serve the public or any part thereof. The term "utility" shall also mean the utility company, inclusive of any wholly owned or controlled subsidiary."

**Work** - Work is the act of, and the result of, performing services, furnishing labor, furnishing and incorporating materials and equipment into the Project and performing other duties and obligations, all as required by the Contract Documents. Such Work, however incremental, will culminate in the entire completed Project, or the various separately identifiable parts thereof.

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## ARTICLE 2 - AUTHORIZATION AND LIMITATIONS

### 2.1 Authorities and Limitations

- 2.1.1 The Contracting Officer alone, shall have the power to bind the DEPARTMENT and to exercise the rights, responsibilities, authorities and functions vested in the Contracting Officer by the Contract Documents. The Contracting Officer shall have the right to designate in writing authorized representatives to act for him. Wherever any provision of the Contract Documents specifies an individual or organization, whether governmental or private, to perform any act on behalf of or in the interest of the DEPARTMENT that individual or organization shall be deemed to be the Contracting Officer's authorized representative under this Contract but only to the extent so specified.
- 2.1.2 The CONTRACTOR shall perform the Work in accordance with any written order (including but not limited to instruction, direction, interpretation or determination) issued by an authorized representative in accordance with the authorized representative's authority to act for the Contracting Officer. The CONTRACTOR assumes all the risk and consequences of performing the Work in accordance with any order (including but not limited to instruction, direction, interpretation or determination) of anyone not authorized to issue such order, and of any order not in writing.
- 2.1.3 Should the Contracting Officer or his authorized representative designate Consultant(s) to act for the DEPARTMENT as provided for in Paragraph 2.1.1, the performance or nonperformance of the Consultant under such authority to act, shall not give rise to any contractual obligation or duty of the Consultant to the CONTRACTOR, any Subcontractor, any Supplier, or any other organization performing any of the Work or any Surety representing them.

### 2.2 Evaluations by Contracting Officer:

- 2.2.1 The Contracting Officer will decide all questions which may arise as to:
- a. Quality and acceptability of materials furnished;
  - b. Quality and acceptability of Work performed;
  - c. Compliance with the schedule of progress;
  - d. Interpretation of Contract Documents;
  - e. Acceptable fulfillment of the Contract on the part of the CONTRACTOR.
- 2.2.2 In order to avoid cumbersome terms and confusing repetition of expressions in the Contract Documents the terms "as ordered", "as directed", "as required", "as approved" or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory" or adjectives of like effect or import are used it shall be understood as if the expression were followed by the words "the Contracting Officer".
- When such terms are used to describe a requirement, direction, review or judgment of the Contracting Officer as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise).
- 2.2.3 The use of any such term or adjective shall not be effective to assign to the DEPARTMENT any duty of authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraphs 2.3 or 2.4.

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### **2.3 Means & Methods:**

The means, methods, techniques, sequences or procedures of construction, or safety precautions and the program incident thereto, and the failure to perform or furnish the Work in accordance with the Contract Documents are the sole responsibility of the CONTRACTOR.

### **2.4 Visits to Site/Place of Business:**

The Contracting Officer will make visits to the site and approved remote storage sites at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. The Contracting Officer may, at reasonable times, inspect that part of the plant or place of business of the CONTRACTOR or Subcontractor that is related to the performance of the Contract. Such observations or the lack of such observations shall in no way relieve the CONTRACTOR from his duty to perform the Work in accordance with the Contract Documents.

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## **ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE**

### **3.1 Incomplete Contract Documents:**

The submission of a bid by the Bidder is considered a representation that the Bidder examined the Contract Documents to make certain that all sheets and pages were provided and that the Bidder is satisfied as to the conditions to be encountered in performing the Work. The DEPARTMENT expressly denies any responsibility or liability for a bid submitted on the basis of an incomplete set of Contract Documents.

### **3.2 Copies of Contract Documents:**

The DEPARTMENT shall furnish to the CONTRACTOR up to ten copies of the Contract Documents. Additional copies will be furnished, upon request, at the cost of reproduction.

### **3.3 Scope of Work:**

The Contract Documents comprise the entire Contract between the DEPARTMENT and the CONTRACTOR concerning the Work. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the Regulatory Requirements of the place of the Project.

It is specifically agreed between the parties executing this Contract that it is not intended by any of the provisions of the Contract to create in the public or any member thereof a third party benefit, or to authorize anyone not a party to this Contract to maintain a suit pursuant to the terms or provisions of the Contract.

### **3.4 Intent of Contract Documents:**

- 3.4.1 It is the intent of the Contract Documents to describe a functionally complete Project to be constructed in accordance with the Contract Documents. Any Work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied, without any adjustment in Contract Price or Contract Time, whether or not specifically called for.
- 3.4.2 Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the Regulatory Requirements of any governmental authority, whether such reference be specific or by implication, shall mean the edition stated in the Contract Documents or if not stated the latest standard specification, manual, code or Regulatory Requirements in effect at the time of Advertisement for the Project (or, on the Effective Date of the Contract if there was no Advertisement). However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of the DEPARTMENT and the CONTRACTOR, or any of their consultants, agents or employees from those set forth in the Contract Documents, nor shall it be effective to assign to the DEPARTMENT or any of the DEPARTMENT's Consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraphs 2.3 or 2.4.

### **3.5 Discrepancy in Contract Documents:**

- 3.5.1 Before undertaking the Work, the CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures, and dimensions shown thereon and all applicable field measurements. Work in the area by the CONTRACTOR shall imply verification of figures, dimensions and field measurements. If, during the above study or during the performance of the Work, the CONTRACTOR finds a conflict, error, discrepancy or omission in the Contract Documents, or a discrepancy between the Contract Documents and any standard specification, manual, code, or Regulatory Requirement which affects the Work, the CONTRACTOR shall promptly report such discrepancy in writing to the Contracting Officer. The CONTRACTOR shall obtain a written interpretation or clarification from the Contracting Officer before proceeding with any Work affected thereby. Any adjustment made by the CONTRACTOR without this

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determination shall be at his own risk and expense. However, the CONTRACTOR shall not be liable to the DEPARTMENT for failure to report any conflict, error or discrepancy in the Contract Documents unless the CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

**3.5.2 Discrepancy - Order of Precedence:**

When conflicts errors, or discrepancies within the Contract Documents exist, the order of precedence from most governing to least governing will be as follows:

- Contents of Addenda
- Supplementary Conditions
- General Conditions
- General Requirements
- Technical Specifications
- Drawings
- Recorded dimensions will govern over scaled dimensions
- Large scale details over small scale details
- Schedules over plans
- Architectural drawings over structural drawings Structural drawings over mechanical and electrical drawings

**3.6 Clarifications and Interpretations:**

The Contracting Officer will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents as the Contracting Officer may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents.

**3.7 Reuse of Documents:**

Neither the CONTRACTOR nor any Subcontractor, or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with the DEPARTMENT shall have or acquire any title to or ownership rights in any of the Contract Documents (or copies thereof) prepared by or for the DEPARTMENT and they shall not reuse any of the Contract Documents on extensions of the Project or any other project without written consent of the Contracting Officer.

Contract Documents prepared by the CONTRACTOR in connection with the Work shall become the property of the DEPARTMENT.

## ARTICLE 4 - LANDS AND PHYSICAL CONDITIONS

### 4.1 Availability of Lands:

The DEPARTMENT shall furnish as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for use of the CONTRACTOR in connection with the Work. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by the DEPARTMENT, unless otherwise provided in the Contract Documents. The CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment. The CONTRACTOR shall provide all waste and disposal areas, including disposal areas for hazardous or contaminated materials, at no additional cost to the DEPARTMENT.

### 4.2 Visit to Site:

The submission of a bid by the CONTRACTOR is considered a representation that the CONTRACTOR has visited and carefully examined the site and is satisfied as to the conditions to be encountered in performing the Work and as to the requirements of the Contract Documents.

### 4.3 Explorations and Reports:

Reference is made to the Supplementary Conditions for identification of those reports of explorations and tests of subsurface conditions at the site that have been utilized by the DEPARTMENT in preparation of the Contract Documents. The CONTRACTOR may for his purposes rely upon the accuracy of the factual data contained in such reports, but not upon interpretations or opinions drawn from such factual data contained therein or for the completeness or sufficiency thereof. Except as indicated in the immediately preceding sentence and in paragraphs 4.4 and 9.9, CONTRACTOR shall have full responsibility with respect to surface and subsurface conditions at the site.

### 4.4 Utilities:

The horizontal and vertical locations of known underground utilities as shown or indicated by the Contract Documents are approximate and are based on information and data furnished to the DEPARTMENT by the owners of such underground utilities.

#### 4.4.2 The CONTRACTOR shall have full responsibility for:

- a. Reviewing and checking all information and data concerning utilities.
- b. Locating all underground utilities shown or indicated in the Contract Documents which are affected by the Work.
- c. Coordination of the Work with the owners of all utilities during construction.
- d. Safety and protection of all utilities as provided in paragraph 6.17.
- e. Repair of any damage to utilities resulting from the Work in accordance with 4.4.4 and 4.5.

#### 4.4.3 If Work is to be performed by any utility owner, the CONTRACTOR shall cooperate with such owners to facilitate the Work.

#### 4.4.4 In the event of interruption to any utility service as a result of accidental breakage or as result of being exposed or unsupported, the CONTRACTOR shall promptly notify the utility owner and the Contracting Officer. If service is interrupted, repair work shall be continuous until the service is restored. No Work shall be undertaken around fire hydrants until provisions for continued service has been approved by the local fire

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authority.

#### **4.5 Damaged Utilities:**

When utilities are damaged by the CONTRACTOR, the utility owner shall have the choice of repairing the utility or having the CONTRACTOR repair the utility. In the following circumstances, the CONTRACTOR shall reimburse the utility owner for repair costs or provide at no cost to the utility owner or the DEPARTMENT, all materials, equipment and labor necessary to complete repair of the damage:

- a. When the utility is shown or indicated in the Contract Documents.
- b. When the utility has been located by the utility owner.
- c. When no locate was requested by the CONTRACTOR for utilities shown or indicated in the Contract Documents.
- d. All visible utilities.
- e. When the CONTRACTOR could have, otherwise, reasonably been expected to be aware of such utility.

#### **4.6 Utilities Not Shown or Indicated:**

If, while directly performing the Work, an underground utility is uncovered or revealed at the site which was not shown or indicated in the Contract Documents and which the CONTRACTOR could not reasonably have been expected to be aware of, the CONTRACTOR shall, promptly after becoming aware thereof and before performing any Work affected thereby (except in an emergency as permitted by paragraph 6.19) identify the owner of such underground utility and give written notice thereof to that owner and to the Contracting Officer. The Contracting Officer will promptly review the underground utility to determine the extent to which the Contract Documents and the Work should be modified to reflect the impacts of the discovered utility. The Contract Documents will be amended or supplemented in accordance with paragraph 9.2 and to the extent necessary through the issuance of a change document by the Contracting Officer. During such time, the CONTRACTOR shall be responsible for the safety and protection of such underground utility as provided in paragraph 6.17. The CONTRACTOR may be allowed an increase in the Contract Price or an extension of the Contract Time, or both, to the extent that they are directly attributable to the existence of any underground utility that was not shown or indicated in the Contract Documents and which the CONTRACTOR could not reasonably have been expected to be aware of.

#### **4.7 Survey Control:**

The DEPARTMENT will identify sufficient horizontal and vertical control data to enable the CONTRACTOR to survey and layout the Work. All survey work shall be performed under the direct supervision of a registered land surveyor when required by paragraph 7.8. Copies of all survey notes shall be provided to the DEPARTMENT at an interval determined by the Project Manager. The Project Manager may request submission on a weekly or longer period at his discretion. Any variations between the Contract Documents and actual field conditions shall be identified in the survey notes.

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## ARTICLE 5 - BONDS, INSURANCE, AND INDEMNIFICATION

### 5.1 Delivery of Bonds:

When the CONTRACTOR delivers the executed Contract to the Contracting Officer, the CONTRACTOR shall also deliver to the Contracting Officer such bonds as the CONTRACTOR may be required to furnish in accordance with paragraph 5.2.

### 5.2 Bonds:

The CONTRACTOR shall furnish Performance and Payment Bonds, each in an amount as shown on the Contract as security for the faithful performance and payment of all CONTRACTOR's obligations under the Contract Documents. These bonds shall remain in effect for one year after the date of Final Acceptance and until all obligations under this Contract, except special guarantees as per 12.7, have been met. All bonds shall be furnished on forms provided by the DEPARTMENT (or copies thereof) and shall be executed by such Sureties as are authorized to do business in the State of Alaska. The Contracting Officer may at his option copy the Surety with notice of any potential default or liability.

### 5.3 Replacement of Bond and Surety:

If the Surety on any bond furnished in connection with this Contract is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of paragraph 5.2, or otherwise becomes unacceptable to the DEPARTMENT, or if any such Surety fails to furnish reports as to his financial condition as requested by the DEPARTMENT, the CONTRACTOR shall within five days thereafter substitute another bond and Surety, both of which must be acceptable to DEPARTMENT.

An individual Surety may be replaced by a corporate Surety during the course of the Contract period. If the Surety desires to dispose of the collateral posted, the DEPARTMENT may, at its option, accept substitute collateral.

### 5.4 Insurance Requirements:

5.4.1 The CONTRACTOR shall provide evidence of insurance with a carrier or carriers satisfactory to the DEPARTMENT covering injury to persons and/or property suffered by the State of Alaska or a third party, as a result of operations which arise both out of and during the course of this Contract by the CONTRACTOR or by any Subcontractor. This coverage will also provide protection against injuries to all employees of the CONTRACTOR and the employees of any Subcontractor engaged in Work under this Contract. The delivery to the DEPARTMENT of a written 30 day notice is required before cancellation of any coverage or reduction in any limits of liability. Insurance carriers shall have an acceptable financial rating.

5.4.2 The CONTRACTOR shall maintain in force at all times during the performance of the work under this agreement the following policies and minimum limits of liability. Failure to maintain insurance may, at the option of the Contracting Officer, be deemed Defective Work and remedied in accordance with the Contract. Where specific limits and coverages are shown, it is understood that they shall be the minimum acceptable. The requirements of this paragraph shall not limit the CONTRACTOR's responsibility to indemnify under paragraph 5.5. Additional insurance requirements specific to this Contract are contained in the Supplementary Conditions, when applicable.

a. Workers' Compensation Insurance: The Contractor shall provide and maintain, for all employees of the Contractor engaged in work under this contract, Workers' Compensation Insurance as required by AS 23.30.045. The Contractor shall be responsible for Workers' Compensation Insurance for any subcontractor who provides services under this contract, to include:

1. Waiver of subrogation against the State and Employer's Liability Protection in the amount of \$500,000 each accident/\$500,000 each disease.

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2. If the Contractor directly utilizes labor outside of the State of Alaska in the prosecution of the work, "Other States" endorsement shall be required as a condition of the contract.
3. Whenever the work involves activity on or about navigable waters, the Workers' Compensation policy shall contain a United States Longshoreman's and Harbor Worker's Act endorsement, and when appropriate, a Maritime Employer's Liability (Jones Act) endorsement with a minimum limit of \$1,000,000.

- b. Comprehensive or Commercial General Liability Insurance: Such insurance shall cover all operations by or on behalf of the CONTRACTOR and provide insurance for bodily injury and property damage liability including coverage for:

premises and operations; products and completed operations; contractual liability insuring obligations assumed under paragraph 5.5, Indemnification; broad form property damage; and personal injury liability.

The minimum limits of liability shall be:

1. If the CONTRACTOR carries a *Comprehensive General Liability* policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage and Personal Injury Liability of:  
\$1,000,000 each occurrence  
\$2,000,00 aggregate
2. If the CONTRACTOR carries a *Commercial General Liability* policy, the limits of liability shall not be less than:  
  
\$1,000,000 each occurrence (Combined Single Limit for bodily injury and property damage)  
\$1,000,000 for Personal Injury Liability  
  
\$2,000,000 aggregate for Products-Completed Operations  
\$2,000,000 general aggregate

The State of Alaska, DEPARTMENT of Transportation and Public Facilities shall be named as an "Additional Insured" under all liability coverages listed above.

- c. Automobile Liability Insurance:  
Such insurance shall cover all owned, hired and non-owned vehicles and provide coverage not less than that of the Business Automobile Policy in limits not less than the following:  
  
\$1,000,000 each occurrence  
(Combined Single Limit for bodily injury and property damage.)

- d. Builder's Risk Insurance:  
Coverage shall be on an "All Risk" completed value basis including "quake and flood" and protect the interests of the DEPARTMENT, the CONTRACTOR and his Subcontractors. Coverage shall include all materials, supplies and equipment that are intended for specific installation in the Project while such materials, supplies and equipment are located at the Project site, in transit from port of arrival to job site and while temporarily located away from the Project site.

In addition to providing the above coverages the CONTRACTOR shall ensure that Subcontractors provide insurance coverages as noted in clauses a., b., and c. of this subparagraph. Builders Risk Insurance will only be required of subcontractors if so stated in the Supplementary Conditions.

- e. Other Coverages:  
As specified in the Supplementary Conditions.

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5.4.3 In addition to providing the above coverages the Contractor shall, in any contract or agreement with subcontractors performing work, require that all indemnities and waivers of subrogation it obtains, and that any stipulation to be named as an additional insured it obtains, also be extended to waive rights of subrogation against the State of Alaska and to add the State of Alaska as additional named indemnitee and as additional insured.

Evidence of insurance shall be furnished to the Department prior to the award of the contract. Such evidence, executed by the carrier's representative and issued to the Department, shall consist of a certificate of insurance or the policy declaration page with required endorsements attached thereto which denote the type, amount, class of operations covered, effective (and retroactive) dates, and dates of expiration. Acceptance by the Department of deficient evidence does not constitute a waiver of contract requirements.

When a certificate of insurance is furnished, it shall contain the following statement:

"This is to certify that the policies described herein comply with all aspects of the insurance requirements of (Project Name and Number)"

**5.5 Indemnification:**

The CONTRACTOR shall indemnify, save harmless, and defend the DEPARTMENT, its agents and its employees from any and all claims, actions, or liabilities for injuries or damages sustained by any person or property arising directly or indirectly from the construction or the CONTRACTOR's performance of this Contract; however, this provision has no effect if, but only if, the sole proximate cause of the injury or damage is the DEPARTMENT's negligence.

## **ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES**

### **6.1 Supervision of Work:**

The CONTRACTOR shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. All Work under this Contract shall be performed in a skillful and workmanlike manner. The CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures of construction.

### **6.2 Superintendence by CONTRACTOR:**

The CONTRACTOR shall keep on the Work at all times during its progress a competent resident superintendent. The Contracting Officer shall be advised in writing of the superintendent's name, local address, and telephone number. This written advice is to be kept current until Final Acceptance by the DEPARTMENT. The superintendent will be the CONTRACTOR's representative at the site and shall have full authority to act and sign documents on behalf of the CONTRACTOR.

All communications given to the superintendent shall be as binding as if given to the CONTRACTOR. The CONTRACTOR shall cooperate with the Contracting Officer in every way possible.

### **6.3 Character of Workers:**

The CONTRACTOR shall provide a sufficient number of competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. The CONTRACTOR shall at all times maintain good discipline and order at the site. The Contracting Officer may, in writing, require the CONTRACTOR to remove from the Work any employee the Contracting Officer deems incompetent, careless, or otherwise detrimental to the progress of the Work, but the Contracting Officer shall have no duty to exercise this right.

### **6.4 CONTRACTOR to Furnish:**

Unless otherwise specified in the General Requirements, the CONTRACTOR shall furnish and assume full responsibility for all materials, equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance testing, start-up and completion of the Work.

### **6.5 Materials and Equipment:**

All materials and equipment shall be of specified quality and new, except as otherwise provided in the Contract Documents. If required by the Contracting Officer, the CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the instructions of the applicable Supplier except as otherwise provided in the Contract Documents; but no provision of any such instructions will be effective to assign to the DEPARTMENT or any of the DEPARTMENT's Consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraphs 2.3 or 2.4.

### **6.6 Anticipated Schedules:**

- 6.6.1 Within fourteen (14) calendar days after the date of the Notice to Proceed, the CONTRACTOR shall submit to the Contracting Officer for review an anticipated progress schedule indicating the starting and completion dates of the various stages of the Work. No individual stage of work shall exceed fourteen (14) calendar days.

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6.6.2 Within twenty one (21) days after the date of the Notice to Proceed, the CONTRACTOR shall submit to the Contracting Officer for review an anticipated schedule of Shop Drawing submissions

6.6.3 Prior to submitting the CONTRACTOR's first Application for Payment, the CONTRACTOR shall submit for review and approval:

Anticipated Schedule of Values for all of the Work which will include quantities and prices of items aggregating the Contract Price and will subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work which will be confirmed in writing by the CONTRACTOR at the time of submission.

**6.7 Finalizing Schedules:**

Prior to processing the first Application for Payment the Contracting Officer and the CONTRACTOR will finalize schedules required by paragraph 6.6. The finalized progress schedule will be acceptable to the DEPARTMENT as providing information related to the orderly progression of the Work to completion within the Contract Time; but such acceptance will neither impose on the DEPARTMENT nor relieve the CONTRACTOR from full responsibility for the progress or scheduling of the Work. If accepted, the finalized schedule of Shop Drawing and other required submissions will be acknowledgment by the DEPARTMENT as providing a workable arrangement for processing the submissions. If accepted, the finalized Schedule of Values will be acknowledgment by the DEPARTMENT as an approximation of anticipated value of Work accomplished over the anticipated Contract Time. Receipt and acceptance of a schedule submitted by the CONTRACTOR shall not be construed to assign responsibility for performance or contingencies to the DEPARTMENT or relieve the CONTRACTOR of his responsibility to adjust his forces, equipment, and work schedules as may be necessary to insure completion of the Work within prescribed Contract Time. Should the prosecution of the Work be discontinued for any reason, the CONTRACTOR shall notify the Contracting Officer at least 24 hours in advance of resuming operations.

**6.8 Adjusting Schedules:**

Upon substantial changes to the schedule or upon request the CONTRACTOR shall submit to the Contracting Officer for acceptance (to the extent indicated in paragraph 6.7 and the General Requirements) adjustments in the schedules to reflect the actual present and anticipated progress of the Work.

**6.9 Substitutes or "Or-Equal" Items:**

6.9.1 Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that substitution is limited or not permitted, materials or equipment of other Suppliers may be accepted by the Contracting Officer only if sufficient information is submitted by the CONTRACTOR which clearly demonstrates to the Contracting Officer that the material or equipment proposed is equivalent or equal in all aspects to that named. The procedure for review by the Contracting Officer will include the following as supplemented in the General Requirements.

6.9.2 Requests for review of substitute items of material and equipment will not be accepted by the Contracting Officer from anyone other than the CONTRACTOR.

- 6.9.3 If the CONTRACTOR wishes to furnish or use a substitute item of material or equipment, the CONTRACTOR shall make written application to the Contracting Officer for Approval thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as the specified. The application will state that the evaluation and Approval of the proposed substitute will not delay the CONTRACTOR's timely achievement of Substantial or Final Completion, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with the DEPARTMENT for Work on the Project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty.
- 6.9.4 All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which shall be considered by the DEPARTMENT in evaluating the proposed substitute. The DEPARTMENT may require the CONTRACTOR to furnish at the CONTRACTOR's expense additional data about the proposed substitute. The Contracting Officer may reject any substitution request which the Contracting Officer determines is not in the best interest of the DEPARTMENT.
- 6.9.5 Substitutions shall be permitted during or after the bid period as allowed and in accordance with Document 00020 - Invitation for Bids, Document 00700 – General Conditions, and Document 01630 - Product Options and Substitutions.

**6.10 Substitute Means and Methods:**

If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, the CONTRACTOR may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to the Contracting Officer, if the CONTRACTOR submits sufficient information to allow the Contracting Officer to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedure for review by the Contracting Officer will be similar to that provided in paragraph 6.9 as applied by the Contracting Officer and as may be supplemented in the General Requirements.

**6.11 Evaluation of Substitution:**

The Contracting Officer will be allowed a reasonable time within which to evaluate each proposed substitute. The Contracting Officer will be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without the Contracting Officer's prior written Approval which will be evidenced by either a Change Order or a Shop Drawing Approved in accordance with Sections 6.20 and 6.21. The Contracting Officer may require the CONTRACTOR to furnish at the CONTRACTOR's expense a special performance guarantee or other Surety with respect to any substitute.

**6.12 Dividing the Work:**

The divisions and sections of the Specifications and the identifications of any Drawings shall not control the CONTRACTOR in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

**6.13 Subcontractors:**

The CONTRACTOR may utilize the services of appropriately licensed Subcontractors on those parts of the Work which, under normal contracting practices, are performed by Subcontractors, in accordance with the following conditions:

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- 6.13.1 The CONTRACTOR shall not award any Work to any Subcontractor without prior written Approval of the Contracting Officer. This Approval will not be given until the CONTRACTOR submits to the Contracting Officer a written statement concerning the proposed award to the Subcontractor which shall contain required Equal Employment Opportunity documents, evidence of insurance whose limits are acceptable to the CONTRACTOR, and an executed copy of the subcontract. All subcontracts shall contain provisions for prompt payment, release of retainage, and interest on late payment amounts and retainage as specified in A.S. 36.90.210. Contracts between subcontractors, regardless of tier, must also contain these provisions. No acceptance by the Contracting Officer of any such Subcontractor shall constitute a waiver of any right of the DEPARTMENT to reject Defective Work.
- 6.13.2 The CONTRACTOR shall be fully responsible to the DEPARTMENT for all acts and omissions of the Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions.
- 6.13.3 All Work performed for CONTRACTOR by a Subcontractor will be pursuant to an appropriate written agreement between CONTRACTOR and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the DEPARTMENT and contains waiver provisions as required by paragraph 13.17 and termination provisions as required by Article 14.
- 6.13.4 Nothing in the Contract Documents shall create any contractual relationship between the DEPARTMENT and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of the DEPARTMENT to pay or to see to the payment of any moneys due any such Subcontractor, Supplier or other person or organization except as may otherwise be required by Regulatory Requirements. The DEPARTMENT will not undertake to settle any differences between or among the CONTRACTOR, Subcontractors, or Suppliers.
- 6.13.5 The CONTRACTOR and Subcontractors shall coordinate their work and cooperate with other trades so to facilitate general progress of Work. Each trade shall afford other trades every reasonable opportunity for installation of their work and storage of materials. If cooperative work of one trade must be altered due to lack of proper supervision, or failure to make proper provisions in time by another trade, such conditions shall be remedied by the CONTRACTOR with no change in Contract Price or Contract Time.
- 6.13.6 The CONTRACTOR shall include on his own payrolls any person or persons working on this Contract who are not covered by written subcontract, and shall ensure that all Subcontractors include on their payrolls all persons performing Work under the direction of the Subcontractor.

**6.14 Use of Premises:**

The CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of workers to the Project limits and approved remote storage sites and lands and areas identified in and permitted by Regulatory Requirements, rights-of-way, permits and easements, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. The CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work. Should any claim be made against the DEPARTMENT by any such owner or occupant because of the performance of the Work, the CONTRACTOR shall hold the DEPARTMENT harmless.

**6.15 Structural Loading:**

The CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall the CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.



**6.16 Record Documents:**

The CONTRACTOR shall maintain in a safe place at the site one record copy of all Drawings, Specifications, Addenda, Directives, Change Orders, Supplemental Agreements, and written interpretations and clarifications (issued pursuant to paragraph 3.6) in good order and annotated to show all changes made during construction. These record documents together with all Approved samples and a counterpart of all Approved Shop Drawings will be available to the Contracting Officer for reference and copying. Upon completion of the Work, the annotated record documents, samples and Shop Drawings will be delivered to the Contracting Officer. Record documents shall accurately record variations in the Work which vary from requirements shown or indicated in the Contract Documents.

**6.17 Safety and Protection:**

The CONTRACTOR alone shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

- 6.17.1 All employees on the Work and other persons and organizations who may be affected thereby;
- 6.17.2 All the Work and materials and equipment to be incorporated therein, whether in storage on or off the site; and
- 6.17.3 Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation or replacement in the course of construction.

The CONTRACTOR shall comply with all applicable Regulatory Requirements of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. The CONTRACTOR shall notify owners of adjacent property and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property. All damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the CONTRACTOR, any Subcontractor, Supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by the CONTRACTOR with no change in Contract Price or Contract Time except as stated in 4.6, except damage or loss attributable to unforeseeable causes beyond the control of and without the fault or negligence of the CONTRACTOR, including but not restricted to acts of God, of the public enemy or governmental authorities. The CONTRACTOR's duties and responsibilities for the safety and protection of the Work shall continue until Final Acceptance (except as otherwise expressly provided in connection with Substantial Completion).

**6.18 Safety Representative:**

The CONTRACTOR shall designate a responsible safety representative at the site. This person shall be the CONTRACTOR's superintendent unless otherwise designated in writing by the CONTRACTOR to the Contracting Officer.

**6.19 Emergencies:**

In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the DEPARTMENT, is obligated to act to prevent threatened damage, injury or loss. The CONTRACTOR shall give the Contracting Officer prompt written notice if the CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If the DEPARTMENT determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a change will be authorized by one of the methods indicated in Paragraph 9.2, as determined appropriate by the Contracting Officer.

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**6.20 Shop Drawings and Samples:**

- 6.20.1 After checking and verifying all field measurements and after complying with applicable procedures specified in the General Requirements, the CONTRACTOR shall submit to the Contracting Officer for review and Approval in accordance with the accepted schedule of Shop Drawing submissions the required number of all Shop Drawings, which will bear a stamp or specific written indication that the CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to the review of the submission. All submissions will be identified as the Contracting Officer may require. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to enable the Contracting Officer to review the information as required.
- 6.20.2 The CONTRACTOR shall also submit to the Contracting Officer for review and Approval with such promptness as to cause no delay in Work, all samples required by the Contract Documents. All samples will have been checked by and accompanied by a specific written indication that the CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to the review of the submission and will be identified clearly as to material, Supplier, pertinent data such as catalog numbers and the use for which intended.
- 6.20.3 Before submission of each Shop Drawing or sample the CONTRACTOR shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and reviewed or coordinated each Shop Drawing or sample with other Shop Drawings and samples and with the requirements of the Work and the Contract Documents.
- 6.20.4 At the time of each submission the CONTRACTOR shall give the Contracting Officer specific written notice of each variation that the Shop Drawings or samples may have from the requirements of the Contract Documents, and, in addition, shall cause a specific notation to be made on each Shop Drawing submitted to the Contracting Officer for review and Approval of each such variation. All variations of the proposed Shop Drawing from that specified will be identified in the submission and available maintenance, repair and replacement service will be indicated. The submittal will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such variation, including costs of redesign and claims of other Contractors affected by the resulting change, all of which shall be considered by the DEPARTMENT in evaluating the proposed variation. If the variation may result in a change of Contract Time or Price, or Contract responsibility, and is not minor in nature; the CONTRACTOR must submit a written request for Change Order with the variation to notify the DEPARTMENT of his intent. The DEPARTMENT may require the CONTRACTOR to furnish at the CONTRACTOR's expense additional data about the proposed variation. The Contracting Officer may reject any variation request which the Contracting Officer determines is not in the best interest of the DEPARTMENT.

**6.21 Shop Drawing and Sample Review:**

- 6.21.1 The Contracting Officer will review with reasonable promptness Shop Drawings and samples, but the Contracting Officer's review will be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents and shall not extend to means, methods, techniques, sequences or procedures of construction (except where a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents) or to safety precautions or programs incident thereto. The review of a separate item as such will not indicate acceptance of the assembly in which the item functions. The CONTRACTOR shall make corrections required by the Contracting Officer and shall return the required number of corrected copies of Shop Drawings and submit as required new samples for review. The CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by the Contracting Officer on previous submittals.
- 6.21.2 The Contracting Officer's review of Shop Drawings or samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless the CONTRACTOR has in writing advised the Contracting Officer of each such variation at the time of submission as required by paragraph 6.20.4. The Contracting Officer if he so determines, may give written Approval of each such variation by Change Order, except that, if the variation is minor and no Change Order has been requested a

specific written notation thereof incorporated in or accompanying the Shop Drawing or sample review comments shall suffice as a modification. Approval by the Contracting Officer will not relieve the CONTRACTOR from responsibility for errors or omissions in the Shop Drawings or from responsibility for having complied with the provisions of paragraph 6.20.3.

6.21.3 The DEPARTMENT shall be responsible for all DEPARTMENT review costs resulting from the initial submission and the fors resubmittal. The CONTRACTOR shall, at the discretion of the Contracting Agency, pay all review costs incurred by the DEPARTMENT as a result of any additional re-submittals.

6.21.4 Where a Shop Drawing or sample is required by the Specifications, any related Work performed prior to the Contracting Officer's review and Approval of the pertinent submission will be the sole expense and responsibility of the CONTRACTOR.

**6.22 Maintenance During Construction:**

The CONTRACTOR shall maintain the Work during construction and until Substantial Completion, at which time the responsibility for maintenance shall be established in accordance with paragraph 13.10.

**6.23 Continuing the Work:**

The CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with the DEPARTMENT. No Work shall be delayed or postponed pending resolution of any disputes, disagreements, or claims except as the CONTRACTOR and the Contracting Officer may otherwise agree in writing.

**6.24 Consent to Assignment:**

The CONTRACTOR shall obtain the prior written consent of the Contracting Officer to any proposed assignment of any interest in, or part of this Contract. The consent to any assignment or transfer shall not operate to relieve the CONTRACTOR or his Sureties of any of his or its obligations under this Contract or the Performance Bonds. Nothing herein contained shall be construed to hinder, prevent, or affect an assignment of monies due, or to become due hereunder, made for the benefit of the CONTRACTOR's creditors pursuant to law.

**6.25 Use of Explosives:**

6.25.1 When the use of explosives is necessary for the prosecution of the Work, the CONTRACTOR shall exercise the utmost care not to endanger life or property, including new Work and shall follow all Regulatory Requirements applicable to the use of explosives. The CONTRACTOR shall be responsible for all damage resulting from the use of explosives.

6.25.2 All explosives shall be stored in a secure manner in compliance with all Regulatory Requirements, and all such storage places shall be clearly marked. Where no Regulatory Requirements apply, safe storage shall be provided not closer than 1,000 feet from any building, camping area, or place of human occupancy.

6.25.3 The CONTRACTOR shall notify each public utility owner having structures in proximity to the site of his intention to use explosives. Such notice shall be given sufficiently in advance to enable utility owners to take such steps as they may deem necessary to protect their property from injury. However, the CONTRACTOR shall be responsible for all damage resulting from the use of the explosives, whether or not, utility owners act to protect their property.

**6.26 CONTRACTOR's Records:**

6.26.1 Records of the CONTRACTOR and Subcontractors relating to personnel, payrolls, invoices of materials, and any and all other data relevant to the performance of this Contract, must be kept on a generally recognized accounting system. Such records must be available during normal work hours to the Contracting Officer for purposes of investigation to ascertain compliance with Regulatory Requirements and provisions of the Contract

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Documents.

- 6.26.2 Payroll records must contain the name and address of each employee, his correct classification, rate of pay, daily and weekly number of hours of work, deductions made, and actual wages paid. The CONTRACTOR and Subcontractors shall make employment records available for inspection by the Contracting Officer and representatives of the U.S. and/or State Department of Labor and will permit such representatives to interview employees during working hours on the Project.
- 6.26.3 Records of all communications between the DEPARTMENT and the CONTRACTOR and other parties, where such communications affected performance of this Contract, must be kept by the CONTRACTOR and maintained for a period of three years from Final Acceptance. The DEPARTMENT or its assigned representative may perform an audit of these records during normal work hours after written notice to the CONTRACTOR.
- 6.27 Load Restrictions

The CONTRACTOR shall comply with all load restrictions as set forth in the "Administrative Permit Manual", and Title 17, Chapter 25, of the Alaska Administrative Code in the hauling of materials on public roads, beyond the limits of the project, and on all public roads within the project limits that are scheduled to remain in use upon completion of the project.

Overload permits may, at the discretion of the State, be issued for travel beyond the project limits for purposes of mobilization and/or demobilization. Issuance of such a permit will not relieve the CONTRACTOR of liability for damage which may result from the moving of equipment.

The operation of equipment of such weight or so loaded as to cause damage to any type of construction will not be permitted. No overloads will be permitted on the base course or surface course under construction. No loads will be permitted on a concrete pavement, base or structure before the expiration of the curing period. The CONTRACTOR shall be responsible for all damage done by his equipment.

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## ARTICLE 7 - LAWS AND REGULATIONS

### 7.1 Laws to be Observed

The CONTRACTOR shall keep fully informed of all federal and state Regulatory Requirements and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the Work, or which in any way affect the conduct of the Work. The CONTRACTOR shall at all times observe and comply with all such Regulatory Requirements, orders and decrees; and shall protect and indemnify the DEPARTMENT and its representatives against claim or liability arising from or based on the violation of any such Regulatory Requirement, order, or decree whether by the CONTRACTOR, Subcontractor, or any employee of either. Except where otherwise expressly required by applicable Regulatory Requirements, the DEPARTMENT shall not be responsible for monitoring CONTRACTOR's compliance with any Regulatory Requirements.

### 7.2 Permits, Licenses, and Taxes

- 7.2.1 The CONTRACTOR shall procure all permits and licenses, pay all charges, fees and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the Work. As a condition of performance of this Contract, the CONTRACTOR shall pay all federal, state and local taxes incurred by the CONTRACTOR, in the performance of this Contract. Proof of payment of these taxes is a condition precedent to final payment by the DEPARTMENT under this Contract.
- 7.2.2 The CONTRACTOR's certification that taxes have been paid (as contained in the *Release of Contract*) will be verified with the Department of Revenue and Department of Labor, prior to final payment.
- 7.2.3 If any federal, state or local tax is imposed, charged, or repealed after the date of bid opening and is made applicable to and paid by the CONTRACTOR on the articles or supplies herein contracted for, then the Contract shall be increased or decreased accordingly by a Change Order.

### 7.3 Patented Devices, Materials and Processes

If the CONTRACTOR employs any design, device, material, or process covered by letters of patent, trademark or copyright, the CONTRACTOR shall provide for such use by suitable legal agreement with the patentee or owner. The CONTRACTOR and the Surety shall indemnify and save harmless the DEPARTMENT, any affected third party, or political subdivision from any and all claims for infringement by reason of the use of any such patented design, device, material or process, or any trademark or copyright, and shall indemnify the DEPARTMENT for any costs, expenses, and damages which it may be obliged to pay by reason of any infringement, at any time during the prosecution or after the completion of the Work.

### 7.4 Compliance of Specifications and Drawings:

If the CONTRACTOR observes that the Specifications and Drawings supplied by the DEPARTMENT are at variance with any Regulatory Requirements, CONTRACTOR shall give the Contracting Officer prompt written notice thereof, and any necessary changes will be authorized by one of the methods indicated in paragraph 9.2. as determined appropriate by the Contracting Officer. If the CONTRACTOR performs any Work knowing or having reason to know that it is contrary to such Regulatory Requirements, and without such notice to the Contracting Officer, the CONTRACTOR shall bear all costs arising therefrom; however, it shall not be the CONTRACTOR's primary responsibility to make certain that the Specifications and Drawings supplied by the DEPARTMENT are in accordance with such Regulatory Requirements.

### 7.5 Accident Prevention:

The CONTRACTOR shall comply with AS 18.60.075 and all pertinent provisions of the Construction Code Occupational Safety and Health Standards issued by the Alaska Department of Labor.

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**7.6 Sanitary Provisions:**

The CONTRACTOR shall provide and maintain in a neat and sanitary condition such accommodations for the use of his employees and DEPARTMENT representatives as may be necessary to comply with the requirements of the State and local Boards of Health, or of other bodies or tribunals having jurisdiction.

**7.7 Business Registration:**

Comply with AS 08.18.011, as follows: "it is unlawful for a person to submit a bid or work as a contractor until he has been issued a certificate of registration by the Department of Commerce. A partnership or joint venture shall be considered registered if one of the general partners or venturers whose name appears in the name under which the partnership or venture does business is registered."

**7.8 Professional Registration and Certification:**

All craft trades, architects, engineers and land surveyors, electrical administrators, and explosive handlers employed under the Contract shall specifically comply with applicable provisions of AS 08.18, 08.48, 08.40, and 08.52. Provide copies of individual licenses within seven days following a request from the Contracting Officer.

**7.9 Local Building Codes:**

The CONTRACTOR shall comply with AS 35.10.025 which requires construction in accordance with applicable local building codes to include the obtaining of required permits.

**7.10 Air Quality Control:**

The CONTRACTOR shall comply with all applicable provisions of AS 46.03.04 as pertains to Air Pollution Control.

**7.11 Archaeological or Paleontological Discoveries:**

When the CONTRACTOR's operation encounters prehistoric artifacts, burials, remains of dwelling sites, or paleontological remains, such as shell heaps, land or sea mammal bones or tusks, the CONTRACTOR shall cease operations immediately and notify the Contracting Officer. No artifacts or specimens shall be further disturbed or removed from the ground and no further operations shall be performed at the site until so directed. Should the Contracting Officer order suspension of the CONTRACTOR's operations in order to protect an archaeological or historical finding, or order the CONTRACTOR to perform extra Work, such shall be covered by an appropriate Contract change document.

**7.12 Applicable Alaska Preferences:**

7.12.1 In determining the low bidder for State funded projects, a 5% bid preference has been given to "Alaska bidders", as required under AS 36.30.170. "Alaska bidder" means a person who:

- (1) holds a current Alaska business license;
- (2) submits a bid for goods, services, or construction under the name as appearing on the person's current Alaska business license
- (3) has maintained a place of business within the state staffed by the bidder or an employee of the bidder for a period of six months immediately preceding the date of the bid;
- (4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship, and the proprietor is a resident of the state or is a partnership, and all partners are residents of the state; and
- (5) if a joint venture, is composed entirely of ventures that qualify under (1) through (4), above.

7.12.2 In determining the low bidder for State funded projects, an "Alaska products" preference has been given as required under AS 36.30.326 - 36.30.332, when the bidder designates the use of Alaska products. The Bidder shall complete the Alaska Products Preference Worksheet per its instructions and submit it with the Bid

Proposal. If the successful Bidder/CONTRACTOR proposes to use an Alaska product and does not do so, a penalty will be assessed against the successful Bidder/CONTRACTOR in an amount equal to the product preference percentage granted to the successful Bidder/CONTRACTOR plus one percent multiplied by the total declared value of the Alaska products proposed but not used.

- 7.12.3 Pursuant to AS 36.15.050 and AS 36.30.322, "agricultural/wood" products harvested in Alaska shall be used in State funded projects whenever they are priced no more than seven percent above agricultural/wood products harvested outside the state and are of a like quality as compared with agricultural/wood products harvested outside the state, when such products are not utilized, the CONTRACTOR shall document the efforts he made towards obtaining agricultural/wood products harvested in Alaska and include in this documentation a written statement that he contacted the manufacturers and suppliers identified on the Department of Commerce and Economic Development's list of suppliers of Alaska forest products concerning the availability of agricultural/wood products harvested in Alaska and, if available, the product prices. The CONTRACTOR's use of agricultural/wood products that fail to meet the requirements of this section shall be subject to the provisions of paragraphs 12.6 through 12.9 relating to Defective Work.
- 7.12.4 The CONTRACTOR shall maintain records, in a format acceptable to the Contracting Officer, which establish the type and extent of "agricultural/wood" and "Alaska" products utilized. All record keeping and documentation associated with the requirements 7.12.2 and 7.12.3 of this paragraph, must be provided to the DEPARTMENT upon written request or as otherwise provided within the Contract Documents.

#### **7.13 Wages and Hours of Labor:**

- 7.13.1 One certified copy of all payrolls shall be submitted weekly to the State Department of Labor and, upon request, to the Contracting Officer to assure compliance with AS 36.05.040, *Filing Schedule of Employees Wages Paid and Other Information*. The CONTRACTOR shall be responsible for the submission of certified copies of payrolls of all Subcontractors. The certification shall affirm that the payrolls are current and complete, that the wage rates contained therein are not less than the applicable rates referenced in these Contract Documents, and that the classification set forth for each laborer or mechanic conforms with the Work he performed. The CONTRACTOR and his Subcontractors shall attend all hearings and conferences and produce such books, papers, and documents all as requested by the Department of Labor. Should federal funds be involved, the appropriate federal agency shall also receive a copy of the CONTRACTOR's certified payrolls. Regardless of project funding source, copies of all certified payrolls supplied to the State Department of Labor by the CONTRACTOR shall be supplied also to the Project Manager upon request, including submittals made by, or on behalf of, subcontractors.
- 7.13.2 The following labor provisions shall also apply to this Contract:
- a. The CONTRACTOR and his Subcontractors shall pay all employees unconditionally and not less than once a week;
  - b. wages may not be less than those stated under AS 36.05.010, regardless of the contractual relationship between the CONTRACTOR or Subcontractors and laborers, mechanics, or field surveyors;
  - c. the scale of wages to be paid shall be posted by the CONTRACTOR in a prominent and easily accessible place at the site of the Work;
  - d. the DEPARTMENT shall withhold so much of the accrued payments as is necessary to pay to laborers, mechanics, or field surveyors employed by the CONTRACTOR or Subcontractors the difference between
    1. the rates of wages required by the Contract to be paid laborers, mechanics, or field surveyors on the Work, and
    2. the rates of wages in fact received by laborers, mechanics or field surveyors.

Revised: December 2011

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7.13.3 Within three calendar days of award of a construction contract, the CONTRACTOR shall file a "Notice of Work" with the Department of Labor and shall pay all related fees. The Contracting Officer will not issue Notice to Proceed to the CONTRACTOR until such notice and fees have been paid to the State Department of Labor. Failure of the CONTRACTOR to file the Notice of Work and pay fees within this timeframe shall not constitute grounds for an extension of contract time or adjustment of contract price.

**7.14 Overtime Work Hours and Compensation:**

Pursuant to 40 U.S.C. 327-330 and AS 23.10.060 -.110, the CONTRACTOR shall not require nor permit any laborer or mechanic in any workweek in which he is employed on any Work under this Contract to work in excess of eight hours in any Calendar Day or in excess of forty hours in such workweek on Work subject to the provisions of the *Contract Work Hours and Safety Standards Act* unless such laborer or mechanic receives compensation at a rate not less than one and one half times his basic rate of pay for all such hours worked in excess of eight hours in any Calendar Day or in excess of forty hours in such workweek whichever is the greater number of overtime hours. In the event of any violation of this provision, the CONTRACTOR shall be liable to any affected employee for any amounts due and penalties and to the DEPARTMENT for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of this provision in the sum of \$10.00 for each Calendar Day on which such employee was required or permitted to be employed on such Work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by this paragraph.

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## **ARTICLE 8 - OTHER WORK**

### **8.1 Related Work at Site:**

- 8.1.1 The DEPARTMENT reserves the right at any time to contract for and perform other or additional work on or near the Work covered by the Contract.
- 8.1.2 When separate contracts are let within the limits of the Project, the CONTRACTOR shall conduct his Work so as not to interfere with or hinder the work being performed by other contractors. The CONTRACTOR when working on the same Project with other contractors shall cooperate with such other contractors. The CONTRACTOR shall join his Work with that of the others in an acceptable manner and shall perform it in proper sequence to that of others.
- 8.1.3 If the fact that other such work is to be performed is identified or shown in the Contract Documents the CONTRACTOR shall assume all liability, financial or otherwise, in connection with this Contract and indemnify and save harmless the DEPARTMENT from any and all damages or claims that may arise because of inconvenience, delay, or loss experienced by the CONTRACTOR because of the presence and operations of other contractors.
- 8.1.4 If the fact that such other work is to be performed was not identified or shown in the Contract Documents, written notice thereof will be given to the CONTRACTOR prior to starting any such other work. If the CONTRACTOR believes that such performance will require an increase in Contract Price or Contract Time, the CONTRACTOR shall notify the Contracting Officer of such required increase within fifteen (15) calendar days following receipt of the Contracting Officer's notice. Should the Contracting Officer find such increase(s) to be justified, a Change Order will be executed.

### **8.2 Access, Cutting, and Patching:**

The CONTRACTOR shall afford each utility owner and any other contractor who is a party to such a direct contract with the DEPARTMENT (or the DEPARTMENT, if the DEPARTMENT is performing the additional work with the DEPARTMENT's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work, and shall properly connect and coordinate the Work with the work of others. The CONTRACTOR shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work, the CONTRACTOR shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter such other work with the written consent of the Contracting Officer. The duties and responsibilities of the CONTRACTOR under this paragraph are for the benefit of other contractors to the extent that there are comparable provisions for the benefit of the CONTRACTOR in said direct contracts between the DEPARTMENT and other contractors.

### **8.3 Defective Work by Others:**

If any part of the CONTRACTOR's Work depends for proper execution or results upon the work of any such other contractor, utility owner, or the DEPARTMENT, the CONTRACTOR shall inspect and promptly report to the Contracting Officer in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. The CONTRACTOR's failure to so report will constitute an acceptance of the other work as fit and proper for integration with CONTRACTOR's Work except for latent or nonapparent defects and deficiencies in the other work.

### **8.4 Coordination:**

If the DEPARTMENT contracts with others for the performance of other work at the site, Contracting Officer will have authority and responsibility for coordination of the activities among the various prime contractors.

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## ARTICLE 9 - CHANGES

### 9.1 DEPARTMENT's Right to Change:

Without invalidating the Contract and without notice to any Surety, the DEPARTMENT may, at any time or from time to time, order additions, deletions or revisions in the Work within the general scope of the Contract, including but not limited to changes:

- 9.1.1 In the Contract Documents;
- 9.1.2 In the method or manner of performance of the Work;
- 9.1.3 In State-furnished facilities, equipment, materials, services, or site;
- 9.1.4 Directing acceleration in the performance of the Work.

### 9.2 Authorization of Changes within the General Scope:

Additions, deletions, or revisions in the Work within the general scope of the Contract as specified in 9.1 shall be authorized by one or more of following ways:

- 9.2.1 Directive (pursuant to paragraph 9.3)
- 9.2.2 A Change Order (pursuant to paragraph 9.4)
- 9.2.3 DEPARTMENT's acceptance of Shop Drawing variations from the Contract Documents as specifically identified by the CONTRACTOR as required by paragraph 6.20.4.

### 9.3 Directive:

- 9.3.1 The Contracting Officer shall provide written clarification or interpretation of the Contract Documents (pursuant to paragraph 3.6).
- 9.3.2 The Contracting Officer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Time and are consistent with the overall intent of the Contract Documents.
- 9.3.3 The Contracting Officer may order the Contractor to correct Defective Work or methods which are not in conformance with the Contract Documents.
- 9.3.4 The Contracting Officer may direct the commencement or suspension of Work or emergency related Work (as provided in paragraph 6.19).
- 9.3.5 Upon the issuance of a Directive to the CONTRACTOR by the Contracting Officer, the CONTRACTOR shall proceed with the performance of the Work as prescribed by such Directive.
- 9.3.6 If the CONTRACTOR believes that the changes noted in a Directive may cause an increase in the Contract Price or an extension of Contract Time, the CONTRACTOR shall immediately provide written notice to the Contracting Officer depicting such increases before proceeding with the Directive, except in the case of an emergency. If the Contracting Officer finds the increase in Contract Price or the extension of Contract Time justified, a Change Order will be issued. If however, the Contracting Officer does not find that a Change Order is justified, the Contracting Officer may direct the CONTRACTOR to proceed with the Work. The CONTRACTOR shall cooperate with the Contracting Officer in keeping complete daily records of the cost of such Work. If a Change Order is ultimately determined to be justified, in the absence of agreed prices and unit prices, payment for such Work will be made on a "cost of the work basis" as provided in 10.4

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#### **9.4 Change Order:**

A change in Contract Time, Contract Price, or responsibility may be made for changes within the scope of the Work by Change Order. Upon receipt of an executed Change Order, the CONTRACTOR shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents except as otherwise specifically provided. Changes in Contract Price and Contract Time shall be made in accordance with Articles 10 and 11. A Change Order shall be considered executed when it is signed by the DEPARTMENT.

#### **9.5 Shop Drawing Variations:**

Variations by shop drawings shall only be eligible for consideration under 9.4 when the conditions affecting the price, time, or responsibility are identified by the CONTRACTOR in writing and a request for a Change Order is submitted as per 6.20.4.

#### **9.6 Changes Outside the General Scope; Supplemental Agreement:**

Any change which is outside the general scope of the Contract, as determined by the Contracting Officer, must be authorized by a Supplemental Agreement signed by the appropriate representatives of the DEPARTMENT and the CONTRACTOR.

#### **9.7 Unauthorized Work:**

The CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Time with respect to any work performed that is not required by the Contract Documents as amended, modified and supplemented as provided in this Article 9, except in the case of an emergency as provided in paragraph 6.19 and except in the case of uncovering Work as provided in paragraph 12.4.2.

#### **9.8 Notification of Surety:**

If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Time) is required by the provisions of any bond to be given to a Surety, the giving of any such notice will be the CONTRACTOR's responsibility, and the amount of each applicable bond will be adjusted accordingly.

#### **9.9 Differing Site Conditions:**

- 9.9.1 The CONTRACTOR shall promptly, and before such conditions are disturbed (except in an emergency as permitted by paragraph 6.19), notify the Contracting Officer in writing of: (1) subsurface or latent physical conditions at the site differing materially from those indicated in the Contract, and which could not have been discovered by a careful examination of the site, or (2) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract. The Contracting Officer shall promptly investigate the conditions, and if the Contracting Officer finds that such conditions do materially so differ and cause an increase or decrease in the CONTRACTOR's cost of, or time required for, performance of this Contract, an adjustment shall be made and the Contract modified in writing accordingly. An adjustment in compensation shall be computed under Article 10.
- 9.9.2 Any claim for additional compensation by the CONTRACTOR under this clause shall be made in accordance with Article 15. In the event that the Contracting Officer and the CONTRACTOR are unable to reach an agreement concerning an alleged differing site condition, the CONTRACTOR will be required to keep an accurate and detailed record which will indicate the actual "cost of the work" done under the alleged differing site condition. Failure to keep such a record shall be a bar to any recovery by reason of such alleged differing site conditions. The Contracting Officer shall be given the opportunity to supervise and check the keeping of such records.

Revised: December 2011

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9.10 **Interim Work Authorization:**

An Interim Work Authorization may be used to establish a change within the scope of the Work; however, only a Change Order shall establish associated changes in Contract Time and Price. Work authorized by Interim Work Authorization shall be converted to a Change Order. The basis of payment shall be as stated in the Interim Work Authorization, unless it states that the basis of payment has not been established and is to be negotiated, in which case the Cost of the Work shall be documented pursuant to Article 10.4, to establish a basis for negotiating a lump sum price for the Change Order.

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## ARTICLE 10 - CONTRACT PRICE; COMPUTATION AND CHANGE

### 10.1 Contract Price:

The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to the CONTRACTOR for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by the CONTRACTOR shall be at his expense without change in the Contract Price. The Contract Price may only be changed by a Change Order or Supplemental Agreement.

### 10.2 Claim for Price Change:

Any claim for an increase or decrease in the Contract Price shall be submitted in accordance with the terms of Article 15, and shall not be allowed unless notice requirements of this Contract have been met.

### 10.3 Change Order Price Determination:

The value of any Work covered by a Change Order for an increase or decrease in the Contract Price shall be determined in one of the following ways:

- 10.3.1 Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved (subject to the provisions of subparagraphs 10.9.1 through 10.9.3, inclusive).
- 10.3.2 By mutual acceptance of a lump sum (fixed price) which includes overhead and profit. The lump sum (fixed price) shall be negotiated on the basis of the estimated "cost of the work" in accordance with Articles 10.4 and 10.5. The following maximum rates of cost markup (to cover both overhead and profit of the CONTRACTOR) shall be used in the negotiation of a Lump Sum Change Order:
- a. For costs incurred under paragraphs 10.4.1 and 10.4.2, the CONTRACTOR's fee shall be twenty percent;
  - b. For costs incurred under paragraph 10.4.3, the CONTRACTOR's fee shall be ten percent; and if a subcontract is on the basis of "cost of the work" plus a fee, the maximum allowable to CONTRACTOR on account of overhead and profit for itself and all Subcontractors and multiple tiers thereof shall be fifteen percent of the cost incurred by the subcontractor actually performing the work;
  - c. No fee shall be payable on the basis of costs itemized under paragraphs 10.4.4, 10.4.5 and 10.5;
  - d. The amount of credit to be allowed by the CONTRACTOR to the DEPARTMENT for any such change which results in a net decrease in cost will be the amount of the actual net decrease plus a deduction in CONTRACTOR's fee by an amount equal to twenty percent of the net decrease; and
  - e. When both additions and credits are involved in any one change, the adjustment in CONTRACTOR's fee shall be computed on the basis of the net change in accordance with paragraphs 10.3.2.a through 10.3.2.d, inclusive
- 10.3.3 When 10.3.1 and 10.3.2 are inapplicable, on the basis of the "cost of the work" (determined as provided in paragraphs 10.4 and 10.5) plus a CONTRACTOR's fee for overhead and profit (determined as provided in paragraph 10.6).
- 10.3.4 Before a Change Order or Supplemental Agreement is Approved, the CONTRACTOR shall submit cost or pricing data regarding the changed or extra Work. The CONTRACTOR shall certify that the data submitted is, to his best knowledge and belief, accurate, complete and current as of a mutually determined specified date and that such data will continue to be accurate and complete during the performance of the changed or extra Work.

Revised: December 2011

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#### 10.4 Cost of the Work:

The term "cost of the work" means the sum of all costs necessarily incurred and paid by the CONTRACTOR in the proper performance of the Work. Except as otherwise may be agreed to in writing by the DEPARTMENT, such costs shall be in amount no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in subparagraph 10.5:

- 10.4.1 Payroll costs for employees in the direct employ of the CONTRACTOR in the performance of the Work under schedules of job classifications agreed upon by the DEPARTMENT and the CONTRACTOR. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' or workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. Such employees shall include manual workers up through the level of foreman but shall not include general foremen, superintendents, and non-manual employees. The expenses of performing Work after regular working hours, on Saturday, Sunday or legal holidays, shall be included in the above to the extent authorized by the DEPARTMENT.
- 10.4.2 Cost of all materials and equipment furnished and incorporated or consumed in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to the CONTRACTOR unless the DEPARTMENT deposits funds with the CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to the DEPARTMENT. All trade discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to the DEPARTMENT, and the CONTRACTOR shall make provisions so that they may be obtained.
- 10.4.3 Payments made by the CONTRACTOR to Subcontractors for Work performed by Subcontractors. If required by the DEPARTMENT, CONTRACTOR shall obtain competitive quotes from Subcontractors or Suppliers acceptable to the CONTRACTOR and shall deliver such quotes to the DEPARTMENT who will then determine which quotes will be accepted. If a subcontract provides that the Subcontractor is to be paid on the basis of "cost of the work" plus a fee, the Subcontractor "cost of the work" shall be determined in the same manner as the CONTRACTOR's "cost of work" as described in paragraphs 10.4 through 10.5; and the Subcontractor's fee shall be established as provided for under subparagraph 10.6.2 clause b. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.
- 10.4.4 Costs of special consultants (including but not limited to engineers, architects, testing laboratories, and surveyors) employed for services necessary for the completion of the Work.
- 10.4.5 Supplemental costs including the following:
  - a. The proportion of necessary transportation, travel and subsistence expenses of the CONTRACTOR's employees incurred in discharge of duties connected with the Work.
  - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of the CONTRACTOR.
  - c. Rentals of all construction equipment and machinery and the parts thereof whether rented from the CONTRACTOR or others in accordance with rental agreements Approved by the DEPARTMENT and the costs of transportation, loading, unloading, installation, dismantling and removal thereof - all in accordance with terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work.

For any machinery or special equipment (other than small tools) which has been authorized by the Project

Manager, the CONTRACTOR shall receive the rental rates in the current edition and appropriate volume of the "Rental Rate Blue Book for Construction Equipment", published by Dataquest, Inc., 1290 Ridder Park Drive, San Jose, CA 95131. Hourly rental rates shall be determined as follows:

*The established hourly rental rate shall be equal to the adjusted monthly rate for the basic equipment plus the adjusted monthly rate for applicable attachments, both divided by 176, and multiplied by the area adjustment factor, plus the estimated hourly operating cost.*

The adjusted monthly rate is that resulting from application of the rate adjustment formula in order to eliminate replacement cost allowances in machine depreciation and contingency cost allowances.

Attachments shall not be included unless required for the time and materials work.

For equipment not listed in The Blue Book, the CONTRACTOR shall receive a rental rate as agreed upon before such work is begun. If agreement cannot be reached, the DEPARTMENT reserves the right to establish a rate based on similar equipment in the Blue Book or prevailing commercial rates in the area.

These rates shall apply for equipment used during the CONTRACTOR's regular shift of 10 hours per day. Where the equipment is used more than 10 hours per day, either on the CONTRACTOR's normal work or on time and materials, and either on single or multiple shifts, an overtime rate, computed as follows, shall apply:

*The hourly overtime rate shall be equal to the adjusted monthly rate for the basic equipment plus the adjusted monthly rate for applicable attachments, both divided by 352, and multiplied by the area adjustment factor, plus the estimated hourly operating cost.*

Equipment which must be rented or leased specifically for work required under this section shall be authorized in writing by the Project Manager. The CONTRACTOR shall be paid invoice price plus 15%.

When it is necessary to obtain equipment from sources beyond the project limits exclusively for time and materials, work, the actual cost of transferring the equipment to the site of the work and return will be allowed as an additional item of expense. Where the move is made by common carrier, the move-in allowance will be limited to the amount of the freight bill or invoice. If the CONTRACTOR hauls the equipment with his own forces, the allowance will be limited to the rental rate for the hauling unit plus operator wages. In the event that the equipment is transferred under its own power, the moving allowance will be limited to one-half of the normal hourly rental rate plus operator's wages. In the event that the move-out is to a different location, payment will in no instance exceed the amount of the move-in. Move-in allowance shall not be made for equipment brought to the project for time and materials work which is subsequently retained on the project and utilized for completion of contract items, camp maintenance, or related work.

Equipment ordered to be on a stand-by basis shall be paid for at the stand-by rental rate for the number of hours in the CONTRACTOR'S normal work shift, but not to exceed 8 hours per day. The stand-by rental rate shall be computed as follows:

*The hourly stand-by rate shall be equal to the adjusted monthly rate for the basic equipment plus the adjusted monthly rate for applicable attachments, both divided by 352, all multiplied by the area adjustment factor.*

Time will be recorded to the nearest one-quarter hour for purposes of computing compensation to the CONTRACTOR for equipment utilized under these rates.

The equipment rates as determined above shall be full compensation, including overhead and profit, for providing the required equipment and no additional compensation will be made for other costs such as, but not limited to, fuels, lubricants, replacement parts or maintenance costs. Cost of repairs, both major and minor, as well as charges for mechanic's time utilized in servicing equipment to ready it for use prior to moving to the project and similar charges will not be allowed.

- d. Sales, consumer, use or similar taxes related to the Work, and for which the CONTRACTOR is liable, imposed by Regulatory Requirements.
- e. Deposits lost for causes other than negligence of the CONTRACTOR, any Subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses), not compensated by insurance or otherwise, to the Work or otherwise sustained by the CONTRACTOR in connection with the performance and furnishing of the Work provided they have resulted from causes other than the negligence of the CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and Approval of the DEPARTMENT. No such losses, damages and expenses shall be included in the "cost of the work" for the purpose of determining the CONTRACTOR's fee. If, however, any such loss or damage requires reconstruction and the CONTRACTOR is placed in charge thereof, the CONTRACTOR shall be paid for services a fee proportionate to that stated in paragraphs 10.6.2.a and 10.6.2.b.
- g. The cost of utilities, fuel and sanitary facilities at the site.
- h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.
- I. Cost of premiums for additional bonds and insurance required because of changes in the Work and premiums for property insurance coverage within the limits of the deductible amounts established by the DEPARTMENT in accordance with Article 5.

**10.5 Excluded Costs:**

The term "cost of the work" shall not include any of the following:

- 10.5.1 Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agency, expeditors, timekeepers, clerks and other personnel employed by CONTRACTOR whether at the site or in CONTRACTOR's principal or a branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 10.4.1 or specifically covered by paragraph 10.4.4 all of which are to be considered administrative costs covered by the CONTRACTOR's fee.
- 10.5.2 Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the site.
- 10.5.3 Any part of CONTRACTOR's capital expenses including interest on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments.
- 10.5.4 Cost of premiums for all bonds and for all insurance whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same (except for the cost of premiums covered by subparagraph 10.4.5.i above).
- 10.5.5 Costs due to the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of Defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.
- 10.5.6 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraph 10.4.



**10.6 CONTRACTOR's Fee:**

The CONTRACTOR's fee allowed to CONTRACTOR for overhead and profit shall be determined as follows.

- 10.6.1 A mutually acceptable fixed fee; or if none can be agreed upon.
- 10.6.2 A fee based on the following percentages of the various portions of the "cost of the work":
  - a. For costs incurred under paragraphs 10.4.1 and 10.4.2, the CONTRACTOR's fee shall be fifteen percent;
  - b. For costs incurred under paragraph 10.4.3, the CONTRACTOR's fee shall be ten percent; and if a subcontract is on the basis of "cost of the work" plus a fee, the maximum allowable to CONTRACTOR on account of overhead and profit for itself and all Subcontractors and multiple tiers thereof shall be fifteen percent of the cost incurred by the subcontractor actually performing the work;
  - c. No fee shall be payable on the basis of costs itemized under paragraphs 10.4.4, 10.4.5 and 10.5;
  - d. The amount of credit to be allowed by the CONTRACTOR to the DEPARTMENT for any such change which results in a net decrease in cost will be the amount of the actual net decrease plus a deduction in CONTRACTOR's fee by an amount equal to fifteen percent of the net decrease; and
  - e. When both additions and credits are involved in any one change, the adjustment in CONTRACTOR's fee shall be computed on the basis of the net change in accordance with paragraphs 10.6.2.a through 10.6.2.d, inclusive.

**10.7 Cost Breakdown:**

Whenever the cost of any Work is to be determined pursuant to paragraphs 10.4 and 10.5, the CONTRACTOR will submit in a form acceptable to the DEPARTMENT an itemized cost breakdown together with supporting data.

**10.8 Cash Allowances:**

It is understood that CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be done by such Subcontractors or Suppliers and for such sums within the limit of the allowances as may be acceptable to the Contracting Officer. CONTRACTOR agrees that:

- 10.8.1 The allowances include the cost to CONTRACTOR (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the site, and all applicable taxes; and
- 10.8.2 CONTRACTOR's cost for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the allowances have been included in the Contract Price and not in the allowances. No demand for additional payment on account of any thereof will be valid.

Prior to final payment, an appropriate Change Order will be issued to reflect actual amounts due the CONTRACTOR on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

**10.9 Unit Price Work:**

- 10.9.1 Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the established unit prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Contract. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by the CONTRACTOR will be made by the

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DEPARTMENT in accordance with paragraph 10.10.

- 10.9.2 Each unit price will be deemed to include an amount considered by the CONTRACTOR to be adequate to cover the CONTRACTOR's overhead and profit for each separately identified item. If the "Basis of Payment" clause in the Contract Documents relating to any unit price in the bid schedule requires that the said unit price cover and be considered compensation for certain work or material essential to the item, this same work or material will not also be measured or paid for under any other pay item which may appear elsewhere in the Contract Documents.
- 10.9.3 Payment to the CONTRACTOR shall be made only for the actual quantities of Work performed and accepted or materials furnished, in conformance with the Contract Documents. When the accepted quantities of Work or materials vary from the quantities stated in the bid schedule, or change documents, the CONTRACTOR shall accept as payment in full, payment at the stated unit prices for the accepted quantities of Work and materials furnished, completed and accepted; except as provided below:
- a. When the quantity of Work to be done or material to be furnished under any item, for which the total cost of the item exceeds 10% of the total Contract Price, is increased by more than 25 percent of the quantity stated in the bid schedule, or change documents, either party to the Contract, upon demand, shall be entitled to an equitable unit price adjustment on that portion of the Work above 125 percent of the quantity stated in the bid schedule.
  - b. When the quantity of Work to be done or material to be furnished under any major item, for which the total cost of the item exceeds 10% of the total Contract Price, is decreased by more than 25 percent of the quantity stated in the bid schedule, or change documents either party to the Contract, upon demand, shall be entitled to an equitable price adjustment for the quantity of Work performed or material furnished, limited to a total payment of not more than 75 percent of the amount originally bid for the item.

**10.10 Determinations for Unit Prices:**

The Contracting Officer will determine the actual quantities and classifications of Unit Price Work performed by the CONTRACTOR. The Contracting Officer will review with the CONTRACTOR preliminary determinations on such matters before finalizing the costs and quantities on the Schedule of Values. The Contracting Officer's acknowledgment thereof will be final and binding on the CONTRACTOR, unless, within 10 days after the date of any such decisions, the CONTRACTOR delivers to the Contracting Officer written notice of intention to appeal from such a decision.

## ARTICLE 11 - CONTRACT TIME; COMPUTATION AND CHANGE

### 11.1 Commencement of Contract Time; Notice to Proceed:

The Contract Time will commence to run on the day indicated in the Notice to Proceed.

### 11.2 Starting the Work:

No Work on Contract items shall be performed before the effective date of the Notice to Proceed. The CONTRACTOR shall notify the Contracting Officer at least 24 hours in advance of the time actual construction operations will begin. The CONTRACTOR may request a limited Notice to Proceed after Award has been made, to permit him to order long lead materials which could cause delays in Project completion. However, granting is within the sole discretion of the Contracting Officer, and refusal or failure to grant a limited Notice to Proceed shall not be a basis for claiming for delay, extension of time, or alteration of price.

### 11.3 Computation of Contract Time:

11.3.1 When the Contract Time is specified on a Calendar Day basis, all Work under the Contract shall be completed within the number of Calendar Days specified. The count of Contract Time begins on the day following receipt of the Notice to Proceed by the CONTRACTOR, if no starting day is stipulated therein.

Calendar Days shall continue to be counted against Contract Time until and including the date of Substantial Completion of the Work.

11.3.2 When the Contract completion time is specified as a fixed calendar date, it shall be the date of Substantial Completion.

11.3.3 The Contract Time shall be as stated on form 25D-9, Proposal.

### 11.4 Time Change:

The Contract Time may only be changed by a Change Order or Supplemental Agreement.

### 11.5 Extension Due to Delays:

The right of the CONTRACTOR to proceed shall not be terminated nor the CONTRACTOR charged with liquidated or actual damages because of delays to the completion of the Work due to unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR, including, but not restricted to the following: acts of God or of the public enemy, acts of the DEPARTMENT in its contractual capacity, acts of another contractor in the performance of a contract with the DEPARTMENT, floods, fires, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and delays of Subcontractors or Suppliers due to such causes. Any delay in receipt of materials on the site, caused by other than one of the specifically mentioned occurrences above, does not of itself justify a time extension, provided that the CONTRACTOR shall within twenty four (24) hours from the beginning of any such delay (unless the Contracting Officer shall grant a further period of the time prior to the date of final settlement of the Contract), notify the Contracting Officer in writing of the cause of delay. The Contracting Officer shall ascertain the facts and the extent of the delay and extend the time for completing the Work when the findings of fact justify such an extension.

### 11.6 Essence of Contract:

All time limits stated in the Contract Documents are of the essence of the Contract.

### 11.7 Reasonable Completion Time:

It is expressly understood and agreed by and between the CONTRACTOR and the DEPARTMENT that the date of

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beginning and the time for Substantial Completion of the Work described herein are reasonable times for the completion of the Work.

**11.8 Delay Damages:**

Whether or not the CONTRACTOR's right to proceed with the Work is terminated, he and his Sureties shall be liable for damages resulting from his refusal or failure to complete the Work within the specified time.

Liquidated and actual damages for delay shall be paid by the CONTRACTOR or his Surety to the DEPARTMENT in the amount as specified in the Supplementary Conditions for each Calendar Day the completion of the Work or any part thereof is delayed beyond the time required by the Contract, or any extension thereof. If a listing of incidents resulting from a delay and expected to give rise to actual or liquidated damages is not established by the Contract Documents, then the CONTRACTOR and his Surety shall be liable to the DEPARTMENT for any actual damages occasioned by such delay. The CONTRACTOR acknowledges that the liquidated damages established herein are not a penalty but rather constitute an estimate of damages that the DEPARTMENT will sustain by reason of delayed completion. These liquidated and actual damages are intended as compensation for losses anticipated to arise, and include those items enumerated in the Supplementary Conditions.

These damages will continue to run both before and after termination in the event of default termination. These liquidated damages do not cover excess costs of completion or DEPARTMENT costs, fees, and charges related to reprocurement. If a default termination occurs, the CONTRACTOR or his Surety shall pay in addition to these damages, all excess costs and expenses related to completion as provided by Article 14.2.5.

## ARTICLE 12 - QUALITY ASSURANCE

### 12.1 Warranty and Guaranty:

The CONTRACTOR warrants and guarantees to the DEPARTMENT that all Work will be in accordance with the Contract Documents and will not be Defective. Prompt notice of all defects shall be given to the CONTRACTOR. All Defective Work, whether or not in place, may be rejected, corrected or accepted as provided for in this article.

### 12.2 Access to Work:

The DEPARTMENT and the DEPARTMENT's representatives, testing agencies and governmental agencies with jurisdiction interests will have access to the Work at reasonable times for their observation, inspecting and testing. The CONTRACTOR shall provide proper and safe conditions for such access.

### 12.3 Tests and Inspections:

12.3.1 The CONTRACTOR shall give the Contracting Officer timely notice of readiness of the Work for all required inspections, tests or Approvals.

12.3.2 If Regulatory Requirements of any public body having jurisdiction require any Work (or part thereof) to specifically be inspected, tested or approved, the CONTRACTOR shall assume full responsibility therefor, pay all costs in connection therewith and furnish the Contracting Officer the required certificates of inspection, testing or approval. The CONTRACTOR shall also be responsible for and shall pay all costs in connection with any inspection or testing required in connection with DEPARTMENT's acceptance of a Supplier of materials or equipment proposed to be incorporated in the Work, or of materials or equipment submitted for Approval prior to the CONTRACTOR's purchase thereof for incorporation in the Work. The cost of all inspections, tests and approvals in addition to the above which are required by the Contract Documents shall be paid by the CONTRACTOR. The DEPARTMENT may perform additional tests and inspections which it deems necessary to insure quality control. All such failed tests or inspections shall be at the CONTRACTOR's expense.

12.3.4 If any Work (including the work of others) that is to be inspected, tested or Approved is covered without written concurrence of the Contracting Officer, it must, if requested by the Contracting Officer, be uncovered for observation. Such uncovering shall be at the CONTRACTOR's expense unless the CONTRACTOR has given the Contracting Officer timely notice of CONTRACTOR's intention to cover the same and the Contracting Officer has not acted with reasonable promptness in response to such notice.

12.3.5 Neither observations nor inspections, tests or Approvals by the DEPARTMENT or others shall relieve the CONTRACTOR from the CONTRACTOR's obligations to perform the Work in accordance with the Contract Documents.

### 12.4 Uncovering Work:

12.4.1 If any Work is covered contrary to the written request of the Contracting Officer, it must, if requested by the Contracting Officer, be uncovered for the Contracting Officer's observation and replaced at the CONTRACTOR's expense.

12.4.2 If the Contracting Officer considers it necessary or advisable that covered Work be observed inspected or tested, the CONTRACTOR, at the Contracting Officer's request, shall uncover, expose or otherwise make available for observation, inspection or testing as the Contracting Officer may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is Defective, the CONTRACTOR shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) and the DEPARTMENT shall be entitled to an appropriate decrease in the Contract Price. If, however, such Work is not found to be Defective, the CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction.

**12.5 DEPARTMENT May Stop the Work:**

If the Work is Defective, or the CONTRACTOR fails to supply suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, the Contracting Officer may order the CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Contracting Officer to stop the Work shall not give rise to any duty on the part of the Contracting Officer to exercise this right for the benefit of the CONTRACTOR or any other party.

**12.6 Correction or Removal of Defective Work:**

If required by the Contracting Officer, the CONTRACTOR shall promptly, as directed, either correct all Defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by the Contracting Officer, remove it from the site and replace it with Work which conforms to the requirements of the Contract Documents. The CONTRACTOR shall bear all direct, indirect and consequential costs of such correction or removal (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby.

**12.7 One Year Correction Period:**

If within one year after the date of Substantial Completion of the relevant portion of the work or such longer period of time as may be prescribed by Regulatory Requirements or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be Defective, the CONTRACTOR shall promptly, without cost to the DEPARTMENT and in accordance with the Contracting Officer's written instructions, either correct such Defective Work, or, if it has been rejected by the Contracting Officer, remove it from the site and replace it with conforming Work. If the CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, the DEPARTMENT may have the Defective Work corrected or the rejected Work removed and replaced, and all direct, indirect and consequential costs of such removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) will be paid by the CONTRACTOR. In special circumstances where a particular item of equipment is placed in continuous service for the benefit of the DEPARTMENT before Substantial Completion of all the Work, the correction period for that item may begin on an earlier date if so provided in the Specifications or by Change Order. Provisions of this paragraph are not intended to shorten the statute of limitations for bringing an action.

**12.8 Acceptance of Defective Work:**

Instead of requiring correction or removal and replacement of Defective Work, the Contracting Officer may accept Defective Work, the CONTRACTOR shall bear all direct, indirect and consequential costs attributable to the Contracting Officer's evaluation of and determination to accept such Defective Work (costs to include but not be limited to fees and charges of engineers, architects, attorneys and other professionals). If any such acceptance occurs prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and the DEPARTMENT shall be entitled to an appropriate decrease in the Contract Price. If the DEPARTMENT has already made final payment to the CONTRACTOR, an appropriate amount shall be paid by the CONTRACTOR or his Surety to the DEPARTMENT.

#### **12.9 DEPARTMENT May Correct Defective Work:**

If the CONTRACTOR fails within a reasonable time after written notice from the Contracting Officer to proceed to correct Defective Work or to remove and replace rejected Work as required by the Contracting Officer in accordance with paragraph 12.6, or if the CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if the CONTRACTOR fails to comply with any other provision of the Contract Documents, the DEPARTMENT may, after 7 days' written notice to the CONTRACTOR, correct and remedy any such deficiency. In exercising the rights and remedies under this paragraph the DEPARTMENT shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, the Contracting Officer may exclude the CONTRACTOR from all or part of the site, take possession of all or part of the Work, and suspend the CONTRACTOR's services related thereto, take possession of the CONTRACTOR's tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stored at the site or approved remote storage sites or for which the DEPARTMENT has paid the CONTRACTOR but which are stored elsewhere. The CONTRACTOR shall allow the Contracting Officer and his authorized representatives such access to the site as may be necessary to enable the Contracting Officer to exercise the rights and remedies under this paragraph. All direct, indirect and consequential costs of the DEPARTMENT in exercising such rights and remedies will be charged against the CONTRACTOR, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and the DEPARTMENT shall be entitled to an appropriate decrease in the Contract Price. Such direct, indirect and consequential costs will include but not be limited to fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of the CONTRACTOR's Defective Work. The CONTRACTOR shall not be allowed an extension of time because of any delay in performance of the work attributable to the exercise, by the Contracting Officer, of the DEPARTMENT's rights and remedies hereunder.

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## ARTICLE 13 - PAYMENTS TO CONTRACTOR AND COMPLETION

### 13.1 Schedule of Values:

The Schedule of Values established as provided in paragraph 6.6 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to the Contracting Officer. Progress payments on account of Unit Price Work will be based on the number of units completed.

### 13.2 Preliminary Payments:

Upon approval of the Schedule of Values the CONTRACTOR may be paid for direct costs substantiated by paid invoices and other prerequisite documents required by the General Requirements. Direct costs shall include the cost of bonds, insurance, approved materials stored on the site or at approved remote storage sites, deposits required by a Supplier prior to fabricating materials, and other approved direct mobilization costs substantiated as indicated above. These payments shall be included as a part of the total Contract Price as stated in the Contract.

### 13.3 Application for Progress Payment:

The CONTRACTOR shall submit to the Contracting Officer for review an Application for Payment filled out and signed by the CONTRACTOR covering the Work completed as of the date of the Application for Payment and accompanied by such supporting documentation as is required by the Contract Documents. Progress payments will be made as the Work progresses on a monthly basis.

### 13.4 Review of Applications for Progress Payment:

Contracting Officer will either indicate in writing a recommendation of payment or return the Application for Payment to the CONTRACTOR indicating in writing the Contracting Officer's reasons for refusing to recommend payment. In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the Application for Payment.

### 13.5 Stored Materials and Equipment:

If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, paid invoice or other documentation warranting that the DEPARTMENT has received the materials and equipment free and clear of all charges, security interests and encumbrances and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect the DEPARTMENT's interest therein, all of which will be satisfactory to the Contracting Officer. No payment will be made for perishable materials that could be rendered useless because of long storage periods. No progress payment will be made for living plant materials until planted.

### 13.6 CONTRACTOR's Warranty of Title:

The CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to the DEPARTMENT no later than the time of payment free and clear of any claims, liens, security interests and further obligations.

### 13.7 Withholding of Payments:

The DEPARTMENT may withhold or refuse payment for any of the reasons listed below provided it gives written notice of its intent to withhold and of the basis for withholding:

- 13.7.1 The Work is Defective, or completed Work has been damaged requiring correction or replacement, or has been installed without Approval of Shop Drawings, or by an unapproved Subcontractor, or for unsuitable storage of materials and equipment.

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- 13.7.2 The Contract Price has been reduced by Change Order,
- 13.7.3 The DEPARTMENT has been required to correct Defective Work or complete Work in accordance with paragraph 12.9.
- 13.7.4 The DEPARTMENT's actual knowledge of the occurrence of any of the events enumerated in paragraphs 14.2.1.a through 14.2.1.k inclusive.
- 13.7.5 Claims have been made against the DEPARTMENT or against the funds held by the DEPARTMENT on account of the CONTRACTOR's actions or inactions in performing this Contract, or there are other items entitling the DEPARTMENT to a set off.
- 13.7.6 Subsequently discovered evidence or the results of subsequent inspections or test, nullify any previous payments for reasons stated in subparagraphs 13.7.1 through 13.7.5.
- 13.7.7 The CONTRACTOR has failed to fulfill or is in violation of any of his obligations under any provision of this Contract.

**13.8 Retainage:**

At any time the DEPARTMENT finds that satisfactory progress is not being made it may in addition to the amounts withheld under 13.7 retain a maximum amount equal to 10% of the total amount earned on all subsequent progress payments. This retainage may be released at such time as the Contracting Officer finds that satisfactory progress is being made.

**13.9 Request for Release of Funds:**

If the CONTRACTOR believes the basis for withholding is invalid or no longer exists, immediate written notice of the facts and Contract provisions on which the CONTRACTOR relies, shall be given to the DEPARTMENT, together with a request for release of funds and adequate documentary evidence proving that the problem has been cured. In the case of withholding which has occurred at the request of the Department of Labor, the CONTRACTOR shall provide a letter from the Department of Labor stating that withholding is no longer requested. Following such a submittal by the CONTRACTOR, the DEPARTMENT shall have a reasonable time to investigate and verify the facts and seek additional assurances before determining whether release of withheld payments is justified.

**13.10 Substantial Completion:**

When the CONTRACTOR considers the Work ready for its intended use the CONTRACTOR shall notify the Contracting Officer in writing that the Work or a portion of Work which has been specifically identified in the Contract Documents is substantially complete (except for items specifically listed by the CONTRACTOR as incomplete) and request that the DEPARTMENT issue a certificate of Substantial Completion. Within a reasonable time thereafter, the Contracting Officer, the CONTRACTOR and appropriate Consultant(s) shall make an inspection of the Work to determine the status of completion. If the Contracting Officer does not consider the Work substantially complete, the Contracting Officer will notify the CONTRACTOR in writing giving the reasons therefor. If the Contracting Officer considers the Work substantially complete, the Contracting Officer will within fourteen days execute and deliver to the CONTRACTOR a certificate of Substantial Completion with tentative list of items to be completed or corrected. At the time of delivery of the certificate of Substantial Completion the Contracting Officer will deliver to the CONTRACTOR a written division of responsibilities pending Final Completion with respect to security, operation, safety, maintenance, heat, utilities, insurance and warranties which shall be consistent with the terms of the Contract Documents.

The DEPARTMENT shall be responsible for all DEPARTMENT costs resulting from the initial inspection and the first re-inspection, the CONTRACTOR shall pay all costs incurred by the DEPARTMENT resulting from re-

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inspections, thereafter.

**13.11 Access Following Substantial Completion:**

The DEPARTMENT shall have the right to exclude the CONTRACTOR from the Work after the date of Substantial Completion, but the DEPARTMENT shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

**13.12 Final Inspection:**

Upon written notice from the CONTRACTOR that the entire Work or an agreed portion thereof is complete, the Contracting Officer will make a final inspection with the CONTRACTOR and appropriate Consultant(s) and will notify the CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or Defective. The CONTRACTOR shall immediately take such measures as are necessary to remedy such deficiencies. The CONTRACTOR shall pay for all costs incurred by the DEPARTMENT resulting from re-inspections.

**13.13 Final Completion and Application for Payment:**

After the CONTRACTOR has completed all such corrections to the satisfaction of the Contracting Officer and delivered all schedules, guarantees, bonds, certificates of payment to all laborers, Subcontractors and Suppliers, and other documents - all as required by the Contract Documents; and after the Contracting Officer has indicated in writing that the Work has met the requirements for Final Completion, and subject to the provisions of paragraph 13.18, the CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by all remaining certificates, warranties, guarantees, releases, affidavits, and other documentation required by the Contract Documents.

**13.14 Final Payment:**

13.14.1 If on the basis of the Contracting Officer's observation of the Work during construction and final inspection, and the Contracting Officer's review of the final Application for Payment and accompanying documentation - all as required by the Contract Documents; and the Contracting Officer is satisfied that the Work has been completed and the CONTRACTOR's other obligations under the Contract Documents have been fulfilled, the DEPARTMENT will process final Application for Payment. Otherwise, the Contracting Officer will return the Application for Payment to the CONTRACTOR, indicating in writing the reasons for refusing to process final payment, in which case the CONTRACTOR shall make the necessary corrections and resubmit the final Application for Payment.

13.14.2 If, through no fault of the CONTRACTOR, Final Completion of the Work is significantly delayed, the Contracting Officer shall, upon receipt of the CONTRACTOR's final Application for Payment, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by the DEPARTMENT for Work not fully completed or corrected is less than the retainage provided for in paragraph 13.9, and if bonds have been furnished as required in paragraph 5.1, the written consent of the Surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the CONTRACTOR to the DEPARTMENT with the application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

**13.15 Final Acceptance:**

Following certification of payment of payroll and revenue taxes, and final payment to the CONTRACTOR, the DEPARTMENT will issue a letter of Final Acceptance, releasing the CONTRACTOR from further obligations under the Contract, except as provided in paragraph 13.17.

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**13.16 CONTRACTOR's Continuing Obligation:**

The CONTRACTOR's obligation to perform and complete the Work and pay all laborers, Subcontractors, and materialmen in accordance with the Contract Documents shall be absolute. Neither any progress or final payment by the DEPARTMENT, nor the issuance of a certificate of Substantial Completion, nor any use or occupancy of the Work or any part thereof by the DEPARTMENT or Using Agency, nor any act of acceptance by the DEPARTMENT nor any failure to do so, nor any review and Approval of a Shop Drawing or sample submission, nor any correction of Defective Work by the DEPARTMENT will constitute an acceptance of Work not in accordance with the Contract Documents or a release of the CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents.

When it is anticipated that restarting, testing, adjusting, or balancing of systems will be required following Final Acceptance and said requirements are noted in Section(s) 01650, such Work shall constitute a continuing obligation under the Contract.

**13.17 Waiver of Claims by CONTRACTOR:**

The making and acceptance of final payment will constitute a waiver of all claims by the CONTRACTOR against the DEPARTMENT other than those previously made in writing and still unsettled.

**13.18 No Waiver of Legal Rights:**

The DEPARTMENT shall not be precluded or be estopped by any payment, measurement, estimate, or certificate made either before or after the completion and acceptance of the Work and payment therefor, from showing the true amount and character of the Work performed and materials furnished by the CONTRACTOR, nor from showing that any payment, measurement, estimate or certificate is untrue or is incorrectly made, or that the Work or materials are Defective. The DEPARTMENT shall not be precluded or estopped, notwithstanding any such measurement, estimate, or certificate and payment in accordance therewith, from recovering from the CONTRACTOR or his Sureties, or both, such damages as it may sustain by reason of his failure to comply with requirements of the Contract Documents. Neither the acceptance by the DEPARTMENT, or any representative of the DEPARTMENT, nor any payment for or acceptance of the whole or any part of the Work, nor any extension of the Contract Time, nor any possession taken by the DEPARTMENT, shall operate as a waiver of any portion of the Contract or of any power herein reserved, or of any right to damages. A waiver by the DEPARTMENT of any breach of the Contract shall not be held to be a waiver of any other subsequent breach.

## ARTICLE 14 - SUSPENSION OF WORK, DEFAULT AND TERMINATION

### 14.1 DEPARTMENT May Suspend Work:

- 14.1.1 The DEPARTMENT may, at any time, suspend the Work or any portion thereof by notice in writing to the CONTRACTOR. If the Work is suspended without cause the CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension if the CONTRACTOR makes an Approved claim therefor as provided in Article 15. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that suspension is due to the fault or negligence of the CONTRACTOR, or that suspension is necessary for Contract compliance, or that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the CONTRACTOR.
- 14.1.2 In case of suspension of Work, the CONTRACTOR shall be responsible for preventing damage to or loss of any of the Work already performed and of all materials whether stored on or off the site or Approved remote storage sites.

### 14.2 Default of Contract:

- 14.2.1 The Contracting Officer may give the CONTRACTOR and its surety a written Notice to Cure Default if the CONTRACTOR:
- a. fails to begin work in the time specified,
  - b. fails to use sufficient resources to assure prompt completion of the work,
  - c. performs the work unsuitably or neglects or refuses to remove and replace rejected materials or work,
  - d. stops work,
  - e. fails to resume stopped work after receiving notice to do so,
  - f. becomes insolvent (except that if the CONTRACTOR declares bankruptcy, termination will be under Title 11 US Code 362 and/or 365. The CONTRACTOR'S bankruptcy does not relieve the surety of any obligations to assume the Contract and complete the work in a timely manner.
  - g. Allows any final judgment to stand against him unsatisfied for period of 60 days, or
  - h. Makes an assignment for the benefit of creditors without the consent of the Contracting Officer, or
  - i. Disregards Regulatory Requirements of any public body having jurisdiction, or
  - j. Otherwise violates in any substantial way any provisions of the Contract Documents, or
  - k. fails to comply with Contract minimum wage payments or civil rights requirements, or
  - l. is a party to fraud, deception, misrepresentation , or
  - m. for any cause whatsoever, fails to carry on the Work in an acceptable manner.
- 14.2.2 The Notice to Cure Default will detail the conditions determined to be in default, the time within which to cure the default and may, in the Contracting Officer's discretion, specify the actions necessary to cure the default. Failure to cure the delay, neglect or default within the time specified in the Contracting Officer's written notice to cure authorizes the DEPARTMENT to terminate the contract. The Contracting Officer may allow more time to cure than originally stated in the Notice to Cure Default if he deems it to be in the best interests of the DEPARTMENT. The DEPARTMENT will provide the CONTRACTOR or its surety with a written Notice of Default Termination that details the default and the failure to cure it.
- 14.2.3 If the CONTRACTOR or its Surety, within the time specified in the above notice of default, shall not proceed in accordance therewith, then the DEPARTMENT may, upon written notification from the Contracting Officer of the fact of such delay, neglect or default and the CONTRACTOR's failure to comply with such notice, have full power and authority without violating the Contract, to take the prosecution of the Work out of the hands of the CONTRACTOR. The DEPARTMENT may terminate the services of the CONTRACTOR, exclude the CONTRACTOR from the site and take possession of the Work and of all the CONTRACTOR's tools, appliances, construction equipment and machinery at the site and use the same to the full extent they could be

used by the CONTRACTOR (without liability to the CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which the DEPARTMENT has paid the CONTRACTOR but which are stored elsewhere, and finish the Work as the DEPARTMENT may deem expedient. The DEPARTMENT may enter into an agreement for the completion of said Contract according to the terms and provisions thereof, or use such other methods that in the opinion of the Contracting Officer are required for the completion of said Contract in an acceptable manner.

- 14.2.4 The Contracting Officer may, by written notice to the CONTRACTOR and its Surety or its representative, transfer the employment of the Work from the CONTRACTOR to the Surety, or if the CONTRACTOR abandons the Work undertaken under the Contract, the Contracting Officer may, at its option with written notice to the Surety and without any written notice to the CONTRACTOR, transfer the employment for said Work directly to the Surety. The Surety shall submit its plan for completion of the Work, including any contracts or agreements with third parties for such completion, to the DEPARTMENT for approval prior to beginning completion of the Work. Approval of such contracts shall be in accordance with all applicable requirements and procedures for approval of subcontracts as stated in the Contract Documents.
- 14.2.5 After the notice of termination is issued, the DEPARTMENT may take over the work and complete it by contract or otherwise and may take possession of and use materials, appliances, equipment or plant on the work site necessary for completing the work.
- 14.2.6 Rather than taking over the work itself, the DEPARTMENT may transfer the obligation to perform the work from the CONTRACTOR to its surety. The surety must submit its plan for completion of the work, including any contracts or agreements with third parties for completion, to the DEPARTMENT for approval prior to beginning work. The surety must follow the Contract requirements for approval of subcontracts, except that the limitation on percent of work subcontracted will not apply.
- 14.2.7 On receipt of the transfer notice, the surety must take possession of all materials, tools, and appliances at the work site, employ an appropriate work force, and complete the Contract work, as specified. The Contract specifications and requirements shall remain in effect. However the DEPARTMENT will make subsequent Contract payments directly to the Surety for work performed under the terms of the Contract. The CONTRACTOR shall forfeit any right to claim for the same work or any part thereof. The CONTRACTOR shall not be entitled to receive any further balance of the amount to be paid under the Contract.
- 14.2.8 Upon receipt of the notice terminating the services of the CONTRACTOR, the Surety shall enter upon the premises and take possession of all materials, tools, and appliances thereon for the purpose of completing the Work included under the Contract and employ by contract or otherwise any person or persons to finish the Work and provide the materials therefore, without termination of the continuing full force and effect of this Contract. In case of such transfer of employment to the Surety, the Surety shall be paid in its own name on estimates covering Work subsequently performed under the terms of the Contract and according to the terms thereof without any right of the CONTRACTOR to make any claim for the same or any part thereof.
- 14.2.9 If the Contract is terminated for default, the CONTRACTOR and the Surety shall be jointly and severally liable for damages for delay as provided by paragraph 11.8, and for the excess cost of completion, and all costs and expenses incurred by the DEPARTMENT in completing the Work or arranging for completion of the Work, including but not limited to costs of assessing the Work to be done, costs associated with advertising, soliciting or negotiating for bids or proposals for completion, and other procurement costs. Following termination the CONTRACTOR shall not be entitled to receive any further balance of the amount to be paid under the Contract until the Work is fully finished and accepted, at which time if the unpaid balance exceeds the amount due the DEPARTMENT and any amounts due to persons for whose benefit the DEPARTMENT has withheld funds, such excess shall be paid by the DEPARTMENT to the CONTRACTOR. If the damages, costs, and expenses due the DEPARTMENT exceed the unpaid balance, the CONTRACTOR and its Surety shall pay the difference.
- 14.2.10 If, after notice of termination of the CONTRACTOR's right to proceed under the provisions of this clause, it is determined for any reason that the CONTRACTOR was not in default under the provisions of this clause, or that the delay was excusable under the provisions of this clause, or that termination was wrongful, the rights and obligations of the parties shall be determined in accordance with the clause providing for convenience termination.

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**14.3 Rights or Remedies:**

Where the CONTRACTOR's services have been so terminated by the DEPARTMENT, the termination will not affect any rights or remedies of the DEPARTMENT against the CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due the CONTRACTOR by the DEPARTMENT will not release the CONTRACTOR from liability.

**14.4 Convenience Termination:**

14.4.1 The performance of the Work may be terminated by the DEPARTMENT in accordance with this section in whole or in part, whenever, for any reason the Contracting Officer shall determine that such termination is in the best interest of the DEPARTMENT. Any such termination shall be effected by delivery to the CONTRACTOR of a Notice of Termination, specifying termination is for the convenience of the DEPARTMENT the extent to which performance of Work is terminated, and the date upon which such termination becomes effective.

14.4.2 Immediately upon receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer, the CONTRACTOR shall:

- a. Stop Work on the date and to the extent specified in the Notice of Termination;
- b. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the Work as is not terminated;
- c. Terminate all orders and subcontracts to the extent that they relate to the performance of Work terminated by the Notice of Termination;
- d. With the written Approval of the Contracting Officer, to the extent he may require, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable, in whole, or in part, in accordance with the provisions of the Contract;
- e. Submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory exclusive of items the disposition of which had been directed or authorized by the Contracting Officer;
- f. Transfer to the Contracting Officer the completed or partially completed record drawings, Shop Drawings, information, and other property which, if the Contract had been completed, would be required to be furnished to the DEPARTMENT;
- g. Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to the Contract which is in the possession of the CONTRACTOR and in which the DEPARTMENT has or may acquire any interest.

The CONTRACTOR shall proceed immediately with the performance of the above obligations.

14.4.3 When the DEPARTMENT orders termination of the Work effective on a certain date, all Work in place as of that date will be paid for in accordance with Article 13 of the Contract. Materials required for completion and on hand but not incorporated in the Work will be paid for at invoice cost plus 15% with materials becoming the property of the DEPARTMENT - or the CONTRACTOR may retain title to the materials and be paid an agreed upon lump sum. Materials on order shall be cancelled, and the DEPARTMENT shall pay reasonable factory cancellation charges with the option of taking delivery of the materials in lieu of payment of cancellation charges. The CONTRACTOR shall be paid 10% of the cost, freight not included, of materials cancelled, and direct expenses only for CONTRACTOR chartered freight transport which cannot be cancelled without charges, to the extent that the CONTRACTOR can establish them. The extra costs due to cancellation of bonds and insurance and that part of job start-up and phase-out costs not amortized by the amount of Work accomplished shall be paid by the DEPARTMENT. Charges for loss of profit or consequential damages shall not be recoverable except as provided above.

- a. The following costs are not payable under a termination settlement agreement or Contracting Officer's determination of the termination claim:
  1. Loss of anticipated profits or consequential or compensatory damages

2. Unabsorbed home office overhead (also termed "General & Administrative Expense") related to ongoing business operations
3. Bidding and project investigative costs
4. Direct costs of repairing equipment to render it operable for use on the terminated work

14.4.4 The termination claim shall be submitted promptly, but in no event later than 90 days from the effective date of termination, unless extensions in writing are granted by the Contracting Officer upon written request of the CONTRACTOR made within the 90-day period. Upon failure of the CONTRACTOR to submit his termination claim within the time allowed, the Contracting Officer may determine, on the basis of information available to him, the amount, if any, due to the CONTRACTOR by reason of the termination and shall thereupon pay to the CONTRACTOR the amount so determined.

14.4.5 The CONTRACTOR and the Contracting Officer may agree upon whole or any part of the amount or amounts to be paid to the CONTRACTOR by reason of the total or partial termination of Work pursuant to this section. The Contract shall be amended accordingly, and the CONTRACTOR shall be paid the agreed amount.

14.4.6 In the event of the failure of the CONTRACTOR and the Contracting Officer to agree in whole or in part, as provided heretofore, as to the amounts with respect to costs to be paid to the CONTRACTOR in connection with the termination of the Work the Contracting Officer shall determine, on the basis of information available to him, the amount, if any, due to the CONTRACTOR by reason of the termination and shall pay to the CONTRACTOR the amount determined as follows:

- a. All costs and expenses reimbursable in accordance with the Contract not previously paid to the CONTRACTOR for the performance of the Work prior to the effective date of the Notice of Termination;
- b. So far as not included under "a" above, the cost of settling and paying claims arising out of the termination of the Work under subcontracts or orders which are properly chargeable to the terminated portions of the Contract;
- c. So far as practicable, claims by the CONTRACTOR for idled or stand-by equipment shall be made as follows: Equipment claims will be reimbursed as follows:
  1. Contractor-owned equipment usage, based on the CONTRACTOR'S ownership and operating costs for each piece of equipment as determined from the CONTRACTOR'S accounting records. Under no circumstance, may the CONTRACTOR base equipment claims on published rental rates.
  2. Idle or stand-by time for Contractor-owned equipment, based on the CONTRACTOR'S internal ownership and depreciation costs. Idle or stand-by equipment time is limited to the actual period of time equipment is idle or on stand-by as a direct result of the termination, not to exceed 30 days. Operating expenses will not be included for payment of idle or stand-by equipment time.
  3. Rented equipment, based on reasonable, actual rental costs. Equipment leased under "capital leases" as defined in Financial Accounting Standard No. 13 will be considered Contractor-owned equipment. Equipment leased from an affiliate, division, subsidiary or other organization under common control with the CONTRACTOR will be considered Contractor-owned equipment, unless the lessor has an established record of leasing to unaffiliated lessees at competitive rates consistent with the rates the CONTRACTOR has agreed to pay and no more than forty percent of the lessor's leasing business, measured in dollars, is with organizations affiliated with the lessor.

14.4.7 The CONTRACTOR shall have the right of appeal under the DEPARTMENT's claim procedures, as defined in Article 15, for any determination made by the Contracting Officer, except if the CONTRACTOR has failed to submit his claim within the time provided and has failed to request extension of such time, CONTRACTOR shall have no such right of appeal. In arriving at the amount due the CONTRACTOR under this section, there shall be deducted:

- a. All previous payments made to the CONTRACTOR for the performance of Work under the Contract prior to termination;
- b. Any claim for which the DEPARTMENT may have against the CONTRACTOR;
- c. The agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the

CONTRACTOR or sold pursuant to the provisions of this section and not otherwise recovered by or credited to the DEPARTMENT; and,

d. All progress payments made to the CONTRACTOR under the provisions of this section.

14.4.8 Where the Work has been terminated by the DEPARTMENT said termination shall not affect or terminate any of the rights of the DEPARTMENT against the CONTRACTOR or his Surety then existing or which may thereafter accrue because of such default. Any retention or payment of monies by the DEPARTMENT due to the CONTRACTOR under the terms of the Contract shall not release the CONTRACTOR or its Surety from liability.

14.4.9 The CONTRACTOR's termination claim may not include claims that pre dated the notice for termination for convenience. Those claims shall be prosecuted by the CONTRACTOR under Article 15.

14.4.10 The CONTRACTOR'S termination claim may not exceed the total dollar value of the contract as awarded plus agreed upon change orders less the amounts that have been paid for work completed.

a. Unless otherwise provided for in the Contract Documents, or by applicable statute, the CONTRACTOR, from the effective date of termination and for a period of three years after final settlement under this Contract, shall preserve and make available to the DEPARTMENT at all reasonable times at the office of the CONTRACTOR, all its books, records, documents, and other evidence bearing on the cost and expenses of the CONTRACTOR under his Contract and relating to the Work terminated hereunder.

b. Definitions. In this Subsection 108-1.09, the term "cost" and the term "expense" mean a monetary amount in U.S. Dollars actually incurred by the CONTRACTOR, actually reflected in its contemporaneously maintained accounting or other financial records and supported by original source documentation.

c. Cost Principles. The DEPARTMENT may use the federal cost principles at 48 CFR §§ 31.201-1 to 31.205-52 (or succeeding cost principles for fixed price contracts) as guidelines in determining allowable costs under this Subsection to the extent they are applicable to construction contracts and consistent with the specifications of this Contract. The provisions of this contract control where they are more restrictive than, or inconsistent with, these federal cost principles."



## ARTICLE 15 - CLAIMS FOR ADJUSTMENT AND DISPUTES

### 15.1 Notification

- 15.1.1 The CONTRACTOR shall notify the DEPARTMENT in writing as soon as the CONTRACTOR becomes aware of any act or occurrence which may form the basis of a claim for additional compensation or an extension of Contract Time or of any dispute regarding a question of fact or interpretation of the Contract. The DEPARTMENT has no obligation to investigate any fact or occurrence that might form the basis of a claim or to provide any additional compensation or extension of Contract Time unless the CONTRACTOR has notified the DEPARTMENT in writing in a timely manner of all facts the CONTRACTOR believes form the basis for the claim.
- 15.1.2 If the CONTRACTOR believes that he is entitled to an extension of Contract Time, then the CONTRACTOR must state the contract section on which he basis his extension request, provide the DEPARTMENT with sufficient information to demonstrate that the CONTRACTOR has suffered excusable delay, and show the specific amount of time to which the CONTRACTOR is entitled. The DEPARTMENT will not grant an extension of Contract Time if the CONTRACTOR does not timely submit revised schedules under **Section 01310**.
- 15.1.3 If the matter is not resolved by agreement within 7 days, the CONTRACTOR shall submit an Intent to Claim, in writing, to the DEPARTMENT within the next 14 days.
- 15.1.4 If the CONTRACTOR believes additional compensation or time is warranted, then he must immediately begin keeping complete, accurate, and specific daily records concerning every detail of the potential claim including actual costs incurred. The CONTRACTOR shall provide the DEPARTMENT access to any such records and furnish the DEPARTMENT copies, if requested. Equipment costs must be based on the CONTRACTOR's internal rates for ownership, depreciation, and operating expenses and not on published rental rates. In computing damages, or costs claimed for a change order, or for any other claim against the DEPARTMENT for additional time, compensation or both, the CONTRACTOR must prove actual damages based on internal costs for equipment, labor or efficiencies. Total cost, modified total cost or jury verdict forms of presentation of damage claims are not permissible to show damages. Labor inefficiencies must be shown to actually have occurred and can be proven solely based on job records. Theoretical studies are not a permissible means of showing labor inefficiencies. Home office overhead will not be allowed as a component of any claim against the DEPARTMENT.
- 15.1.5 If the claim or dispute is not resolved by the DEPARTMENT, then the CONTRACTOR shall submit a written Claim to the Contracting Officer within 90 days after the CONTRACTOR becomes aware of the basis of the claim or should have known the basis of the claim, whichever is earlier. The Contracting Officer will issue written acknowledge of the receipt of the Claim.
- 15.1.6 The CONTRACTOR waives any right to claim if the DEPARTMENT was not notified properly or afforded the opportunity to inspect conditions or monitor actual costs or if the Claim is not filed on the date required.

### 15.2 Presenting the Claim

- 15.2.1 The Claim must include all of the following:
- a. The act, event, or condition the claim is based on
  - b. The Contract provisions which apply to the claim and provide relief
  - c. The item or items of Contract work affected and how they are affected
  - d. The specific relief requested, including Contract Time if applicable, and the basis upon which it was calculated
  - e. A statement certifying that the claim is made in good faith, that the supporting cost and pricing data are accurate and complete to the best of your knowledge and belief, and that the amount requested accurately reflects the Contract adjustment which the CONTRACTOR believes is due.

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**15.3 Claim Validity, Additional Information, and DEPARTMENT's Action**

- 15.3.1 The Claim, in order to be valid, must not only show that the CONTRACTOR suffered damages or delay but that it was caused by the act, event, or condition complained of and that the Contract provides entitlement to relief for such act, event, or condition.
- 15.3.2 The DEPARTMENT can make written request to the CONTRACTOR at any time for additional information relative to the Claim. The CONTRACTOR shall provide the DEPARTMENT the additional information within 30 days of receipt of such a request. Failure to furnish the additional information may be regarded as a waiver of the Claim.

**15.4 Contracting Officer's Decision**

The CONTRACTOR will be furnished the Contracting Officer's Decision within 90 days, unless the Contracting Officer requests additional information or gives the CONTRACTOR notice that the time for issuing a decision is being extended for a specified period under AS 36.30.620. The Contracting Officer's decision is final and conclusive unless, within 14 days of receipt of the decision, the CONTRACTOR delivers a Notice of Appeal to the Appeals Officer. Procedures for appeals are covered under AS 36.30.625 and AS 36.30.630.

**15.5 Fraud and Misrepresentation in Making Claims**

Criminal and Civil penalties authorized under AS 36.30.687 (including, but not limited to, forfeiture of all claimed amounts) may be imposed on the CONTRACTOR if the CONTRACTOR makes or uses a misrepresentation in support of a claim or defraud or attempt to defraud the DEPARTMENT at any stage of prosecuting a claim under this Contract.

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## 18.2. General Conditions Modified for CM/GC Contracts

STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES  
DOCUMENT 00700

**GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT FOR  
BUILDINGS**

**Modified for CM/GC Contract**

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**ACKNOWLEDGMENT**

"The State of Alaska, General Conditions of the Construction Contract for Buildings" is based on the "Standard General Conditions of the Construction Contract" as published by the National Society of Professional Engineers (document number 1910-8, 1983 edition) on behalf of the Engineers Joint Construction Documents Committee. Portions of the NSPE General Conditions are reprinted herein by the express permission of NSPE. Modifications to the NSPE text are made to provide for State laws, regulations, and established procedures.

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## ARTICLE 1 - DEFINITIONS

Wherever used in the Contract Documents the following terms, or pronouns in place of them, the intent and meaning, unless a different intent or meaning is clearly indicated, shall be interpreted as set forth below.

The titles and headings of the articles, sections, and subsections herein are intended for convenience of reference and will not govern their interpretation. Whenever used in the Specifications or other Contract Documents the following terms have the meaning indicated which are applicable to both the singular and plural thereof. Working titles that have a masculine gender are intended to refer to persons of either sex.

Terms not defined below shall have their ordinary accepted meanings within the context that they are used. Words that have a well-known technical or trade meaning when used to describe work, materials or equipment shall be interpreted in accordance with such meaning.

**Acceptance Tests - Quality Control** tests taken by the CONTRACTOR, the results for which are used by the DEPARTMENT to determine whether the work complies with the requirements of the Contract Documents.

**Access Road** - The right-of-way, the roadway, and all improvements constructed thereon connecting the project site to a public thoroughfare.

**Addenda** - All clarifications, corrections, or changes issued graphically or in writing by the DEPARTMENT after the Advertisement but prior to the opening of Proposals.

**Advertisement** - The public announcement, as required by law, inviting bids for Work to be performed or materials to be furnished. Advertisement of subcontractor bids shall be in accordance with the CM/GC Subcontractor Solicitation and Award Procedures approved by the DEPARTMENT.

**Air Operations Area** - For the purpose of these Specifications, the term air operations area shall mean any area of the airport used or intended to be used for the landing, takeoff, or surface maneuvering or parking of aircraft. An air operation area shall include such paved or unpaved areas that are used or intended to be used for the movement of aircraft in addition to its associated runway, runway safety area, taxiway, taxiway safety area or apron. The Air Operations Area shall also include the secured areas within airport buildings that require access clearance, background checks, and badging for entry.

**Airport** - Airport means an area of land or water that is used or intended to be used for the landing and takeoff of aircraft, and any appurtenant areas that are used or intended for use for airport buildings or other facilities or right of way, together with airport buildings and facilities.

**Application for Payment** - The form on which the CONTRACTOR requests progress or final payments and which includes such supporting documentation as is required by the Contract Documents.

**Approved or Approval** - Means written approval by the Contracting Officer or his authorized representative as defined in Article 2.1.

**A.S** - Initials that stand for Alaska Statute.

**Award** - The acceptance, by the DEPARTMENT, of a successful bid. For subcontractor bids, the acceptance of the CM/GC of a successful bid, in accordance with Subcontractor Solicitation and Award Procedures approved by the DEPARTMENT.

**Bid Bond** - A type of Proposal Guaranty.

**Bidder** - Any individual, firm, corporation or any acceptable combination thereof, or joint venture submitting a bid for the advertised Work.

**Calendar Day** - Every day shown on the calendar, beginning and ending at midnight.

**Change Order** - A written order by the DEPARTMENT directing changes to the Contract Documents, within their general scope.

**Contingent Sum** - When payment schedule Section 00312 contains a Contingent Sum pay unit, the Work covered shall be performed only upon the written Directive of the Project Manager. Payment shall be made as provided in the Directive.

**Construction Contingency** - An amount established by the DEPARTMENT for its sole use in accordance with Article 13 of the General Conditions.

**Construction Manager/General Contractor (CM/GC)** - The individual, firm, corporation or any acceptable combination thereof, contracting with the DEPARTMENT to provide Pre-construction Services, and once a GMP is established to perform the Work as CONTRACTOR, which performance shall include the management of

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subcontractor bidding in accordance with Subcontractor Solicitation and Award Procedures approved by the DEPARTMENT and completion of the construction Work within the GMP and Project schedule.

**Construction Manager/General Contractor (CM/GC) PROJECT** - The entire scope of work of the program as described in the State of Alaska Department of Transportation and Public Facilities RFP for CM/GC services.

**Contract** - The written agreement between the DEPARTMENT and the CONTRACTOR setting forth the obligations of the parties and covering the Work to be performed, all as required by the Contract Documents.

**Contract Documents** - The Contract form, Addenda, the bidding requirements and CONTRACTOR's bid and GMP (including all appropriate bid tender forms), the bonds, the Conditions of the Contract and all other Contract requirements, the Specifications, and the Drawings furnished by the DEPARTMENT to the CONTRACTOR, together with all Change Orders and documents approved by the Contracting Officer, for inclusion, modifications and supplements issued on or after the Effective Date of the Contract.

**Contract Price** - The guaranteed maximum price (GMP).

**Contract Time** - The number of Calendar Days following issuance of Notice-to-Proceed in which the CONTRACTOR must Substantially Complete the project, or if specified as a calendar date, the Substantial Completion date specified in the Contract Documents.

**Contracting Officer** - The person authorized by the Commissioner to enter into and administer the Contract on behalf of the DEPARTMENT. He has authority to make findings, determinations and decisions with respect to the Contract and, when necessary, to modify or terminate the Contract. The Contracting Officer is identified on the construction Contract.

**CONTRACTOR** - The individual, firm, corporation or any acceptable combination thereof, contracting with the DEPARTMENT for performance of the Work.

**Contractor's Contingency** - An amount established by the DEPARTMENT for CONTRACTOR's sole use in accordance with Article 13 of the General Conditions.

**Controlling Item** - Any feature of the Work on the critical path of a network schedule.

**Defective** - Work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents.

**DEPARTMENT** - The Alaska Department of Transportation and Public Facilities. References to "Owner", "State", "Contracting Agency", mean the DEPARTMENT.

**DEPARTMENT's Consultant** - A person, firm, or corporation, other than the CONTRACTOR or those engaged by the CONTRACTOR, retained directly by the DEPARTMENT to prepare Contract Documents, perform construction administration services, or other Project related services.

**Directive** - A written communication to the CONTRACTOR from the Contracting Officer interpreting or enforcing a Contract requirement or ordering commencement of an item of Work.

**Drawings** - The Drawings that show the character and scope of the Work to be performed and which have been furnished by the DEPARTMENT or the DEPARTMENT's Consultant and are by reference made a part of the Contract Documents.

**Effective Date of the Contract** - The date on which the Contract is fully executed by both CONTRACTOR and the DEPARTMENT.

**Engineer** - The authorized representative of the DEPARTMENT'S Contracting Officer. The Engineer is responsible for administration of the Contract.

**Equipment** - All machinery together with the necessary supplies for upkeep and maintenance, and also tools and apparatus necessary for the proper construction and acceptable completion of the work.

**Federal Aviation Administration (FAA)** - Branch of the U.S. DEPARTMENT of Transportation. When used to designate a person, FAA shall mean the Administrator or his/her duly authorized representative.

**Final Acceptance** - The DEPARTMENT's written acceptance of the Work following Final Completion and the performance of all Contract requirements by the CONTRACTOR.

**Final Completion** - The Project (or specified part thereof) has progressed to the point that all required Work is complete as determined by the Contracting Officer.

**Final Payment** - The last payment to be made to the CONTRACTOR following the issuance of and Final Acceptance.

**Fixed Fee** - The amount established and payable to the CONTRACTOR for Home Office overhead and Profit in accordance with the terms and conditions of the Contract.

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**Fixed Fee = Fixed Fee Ratio X MACC**

**Fixed Fee Ratio** – The ratio of the Fixed Fee proposed by the CONTRACTOR in response to the RFP for this Project divided by the Estimated Maximum Allowable Construction Cost included in the CM/GC RFP.

**Full Cost Recovery (of equipment ownership costs)** – Full cost recovery of equipment ownership costs is defined as the depreciation associated with the equipment as well as insurance, cost of money, property taxes, mechanics' supervision, storage, licenses, and record keeping costs. If any of these costs are recovered in project or general company overhead, those respective costs are excluded from the full cost recovery.

**General Requirements** - Division I of the Specifications containing administrative and procedural requirements as well as requirements for temporary facilities.

**Guaranteed Maximum Price (GMP)** – The maximum amount of compensation payable to the CONTRACTOR for performing the work as stated in the contract. The GMP consists of the MACC, and the CONTRACTOR's Fixed Fee as established by the Contract.

**GMP = MACC + Fixed Fee**

**Holidays** - In the State of Alaska, Legal Holidays occur on:

1. New Years Day - January 1
2. Martin Luther King's Birthday - Third Monday in January
3. President's Day - Third Monday in February
4. Seward's Day - Last Monday in March
5. Memorial Day - Last Monday in May
6. Independence Day - July 4
7. Labor Day - First Monday in September
8. Alaska Day - October 18
9. Veteran's Day - November 11
10. Thanksgiving Day - Fourth Thursday in November
11. Christmas Day - December 25
12. Every Sunday
13. Every day designated by public proclamation by the President of the United States or the Governor of the State as a legal Holiday.

If any Holiday listed above falls on a Saturday, Saturday and the preceding Friday are both legal Holidays. If the Holiday should fall on a Sunday, except (12) above, Sunday and the following Monday are both legal Holidays. See Title 44, Alaska Statutes.

**Inspector** – The Engineer's representative authorized to make determinations and inspections of Contract performance and materials.

**Interim Work Authorization** - A written order by the DEPARTMENT authorizing initiation of work on changes to the Contract, within its general scope, until a subsequent Change Order is executed.

**Install** - Means to build into the Work, ready to be used in complete and operable condition and in compliance with Contract Documents.

**Invitation for Bids** - A portion of the bidding documents soliciting bids for the Work to be performed.

**Laboratory** - The official testing laboratories of the DEPARTMENT or such other laboratories as may be designated by the DEPARTMENT or identified in the contract documents.

**Markup Fee** – The maximum rates of cost markup as outlined in paragraph 10.6 to cover both the overhead and profit of the Subcontractor, to be used in Change Order price determination as described in paragraphs 10.3, 10.4 and 10.5. Except where specified, the term Subcontractor in this context shall also be applied to Self-performed Work by the CONTRACTOR.

**Materials** - Any substances specified for use in the construction of the project.

**Maximum Allowable Construction Cost (MACC)** – One component of the Guaranteed Maximum Price (GMP) provided by the CONTRACTOR and negotiated with the DEPARTMENT prior to award of a contract to perform the construction Work. Prior to the award of a contract to perform the construction Work, The MACC is the estimated and negotiated sum of all reimbursable costs as defined in the Contract for the performance of the work, as follows:

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MACC = Negotiated Cost of the Work (Self-performed Work Costs + Subcontract Costs + CONTRACTOR administrative and support Work Costs allowed by General Conditions Article 13.0.6.c + MACC Allowances pursuant to Article 13.0.9 + Construction Contingency + Contractor's Contingency.

After award of a contract to perform the construction Work, the MACC may be adjusted by Change Order or Supplemental Agreement in accordance with the Contract. The MACC does not include the CONTRACTOR's Fixed Fee or any overhead cost that is also incorporated in the Fixed Fee.

**Notice of Intent to Award** - The written notice by the DEPARTMENT to all Bidders identifying the apparent successful Bidder and establishing the DEPARTMENT's intent to execute the Contract when all conditions required for execution of the Contract are met. For subcontractor bids, the written notice by the CM/GC to all bidders identifying the apparent successful bidder, in accordance with Subcontractor Solicitation and Award Procedures approved by the DEPARTMENT, contingent upon all conditions required for execution of a subcontract being met.

**Notice to Proceed** - A written notice to the CONTRACTOR to begin the Work and establishing the date on which the Contract Time begins.

**Payment Bond** - The security furnished by the CONTRACTOR and his Surety to guarantee payment of the debts covered by the bond.

**Performance Bond** - The security furnished by the CONTRACTOR and his Surety to guarantee performance and completion of the Work in accordance with the Contract.

**Pre-construction Meeting** - A preparatory meeting between the CONTRACTOR and the DEPARTMENT, Using Agency, and other parties affected by the construction, to discuss the project before the CONTRACTOR begins work.

**Pre-construction Services** - Consultation to the DEPARTMENT, the Program Manager, and design team during the planning and design of the project.

**Project** - The total construction, of which the Work performed under the Contract Documents is the whole or a part, where more than one CONTRACTOR may perform such total construction.

**Program Manager** - The representative or representatives designated by the Contracting Officer, consistent with General Condition Article 2.1, to manage the overall execution of the designated program objectives of which this Project is a part.

**Project Manager** - The representative or representatives designated by the Contracting Officer, consistent with General Condition Article 2.1, to manage the Project.

**Proposal** - The offer of a Bidder, on the prescribed forms, to perform the Work at the prices quoted.

**Proposal Guaranty** - The security furnished with a Proposal to guarantee that the bidder will enter into a Contract if the DEPARTMENT accepts his Proposal.

**Quality Assurance (QA)** - Tests and inspections performed by the DEPARTMENT to evaluate the methods, accuracy, precision, and reproducibility of quality control and material acceptance tests.

**Quality Control (QC)** - Tests and inspections by the CONTRACTOR to insure the acceptability of materials incorporated into the work. QC test reports are used as a basis upon which to determine whether the Work conforms to the requirements of the Contract Documents and may determine its acceptability for payment.

**Regulatory Requirements** - Laws, rules, regulations, ordinances, codes, or orders, including requirements of permits, issued by a governmental entity with lawful authority over a matter.

**Runway** - The area of the airport prepared for the landing and takeoff of aircraft.

**Runway Safety Area (RSA)** - A defined surface surrounding the runway prepared or suitable for reducing the risk of damage to airplanes in the event of an undershoot, overshoot, or excursion from the runway.

**Schedule of Values** - The DEPARTMENT's document, submitted by the CONTRACTOR and reviewed by the Contracting Officer, which shall serve as the basis for computing payment and for establishing the value of separate items of Work that comprise the GMP.

**Self-Performed Work** - Work self performed by the CONTRACTOR in accordance with the terms and conditions of the Contract Documents, excluding CONTRACTOR administrative and support Work allowed under General Conditions Article 13.0.6.c, that is not competitively bid to subcontractors or suppliers. The cost for Self-performed Work shall include the CONTRACTOR's fee for overhead and profit on that part of the work in accordance with the provisions of these General Conditions, but shall not include the CONTRACTOR's Fixed Fee.

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**Shop Drawings** - All drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for the CONTRACTOR to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a Supplier and submitted by the CONTRACTOR to illustrate material, equipment, fabrication, or erection for some portion of the Work. Where used in the Contract Documents, the term "Shop Drawings" is also meant to include "Submittals".

**Specifications** - Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative and procedural details applicable thereto.

**Subcontractor** - An individual, firm, or corporation to whom the CONTRACTOR or any other Subcontractor sublets part of the Contract.

**Substantial Completion** - Although not fully completed, the Work (or a specified part thereof) has progressed to the point where, in the opinion of the Contracting Officer, as evidenced by the DEPARTMENT's written notice, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended. The terms "Substantially Complete" and "Substantially Completed" as applied to any Work refer to Substantial Completion thereof.

**Supplemental Agreement** - A written agreement between the CONTRACTOR and the DEPARTMENT covering work that is not within the general scope of the Contract.

**Supplementary Conditions** - The part of the Contract Documents that amends or supplements these General Conditions.

**Supplier** - A manufacturer, fabricator, distributor, material man or vendor of materials or equipment.

**Surety** - The corporation, partnership, or individual, other than the CONTRACTOR, executing a bond furnished by the CONTRACTOR.

**Taxiway** - The portion of the air operations area of an airport that has been designated for movement of aircraft to and from runways or aircraft parking areas.

**Transportation Security Agency (TSA)**. The federal agency responsible for monitoring and maintaining security at airports.

**Traffic Control Plan (TCP)** - A drawing of one or more specific plans that detail the routing of pedestrian, aircraft, and/or vehicular traffic through or around a construction area.

**Unit Price Work** - Work to be paid for on the basis of unit prices.

**Utility** - The privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway or runway drainage, and other similar commodities, including publicly owned fire and police signal systems, street lighting systems, and railroads which directly or indirectly serve the public or any part thereof. The term "utility" shall also mean the utility company, inclusive of any wholly owned or controlled subsidiary.

**Using Agency** - The entity that will occupy or use the completed Project.

**Validate**—When required by the Contract Documents to validate a dimension or condition, the CONTRACTOR will be responsible for substantiating or verifying that the dimension or condition as represented in the Contract Documents meets the desired intent in sufficient time to allow correction prior to impacting the work.

**Work** - Work is the act of, and the result of, performing services, furnishing labor, furnishing and incorporating materials and equipment into the Project and performing other duties and obligations, all as required by the Contract Documents. Such Work, however incremental, will culminate in the entire completed Project, or the various separately identifiable parts thereof.

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## ARTICLE 2 - AUTHORIZATION AND LIMITATIONS

### 2.1 Authorities and Limitations

- 2.1.1 The Contracting Officer alone, shall have the power to bind the DEPARTMENT and to exercise the rights, responsibilities, authorities and functions vested in the Contracting Officer by the Contract Documents. The Contracting Officer shall have the right to designate in writing authorized representatives to act for him. Wherever any provision of the Contract Documents specifies an individual or organization, whether governmental or private, to perform any act on behalf of or in the interest of the DEPARTMENT that individual or organization shall be deemed to be the Contracting Officer's authorized representative under this Contract but only to the extent so specified.
- 2.1.2 The CONTRACTOR shall perform the Work in accordance with any written order (including but not limited to instruction, direction, interpretation or determination) issued by an authorized representative in accordance with the authorized representative's authority to act for the Contracting Officer. The CONTRACTOR assumes all the risk and consequences of performing the Work in accordance with any order (including but not limited to instruction, direction, interpretation or determination) of anyone not authorized to issue such order, and of any order not in writing.
- 2.1.3 Should the Contracting Officer or his authorized representative designate DEPARTMENT's Consultant(s) to act for the DEPARTMENT as provided for in Paragraph 2.1.1, the performance or nonperformance of the DEPARTMENT's Consultant under such authority to act, shall not give rise to any contractual obligation or duty of the DEPARTMENT's Consultant to the CONTRACTOR, any Subcontractor, any Supplier, or any other organization performing any of the Work or any Surety representing them.
- 2.1.4 The term "Contracting Officer" when used in the text of these General Conditions or other Contract Documents following this section shall also mean any duly authorized representative of the Contracting Officer when authorized in accordance with Paragraph 2.1.1

### 2.2 Evaluations by Contracting Officer

- 2.2.1 The Contracting Officer will decide all questions which may arise as to:
- Quality and acceptability of materials furnished;
  - Quality and acceptability of Work performed;
  - Compliance with the schedule of progress;
  - Interpretation of Contract Documents;
  - Acceptable fulfillment of the Contract on the part of the CONTRACTOR.
- 2.2.2 In order to avoid cumbersome terms and confusing repetition of expressions in the Contract Documents the terms "as ordered", "as directed", "as required", "as approved" or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory" or adjectives of like effect or import are used it shall be understood as if the expression were followed by the words "the Contracting Officer".
- When such terms are used to describe a requirement, direction, review or judgment of the Contracting Officer as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise).
- 2.2.3 The use of any such term or adjective shall not be effective to assign to the DEPARTMENT any duty of authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraphs 2.3.

### 2.3 Means & Methods

The means, methods, techniques, sequences or procedures of construction, or safety precautions and the program incident thereto, and the failure to perform or furnish the Work in accordance with the Contract Documents are the sole responsibility of the CONTRACTOR.

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#### **2.4 Visits to Site/Place of Business**

The Contracting Officer may, but is not required to, make visits to the site and approved remote storage sites at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. The Contracting Officer may, at reasonable times, inspect that part of the plant or place of business of the CONTRACTOR or Subcontractor that is related to the performance of the Contract. Such observations or the lack of such observations shall in no way relieve the CONTRACTOR from his duty to perform the Work in accordance with the Contract Documents.

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## ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

### 3.0 Contract Phasing

The Work under this Construction Contract is part of the CM/GC PROJECT. The CM/GC PROJECT may be divided into two or more construction contracts and/or phases as described in the Supplementary Conditions.

### 3.1 Incomplete Contract Documents

The submission of a GMP by the CONTRACTOR is considered a representation that the CONTRACTOR examined the Contract Documents to make certain that all sheets and pages were provided and that the CONTRACTOR is satisfied as to the conditions to be encountered in performing the Work. The DEPARTMENT expressly denies any responsibility or liability for a GMP submitted on the basis of an incomplete set of Contract Documents.

### 3.2 Copies of Contract Documents

The DEPARTMENT shall furnish to the CONTRACTOR at least one electronic and one paper copy of the Contract Documents, and up to the number of additional copies specified in the Supplementary Conditions. Additional copies beyond the number specified in the Supplementary Conditions will be furnished, upon request, at the cost of reproduction.

### 3.3 Scope of Work

The Contract Documents comprise the entire Contract between the DEPARTMENT and the CONTRACTOR concerning the Work. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the Regulatory Requirements of the place of the Project.

It is specifically agreed between the parties executing this Contract that it is not intended by any of the provisions of the Contract to create in the public or any member thereof a third party benefit, or to authorize anyone not a party to this Contract to maintain a suit pursuant to the terms or provisions of the Contract.

### 3.4 Intent of Contract Documents

3.4.1 It is the intent of the Contract Documents to describe a functionally complete Project to be constructed in accordance with the Contract Documents. Any Work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied, without any adjustment in GMP or Contract Time, whether or not specifically called for.

3.4.2 Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the Regulatory Requirements of any governmental authority, whether such reference be specific or by implication, shall mean the edition stated in the Contract Documents or if not stated the latest standard specification, manual, code or Regulatory Requirements in effect at the time of Advertisement for the Project (or, on the Effective Date of the Contract if there was no Advertisement). However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of the DEPARTMENT and the CONTRACTOR, or any of their consultants, agents or employees from those set forth in the Contract Documents, nor shall it be effective to assign to the DEPARTMENT or any of the DEPARTMENT's Consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraphs 2.3.

### 3.5 Discrepancy in Contract Documents

3.5.1 Before undertaking the Work, the CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures, and dimensions shown thereon and all applicable field measurements. Work in the area by the CONTRACTOR shall imply verification of figures, dimensions and field measurements. If, during the above study or during the performance of the Work, the CONTRACTOR finds a conflict, error, discrepancy or omission in the Contract Documents, or a discrepancy between the Contract Documents and any standard specification, manual, code, or Regulatory Requirement which affects the Work, the CONTRACTOR shall promptly report such discrepancy in

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writing to the Contracting Officer. The CONTRACTOR shall obtain a written interpretation or clarification from the Contracting Officer before proceeding with any Work affected thereby. Any adjustment made by the CONTRACTOR without this determination shall be at his own risk and expense. However, the CONTRACTOR shall not be liable to the DEPARTMENT for failure to report any conflict, error or discrepancy in the Contract Documents unless the CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

**3.5.2 Discrepancy - Order of Precedence**

When conflicts, errors, or discrepancies within the Contract Documents exist, the order of precedence from most governing to least governing will be as follows:

Supplementary Conditions

General Conditions

General Requirements

Technical Specifications

Drawings

Architectural drawings over structural drawings Structural drawings over mechanical and electrical drawings

In addition, the following shall apply:

Contents of most current Addenda will govern over respective prior Addenda and base Bid Documents

Recorded dimensions will govern over scaled dimensions

Large scale details will govern over small scale details

Schedules (e.g. equipment schedules, finish schedules, door schedules, material schedules and all similar type schedules where identified) in specifications or plans will govern over plans

**3.6 Clarifications and Interpretations**

The Contracting Officer will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents as the Contracting Officer may determine necessary.

**3.7 Reuse of Documents**

Neither the CONTRACTOR nor any Subcontractor, or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with the DEPARTMENT shall have or acquire any title to or ownership rights in any of the Contract Documents (or copies thereof) prepared by or for the DEPARTMENT and they shall not reuse any of the Contract Documents on extensions of the Project or any other project without written consent of the Contracting Officer.

Contract Documents prepared by the CONTRACTOR in connection with the Work shall become the property of the DEPARTMENT.

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## ARTICLE 4 - LANDS AND PHYSICAL CONDITIONS

### 4.1 Availability of Lands

The DEPARTMENT shall furnish as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for use of the CONTRACTOR in connection with the Work. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by the DEPARTMENT, unless otherwise provided in the Contract Documents.

### 4.2 Visit to Site

The submission of a GMP by the CONTRACTOR is considered a representation that the CONTRACTOR has visited and carefully examined the site and is satisfied as to the conditions to be encountered in performing the Work and as to the requirements of the Contract Documents.

### 4.3 Explorations and Reports

Reference is made to the Supplementary Conditions for identification of those reports of explorations and tests of subsurface conditions at the site that have been utilized by the DEPARTMENT in preparation of the Contract Documents. The CONTRACTOR may for his purposes rely upon the accuracy of the factual data contained in such reports but not upon the completeness or sufficiency thereof. Except as indicated in the immediately preceding sentence and in paragraphs 4.4 and 9.9, CONTRACTOR shall have full responsibility with respect to surface and subsurface conditions at the site

### 4.4 Utilities

The horizontal and vertical locations of known underground utilities as shown or indicated by the Contract Documents are approximate and are based on information and data furnished to the DEPARTMENT by the owners of such underground utilities.

#### 4.4.1 NOT USED

#### 4.4.2 The CONTRACTOR shall have full responsibility for:

- a. Reviewing and checking all information and data concerning utilities.
- b. Locating all underground utilities shown or indicated in the Contract Documents which are affected by the Work.
- c. Coordination of the Work with the owners of all utilities during construction.
- d. Safety and protection of all utilities as provided in paragraph 6.17.
- e. Repair of any damage to utilities resulting from the Work in accordance with 4.4.4 and 4.5.

#### 4.4.3 If Work is to be performed by any utility owner, the CONTRACTOR shall cooperate with such owners to facilitate the Work.

#### 4.4.4 In the event of interruption to any utility service as a result of accidental breakage or as result of being exposed or unsupported, the CONTRACTOR shall promptly notify the utility owner and the Contracting Officer. If service is interrupted, repair work shall be continuous until the service is restored. No Work shall be undertaken around fire hydrants until the local fire authority has approved provisions for continued service.

### 4.5 Damaged Utilities

When the CONTRACTOR damages utilities, the utility owner shall have the choice of repairing the utility or having the CONTRACTOR repair the utility. In the following circumstances, the CONTRACTOR shall reimburse the utility owner for repair costs or provide at no cost to the utility owner or the DEPARTMENT, all materials, equipment and labor necessary to complete repair of the damage:

- a. When the utility is shown or indicated in the Contract Documents.
- b. When the utility owner has located the utility.
- c. When no locate was requested by the CONTRACTOR for utilities shown or indicated in the Contract Documents.
- d. All visible utilities.

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- e. When the CONTRACTOR could have, otherwise, reasonably been expected to be aware of such utility.

**4.6 Utilities Not Shown or Indicated**

If, while directly performing the Work, an underground or concealed utility is uncovered or revealed at the site which was not shown or indicated in the Contract Documents and which the CONTRACTOR could not reasonably have been expected to be aware of, the CONTRACTOR shall, promptly after becoming aware thereof and before performing any Work affected thereby (except in an emergency as permitted by paragraph 6.19) identify the owner of such underground or concealed utility and give written notice thereof to that owner and to the Contracting Officer. The Contracting Officer will promptly review the underground or concealed utility to determine the extent to which the Contract Documents and the Work should be modified to reflect the impacts of the discovered utility. The Contract Documents will be amended or supplemented in accordance with paragraph 9.2 and to the extent necessary through the issuance of a change document by the Contracting Officer. During such time, the CONTRACTOR shall be responsible for the safety and protection of such underground or concealed utility as provided in paragraph 6.17. The CONTRACTOR may be allowed an increase in the GMP or an extension of the Contract Time, or both, to the extent that they are directly attributable to the existence of any underground or concealed utility that was not shown or indicated in the Contract Documents and which the CONTRACTOR could not reasonably have been expected to be aware of.

**4.7 Survey Control**

The DEPARTMENT will identify sufficient horizontal and vertical control data to enable the CONTRACTOR to survey and layout the Work. All survey work shall be performed under the direct supervision of a registered land surveyor when required by paragraph 7.8. Copies of all survey notes shall be provided to the DEPARTMENT at an interval determined by the Project Manager. The Project Manager may request submission on a weekly or longer period at his discretion. Any variations between the Contract Documents and actual field conditions shall be identified in the survey notes.

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**ARTICLE 5 - BONDS, INSURANCE, AND INDEMNIFICATION**

**5.1 Delivery of Bonds**

When the CONTRACTOR delivers the executed Contract to the Contracting Officer, the CONTRACTOR shall also deliver to the Contracting Officer such bonds as the CONTRACTOR may be required to furnish in accordance with paragraph 5.2.

**5.2 Bonds**

The CONTRACTOR shall furnish Performance and Payment Bonds, each in an amount as shown on the Contract as security for the faithful performance and payment of all CONTRACTOR's obligations under the Contract Documents. These bonds shall remain in effect for one year after the date of Final Acceptance and until all obligations under this Contract, except special guarantees as per 12.7, have been met. All bonds shall be furnished on forms provided by the DEPARTMENT (or copies thereof) and shall be executed by such Sureties as are authorized to do business in the State of Alaska. The Contracting Officer may at his option copy the Surety with notice of any potential default or liability.

**5.3 Replacement of Bond and Surety**

If the Surety on any bond furnished in connection with this Contract is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of paragraph 5.2, or otherwise becomes unacceptable to the DEPARTMENT, or if any such Surety fails to furnish reports as to his financial condition as requested by the DEPARTMENT, the CONTRACTOR shall within 5 days thereafter substitute another bond and Surety, both of which must be acceptable to DEPARTMENT.

A corporate Surety may replace an individual Surety during the course of the Contract period. If the Surety desires to dispose of the collateral posted, the DEPARTMENT may, at its option, accept substitute collateral.

**5.4 Insurance Requirements**

5.4.1 The CONTRACTOR shall provide evidence of insurance with a carrier or carriers satisfactory to the DEPARTMENT covering injury to persons and/or property suffered by the State of Alaska or a third party, as a result of operations that arise both out of and during the course of this Contract by the CONTRACTOR or by any Subcontractor. This coverage will also provide protection against injuries to all employees of the CONTRACTOR and the employees of any Subcontractor engaged in Work under this Contract. The delivery to the DEPARTMENT of a written 30-day notice is required before cancellation of any coverage or reduction in any limits of liability. Insurance carriers shall have an acceptable financial rating.

5.4.2 The CONTRACTOR shall maintain in force at all times during the performance of Work under this agreement the following policies of insurance. Failure to maintain the specified insurance or to provide substitute insurance if an insurance carrier becomes insolvent, is placed in receivership, declares bankruptcy, or cancels a policy may be grounds for withholding Contract payments until substitute insurance is obtained, and may, in the DEPARTMENT's discretion, be grounds for declaring the CONTRACTOR in default. Where specific limits and coverage are shown, it is understood that they shall be the minimum acceptable. The requirements of this paragraph shall not limit the CONTRACTOR's responsibility to indemnify under paragraph 5.5. Additional insurance requirements specific to this Contract are contained in the Supplementary Conditions, when applicable.

a Worker's Compensation Insurance:

The CONTRACTOR shall provide and maintain, for all employees engaged in work under this contract, statutory limits coverage as required by AS 23.30.045.

The policy must waive subrogation against the State and include Employer's Liability Protection with policy limits not less than:

\$500,000 each accident,                      \$500,000 each disease.

b. Commercial General Liability Insurance: On an occurrence policy form covering all operations by

or on behalf of the CONTRACTOR with combined single limits not less than:

\$1,000,000 each occurrence

\$1,000,000 for Personal Injury Liability

\$2,000,000 aggregate for Products-Completed Operations

\$2,000,000 general aggregate

The State of Alaska shall be named as additional insured. This insurance shall be considered to be primary and non-contributory to any other insurance carried by the State through self insurance or otherwise.

- c. Automobile Liability Insurance: Covering all vehicles used by the CONTRACTOR in the performance of services under this agreement with combined single limits not less than \$1,000,000 each occurrence. The State of Alaska shall be named as additional insured. This insurance shall be considered to be primary and non-contributory to any other insurance carried by the State through self insurance or otherwise.

- d. Builder's Risk Insurance:

Coverage shall be on an "All Risk" completed value basis including "earthquake and flood" and protect the interests of the DEPARTMENT, the CONTRACTOR and his Subcontractors. Coverage shall include all materials, supplies and equipment that are intended for specific installation in the Project while such materials, supplies and equipment are located at the Project site, in transit from port of arrival to job site and while temporarily located away from the Project site.

In addition to providing the above coverage the CONTRACTOR shall ensure that Subcontractors provide insurance coverage as noted in clauses a., b., and c. of this subparagraph. Builders Risk Insurance will only be required of subcontractors if so stated in the Supplementary Conditions.

- e. Other Coverages:

As specified in Supplementary Conditions.

- f. In addition to providing the above coverages the CONTRACTOR shall, in any contract or agreement with Subcontractors performing work, require that all indemnities and waivers of subrogation it obtains, and that any stipulation to be named as an additional insured it obtains, also be extended to waive rights of subrogation against the State of Alaska and to add the State of Alaska as additional named indemnitee and as additional insured.

- 5.4.3 CONTRACTOR shall furnish evidence of insurance to the DEPARTMENT before award of the Contract. All other coverage, including required subcontractor furnished insurance shall be evidenced prior to commencement of Work. Acceptance by the DEPARTMENT of deficient evidence does not constitute a waiver of Contract requirements as provided for by the Conditions of the Contract.

The evidence shall be issued to the DEPARTMENT and shall be either a certificate of insurance or the policy declaration page with all required endorsements attached and must:

Denote the type, amount, and class of operations covered;

Show the effective (and retroactive) dates of the policy;

Show the expiration date of the policy;

Include all required endorsements;

Be executed by the carrier's representative; and

If a certificate of insurance, include the following statement:

"This is to certify that the policies described herein comply with all aspects of the insurance requirements of (Project Name and Number). The insurance carrier agrees that it shall notify the Engineer, in writing, at least 30 days before cancellation of any coverage or reduction in any limits of liability."

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**5.5 Indemnification**

The CONTRACTOR shall indemnify, save harmless, and defend the DEPARTMENT, its DEPARTMENT's Consultants, its agents and its employees from any and all claims, actions, or liabilities for injuries or damages sustained by any person or property arising directly or indirectly from the construction or the performance in the course of this Contract of the CONTRACTOR, or its Subcontractors or Suppliers, including any of their Consultants, agents or employees; however, this provision has no effect if, but only if, the sole proximate cause of the injury or damage is the DEPARTMENT's negligence.

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## ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

### 6.1 Supervision of Work

The CONTRACTOR shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. All Work under this Contract shall be performed in a skillful and workmanlike manner. The CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures of construction.

### 6.2 Superintendence by CONTRACTOR

The CONTRACTOR shall keep on the Work at all times during its progress a competent resident superintendent. The Contracting Officer shall be advised in writing of the superintendent's name, local address, and telephone number. This written advice is to be kept current until Final Acceptance by the DEPARTMENT. The superintendent will be the CONTRACTOR's representative at the site and shall have full authority to act and sign documents on behalf of the CONTRACTOR.

All communications given to the superintendent shall be as binding as if given to the CONTRACTOR. The CONTRACTOR shall cooperate with the Contracting Officer in every way possible.

### 6.3 Character of Workers

The CONTRACTOR shall provide a sufficient number of competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. The CONTRACTOR shall at all times maintain good discipline and order at the site. The Contracting Officer may, in writing, require the CONTRACTOR to remove from the Work any employee the Contracting Officer deems incompetent, careless, or otherwise detrimental to the progress of the Work, but the Contracting Officer shall have no duty to exercise this right.

### 6.4 CONTRACTOR to Furnish

Unless otherwise specified in the General Requirements, the CONTRACTOR shall furnish and assume full responsibility for all materials, equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance testing, start-up and completion of the Work.

### 6.5 Materials and Equipment

All materials and equipment shall be of specified quality and new, except as otherwise provided in the Contract Documents. If required by the Contracting Officer, the CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the instructions of the applicable Supplier except as otherwise provided in the Contract Documents; but no provision of any such instructions will be effective to assign to the DEPARTMENT or any of the DEPARTMENT's Consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraphs 2.3.

### 6.5.2 BUY AMERICAN STEEL AND MANUFACTURED PRODUCTS

- a. The CONTRACTOR agrees that only domestic steel and manufactured products will be used by the CONTRACTOR, subcontractors, materialmen, and suppliers in the performance of this Federal-Aid contract, as defined below.
- b. The following terms apply to this clause:
  1. **Steel and Manufactured Products.** As used in this clause, steel and manufactured products include (1) those produced in the United States or (2) a manufactured product produced or manufactured in the United States, if the cost of its components mined, produced or manufactured in the United States exceeds sixty (60) percent of the cost of all its components and final assembly has taken place in the United States. Components of foreign origin of the same class or kind, as the products referred to in subparagraphs c.(1) or c.(2) shall be treated as domestic.

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2. **Components.** As used in this clause, components means those articles, materials, and supplies incorporated directly into steel and manufactured products.
  3. **Cost of Components.** This means the costs for production of the components, exclusive of final assembly labor costs.
- c. **Buy American Certificate.** Execution and submission of the Buy American Certificate Form 25D-061, is required. If there are no exceptions to be listed on the certificate, the bidder shall enter "NONE" on the first line. If exceptions are listed on the Buy American Certificate, they shall meet at least one of the following criteria for the certificate to be considered appropriately executed:
1. Those products or materials that the U.S. Department of Transportation has determined, under the *Aviation Safety and Capacity Expansion Act of 1990*, are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality. (The current list is included on the back of Form 25D-061.)
  2. Those products or materials where the U.S. Department of Transportation has determined, under the *Aviation Safety and Capacity Expansion Act of 1990*, that domestic preference would be inconsistent with the public interest.
  3. Where inclusion of domestic material will increase the cost of the overall project contract by more than twenty-five (25) percent.

**6.6 Anticipated Schedules:**

6.6.1 The CONTRACTOR shall submit an anticipated CPM schedule in accordance with Section 01310 of the Contract Specifications. Prior to submitting the CONTRACTOR's first Application for Payment, the CONTRACTOR shall submit to the DEPARTMENT for review an anticipated progress schedule indicating the starting and completion dates of the various stages of the Work.

6.6.2 Prior to submitting the CONTRACTOR's first Application for Payment, the CONTRACTOR shall submit to the Contracting Officer for review:

Anticipated schedule of Shop Drawing submissions; and

Anticipated Schedule of Values for all Work. The Schedule of Values shall include quantities and prices of items aggregating the GMP and shall subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. The CONTRACTOR's Fixed Fee and the Contingency accounts shall be shown as separate items.

**6.7 Finalizing Schedules:**

Prior to processing the first Application for Payment the Contracting Officer and the CONTRACTOR will finalize schedules required by paragraph 6.6.2, and the CONTRACTOR shall submit the anticipated CPM schedule required by paragraph 6.6.1. No applications for payments will be accepted by the DEPARTMENT after 60 days of issuing of the NTP without DEPARTMENT acceptance of the Finalized CPM Schedule. The finalized CPM schedule will be acceptable to the DEPARTMENT as providing information related to the orderly progression of the Work to completion within the Contract Time; but such acceptance will neither impose on the DEPARTMENT nor relieve the CONTRACTOR from full responsibility for the progress or scheduling of the Work. If accepted, the finalized schedule of Shop Drawings and other required submissions will be acknowledgment by the DEPARTMENT as providing a workable arrangement for processing the submissions. If accepted, the finalized Schedule of Values will be acknowledgment by the DEPARTMENT as an approximation of anticipated value of Work accomplished over the anticipated Contract Time. Receipt and acceptance of a schedule submitted by the CONTRACTOR shall not be construed to assign responsibility for performance or contingencies to the DEPARTMENT or relieve the CONTRACTOR of his responsibility to adjust his forces, equipment, and work schedules as may be necessary to insure completion of the Work within prescribed Contract Time. Should the prosecution of the Work be discontinued for any reason, the CONTRACTOR shall notify the Contracting Officer at least 24 hours in advance of resuming operations.

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**6.8 Adjusting Schedules:**

Upon substantial changes to the schedule or upon request the CONTRACTOR shall submit to the Contracting Officer for acceptance (to the extent indicated in paragraph 6.7 and the General Requirements) adjustments in the schedules to reflect the actual present and anticipated progress of the Work. The CONTRACTOR's failure to submit adjustments in the schedules upon substantial change shall preclude and waive any claim the CONTRACTOR may have had related to the impacts of delays caused by the substantial change.

**6.9 Substitutes or "Or-Equal" Items:**

6.9.1 Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that substitution is limited or not permitted, the Contracting Officer may accept materials or equipment of other Suppliers only if sufficient information is submitted by the CONTRACTOR clearly demonstrating to the Contracting Officer that the material or equipment proposed is equivalent or equal in all aspects to that named. The procedure for review by the Contracting Officer will include the following as supplemented in the General Requirements.

6.9.2 The CONTRACTING OFFICER will not accept requests for review of substitute items of material and equipment from anyone other than the CONTRACTOR following the issuance of the Construction Contract.

6.9.3 If the CONTRACTOR wishes to furnish or use a substitute item of material or equipment, the CONTRACTOR shall make written application to the Contracting Officer for Approval thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as the specified. The application will state that the evaluation and Approval of the proposed substitute will not delay the CONTRACTOR's timely achievement of Substantial or Final Completion, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with the DEPARTMENT for Work on the Project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty.

6.9.4 All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which shall be considered by the DEPARTMENT in evaluating the proposed substitute. The DEPARTMENT may require the CONTRACTOR to furnish at the CONTRACTOR's expense additional data about the proposed substitute. The Contracting Officer may reject any substitution request which the Contracting Officer determines is not in the best interest of the DEPARTMENT.

6.9.5 Substitutions shall be permitted during or after the bid period as allowed and in accordance with Document 00020 - Invitation for Bids, Document 00700 – General Conditions, and Document 01600 – Material and Equipment and 01631 - Substitution Request Form.

**6.10 Substitute Means and Methods**

If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, the CONTRACTOR may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to the Contracting Officer, if the CONTRACTOR submits sufficient information to allow the Contracting Officer to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedure for review by the Contracting Officer will be similar to that provided in paragraph 6.9 as applied by the Contracting Officer and as may be supplemented in the General Requirements.

**6.11 Evaluation of Substitution:**

The Contracting Officer will be allowed a reasonable time within which to evaluate each proposed substitute. The Contracting Officer will be the sole judge of acceptability, and no substitute will be

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ordered, installed or utilized without the Contracting Officer's prior written Approval which will be evidenced by either a Change Order or a Shop Drawing Approved in accordance with Sections 6.20 and 6.21. The Contracting Officer may require the CONTRACTOR to furnish at the CONTRACTOR's expense a special performance guarantee or other Surety with respect to any substitute.

**6.12 Dividing the Work:**

The divisions and sections of the Specifications and the identifications of any Drawings shall not control the CONTRACTOR in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade. The CONTRACTOR is solely responsible for ensuring that all Contract requirements are accounted for in dividing the work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

**6.13 Subcontractors:**

The CONTRACTOR shall utilize the services of appropriately licensed Subcontractors on those parts of the Work which, under normal contracting practices, are performed by Subcontractors, in accordance with the following conditions:

- 6.13.1 Prior to completion of the Construction Documents, the CONTRACTOR shall contact potential subcontractors and material suppliers to encourage their interest in bidding on the work.
- 6.13.2 It is the objective of the DEPARTMENT to obtain the best value for the funds expended. Competition is the preferred method of assuring the least cost, and sub-bidding of the work is expected and encouraged. Pre-qualification of subcontractors may be allowed subject to DEPARTMENT approval. It is understood that there may be times when the best interest of the project is served by the CONTRACTOR self-performing or otherwise exempting a portion of the work from sub-bidding. Relevant sections of the General Conditions applicable to Subcontractors shall be followed. Self-Performed work by the CONTRACTOR will be limited to a maximum of twenty (20) percent of the Maximum Allowable Construction Cost for the entire CM/GC PROJECT. The amount to be Self-Performed is subject to DEPARTMENT approval. The balance shall be competitively bid to subcontractors or suppliers.
- 6.13.3 The CONTRACTOR will develop proposed subcontracting solicitation procedures for DEPARTMENT approval. The CONTRACTOR will be expected to publicly conduct the sub-bidding of all remaining construction work including, where applicable, developing a subcontractor pre-qualification process for critical items of work. This will include:
  - a. The CONTRACTOR shall attempt to obtain a minimum 3 bids for each package of work bid.
  - b. All bids for non-self performed work valued at more than \$100,000 are required to be sealed, written, and submitted to a specific location at a specific time.
  - c. Solicitations for bids for Federal-Aid Contracts shall be advertised at least 10 days in advance of the bid opening. Solicitations shall be advertised in the at least two newspapers specifically targeted to reach DBE/ESBE audiences.
  - d. For non-self performed work valued at less than \$100,000, the CONTRACTOR may receive a minimum of 3 bids by telephone without advertisement.
- 6.13.4 The CONTRACTOR shall not award any Work to any Subcontractor without prior written Approval of the Contracting Officer. The CONTRACTOR shall not allow any subcontractor to proceed with any Work under this Contract until the CONTRACTOR submits a written statement concerning the proposed award to the Subcontractor which shall contain required Equal Employment Opportunity documents, evidence of insurance whose limits are acceptable to the CONTRACTOR, and an executed copy of the subcontract to the Contracting Officer and receives Approval to proceed with the subcontract work. All subcontracts shall contain provisions for prompt payment, release of retainage, and interest on late payment amounts and retainage as specified in A.S. 36.90.210. Contracts between subcontractors, regardless of tier, must also contain these provisions. No acceptance by the Contracting Officer of any such Subcontractor shall constitute a waiver of any right of the DEPARTMENT to reject Defective Work.
- 6.13.5 The CONTRACTOR shall be fully responsible to the DEPARTMENT for all acts and omissions of the Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions.

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- 6.13.6 All Work performed for CONTRACTOR by a Subcontractor will be pursuant to an appropriate written agreement between CONTRACTOR and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the DEPARTMENT and contains waiver provisions as required by paragraph 13.17 and termination provisions as required by Article 14.
- 6.13.7 Nothing in the Contract Documents shall create any contractual relationship between the DEPARTMENT and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of the DEPARTMENT to pay or to see to the payment of any moneys due any such Subcontractor, Supplier or other person or organization except as may otherwise be required by Regulatory Requirements. The DEPARTMENT will not undertake to settle any differences between or among the CONTRACTOR, Subcontractors, or Suppliers.
- 6.13.8 The CONTRACTOR and Subcontractors shall coordinate their work and cooperate with other trades so to facilitate general progress of Work. Each trade shall afford other trades every reasonable opportunity for installation of their work and storage of materials. If cooperative work of one trade must be altered due to lack of proper supervision, or failure to make proper provisions in time by another trade, the CONTRACTOR shall remedy such conditions with no change in GMP or Contract Time.
- 6.13.9 The CONTRACTOR shall include on his own payrolls any person or persons working on this Contract who are not covered by written subcontract, and shall ensure that all Subcontractors include on their payrolls all persons performing Work under the direction of the Subcontractor.

**6.14 Use of Premises**

The CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of workers to the Project limits and approved remote storage sites and lands and areas identified in and permitted by Regulatory Requirements, rights-of-way, permits and easements, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. The CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work. Should any such owner make any claim against the DEPARTMENT or occupant because of the performance of the Work, the CONTRACTOR shall hold the DEPARTMENT harmless.

**6.15 Structural Loading**

The CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall the CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

**6.16 Record Documents**

The CONTRACTOR shall maintain in a safe place at the site one record copy of all Drawings, Specifications, Addenda, Directives, Change Orders, Supplemental Agreements, and written interpretations and clarifications (issued pursuant to paragraph 3.6) in good order and annotated to show all changes made during construction. These record documents together with all Approved samples and a counterpart of all Approved Shop Drawings will be available to the Contracting Officer for reference and copying. Upon completion of the Work, the annotated record documents, samples and Shop Drawings will be delivered to the Contracting Officer. Record documents shall accurately record variations in the Work which vary from requirements shown or indicated in the Contract Documents.

**6.17 Safety and Protection**

The CONTRACTOR alone shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

- 6.17.1 All employees on the Work and other persons and organizations who may be affected thereby;
- 6.17.2 All the Work and materials and equipment to be incorporated therein, whether in storage on or off the site; and
- 6.17.3 Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways,

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structures, and utilities not designated for removal, relocation or replacement in the course of construction.

The CONTRACTOR shall comply with all applicable Regulatory Requirements of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. The CONTRACTOR shall notify owners of adjacent property and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property. All damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the CONTRACTOR, any Subcontractor, Supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by the CONTRACTOR with no change in GMP or Contract Time except as stated in 4.6, except damage or loss attributable to unforeseeable causes beyond the control of and without the fault or negligence of the CONTRACTOR, including but not restricted to acts of God, of the public enemy or governmental authorities. The CONTRACTOR's duties and responsibilities for the safety and protection of the Work shall continue until Final Acceptance (except as otherwise expressly provided in connection with Substantial Completion).

**6.18 Safety Representative**

The CONTRACTOR shall designate a responsible safety representative at the site. This person shall be the CONTRACTOR's superintendent unless otherwise designated in writing by the CONTRACTOR to the Contracting Officer.

**6.19 Emergencies**

In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the DEPARTMENT, is obligated to act to prevent threatened damage, injury or loss. The CONTRACTOR shall give the Contracting Officer prompt written notice if the CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If the DEPARTMENT determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a change will be authorized by one of the methods indicated in Paragraph 9.2, as determined appropriate by the Contracting Officer.

**6.20 Shop Drawings and Samples**

- 6.20.1 After checking and verifying all field measurements and after complying with applicable procedures specified in the General Requirements, the CONTRACTOR shall submit to the Contracting Officer for review and Approval in accordance with the accepted schedule of Shop Drawing submissions the required number of all Shop Drawings, which will bear a stamp or specific written indication that the CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to the review of the submission. All submissions will be identified as the Contracting Officer may require. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to enable the Contracting Officer to review the information as required.
- 6.20.2 The CONTRACTOR shall also submit to the Contracting Officer for review and Approval with such promptness as to cause no delay in Work, all samples required by the Contract Documents. All samples will have been checked by and accompanied by a specific written indication that the CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to the review of the submission and will be identified clearly as to material, Supplier, pertinent data such as catalog numbers and the use for which intended.
- 6.20.3 Before submission of each Shop Drawing or sample the CONTRACTOR shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and reviewed or coordinated each Shop Drawing or sample with other Shop Drawings and samples and with the requirements of the Work and the Contract Documents.

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6.20.4 At the time of each submission the CONTRACTOR shall give the Contracting Officer specific written notice of each variation that the Shop Drawings or samples may have from the requirements of the Contract Documents, and, in addition, shall cause a specific notation to be made on each Shop Drawing submitted to the Contracting Officer for review and Approval of each such variation. All variations of the proposed Shop Drawing from that specified will be identified in the submission and available maintenance, repair and replacement service will be indicated. The submittal will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such variation, including costs of redesign and claims of other Contractors affected by the resulting change, all of which shall be considered by the DEPARTMENT in evaluating the proposed variation. If the variation may result in a change of Contract Time or Price, or Contract responsibility, and is not minor in nature; the CONTRACTOR must submit a written request for Change Order with the variation to notify the DEPARTMENT of his intent. The DEPARTMENT may require the CONTRACTOR to furnish at the CONTRACTOR's expense additional data about the proposed variation. The Contracting Officer may reject any variation request which the Contracting Officer determines is not in the best interest of the DEPARTMENT.

6.20.5 When required by the Contract Documents to validate a dimension or condition, the CONTRACTOR will be responsible for validation that the dimension or condition is as represented in the Contract Documents in sufficient time to allow correction prior to impacting the work. Any rework or impact to the work resulting from the CONTRACTOR's failure to perform timely validation will be the responsibility of the CONTRACTOR and the GMP will not be increased as a result of this failure on the part of the CONTRACTOR.

#### **6.21 Shop Drawing and Sample Review**

6.21.1 The Contracting Officer will review with reasonable promptness Shop Drawings and samples, but the Contracting Officer's review will be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents and shall not extend to means, methods, techniques, sequences or procedures of construction (except where a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents) or to safety precautions or programs incident thereto. The review of a separate item as such will not indicate acceptance of the assembly in which the item functions. The CONTRACTOR shall make corrections required by the Contracting Officer and shall return the required number of corrected copies of Shop Drawings and submit as required new samples for review. The CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by the Contracting Officer on previous submittals.

6.21.2 The Contracting Officer's review of Shop Drawings or samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless the CONTRACTOR has in writing advised the Contracting Officer of each such variation at the time of submission as required by paragraph 6.20.4. The Contracting Officer if he so determines, may give written Approval of each such variation by Change Order, except that, if the variation is minor and no Change Order has been requested a specific written notation thereof incorporated in or accompanying the Shop Drawing or sample review comments shall suffice as a modification. Approval by the Contracting Officer will not relieve the CONTRACTOR from responsibility for errors or omissions in the Shop Drawings or from responsibility for having complied with the provisions of paragraph 6.20.3.

6.21.3 The DEPARTMENT shall be responsible for all DEPARTMENT review costs resulting from the initial submission and first re-submittal. The CONTRACTOR shall, at the discretion of the Contracting Agency, pay all review costs incurred by the DEPARTMENT as a result of any additional re-submittals.

6.21.4 Where a Shop Drawing or sample is required by the Specifications, any related Work performed prior to the Contracting Officer's review and Approval of the pertinent submission will be the sole expense and responsibility of the CONTRACTOR.

#### **6.22 Maintenance During Construction**

The CONTRACTOR shall maintain the Work during construction and until Substantial Completion, at which time the responsibility for maintenance shall be established in accordance with paragraph 13.10.

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**6.23 Continuing the Work**

The CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with the DEPARTMENT. No Work shall be delayed or postponed pending resolution of any disputes, disagreements, or claims except as the CONTRACTOR and the Contracting Officer may otherwise agree in writing.

**6.24 Consent to Assignment**

The CONTRACTOR shall obtain the prior written consent of the Contracting Officer to any proposed assignment of any interest in, or part of this Contract. The consent to any assignment or transfer shall not operate to relieve the CONTRACTOR or his Sureties of any of his or its obligations under this Contract or the Performance Bonds. Nothing herein contained shall be construed to hinder, prevent, or affect an assignment of monies due, or to become due hereunder, made for the benefit of the CONTRACTOR's creditors pursuant to law.

**6.25 Use of Explosives**

6.25.1 When the use of explosives is necessary for the prosecution of the Work, the CONTRACTOR shall exercise the utmost care not to endanger life or property, including new Work and shall follow all Regulatory Requirements applicable to the use of explosives. The CONTRACTOR shall be responsible for all damage resulting from the use of explosives.

6.25.2 All explosives shall be stored in a secure manner in compliance with all Regulatory Requirements, and all such storage places shall be clearly marked. Where no Regulatory Requirements apply, safe storage shall be provided not closer than 1,000 feet from any building, camping area, or place of human occupancy.

6.25.3 The CONTRACTOR shall notify each public utility owner having structures in proximity to the site of his intention to use explosives. Such notice shall be given sufficiently in advance to enable utility owners to take such steps as they may deem necessary to protect their property from injury. However, the CONTRACTOR shall be responsible for all damage resulting from the use of the explosives, whether or not, utility owners act to protect their property.

6.25.4 Use of explosives for activities such as excavation and demolition will generally not be permitted on this Project. The use of powder-actuated hand tools may be permitted on a case-by-case basis by the DEPARTMENT when submitted by the CONTRACTOR.

**6.26 CONTRACTOR's Records**

6.26.1 Records of the CONTRACTOR and Subcontractors relating to personnel, payrolls, invoices of materials, and any and all other data relevant to the performance of this Contract, must be kept on a generally recognized accounting system. Such records must be available during normal work hours to the Contracting Officer for purposes of investigation to ascertain compliance with Regulatory Requirements and provisions of the Contract Documents.

6.26.2 Payroll records must contain the name and address of each employee, his correct classification, rate of pay, daily and weekly number of hours of work, deductions made, and actual wages paid. The CONTRACTOR and Subcontractors shall make employment records available for inspection by the Contracting Officer and representatives of the U.S. and/or State Department of Labor and will permit such representatives to interview employees during working hours on the Project.

6.26.3 Records of all communications between the DEPARTMENT and the CONTRACTOR and other parties, where such communications affected performance of this Contract, must be kept by the CONTRACTOR and maintained for a period of 3 years from Final Acceptance. The DEPARTMENT or its assigned representative may perform an audit of these records during normal work hours after written notice to the CONTRACTOR.

**6.27 Load Restrictions**

The CONTRACTOR shall comply with all load restrictions as set forth in the "Administrative Permit Manual", and Title 17, Chapter 25, of the Alaska Administrative Code in the hauling of materials on public roads, beyond the limits of the project, and on all public roads within the project limits that are scheduled to remain in use upon completion of the project.

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Overload permits may, at the discretion of the State, be issued for travel beyond the project limits for purposes of mobilization and/or demobilization. Issuance of such a permit will not relieve the CONTRACTOR of liability for damage which may result from the moving of equipment.

The operation of equipment of such weight or so loaded as to cause damage to any type of construction will not be permitted. No overloads will be permitted on the base course or surface course under construction. No loads will be permitted on a concrete pavement, base or structure before the expiration of the curing period. The CONTRACTOR shall be responsible for all damage done by his equipment.

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## ARTICLE 7 - LAWS AND REGULATIONS

### 7.1 Laws to be Observed

The CONTRACTOR shall keep fully informed of all federal and state Regulatory Requirements and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the Work, or which in any way affect the conduct of the Work. The CONTRACTOR shall at all times observe and comply with all such Regulatory Requirements, orders and decrees; and shall protect and indemnify the DEPARTMENT and its representatives against claim or liability arising from or based on the violation of any such Regulatory Requirement, order, or decree whether by the CONTRACTOR, Subcontractor, or any employee of either. Except where otherwise expressly required by applicable Regulatory Requirements, the DEPARTMENT shall not be responsible for monitoring CONTRACTOR's compliance with any Regulatory Requirements.

### 7.2 Permits, Licenses, and Taxes

7.2.1 The CONTRACTOR shall procure all permits and licenses, pay all charges, fees and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the Work. As a condition of performance of this Contract, the CONTRACTOR shall pay all federal, state and local taxes incurred by the CONTRACTOR, in the performance of this Contract. Proof of payment of these taxes is a condition precedent to final payment by the DEPARTMENT under this Contract.

7.2.2 The CONTRACTOR's certification that taxes have been paid (as contained in the *Release of Contract*) will be verified with the Department of Revenue and Department of Labor, prior to final payment.

7.2.3 If any federal, state or local tax is imposed, charged, or repealed after the date of the submission of the GMP and is made applicable to and paid by the CONTRACTOR on the articles or supplies herein contracted for, then the Contract shall be increased or decreased accordingly by a Change Order.

### 7.3 Patented Devices, Materials and Processes

If the CONTRACTOR employs any design, device, material, or process covered by letters of patent, trademark or copyright, the CONTRACTOR shall provide for such use by suitable legal agreement with the patentee or owner. The CONTRACTOR and the Surety shall indemnify and save harmless the DEPARTMENT, any affected third party, or political subdivision from any and all claims for infringement by reason of the use of any such patented design, device, material or process, or any trademark or copyright, and shall indemnify the DEPARTMENT for any costs, expenses, and damages which it may be obliged to pay by reason of any infringement, at any time during the prosecution or after the completion of the Work.

### 7.4 Compliance of Specifications and Drawings

If the CONTRACTOR observes that the Specifications and Drawings supplied by the DEPARTMENT are at variance with any Regulatory Requirements, CONTRACTOR shall give the Contracting Officer prompt written notice thereof, and any necessary changes will be authorized by one of the methods indicated in paragraph 9.2. as determined appropriate by the Contracting Officer. If the CONTRACTOR performs any Work knowing or having reason to know that it is contrary to such Regulatory Requirements, and without such notice to the Contracting Officer, the CONTRACTOR shall bear all costs arising therefrom; however, it shall not be the CONTRACTOR's primary responsibility to make certain that the Specifications and Drawings supplied by the DEPARTMENT are in accordance with such Regulatory Requirements.

### 7.5 Accident Prevention

The CONTRACTOR shall comply with AS 18.60.075 and all pertinent provisions of the Construction Code Occupational Safety and Health Standards issued by the Alaska Department of Labor.

### 7.6 Sanitary Provisions

The CONTRACTOR shall provide and maintain in a neat and sanitary condition such accommodations for the use of his employees and DEPARTMENT representatives as may be necessary to comply with the requirements of the State and local Boards of Health, or of other bodies or tribunals having jurisdiction.

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**7.7 Business Registration**

Comply with AS 08.18.011, as follows: "it is unlawful for a person to submit a bid or work as a contractor until he has been issued a certificate of registration by the Department of Commerce. A partnership or joint venture shall be considered registered if one of the general partners or venturers whose name appears in the name under which the partnership or venture does business is registered."

**7.8 Professional Registration and Certification**

All craft trades, architects, engineers and land surveyors, electrical administrators, and explosive handlers employed under the Contract shall specifically comply with applicable provisions of AS 08.18, 08.48, 08.40, and 08.52. Provide copies of individual licenses within 7 days following a request from the Contracting Officer.

**7.9 Local Building Codes**

The CONTRACTOR shall comply with AS 35.10.025 that requires construction in accordance with applicable local building codes and the obtaining of required permits. The CONTRACTOR shall be responsible for coordinating with and providing access to the authority having jurisdiction for inspections.

**7.10 Air Quality Control**

The CONTRACTOR shall comply with all applicable provisions of AS 46.03.04 as pertains to Air Pollution Control.

**7.11 Archaeological or Paleontological Discoveries**

When the CONTRACTOR's operation encounters prehistoric artifacts, burials, remains of dwelling sites, or paleontological remains, such as shell heaps, land or sea mammal bones or tusks, the CONTRACTOR shall cease operations immediately and notify the Contracting Officer. No artifacts or specimens shall be further disturbed or removed from the ground and no further operations shall be performed at the site until so directed. Should the Contracting Officer order suspension of the CONTRACTOR's operations in order to protect an archaeological or historical finding, or order the CONTRACTOR to perform extra Work, such shall be covered by an appropriate Contract change document.

**7.12 Applicable Alaska Preferences**

7.12.1 In determining the low bidder for State funded projects, a five (5) percent bid preference is given to "Alaska bidders", as required under AS 36.30.170. "Alaska bidder" means a person who:

- a. holds a current Alaska business license;
- b. submits a bid for goods, services, or construction under the name as appearing on the person's current Alaska business license
- c. has maintained a place of business within the state staffed by the bidder or an employee of the bidder for a period of 6 months immediately preceding the date of the bid;
- d. is incorporated or qualified to do business under the laws of the state, is a sole proprietorship, and the proprietor is a resident of the state or is a partnership, and all partners are residents of the state; and
- e. if a joint venture, is composed entirely of venturers that qualify under (1) through (4), above.

7.12.2 In determining the low bidder for State funded projects, an "Alaska products" preference has been given as required under AS 36.30.326 - 36.30.332, when the bidder designates the use of Alaska products. The Bidder shall complete the Alaska Products Preference Worksheet per its instructions and submit it with the Bid Proposal. If the successful Bidder/CONTRACTOR proposes to use an Alaska product and does not do so, a penalty will be assessed against the successful Bidder/CONTRACTOR in an amount equal to the product preference percentage granted to the successful Bidder/CONTRACTOR plus one (1) percent multiplied by the total declared value of the Alaska products proposed but not used.

7.12.3 Pursuant to AS 36.15.050 and AS 36.30.322, "agricultural/wood" products harvested in Alaska shall be used in State funded projects whenever they are priced no more than seven (7) percent above agricultural/wood products harvested outside the state and are of a like quality as compared with agricultural/wood products harvested outside the state, when such products are not utilized, the

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CONTRACTOR shall document the efforts he made towards obtaining agricultural/wood products harvested in Alaska and include in this documentation a written statement that he contacted the manufacturers and suppliers identified on the Department of Commerce and Economic Development's list of suppliers of Alaska forest products concerning the availability of agricultural/wood products harvested in Alaska and, if available, the product prices. The CONTRACTOR's use of agricultural/wood products that fail to meet the requirements of this section shall be subject to the provisions of paragraphs 12.6 through 12.9 relating to Defective Work.

- 7.12.4 The CONTRACTOR shall maintain records, in a format acceptable to the Contracting Officer, which establish the type and extent of "agricultural/wood" and "Alaska" products utilized. All record keeping and documentation associated with the requirements 7.12.2 and 7.12.3 of this paragraph must be provided to the DEPARTMENT upon written request or as otherwise provided within the Contract Documents.

**7.13 Preferential Employment**

For State funded projects, the CONTRACTOR shall comply with all applicable and valid laws and regulations regarding the hiring of Alaska residents now in effect or that might subsequently take effect during the term of this Contract. In order to ensure that CONTRACTOR's Subcontractors will comply with all applicable laws and regulations regarding the hiring of Alaska residents now in effect or that might subsequently take effect, the CONTRACTOR shall include in its contracts with Subcontractors under this Contract language that is substantially the same as the first sentence of this provision.

**7.14 Wages and Hours of Labor**

- 7.14.1 One certified copy of all payrolls shall be submitted weekly to the State Department of Labor and, upon request, to the Contracting Officer to assure compliance with AS 36.05.040, *Filing Schedule of Employees Wages Paid and Other Information*. The CONTRACTOR shall be responsible for the submission of certified copies of payrolls of all Subcontractors. The certification shall affirm that the payrolls are current and complete, that the wage rates contained therein are not less than the applicable rates referenced in these Contract Documents, and that the classification set forth for each laborer or mechanic conforms with the Work he performed. The CONTRACTOR and his Subcontractors shall attend all hearings and conferences and produce such books, papers, and documents all as requested by the Department of Labor. Should federal funds be involved, the appropriate federal agency as identified by the DEPARTMENT shall also receive a copy of the CONTRACTOR'S certified payrolls. Regardless of project funding source, copies of all certified payrolls supplied to the State Department of Labor by the CONTRACTOR shall be supplied also to the Project Manager, upon request, including submittals made by, or on behalf of, subcontractors.

- 7.14.2 The following labor provisions shall also apply to this Contract:

- a. The CONTRACTOR and his Subcontractors shall pay all employees unconditionally and not less than once a week;
- b. Wages may not be less than those stated under AS 36.05.010, regardless of the contractual relationship between the CONTRACTOR or Subcontractors and laborers, mechanics, or field surveyors. The current prevailing rate of wages shall be based on the date as specified in AS 36.05.010 unless such date is modified in the Supplementary Conditions;
- c. The scale of wages to be paid shall be posted by the CONTRACTOR in a prominent and easily accessible place at the site of the Work;
- d. The DEPARTMENT shall withhold so much of the accrued payments as is necessary to pay to laborers, mechanics, or field surveyors employed by the CONTRACTOR or Subcontractors the difference between:
  1. The rates of wages required by the Contract to be paid laborers, mechanics, or field surveyors on the Work, and;
  2. The rates of wages in fact received by laborers, mechanics or field surveyors.

- 7.14.3 Within 3 calendar days of award of a construction contract, the CONTRACTOR shall file a "Notice of Work" with the Department of Labor and shall pay all related fees. The Contracting Officer will not issue Notice to Proceed to the CONTRACTOR until such notice and fees have been paid to the Department of Labor. Failure of the CONTRACTOR to file the Notice of Work and pay fees within this timeframe shall

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not constitute grounds for an extension of contract time or adjustment of GMP.

**7.15 Overtime Work Hours and Compensation**

Pursuant to 40 U.S.C. 327-330 and AS 23.10.060 -.110, the CONTRACTOR shall not require nor permit any laborer or mechanic in any workweek in which he is employed on any Work under this Contract to work in excess of 8 hours in any Calendar Day or in excess of forty hours in such workweek on Work subject to the provisions of the *Contract Work Hours and Safety Standards Act* unless such laborer or mechanic receives compensation at a rate not less than one and one half times his basic rate of pay for all such hours worked in excess of 8 hours in any Calendar Day or in excess of forty hours in such workweek whichever is the greater number of overtime hours. In the event of any violation of this provision, the CONTRACTOR shall be liable to any affected employee for any amounts due and penalties and to the DEPARTMENT for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of this provision in the sum of \$10.00 for each Calendar Day on which such employee was required or permitted to be employed on such Work in excess of 8 hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by this paragraph.

**7.16 Covenant Against Contingent Fees**

The CONTRACTOR warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the CONTRACTOR for the purpose of securing business. For breach or violation of this warrant, the DEPARTMENT shall have the right to annul this Contract without liability or, in its discretion, to deduct price of consideration from the Contract or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

**7.17 Officials Not to Benefit**

No member of or delegate to the U.S. Congress, the Alaska State Legislature or other state official shall be admitted to any share or part of this Contract, nor to any benefit that may arise there from. However, this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

**7.18 Personal Liability of Public Officials**

In carrying out any of the provisions thereof, or in exercising any power or authority granted to the Contracting Officer by the Contract, there will be no liability upon the Contracting Officer nor upon state employees authorized as his representatives, either personally or as officials of the State of Alaska, it being always understood that in such matters they act as agents and representatives of the DEPARTMENT.

**7.19 Federally Assisted Projects**

The work in this contract will be undertaken and accomplished in accordance with the terms and conditions of a Grant Agreement between the State of Alaska and the United States, under the *Federal Aviation Reauthorization Act of 1996*, as amended, pursuant to which the United States may pay a certain percentage of the costs of the project that are determined to be allowable under that Act.

When the United States Government pays all or any portion of the cost of a project, the Federal laws and the rules and regulations made pursuant to such laws must be observed by the CONTRACTOR, and the work shall be subject to the inspection of the appropriate Federal agency. Such inspection shall in no sense make the Federal Government a party to this Contract and will in no way interfere with the rights of either party hereunder.

In the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to qualified individuals who have served in the military service of the United States (as defined in section 101(1) of the *Soldiers' and Sailors' Civil Relief Act of 1940*) and have been honorably discharged from that service, except that preference may be given only where that labor is available locally and is qualified to perform the work to which the employment relates.

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**7.20    Gratuity and Conflict of Interest**

The CONTRACTOR agrees that he will not extend any loan, gratuity or gift of money of any form whatsoever to any employee or agent of the DEPARTMENT nor will he rent or purchase any equipment or materials from any employee of the DEPARTMENT or to the best of his knowledge from any agent of any employee of the DEPARTMENT. Before payment of the final estimate, the CONTRACTOR shall execute and furnish the DEPARTMENT an affidavit certifying that he has complied with the above provisions of the contract.

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## **ARTICLE 8 - OTHER WORK**

### **8.1 Related Work at Site**

- 8.1.1 The DEPARTMENT reserves the right at any time to contract for and perform other or additional work on or near the Work covered by the Contract.
- 8.1.2 When separate contracts are let within the limits of the Project, the CONTRACTOR shall conduct his Work so as not to interfere with or hinder the work being performed by other contractors. The CONTRACTOR when working on the same Project with other contractors shall cooperate with such other contractors. The CONTRACTOR shall join his Work with that of the others in an acceptable manner and shall perform it in proper sequence to that of others.
- 8.1.3 If the fact that other such work is to be performed is identified or shown in the Contract Documents the CONTRACTOR shall assume all liability, financial or otherwise, in connection with this Contract and indemnify and save harmless the DEPARTMENT from any and all damages or claims that may arise because of inconvenience, delay, or loss experienced by the CONTRACTOR because of the presence and operations of other contractors.
- 8.1.4 If the fact that such other work is to be performed was not identified or shown in the Contract Documents, written notice thereof will be given to the CONTRACTOR prior to starting any such other work. If the CONTRACTOR believes that such performance will require an increase in GMP or Contract Time, the CONTRACTOR shall notify the Contracting Officer of such required increase within fifteen (15) calendar days following receipt of the Contracting Officer's notice. Should the Contracting Officer find such increase(s) to be justified, a Change Order will be executed.

### **8.2 Access, Cutting, and Patching**

The CONTRACTOR shall afford each utility owner and any other contractor who is a party to such a direct contract with the DEPARTMENT (or the DEPARTMENT, if the DEPARTMENT is performing the additional work with the DEPARTMENT's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work, and shall properly connect and coordinate the Work with the work of others. The CONTRACTOR shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work, the CONTRACTOR shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter such other work with the written consent of the Contracting Officer. The duties and responsibilities of the CONTRACTOR under this paragraph are for the benefit of other contractors to the extent that there are comparable provisions for the benefit of the CONTRACTOR in said direct contracts between the DEPARTMENT and other contractors.

### **8.3 Defective Work by Others**

If any part of the CONTRACTOR's Work depends for proper execution or results upon the work of any such other contractor, utility owner, or the DEPARTMENT, the CONTRACTOR shall inspect and promptly report to the Contracting Officer in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. The CONTRACTOR's failure to so report will constitute an acceptance of the other work as fit and proper for integration with CONTRACTOR's Work except for latent or nonapparent defects and deficiencies in the other work.

### **8.4 Coordination**

If the DEPARTMENT contracts with others for the performance of other work at the site, Contracting Officer will have authority and responsibility for coordination of the activities among the various prime contractors.

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## ARTICLE 9 - CHANGES

### 9.1 DEPARTMENT's Right to Change

Without invalidating the Contract and without notice to any Surety, the DEPARTMENT may, at any time or from time to time, order additions, deletions or revisions in the Work within the general scope of the Contract, including but not limited to changes:

- 9.1.1 In the Contract Documents;
- 9.1.2 In the method or manner of performance of the Work;
- 9.1.3 In State-furnished facilities, equipment, materials, services, or site;
- 9.1.4 Directing acceleration in the performance of the Work.

### 9.2 Authorization of Changes within the General Scope

One or more of following means shall be used to authorize additions, deletions, or revisions in the Work within the general scope of the Contract as specified in 9.1:

- 9.2.1 Directive (pursuant to paragraph 9.3)
- 9.2.2 A Change Order (pursuant to paragraph 9.4)
- 9.2.3 DEPARTMENT's acceptance of Shop Drawing variations from the Contract Documents as specifically identified by the CONTRACTOR as required by paragraph 6.20.4.
- 9.2.4 Interim Work Authorization (pursuant to paragraph 9.10)

### 9.3 Directive

- 9.3.1 The Contracting Officer shall provide written clarification or interpretation of the Contract Documents (pursuant to paragraph 3.6).
- 9.3.2 The Contracting Officer may authorize minor variations in the Work from the requirements of the Contract Documents that do not involve an adjustment in the GMP or the Contract Time and are consistent with the overall intent of the Contract Documents.
- 9.3.3 The Contracting Officer may order the CONTRACTOR to correct Defective Work or methods that are not in conformance with the Contract Documents.
- 9.3.4 The Contracting Officer may direct the commencement or suspension of Work or emergency related Work (as provided in paragraph 6.19).
- 9.3.5 Upon the issuance of a Directive to the CONTRACTOR by the Contracting Officer, the CONTRACTOR shall proceed with the performance of the Work as prescribed by such Directive.
- 9.3.6 If the CONTRACTOR believes that the changes noted in a Directive may cause an increase in the GMP or an extension of Contract Time, the CONTRACTOR shall immediately provide written notice to the Contracting Officer depicting such increases before proceeding with the Directive, except in the case of an emergency. If the Contracting Officer finds the increase in GMP or the extension of Contract Time justified, a Change Order will be issued. If however, the Contracting Officer does not find that a Change Order is justified, the Contracting Officer may direct the CONTRACTOR to proceed with the Work. The CONTRACTOR shall cooperate with the Contracting Officer in keeping complete daily records of the cost of such Work. If a Change Order is ultimately determined to be justified, in the absence of agreed prices and unit prices, payment for such Work will be made on a "cost of the work basis" as provided in 10.5

### 9.4 Change Order

A change in Contract Time, GMP, or responsibility may be made for changes within the scope of the Work by Change Order. Upon receipt of an executed Change Order, the CONTRACTOR shall promptly proceed with the Work involved that will be performed under the applicable conditions of the Contract Documents except as otherwise specifically provided. Changes in GMP and Contract Time shall be made in accordance with Articles 10 and 11. A Change Order shall be considered executed when it is signed by the DEPARTMENT.

### 9.5 Shop Drawing Variations

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Variations by shop drawings and a request for a Change Order submitted as per 6.20.4 shall only be eligible for consideration under 9.4 when the CONTRACTOR identifies in writing conditions that affect the price, time, or responsibility

**9.6 Changes Outside the General Scope; Supplemental Agreement**

When the Contracting Officer determines that a change is outside the general scope of the Contract, it must be authorized by a Supplemental Agreement signed by the appropriate representatives of the DEPARTMENT and the CONTRACTOR.

**9.7 Unauthorized Work**

The CONTRACTOR shall not be entitled to an increase in the GMP or an extension of the Contract Time with respect to any work performed that is not required by the Contract Documents as amended, modified and supplemented as provided in this Article 9, except in the case of an emergency as provided in paragraph 6.19 and except in the case of uncovering Work as provided in paragraph 12.4.2.

**9.8 Notification of Surety**

If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, GMP or Contract Time) is required by the provisions of any bond to be given to a Surety, the giving of any such notice will be the CONTRACTOR's responsibility, and the amount of each applicable bond will be adjusted accordingly.

**9.9 Differing Site Conditions**

9.9.1 The CONTRACTOR shall promptly, and before such conditions are disturbed (except in an emergency as permitted by paragraph 6.19), notify the Contracting Officer in writing of: (1) subsurface or latent physical conditions at the site differing materially from those indicated in the Contract, and which could not have been discovered by a careful examination of the site, or (2) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract. The Contracting Officer shall promptly investigate the conditions, and if the Contracting Officer finds that such conditions do materially so differ and cause an increase or decrease in the CONTRACTOR's cost of, or time required for, performance of this Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly.

9.9.2 Any claim for additional compensation by the CONTRACTOR under this clause shall be made in accordance with Article 15. In the event that the Contracting Officer and the CONTRACTOR are unable to reach an agreement concerning an alleged differing site condition, the CONTRACTOR will be required to keep an accurate and detailed record which will indicate the actual "cost of the work" done under the alleged differing site condition. Failure to keep such a record shall be a bar to any recovery by reason of such alleged differing site conditions. The Contracting Officer shall be given the opportunity to supervise and check the keeping of such records.

**9.10 Interim Work Authorization**

An Interim Work Authorization may be used to establish a change within the scope of the Work; however, only a Change Order shall establish associated changes in Contract Time and GMP. Work authorized by Interim Work Authorization shall be converted to a Change Order. The basis of payment shall be as stated in the Interim Work Authorization, unless it states that the basis of payment has not been established and is to be negotiated, in which case the basis of payment shall be Cost of the Work pursuant to Article 10.5.

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## ARTICLE 10 - CONTRACT PRICE; COMPUTATION AND CHANGE

### 10.1 Contract Price: Guaranteed Maximum Price (GMP)

The GMP, as outlined in paragraph 13.0, constitutes the maximum amount of compensation payable to the CONTRACTOR for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by the CONTRACTOR shall be covered under the GMP. The GMP may only be changed by a Change Order or Supplemental Agreement.

In establishing the GMP, the CONTRACTOR will have become thoroughly familiar with the construction documents and specifications upon which the GMP will be based, and will have made best efforts to determine complete scope of work contemplated therein. No change order will be issued for an adjustment in contract price or contract time for work resulting from issuance of subsequent updates to the contract documents that should have been reasonably anticipated in the documents used to prepare the MACC.

### 10.2 Claim for Price Change

Any claim for an increase or decrease in the GMP shall be submitted in accordance with the terms of Article 15, and shall not be allowed unless notice requirements of this Contract have been met.

### 10.3 Change Order Price Determination

The value of any Work covered by a Change Order for an increase or decrease in the GMP shall be determined in one or a combination of the following ways as the DEPARTMENT may elect:

- 10.3.1 Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved (subject to the provisions of subparagraphs 10.9.1 through 10.9.3, inclusive).
- 10.3.2 Where the Work involved is covered by a subcontractor or supplier or is Self performed as described in subparagraphs 13.0.6.a and 13.0.6.b, by mutual acceptance of a lump sum price, which includes a Markup fee for overhead and profit (determined as provided in paragraphs 10.4 and 10.6)
- 10.3.3 When 10.3.1 and 10.3.2 are inapplicable and where the Work involved is covered by a subcontractor or supplier or is Self performed as described in subparagraphs 13.0.6.a and 13.0.6.b, on the basis of the "cost of the work" (determined as provided in paragraph 10.5) plus a Markup fee for overhead and profit (determined as provided in paragraph 10.6).
- 10.3.4 When the Work involved is covered under the reimbursable provisions for CONTRACTOR administrative and support Work allowed by subparagraph 13.0.6.c, as determined by the DEPARTMENT an adjustment to the approved estimated cost included in the GMP for this Work, which excludes a Markup fee for overhead and profit. In the absence of mutual acceptance of an adjustment, the CONTRACTOR shall provide written notice and proceed under the provisions of paragraph 10.2.
- 10.3.5 Before a Change Order or Supplemental Agreement is approved; the CONTRACTOR shall submit cost or pricing data in accordance with paragraphs 6.26 and 10.7 regarding the changed or extra Work. The CONTRACTOR shall certify that the data submitted is, to his best knowledge and belief, accurate, complete and current as of a mutually determined specified date and that such data will continue to be accurate and complete during the performance of the changed or extra Work.

### 10.4 Lump Sum Price Change Method

The CONTRACTOR shall prepare a lump sum proposal in the following format:

#### 10.4.1 Direct Costs

- a. Material (itemize)
  1. The cost to the CONTRACTOR for the material directly required for the performance of the changed Work. Such cost of material may include the cost of transportation. Only the applicable portion of a delivery charge will be allowed if the delivery is not specifically for the changed Work,
  2. Trade discounts offered by the supplier to the CONTRACTOR shall be credited to the DEPARTMENT. If the material is obtained from a source owned wholly or in part by the CONTRACTOR, payment thereof will not exceed the current wholesale price for the

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material. The term "trade discount" includes the concept of cash discounting.

3. If, in the opinion of the DEPARTMENT, the cost of the material is excessive or if the CONTRACTOR fails to furnish satisfactory evidence of a cost to him from the supplier then, in either case, the cost of the material shall be deemed to be the lowest current wholesale price at which similar material is available in the quantities required.
  4. The DEPARTMENT reserves the right to furnish such material as it deems advisable and the CONTRACTOR shall have no claims for cost or profit on material furnished by the DEPARTMENT.
- b. Labor (man-hours, rates by crafts)
1. Payroll costs shall include, but not be limited to, salaries and wages, and fringe benefits including social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay applicable thereto. The costs for all supervision, including general superintendents and foremen, shall be included in the markups established by this Contract. The only exception to this shall be working foremen who perform manual labor. No labor charges will be accepted for engineering or proposal preparation. These costs shall be included in the markups established by this Contract.
- c. Equipment (type, size, attachments, hours, rate)
1. The cost to the CONTRACTOR for the use of equipment directly required in the performance of the changed Work. No mobilization or demobilization cost will be allowed for equipment already on site.
  2. For equipment owned, furnished, or rented by the CONTRACTOR, costs allowed shall be the actual usage costs incurred as supported by the CONTRACTOR's published standard equipment rates or rental invoices. Rates charged shall not exceed the rates established by the Rental Rate Blue Book.
  3. The amount to be paid to the CONTRACTOR for the use of equipment as set forth above will constitute full compensation for the cost of fuel, power, oil, lubricants, supplies, small tools, small equipment, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, labor (except for equipment operators) and any and all costs incidental to the use of the equipment.
- d. Consultants
1. Cost of outside consultants and professional personnel (including but not limited to engineers, architects, testing laboratories, and surveyors) employed for services necessary for the completion of the Work as may be required by the CONTRACTOR. The CONTRACTOR shall obtain the consent of the DEPARTMENT prior to engaging such outside consultants if the consultant's services are not specifically identified in the Contract Documents and qualifications are not previously provided therefor.
- e. Direct costs shall not include:
1. Payroll costs and other compensation of the CONTRACTOR's officers, executives, principals of partnerships and sole proprietorships, general managers, engineers, architects, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, superintendents and non working foremen, and similar administrative personnel. These costs shall be considered administrative costs covered by the CONTRACTOR's Markup fee.
  2. Expense of the CONTRACTOR's principal and branch offices other than that portion of the CONTRACTOR's office at the site devoted to the Work.
  3. Any part of the CONTRACTOR's capital expenses. Interest on the CONTRACTOR's capital employed for the Work. Charges against the CONTRACTOR for delinquent payments.

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4. Costs due to the negligence of the CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Negligence costs include correction of defective Work, disposal of material wrongly supplied, and making good any damage to property.
5. Other overhead or general expense costs of any kind.
6. Cost of supplies not incorporated into the Work.
7. Cost of safety programs.
8. Cost of warranty work.

10.4.2 Sub Tier Subcontract Costs

- a. If required by DEPARTMENT, CONTRACTOR shall obtain competitive quotes from Subcontractors or Suppliers and shall select and award subcontracts in accordance with the CONTRACTOR's subcontracting solicitation plan approved by the DEPARTMENT.
- b. Direct costs shall be as outlined in paragraph 10.4.1.
- c. Subcontractors' (at any tier) markups for overhead and profit shall not exceed eighteen (18) percent of the direct costs.

10.4.3 Overhead and Profit

- a. The CONTRACTOR's Markup fee for overhead and profit shall not exceed the amounts provided in paragraph 10.6.

**10.5 Cost of the Work Change Method**

10.5.1 The term "cost of the work" means the sum of all costs necessarily incurred and paid by the CONTRACTOR in the proper performance of the Work. Except as otherwise may be agreed to in writing by the DEPARTMENT, such costs shall include only the Reimbursable Costs identified in paragraphs 10.5.1.a through 10.5.1.f and shall not include any of the Not Reimbursable Costs itemized in paragraph 10.5.1.g. The CONTRACTOR and the DEPARTMENT shall compare records of force account costs at the end of each workday. Copies of these records shall be made in duplicate by the CONTRACTOR and shall be signed daily by both the DEPARTMENT and the CONTRACTOR. Except as otherwise may be agreed to in writing by the DEPARTMENT, such costs shall be in amounts no higher than those prevailing in the locality of the Work. "Cost of the work" may include the following items:

- a. Cost of all material furnished and incorporated in the Work, in accordance with Paragraph 10.4.1.a.
- b. Labor costs for employees in the direct employment of the CONTRACTOR in the performance of the Work in accordance with Paragraph 10.4.1.b. Reimbursement for overtime and premium time outside of the CONTRACTOR's established working hours requires a minimum of 72 hours advanced notification provided to the DEPARTMENT.
- c. Cost of equipment furnished and used in completion of the Work in accordance with Paragraph 10.4.1.c.
  1. Equipment will be eligible for payment when operated and used on a full-time basis. Equipment is considered to be used full time when the equipment must be manned and ready for use at all times.
  2. When the DEPARTMENT determines that equipment need not remain at the site continuously, payment will be limited to actual hours of use.
  3. Rental rates for equipment retained on the Work for an extended duration will be adjusted to the then-current rate on the anniversary of the Work Start Date.
  4. The hourly operating cost will be allowed for each hour that the equipment is in use. The rate will be the monthly rate divided by 176 hours for single-shift operations. Hourly rates will be adjusted for two- and three-shift operations as recommended by the Rental Rate Blue Book.

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5. Equipment attachments will be included in the rate only when deemed by the DEPARTMENT to be essential to the Work. When multiple attachments are approved for use (tractor with ripper, dozer or tractor with loader and backhoe, etc.) and the attachments are being used interchangeably, only the one attachment having the higher rate will be eligible for payment.
  6. Standby time, when ordered by the DEPARTMENT, will be paid as follows: -One-third of the total rate established in paragraphs 10.5.1.c.4 and 10.5.1.c.5 above, rounded to the nearest 10 cents. Standby rates which are calculated at less than one dollar per hour will not be paid. No more than 8 hours of standby will be paid during a 24-hour period. No more than 40 hours of standby will be paid during a one-week period. In the event of breakdown, or shutdown by order of the DEPARTMENT, of part or all of the equipment being used, payment for such equipment that is idled shall cease. Labor that is idled and cannot be diverted to other Work will be paid through the one-half shift during which the breakdown or shutdown occurred. No other payment will be made for non-operating hours.
  7. Rental will not be allowed for equipment listed in the Shop Tools section of the Rental Rate Blue Book having a daily rate of less than \$5 each. Individual pieces of equipment not specifically covered by the Rental Rate Blue Book and having a value of \$750 or less shall be considered "small tools and equipment for which no rental is allowed."
- d. Payments made by the CONTRACTOR to Sub tier Subcontractors for Work performed by Sub tier Subcontractors in accordance with paragraph 10.4.2
- e. Cost of outside Consultants and professional personnel as may be required in connection with services provided by the CONTRACTOR for completion of the Work in accordance with paragraph 10.4.1.d.
- f. Supplemental costs:
1. Sales, use, or similar taxes related to the Work, and for which the CONTRACTOR is liable, imposed by any governmental authority.
  2. Costs for royalty payments, fees, permits, and licenses other than those caused by the negligence of the CONTRACTOR or the CONTRACTOR's employees, agents, or Subcontractors.
  3. Losses, damages, and related expenses sustained by the CONTRACTOR in connection with the execution of the Work that are not caused by the negligence of the CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and are not compensated for by insurance recovery. Losses, damages, and related expenses shall include settlements made with the written consent and approval of the DEPARTMENT.
    - i. No such losses, damages and related expenses shall be included in the force account cost for the purpose of determining the CONTRACTOR's markup for overhead and profit.
    - ii. For any loss or damage requiring reconstruction that the CONTRACTOR is placed in charge of, the CONTRACTOR shall be paid for services to the extent otherwise eligible for payment under Article 10.5,
  4. The cost of utilities, fuel, and sanitary facilities at the site.
  5. Minor expenses in connection with the Work such as telegrams, long distance telephone calls, telephone service at the site, expressage, and petty cash items.
  6. Rental of all the CONTRACTOR-owned and operated power tools and equipment having a value greater than \$750, which the DEPARTMENT approves for use. The cost of small tools and equipment, excluding hand tools owned by the workers, having a value of \$750 or less which are consumed in the performance of the Work.
- g. Cost of the Work method shall not include:

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1. Payroll costs and other compensation of the CONTRACTOR's officers, executives, principals of partnerships and sole proprietorships, general managers, engineers, architects, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, superintendents and non working foremen, and similar administrative personnel. These costs shall be considered administrative costs covered by the CONTRACTOR's Markup fee.
2. Expense of the CONTRACTOR's principal and branch offices other than that portion of the CONTRACTOR's office at the site devoted to the Work.
3. Any part of the CONTRACTOR's capital expenses. Interest on the CONTRACTOR's capital employed for the Work. Charges against the CONTRACTOR for delinquent payments.
4. Costs due to the negligence of the CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Negligence costs include correction of defective Work, disposal of material wrongly supplied, and making good any damage to property.
5. The costs of any item not specifically and expressly included in Paragraphs 10.5.1.a through 10.5.1.f.

**10.5.2 Overhead and Profit**

- a. The CONTRACTOR's Markup fee for overhead and profit shall not exceed the amounts provided in paragraph 10.6

**10.6 Fee on Changed Work**

**10.6.1 CONTRACTOR's Fixed Fee**

The CONTRACTOR's Fixed Fee included in the GMP shall not be increased or decreased unless the MACC, adjusted to include all change orders, varies more than five (5) percent above or five (5) percent below the original MACC. If the MACC, adjusted to include all change orders, is:

- a. Greater than One-hundred and five (105) percent of the value of the original MACC, the CONTRACTOR's Fixed Fee shall increase. The amount of the Fixed Fee increase shall be determined by multiplying the portion of the MACC, adjusted to include all change orders, which is above this value, by the Fixed Fee Ratio; the DEPARTMENT will add the resulting product to the CONTRACTOR's Fixed Fee component of the GMP.
- b. Less than Ninety-five (95) percent of the value of the original MACC, the CONTRACTOR'S Fixed Fee shall decrease. The amount of the Fixed Fee decrease shall be determined by multiplying that portion of the MACC, including all change orders, which is below this value by the Fixed Fee Ratio; the DEPARTMENT will subtract the resulting product from the CONTRACTOR'S Fixed Fee component of the GMP.

**10.6.2 Subcontractor's Markup Fee and Markup Fee on Self Performed Work**

Except where specified, the term Subcontractor in 10.6.2 shall also be applied to Self-performed work by the CONTRACTOR. The Markup fee for overhead and profit for Subcontractor Changed Work, shall be determined as follows.

- a. A Markup fee based on the following maximum rates of cost markup for the Subcontractor (to cover both overhead and profit of the Subcontractor) shall be used in the negotiation of a lump-sum Change Order under paragraph 10.4:
  1. When the work is performed by a subcontractor, the Markup fee for the subcontractor which is performing the work shall be eighteen (18) percent of the costs incurred, and when the CONTRACTOR Self-performs work, the Markup fee for the CONTRACTOR shall be thirteen (13) percent. When multiple tiers of subcontractors are involved, the Markup fee to each intermediate tier subcontractor shall be limited to ten (10 percent) of the total cost of the changed work by the subcontractor which actually performs the work.

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2. These terms shall also apply to the proposals of subcontractors of all tiers.
  3. No Markup fee is allowed for costs listed in paragraphs 10.4.1.d and 10.4.1.e
- b. A Markup fee based on the following percentages of the various portions of the "cost of the work" under paragraph 10.5:
1. For costs incurred under paragraphs 10.5.1.a through 10.5.1.c the Markup fee for the subcontractor which is performing the work shall be fifteen (15) percent and when the CONTRACTOR Self-performs work, the Markup fee for the CONTRACTOR shall be ten (10) percent.
  2. For costs incurred under paragraph 10.5.1.d. the Markup fee for the subcontractor which is performing the work shall be fifteen (15) percent of the costs incurred under paragraphs 10.5.1.a through 10.5.1.c. and the Markup fee to each intermediate tier subcontractor shall be limited to five (5) percent of the total cost of the changed work by the subcontractor which actually performs the work.
  3. No Markup fee shall be payable on the basis of costs itemized under paragraphs 10.5.1.e through 10.5.1.g.
- c. The amount of credit to be allowed by the Subcontractor to the DEPARTMENT for any such change which results in a net decrease in cost will be the amount of the actual net decrease plus a deduction in Subcontractor's Markup fee by an amount equal to ten (10) percent of the net decrease
- d. When both additions and credits are involved in any one change, the adjustment in Subcontractor's Markup fee shall be computed on the basis of the net change in accordance with paragraphs 10.6.2.a through 10.6.2.c, inclusive.
- e. Cost Changes to Bonds and Insurance:
- When changes in the Work require new or increased premiums on bonds and insurance, or premiums for property insurance coverage within the limits of the deductible amounts established by the DEPARTMENT in accordance with Article 5, the DEPARTMENT shall reimburse such costs.

**10.7 Cost Breakdown**

Whenever the value or cost of any Work is to be determined pursuant to Article 10, the CONTRACTOR will submit in a form acceptable to the DEPARTMENT an itemized cost breakdown together with supporting data.

**10.8 Cash Allowances**

It is understood that CONTRACTOR has included in the GMP all allowances so named in the Contract Documents and shall cause the Work so covered to be done by such Subcontractors or Suppliers and for such sums within the limit of the allowances as may be acceptable to the Contracting Officer. CONTRACTOR agrees that:

- 10.8.1 The allowances include the cost to CONTRACTOR (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the site, and all applicable taxes; and
- 10.8.2 CONTRACTOR's cost for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the allowances have been included in the GMP and not in the allowances. No demand for additional payment on account of any thereof will be valid.

Prior to final payment, an appropriate Change Order will be issued to reflect actual amounts due the CONTRACTOR on account of Work covered by allowances, and the GMP shall be correspondingly adjusted.

**10.9 Unit Price Work**

- 10.9.1 Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the GMP will be deemed to include for all Unit Price Work an amount equal to the sum of the established unit prices for each separately identified item of Unit Price Work times the estimated quantity of each item as

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indicated in the Contract. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of bids and determining an initial GMP. Determinations of the actual quantities and classifications of Unit Price Work performed by the CONTRACTOR will be made by the DEPARTMENT in accordance with paragraph 10.10.

10.9.2 Each unit price will be deemed to include an amount considered by the CONTRACTOR to be adequate to cover the CONTRACTOR's overhead and profit for each separately identified item; however, it shall not include the CONTRACTOR's Fixed Fee. If the "Basis of Payment" clause in the Contract Documents relating to any unit price in the bid schedule requires that the said unit price cover and be considered compensation for certain work or material essential to the item, this same work or material will not also be measured or paid for under any other pay item which may appear elsewhere in the Contract Documents. Each unit price item shall include all overhead and profit but shall not include the CONTRACTOR's Fixed Fee.

10.9.3 Payment to the CONTRACTOR shall be made only for the actual quantities of Work performed and accepted or materials furnished, in conformance with the Contract Documents. When the accepted quantities of Work or materials vary from the quantities stated in the bid schedule, or change documents, the CONTRACTOR shall accept as payment in full, payment at the stated unit prices for the accepted quantities of Work and materials furnished, completed and accepted; except as provided below:

- a. When the quantity of Work to be done or material to be furnished under any item, for which the total cost of the item exceeds ten (10) percent of the total GMP, is increased by more than twenty-five (25) percent of the quantity stated in the bid schedule, or change documents, either party to the Contract, upon demand, shall be entitled to an equitable unit price adjustment on that portion of the Work above one-hundred-twenty-five (125) percent of the quantity stated in the bid schedule.
- b. When the quantity of Work to be done or material to be furnished under any major item, for which the total cost of the item exceeds ten (10) percent of the total GMP, is decreased by more than twenty-five (25) percent of the quantity stated in the bid schedule, or change documents either party to the Contract, upon demand, shall be entitled to an equitable price adjustment for the quantity of Work performed or material furnished, limited to a total payment of not more than seventy-five (75) percent of the amount originally bid for the item.

**10.10 Determinations for Unit Prices**

The Contracting Officer will determine the actual quantities and classifications of Unit Price Work performed by the CONTRACTOR. The Contracting Officer will review with the CONTRACTOR preliminary determinations on such matters before finalizing the costs and quantities on the Schedule of Values. The Contracting Officer's acknowledgment thereof will be final and binding on the CONTRACTOR, unless, within 10 days after the date of any such decisions, the CONTRACTOR delivers to the Contracting Officer written notice of intention to appeal from such a decision.

**10.11 Federal Disadvantaged Business Enterprise (DBE) Program (Federal-Aid Contracts)**

The DBE program shall be in accordance with Section 00120.

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## **ARTICLE 11 - CONTRACT TIME; COMPUTATION AND CHANGE**

### **11.1 Commencement of Contract Time; Notice to Proceed**

The Contract Time will commence to run on the day indicated in the Notice to Proceed.

### **11.2 Starting the Work**

No Work on Contract items shall be performed before the effective date of the Notice to Proceed. The CONTRACTOR shall notify the Contracting Officer at least 24 hours in advance of the time actual construction operations will begin. The CONTRACTOR may request a limited Notice to Proceed after Award has been made, to permit him to order long lead materials which could cause delays in Project completion. However, granting is within the sole discretion of the Contracting Officer, and refusal or failure to grant a limited Notice to Proceed shall not be a basis for claiming for delay, extension of time, or alteration of price.

### **11.3 Computation of Contract Time**

11.3.1 When the Contract Time is specified on a Calendar Day basis, all Work under the Contract shall be completed within the number of Calendar Days specified. The count of Contract Time begins on the day following receipt of the Notice to Proceed by the CONTRACTOR, if no starting day is stipulated therein.

Calendar Days shall continue to be counted against Contract Time until and including the date of Substantial Completion of the Work.

11.3.2 When the Contract completion time is specified as a fixed calendar date, it shall be the date of Substantial Completion.

### **11.4 Time Change**

The Contract Time may only be changed by a Change Order or Supplemental Agreement.

### **11.5 Extension Due to Delays**

The right of the CONTRACTOR to proceed shall not be terminated nor the CONTRACTOR charged with liquidated or actual damages because of delays to the completion of the Work due to unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR, including, but not restricted to the following: acts of God or of the public enemy, acts of the DEPARTMENT in its contractual capacity, acts of another contractor in the performance of a contract with the DEPARTMENT, floods, fires, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and delays of Subcontractors or Suppliers due to such causes. Any delay in receipt of materials on the site, caused by other than one of the specifically mentioned occurrences above, does not of itself justify a time extension, provided that the CONTRACTOR shall within twenty four (24) hours from the beginning of any such delay (unless the Contracting Officer shall grant a further period of the time prior to the date of final settlement of the Contract), notify the Contracting Officer in writing of the cause of delay. The Contracting Officer shall ascertain the facts and the extent of the delay and extend the time for completing the Work when the findings of fact justify such an extension.

### **11.6 Essence of Contract**

All time limits stated in the Contract Documents are of the essence of the Contract.

### **11.7 Reasonable Completion Time**

It is expressly understood and agreed by and between the CONTRACTOR and the DEPARTMENT that the date of beginning and the time for Substantial and Final Completion of the Work described herein are reasonable times for the completion of the Work.

### **11.8 Delay Damages**

Whether or not the CONTRACTOR's right to proceed with the Work is terminated, he and his Surety shall be liable for damages resulting from his refusal or failure to complete the Work within the specified time.

Liquidated damages for delay shall be paid by the CONTRACTOR or his Surety to the DEPARTMENT in the amount as specified in the Supplementary Conditions for each Calendar Day the completion of the Work or any part thereof is delayed beyond the time required by the Contract, or any extension thereof.

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The DEPARTMENT may deduct any monies due the DEPARTMENT for liquidated damages from any monies due the CONTRACTOR. If no money is due the CONTRACTOR, the DEPARTMENT shall have the right to recover said sum from the CONTRACTOR, the surety or both.

The CONTRACTOR acknowledges that the liquidated damages established herein are not a penalty but rather constitute a reasonable estimate of damages that the DEPARTMENT will sustain by reason of delayed completion. The liquidated damages represent a reasonable estimate of actual damages resulting from additional costs for continued management, loss of production and the value of money.

These liquidated damages will continue to run both before and after termination in the event of default termination. These liquidated damages do not cover excess costs of completion or DEPARTMENT costs, fees, and charges related to re-procurement. If a default termination occurs, the CONTRACTOR or his Surety shall pay, all excess costs and expenses related to completion as provided by Article 14.2.9 in addition to these damages.

Permitting the CONTRACTOR to continue and finish the work or any part of it after the time fixed for its completion, or after the date to which the time for completion may have been extended, will in no way operate as a waiver on the part of the DEPARTMENT of any of its rights under the Contract.

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## ARTICLE 12 - QUALITY ASSURANCE

### 12.1 Warranty and Guaranty

The CONTRACTOR warrants and guarantees to the DEPARTMENT that all Work will be in accordance with the Contract Documents and will not be Defective. Prompt notice of all defects shall be given to the CONTRACTOR. All Defective Work, whether or not in place, may be rejected, corrected or accepted as provided for in this article.

### 12.2 Access to Work

The DEPARTMENT and the DEPARTMENT's representatives, testing agencies and governmental agencies with jurisdiction interests will have access to the Work at reasonable times for their observation, inspecting and testing. The CONTRACTOR shall provide proper and safe conditions for such access.

### 12.3 Tests and Inspections

12.3.1 The CONTRACTOR shall give the Contracting Officer timely notice of readiness of the Work for all required inspections, tests or Approvals.

12.3.2 If Regulatory Requirements of any public body having jurisdiction require any Work (or part thereof) to specifically be inspected, tested or approved, the CONTRACTOR shall assume full responsibility therefor, pay all costs in connection therewith and furnish the Contracting Officer the required certificates of inspection, testing or approval, except that the DEPARTMENT shall pay the cost of Special Inspections required by the International Building Code and the authority having jurisdiction. The CONTRACTOR shall also be responsible for and shall pay all costs in connection with any inspection or testing required in connection with DEPARTMENT's acceptance of a Supplier of materials or equipment proposed to be incorporated in the Work, or of materials or equipment submitted for Approval prior to the CONTRACTOR's purchase thereof for incorporation in the Work.

The CONTRACTOR shall pay the cost of all inspections, tests and approvals that are required by the Contract Documents in addition to those above. The DEPARTMENT may perform additional tests and inspections that it deems necessary to insure quality control. All such failed tests or inspections shall be at the CONTRACTOR's expense.

12.3.3 Not Used

12.3.4 If any Work (including the work of others) that is to be inspected, tested or Approved is covered without written concurrence of the Contracting Officer, it must, if requested by the Contracting Officer, be uncovered for observation. Such uncovering shall be at the CONTRACTOR's expense unless the CONTRACTOR has given the Contracting Officer timely notice of CONTRACTOR's intention to cover the same and the Contracting Officer has not acted with reasonable promptness in response to such notice.

12.3.5 Neither observations nor inspections, tests or Approvals, including Quality Assurance tests or inspections by the DEPARTMENT or others shall relieve the CONTRACTOR from the CONTRACTOR's obligations to perform the Work in accordance with the Contract Documents.

### 12.4 Uncovering Work

12.4.1 If any Work is covered contrary to the written request of the Contracting Officer, it must, if requested by the Contracting Officer, be uncovered for the Contracting Officer's observation and replaced at the CONTRACTOR's expense.

12.4.2 If the Contracting Officer considers it necessary or advisable that covered Work be observed inspected or tested, the CONTRACTOR, at the Contracting Officer's request, shall uncover, expose or otherwise make available for observation, inspection or testing as the Contracting Officer may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is Defective, the CONTRACTOR shall bear all direct and indirect costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) and the DEPARTMENT shall be entitled to an appropriate decrease in the Contract Price. If, however, such Work is not found to be Defective, the CONTRACTOR shall be allowed an increase in the GMP or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction.

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**12.5 DEPARTMENT May Stop the Work**

If the Work is Defective, or the CONTRACTOR fails to supply suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, the Contracting Officer may order the CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Contracting Officer to stop the Work shall not give rise to any duty on the part of the Contracting Officer to exercise this right for the benefit of the CONTRACTOR or any other party.

**12.6 Correction or Removal of Defective Work**

If required by the Contracting Officer, the CONTRACTOR shall promptly, as directed, either correct all Defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by the Contracting Officer, remove it from the site and replace it with Work which conforms to the requirements of the Contract Documents. The CONTRACTOR shall bear all direct and indirect costs of such correction or removal (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby.

**12.7 One Year Correction Period and Standard Warranty**

If within one year after the date of Substantial Completion of the Construction Contract or such longer period of time as may be prescribed by Regulatory Requirements or by the terms of any applicable special guarantee or extended warranty required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be Defective, the CONTRACTOR shall promptly, without cost to the DEPARTMENT and in accordance with the Contracting Officer's written instructions, either correct such Defective Work, or, if it has been rejected by the Contracting Officer, remove it from the site and replace it with conforming Work. If the CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, the DEPARTMENT may have the Defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs of such removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) will be paid by the CONTRACTOR. In special circumstances where a particular item of equipment is placed in continuous service for the benefit of the DEPARTMENT before Substantial Completion of all the Work, the correction and warranty period for that item may begin on an earlier date if so provided in the Specifications or by Change Order. Provisions of this paragraph are not intended to shorten the statute of limitations for bringing an action.

**12.8 Acceptance of Defective Work**

Instead of requiring correction or removal and replacement of Defective Work, the Contracting Officer may accept Defective Work; the CONTRACTOR shall bear all direct and indirect costs attributable to the Contracting Officer's evaluation of and determination to accept such Defective Work (costs to include but not be limited to fees and charges of engineers, architects, attorneys and other professionals). If any such acceptance occurs prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and the DEPARTMENT shall be entitled to an appropriate decrease in the GMP. If the DEPARTMENT has already made final payment to the CONTRACTOR, the CONTRACTOR or his Surety shall pay an appropriate amount to the DEPARTMENT.

**12.9 DEPARTMENT May Correct Defective Work**

If the CONTRACTOR fails within a reasonable time after written notice from the Contracting Officer to proceed to correct Defective Work or to remove and replace rejected Work as required by the Contracting Officer in accordance with paragraph 12.6, or if the CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if the CONTRACTOR fails to comply with any other provision of the Contract Documents, the DEPARTMENT may, after 7 days' written notice to the CONTRACTOR, correct and remedy any such deficiency. In exercising the rights and remedies under this paragraph the DEPARTMENT shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, the Contracting Officer may exclude the CONTRACTOR from all or part of the site, take possession of all or part of the Work, and suspend the CONTRACTOR's services related thereto, take possession of the CONTRACTOR's tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stored at the site or approved remote storage sites

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or for which the DEPARTMENT has paid the CONTRACTOR but which are stored elsewhere. The CONTRACTOR shall allow the Contracting Officer and his authorized representatives such access to the site as may be necessary to enable the Contracting Officer to exercise the rights and remedies under this paragraph. All direct and indirect costs of the DEPARTMENT in exercising such rights and remedies will be charged against the CONTRACTOR, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and the DEPARTMENT shall be entitled to an appropriate decrease in the GMP. Such direct and indirect costs will include but not be limited to fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of the CONTRACTOR's Defective Work. The CONTRACTOR shall not be allowed an extension of time because of any delay in performance of the work attributable to the exercise, by the Contracting Officer, of the DEPARTMENT's rights and remedies hereunder.

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## ARTICLE 13 - PAYMENTS TO CONTRACTOR AND COMPLETION

### 13.0 Guaranteed Maximum Price (GMP) Allowable Costs, Maximum Allowable Construction Cost (MACC), Fees, and Allowances

#### 13.0.1 Basis

The CONTRACTOR shall be entitled to the following compensation, and no other, for satisfactory performance of the work required under this Contract:

- a. Subject to the provisions of this Contract, including but not limited to provisions regarding the Guaranteed Maximum Price (GMP), reimbursement of reasonable costs actually incurred in performance of the Contract for which reimbursement is expressly authorized by this Contract;
- b. A Fixed Fee equal to the Fixed Fee Ratio multiplied by the Maximum Allowable Construction Cost (MACC) for Work under the base (original GMP) Contract plus any increase or decrease to the Fixed Fee resulting from change orders in accordance with paragraph 10.6.1; and
- c. In addition to and not as a part of the GMP, the CONTRACTOR shall be entitled to an Incentive Fee in accordance with the express provisions of this Contract.

#### 13.0.2 Guaranteed Maximum Price (GMP)

The GMP consists of the MACC plus the Fixed Fee.

#### 13.0.3 Maximum Allowable Construction Cost (MACC)

##### a. Amount

The DEPARTMENT's obligation to the CONTRACTOR for allowable reimbursable costs under this Contract shall not exceed the Maximum Allowable Construction Cost, (MACC), subject only to adjustments up or down to reflect changes in work scope effected by fully executed Change Orders or Supplemental Agreements.

##### b. Components

Prior to the award of a contract to perform the construction Work, the MACC is the estimated and negotiated sum of all reimbursable costs as defined in the Contract for the performance of the work, consisting of two components: (1) the negotiated cost Cost of the Work, and (2) the Contingency. After award of a contract to perform the construction Work, the MACC may be adjusted by Change Order or Supplemental Agreement, but only in accordance with the Contract.

##### 1. Negotiated Cost of the Work

The Negotiated Cost of the Work may include the following pursuant to paragraph 13.0.6: (1) Subcontractor and Supplier Costs, (2) Self-performed Work Costs, and (3) CONTRACTOR administrative and support Work Costs allowed by paragraph 13.0.6.c. In addition, the Negotiated Cost of the Work may include Allowances as directed by the DEPARTMENT pursuant to paragraph 13.0.9.

Self Performed Work - Upon written approval of the DEPARTMENT, the CONTRACTOR may self-perform greater than twenty (20) percent of the work in any single Contract phase under the CM/GC PROJECT, as long as the total value of Self performed Work does not exceed twenty (20) percent of the total MACC for all Contract phases of work included in the CM/GC PROJECT. The CONTRACTOR will notify the DEPARTMENT in writing of any Contract Work it proposes to self-perform and submit a Cost Proposal for performing the work. The CONTRACTOR's cost proposal for Self-performed Work shall not include the CONTRACTOR's Fixed Fee (The CONTRACTOR's Fixed Fee shall be applied separately pursuant to paragraphs 13.0.1 and 13.0.2). Self-performed Work is to be included in the MACC as part of the Negotiated Cost of the Work. It will be reimbursed and treated as a subcontract except when otherwise specified in this Contract. The DEPARTMENT may accept the CONTRACTOR's proposal to self-perform work; negotiate a price acceptable to both parties for performing the work; or, require the CONTRACTOR to Subcontract the work to others.

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2. Contingency

- i. The Construction Contingency, may only be expended or committed by the CONTRACTOR for the Cost of the Work with prior review between CONTRACTOR and DEPARTMENT with documentation of notification and written consent of the DEPARTMENT before the CONTRACTOR may commit or expend these construction contingency funds. Articles 10.4 and 10.5, 10.6.2, 10.6.7, and 10.9 shall be used for price determination when utilizing Construction Contingency funds. Any construction contingency remaining at Final Completion shall revert to the DEPARTMENT, and is not payable to the CONTRACTOR. Written notification and consent may occur at work sessions related to the construction contingency utilization review and/or during the monthly billing review procedure. The Construction Contingency is to be used for:

Additions to the scope of the Work.

Additional work arising from regulatory requirements.

- ii. The CONTRACTOR's Contingency component shall be used for the cost of the Work at the CONTRACTOR's discretion. This portion of the contingency shall be reviewed with the DEPARTMENT monthly on an information only basis. Unused CONTRACTOR's contingency component shall be returned to the DEPARTMENT through the Change Order process.

**13.0.4 Not Used**

**13.0.5 Adjustments**

- a. The CONTRACTOR shall familiarize itself with the design documents and make every effort to determine the complete scope of work reflected therein. CONTRACTOR acknowledges that the design documents are not complete, but the CONTRACTOR represents that it has priced all of the Work reflected on the contract documents and all work reasonably inferable as necessary to complete the design reflected in the contract documents. No Change Order shall be issued for an adjustment in GMP or contract time for work which should have reasonably been anticipated from the contract documents.
- b. The GMPs for the construction contract or contracts under the CM/GC PROJECT will be negotiated and awarded as described in the Supplementary Conditions.
- c. The design upon which the GMP is based is fully described in the Contract Documents. The CONTRACTOR represents that it relied upon the Contract Documents in extrapolating costs for the GMP:
- d. The GMP shall be adjusted up or down in response to fully executed change orders that change the scope of the work required under the Contract.

**13.0.6 Reimbursable Costs**

Subject to the GMP and other provisions of the Contract, the DEPARTMENT shall reimburse the CONTRACTOR for reasonable costs directly attributable to this Contract and incurred in the following categories, and no others (for purposes of this section reimbursable costs exclude CONTRACTOR mark-up and fees, which are addressed elsewhere):

a Subcontractors and Suppliers

Payments to subcontractors and suppliers, provided that the DEPARTMENT shall receive the benefit of trade and quantity discounts, and the CONTRACTOR shall retain the benefits of discounts for early or timely payment.

b. Self-Performed Work

The Self-performed Work authorized by this Contract will be reimbursed and treated as a subcontract except when otherwise specified in the Contract.

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- c. CONTRACTOR Performed administrative and support Work covered in the General Requirements, and the General Conditions and Supplementary Conditions.

The DEPARTMENT will reimburse the CONTRACTOR for the costs of administrative and support work required to perform the Work in accordance with the following paragraphs, provided the CONTRACTOR authenticates to the satisfaction of the DEPARTMENT that these costs are not included in the CONTRACTOR's Home Office overhead or Fixed Fee:

1. Regular Labor Costs

Salaries or wages, plus fringe benefits routinely provided by the CONTRACTOR (including, as applicable, retirement, life insurance, medical insurance, sick leave, holiday pay, vacation, and other benefits required by law or by a then current labor agreement), for all of the following employees for the time they are engaged in the work under the Contract:

- i. Field labor, including field superintendents;
- ii. Employees stationed at the CONTRACTOR's field office;
- iii. Employees engaged at the shops or on the road in expediting the production or transportation of materials or equipment required of this contract; and

2. Not Used

3. Not Used

4. Not Used

5. Overtime Labor Costs

Overtime identified in the CONTRACTOR's estimate of reimbursable costs, plus overtime approved by the DEPARTMENT in advance for additional work required by the DEPARTMENT.

6. Subsistence and Travel

Subsistence and travel for the CONTRACTOR's salaried employees normally stationed in the field office when those employees are required to travel and remain out of the Anchorage metropolitan area in direct performance of work under this Contract, but only with DEPARTMENT prior approval.

7. Supplies

Field office supplies and services, including office supplies, telephone, postage, reproduction, photographs, and field office data processing equipment.

8. Fire and Safety

Safety, first aid, and temporary fire protection.

9. Job Site Facilities and Services

Temporary facilities and services at the job site, including the job shack and other structures, sanitation, debris removal, roads, heat, light, water, air, and weather protection. Utilities shall be reimbursable to the extent that they are not furnished by the DEPARTMENT as outlined in the Contract Documents.

10. Materials

Materials, expendable supplies, consumables (other than hand tools owned by CONTRACTOR's employees on the project), and their transportation to the work site.

11. Taxes, License Fees, Bond Premiums, Insurance Premiums as required pursuant to paragraph 5.4.2, and Royalties

Licenses, royalties, bond premiums, and sales or similar taxes which the CONTRACTOR is required by law to pay and are in effect as of the effective date of this contract, other than

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personal property taxes on the CONTRACTOR's construction equipment and CONTRACTOR's income taxes.

12. CONTRACTOR's Equipment

Reimbursement for use of CONTRACTOR owned equipment shall be at the CONTRACTOR's published rental equipment rates included in this Contract, plus cost of fuel and routine maintenance. Prior to use of such equipment, the CONTRACTOR shall furnish the DEPARTMENT with a rent versus purchase analysis, the DEPARTMENT shall have the unilateral right to decide whether to rent the equipment or provide DEPARTMENT equipment to the CONTRACTOR. For those items of equipment for which the total rental is expected to exceed the replacement cost shown on the equipment rental rate table, the DEPARTMENT will have the right to discontinue further monthly rental payments beyond the replacement value but retain the service of the equipment; reimbursing the CONTRACTOR only for fuel and routine maintenance costs. For equipment furnished by the DEPARTMENT to the CONTRACTOR for use on the Work, the CONTRACTOR will be reimbursed for transportation to and from the site, unloading and loading at the site, repair, maintenance and fueling.

13. Rented Equipment

Rental of equipment owned by third party equipment vendors while it is engaged in Contract work, plus fuel and routine maintenance at the CONTRACTOR's actual cost. Prior to use of such equipment, the CONTRACTOR shall furnish the DEPARTMENT with a rent versus purchase analysis, the DEPARTMENT shall have the unilateral right to decide whether to rent the equipment or provide DEPARTMENT equipment to the CONTRACTOR. For equipment furnished by the DEPARTMENT to the CONTRACTOR for use on the Work, the CONTRACTOR will be reimbursed for transportation to and from the site, unloading and loading at the site, repair, maintenance and fueling.

14. Material Storage

Offsite storage of materials in a location and under circumstances approved by the DEPARTMENT in advance and in writing.

15. Permits

All building and other permits for which the CONTRACTOR is responsible under the Contract.

16. Documents

Preparing, obtaining, and copying reports, schedules, manuals, drawings, specifications, related data processing services, and other documents necessary for the performance of the Contract work, except as specified in paragraph 13.0.7.6.

17. Legal Costs

Reasonable attorney's fees and other costs necessarily incurred by the CONTRACTOR in mediation, arbitration, or litigation necessarily and reasonably incurred in the performance of the Work, but not including fees or costs arising in connection with disputes between the CONTRACTOR, including its subcontractors or suppliers and the DEPARTMENT. The CONTRACTOR shall notify the DEPARTMENT in writing within 5 days of the CONTRACTOR's knowledge of potential for incurring such cost.

18. Craft Labor for CONTRACTOR Performed administrative and support Work covered under paragraph 13.0.6.c

For work required in performance of the administrative and support Work allowed under paragraph 13.0.6.c, the CONTRACTOR may use CONTRACTOR-furnished craft labor.

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19. Consultants

Cost of outside Consultants and professional personnel as may be required in connection with services provided by the CONTRACTOR. The CONTRACTOR shall obtain the consent of the DEPARTMENT prior to engaging such outside Consultants who not specifically required and identified in the Contract Documents.

20. Insurance Losses

Excluding losses resulting from gross negligence, willful misconduct or malicious behavior, the cost of repairing damaged Work, only to the extent that the cost of such repairs is not recoverable by the CONTRACTOR from others and the CONTRACTOR is not compensated therefor by insurance or otherwise, provided that the remaining available Contractor's Contingency within the GMP is not exceeded.

**13.0.7 Costs Not Reimbursable**

The following is a non-exclusive list of categories of costs for which the CONTRACTOR is not entitled to reimbursement, and are to be accounted for in CONTRACTOR's Fixed Fee:

a. Certain Salaries and Other Compensation

The salary of any individual who is a partner in or an officer of the CONTRACTOR, or of any individual employed in any of the CONTRACTOR's offices other than the field office except as provided for in the Supplementary Conditions.

b. Overhead

Home Office overhead and any corporate general and administrative costs including any costs described in 13.0.6 that are included in the CONTRACTOR's Home Office overhead.

c. Interest

Interest on capital.

d. Employee Relocation Expenses

Any expenses related to employee relocation, including but not limited to moving costs, subsistence, and/or living allowances.

e. Profit

Profit.

f. Proposal

Preparation of the CONTRACTOR's response to the DEPARTMENT's request for proposals for this Contract.

g. Hand Tools

The hand tools owned by the CONTRACTOR's employees on the project.

h. Corrective Work

The cost of corrective work performed as Self-performed Work or by subcontractors and suppliers.

i. Excess Costs

Otherwise reimbursable costs in excess of the MACC.

**13.0.8 MACC Allowances**

The MACC may be subject to adjustment for changes in the MACC Allowances for the cost of work items included in the MACC. MACC Allowances will be indicated in the Contract Documents

- a. Unless otherwise stated, these MACC Allowances cover all costs related to the described items, including but not limited to labor, material, equipment, delivery, taxes, handling costs, installation costs, and subcontracts.

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- b. If the final cost of a MACC Allowance item is more or less than the MACC Allowance, the MACC and GMP may be increased or decreased by subsequent change order by an amount equal to the difference between the final cost of the MACC Allowance item and the MACC Allowance amount stated in this Contract, as approved by the DEPARTMENT.

**13.1 Schedule of Values**

The Schedule of Values established as provided in paragraph 6.6 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to the Contracting Officer. Progress payments on account of Unit Price Work will be based on the number of units completed.

**13.2 Preliminary Payments**

Upon approval of the Schedule of Values the CONTRACTOR may be paid for direct costs substantiated by paid invoices and other prerequisite documents required by the General Requirements. Direct costs shall include the cost of bonds, insurance, approved materials stored on the site or at approved remote storage sites, deposits required by a Supplier prior to fabricating materials, and other approved direct mobilization costs substantiated as indicated above. These payments shall be included as a part of the total GMP as stated in the Contract.

**13.3 Application for Progress Payment**

The CONTRACTOR shall submit to the Contracting Officer for review an Application for Payment filled out and signed by the CONTRACTOR covering the Work completed as of the date of the Application for Payment and accompanied by such supporting documentation as is required by the Contract Documents. The CONTRACTOR may submit periodically, but not more than once each month, a request for payment for work performed, materials delivered and stored on the site and progress payment of the CONTRACTOR's Fixed Fee equal to a proportional amount of the reimbursable costs for each payment request. Payment shall be based on the most recent schedule of values submitted by the CONTRACTOR in accordance with the Contract Documents. The schedule of values shall allocate the entire GMP among the various pieces of work, except the CONTRACTOR's Fixed Fee and the contingency account shall be shown as separate items. Applications for Payment shall show the percentage of completion for each portion of the Work as of the end of the period covered as described below:

The percentage of completion for costs covered under Articles 10, 13.0.6.a and 13.0.6.b for Subcontractor and Supplier, and Self-Performed Work shall be the percentage of that portion of the Work that has actually been completed. The percentage of completion for costs covered under Article 13.0.6.c shall be calculated based on the estimated actual expense for that portion of the Work incurred during the period of the Application for Payment.

Payment requests shall be submitted to the DEPARTMENT, who will promptly verify the correctness thereof for payment. Payment will be due and payable promptly by the DEPARTMENT after the DEPARTMENT's receipt and approval of a correct payment request in accordance with the Alaska Statutes. Final payment will be processed in the same manner. Progress payments will be made in accordance with the General Conditions, for payments and retainage. For all payment requests after the initial Application for Payment, the CONTRACTOR shall transmit such cost reports as requested by the DEPARTMENT from the CONTRACTOR's automated cost accounting system that detail and substantiate the actual expenses incurred during the prior Application for Payment period, together with the current payment request. The CONTRACTOR shall make adjustments up or down when the actual expenses are higher or lower than the corresponding amount requested in the prior Application for Payment. The CONTRACTOR shall retain accounting records that show, in detail and as completely as possible, moneys paid by the CONTRACTOR on account of the cost of the Work during the period involved, with copies of payroll for labor, records of equipment used, and copies of bills. These records shall be kept at the CONTRACTOR's jobsite office and shall be available for audit by the DEPARTMENT at any time. At any time the DEPARTMENT may request copies of supporting invoices or other documents required by the DEPARTMENT.

**13.4 Review of Applications for Progress Payment**

Contracting Officer will either indicate in writing a recommendation of payment or return the Application for Payment to the CONTRACTOR indicating in writing the Contracting Officer's reasons for refusing to recommend payment. In the latter case, the CONTRACTOR may make the necessary corrections and

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resubmit the Application for Payment.

**13.5 Stored Materials and Equipment**

If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, paid invoice or other documentation warranting that the DEPARTMENT has received the materials and equipment free and clear of all charges, security interests and encumbrances and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect the DEPARTMENT's interest therein, all of which will be satisfactory to the Contracting Officer. No payment will be made for perishable materials that could be rendered useless because of long storage periods. No progress payment will be made for living plant materials until planted.

**13.6 CONTRACTOR's Warranty of Title**

The CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to the DEPARTMENT no later than the time of payment free and clear of any claims, liens, security interests and further obligations.

**13.7 Withholding of Payments**

The DEPARTMENT may withhold or refuse payment for any of the reasons listed below provided it gives written notice of its intent to withhold and of the basis for withholding:

- 13.7.1 The Work is Defective, or completed Work has been damaged requiring correction or replacement, or has been installed without Approval of Shop Drawings, or by an unapproved Subcontractor, or for unsuitable storage of materials and equipment.
- 13.7.2 A Change Order has reduced the GMP,
- 13.7.3 The DEPARTMENT has been required to correct Defective Work or complete Work in accordance with paragraph 12.9.
- 13.7.4 The DEPARTMENT's actual knowledge of the occurrence of any of the events enumerated in paragraphs 14.2.1.a through 14.2.1.m inclusive.
- 13.7.5 Claims have been made against the DEPARTMENT or against the funds held by the DEPARTMENT on account of the CONTRACTOR's actions or inactions in performing this Contract, or there are other items entitling the DEPARTMENT to a set off.
- 13.7.6 Subsequently discovered evidence or the results of subsequent inspections or test; nullify any previous payments for reasons stated in subparagraphs 13.7.1 through 13.7.5.
- 13.7.7 The CONTRACTOR has failed to fulfill or is in violation of any of his obligations under any provision of this Contract.

**13.8 Retainage**

At any time the DEPARTMENT finds that satisfactory progress is not being made it may in addition to the amounts withheld under 13.7 retain a maximum amount equal to ten (10) percent of the total amount earned on all subsequent progress payments. This retainage may be released at such time as the Contracting Officer finds that satisfactory progress is being made.

**13.9 Request for Release of Funds**

If the CONTRACTOR believes the basis for withholding is invalid or no longer exists, immediate written notice of the facts and Contract provisions on which the CONTRACTOR relies, shall be given to the DEPARTMENT, together with a request for release of funds and adequate documentary evidence proving that the problem has been cured. In the case of withholding which has occurred at the request of the Department of Labor, the CONTRACTOR shall provide a letter from the Department of Labor stating that withholding is no longer requested. Following such a submittal by the CONTRACTOR, the DEPARTMENT shall have a reasonable time to investigate and verify the facts and seek additional assurances before determining whether release of withheld payments is justified.

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**13.10 Substantial Completion**

When the CONTRACTOR considers the Work ready for its intended use, and has obtained the approval of all maintenance and operating manuals and marked up record documents, the CONTRACTOR shall notify the Contracting Officer in writing that the Work or a portion of Work which has been specifically identified in the Contract Documents is substantially complete (except for items specifically listed by the CONTRACTOR as incomplete) and request that the DEPARTMENT issue a certificate of Substantial Completion. Within a reasonable time thereafter, the Contracting Officer, the CONTRACTOR and appropriate Consultant(s) shall make an inspection of the Work to determine the status of completion. If the Contracting Officer does not consider the Work substantially complete, the Contracting Officer will notify the CONTRACTOR in writing giving the reasons therefor. If the Contracting Officer considers the Work substantially complete, the Contracting Officer will within fourteen days execute and deliver to the CONTRACTOR a certificate of Substantial Completion with tentative list of items to be completed or corrected. At the time of delivery of the certificate of Substantial Completion the Contracting Officer will deliver to the CONTRACTOR a written division of responsibilities pending Final Completion with respect to security, operation, safety, maintenance, heat, utilities, insurance and warranties which shall be consistent with the terms of the Contract Documents.

The DEPARTMENT shall be responsible for all DEPARTMENT costs resulting from the initial inspection and the first re-inspection; the CONTRACTOR shall pay all costs incurred by the DEPARTMENT resulting from re-inspections, thereafter.

**13.11 Access Following Substantial Completion**

The DEPARTMENT shall have the right to exclude the CONTRACTOR from the Work after the date of Substantial Completion, but the DEPARTMENT shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

**13.12 Final Inspection**

Upon written notice from the CONTRACTOR that the entire Work or an agreed portion thereof is complete, the Contracting Officer will make a final inspection with the CONTRACTOR and appropriate Consultant(s) and will notify the CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or Defective. The CONTRACTOR shall immediately take such measures as are necessary to remedy such deficiencies. The CONTRACTOR shall pay for all costs incurred by the DEPARTMENT resulting from re-inspections.

**13.13 Final Completion and Application for Payment**

After the CONTRACTOR has completed all such corrections to the satisfaction of the Contracting Officer and delivered all finalized maintenance and operating instructions, schedules, guarantees, bonds, certificates of payment to all laborers, Subcontractors and Suppliers, certificates of inspection, marked-up record documents and other documents - all as required by the Contract Documents; and after the Contracting Officer has indicated in writing that the Work has met the requirements for Final Completion, and subject to the provisions of paragraph 13.18, the CONTRACTOR may make application for payment for Final Completion following the procedure for progress payments. All remaining certificates, warranties, guarantees, releases, affidavits shall accompany the application for Final Payment, and other documentation required by the Contract Documents.

**13.14 Final Payment**

13.14.1 Following the issuance of payment for Final Completion, the DEPARTMENT shall conduct a final review of project documentation to verify the Work has been completed in conformance with the Contract Documents. Upon request, the CONTRACTOR shall provide the DEPARTMENT with documentation to support its review. If on the basis of the Contracting Officer's observation of the Work during construction and final inspection, and the Contracting Officer's review of the application for Final Payment and accompanying documentation - all as required by the Contract Documents; and the Contracting Officer is satisfied that the Work has been completed and the CONTRACTOR's other obligations under the Contract Documents have been fulfilled, the DEPARTMENT will process application for Final Payment. Otherwise, the Contracting Officer will return the application for Final Payment to the CONTRACTOR, indicating in writing the reasons for refusing to process Final Payment, in which case the CONTRACTOR shall make the necessary corrections and resubmit the application for Final Payment.

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13.14.2 If, through no fault of the CONTRACTOR, Final Completion of the Work is significantly delayed, the Contracting Officer shall, upon receipt of the CONTRACTOR's application for Final Payment, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by the DEPARTMENT for Work not fully completed or corrected is less than the retainage provided for in paragraph 13.9, and if bonds have been furnished as required in paragraph 5.1, the written consent of the Surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the CONTRACTOR to the DEPARTMENT with the application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

**13.15 Final Acceptance**

Following certification of payment of payroll and revenue taxes, and final payment to the CONTRACTOR, the DEPARTMENT will issue a letter of Final Acceptance, releasing the CONTRACTOR from further obligations under the Contract, except those (1) specified in paragraphs 13.16, 13.17, and 13.18, (2) required by law or regulation, or (3) continuing obligations established by the provisions of this Contract, such as warranty, guaranty, indemnity, insurance or bond.

**13.16 CONTRACTOR's Continuing Obligation**

The CONTRACTOR's obligation to perform and complete the Work and pay all laborers, Subcontractors, and materialmen in accordance with the Contract Documents shall be absolute. Neither any progress or final payment by the DEPARTMENT, nor the issuance of a certificate of Substantial Completion, nor any use or occupancy of the Work or any part thereof by the DEPARTMENT or Using Agency, nor any act of acceptance by the DEPARTMENT nor any failure to do so, nor any review and Approval of a Shop Drawing or sample submission, nor any correction of Defective Work by the DEPARTMENT will constitute an acceptance of Work not in accordance with the Contract Documents or a release of the CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents.

**13.17 Waiver of Claims by CONTRACTOR**

The making and acceptance of final payment will constitute a waiver of all claims by the CONTRACTOR against the DEPARTMENT other than those previously made in writing and still unsettled.

**13.18 No Waiver of Legal Rights**

The DEPARTMENT shall not be precluded or be stopped by any payment, measurement, estimate, or certificate made either before or after the completion and acceptance of the Work and payment therefor, from showing the true amount and character of the Work performed and materials furnished by the CONTRACTOR, nor from showing that any payment, measurement, estimate or certificate is untrue or is incorrectly made, or that the Work or materials are Defective. The DEPARTMENT shall not be precluded or stopped, notwithstanding any such measurement, estimate, or certificate and payment in accordance therewith, from recovering from the CONTRACTOR or his Sureties, or both, such damages as it may sustain by reason of his failure to comply with requirements of the Contract Documents. Neither the acceptance by the DEPARTMENT, or any representative of the DEPARTMENT, nor any payment for or acceptance of the whole or any part of the Work, nor any extension of the Contract Time, nor any possession taken by the DEPARTMENT, shall operate as a waiver of any portion of the Contract or of any power herein reserved, or of any right to damages. A waiver by the DEPARTMENT of any breach of the Contract shall not be held to be a waiver of any other subsequent breach.

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## ARTICLE 14 - SUSPENSION OF WORK, DEFAULT AND TERMINATION

### 14.1 DEPARTMENT May Suspend Work

14.1.1 The DEPARTMENT may, at any time, suspend the Work or any portion thereof by notice in writing to the CONTRACTOR. If the Work is suspended without cause the CONTRACTOR shall be allowed an increase in the GMP or an extension of the Contract Time, or both, directly attributable to any suspension if the CONTRACTOR makes an Approved claim therefrom as provided in Article 15. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that suspension is due to the fault or negligence of the CONTRACTOR, or that suspension is necessary for Contract compliance, or that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the CONTRACTOR.

14.1.2 In case of suspension of Work, the CONTRACTOR shall be responsible for preventing damage to or loss of any of the Work already performed and of all materials whether stored on or off the site or Approved remote storage sites.

### 14.2 Default of Contract

14.2.1 The Contracting Officer may give the CONTRACTOR and its surety a written Notice to Cure Default if the CONTRACTOR:

- a. fails to begin work in the time specified,
- b. fails to use sufficient resources to assure prompt completion of the work,
- c. performs the work unsuitably or neglect or refuse to remove and replace rejected materials or work,
- d. stops work,
- e. fails to resume stopped work after receiving notice to do so,
- f. becomes insolvent (except that if the CONTRACTOR declares bankruptcy, termination will be under Title 11 US Code 362 and/or 365. The CONTRACTOR's bankruptcy does not relieve the surety of any obligations to assume the Contract and complete the work in a timely manner.),
- g. allows any final judgment to stand against him unsatisfied for period of 60 days,
- h. makes an assignment for the benefit of creditors without the consent of the Contracting Officer,
- i. disregards Regulatory Requirements of any public body having jurisdiction,
- j. otherwise violates in any substantial way any provisions of the Contract Documents,
- k. fails to comply with Contract minimum wage payments or civil rights requirements,
- l. is party to fraud, deception, misrepresentation , or
- m. for any cause whatsoever, fails to carry on the Work in an acceptable manner.

14.2.2 The Notice to Cure Default will detail the conditions determined to be in default, the time within which to cure the default and may, in the Contracting Officer's discretion, specify the actions necessary to cure the default. Failure to cure the delay, neglect or default within the time specified in the Contracting Officer's written notice to cure authorizes the DEPARTMENT to terminate the contract. The Contracting Officer may allow more time to cure than originally stated in the Notice to Cure Default if he deems it to be in the best interests of the DEPARTMENT. The DEPARTMENT will provide CONTRACTOR and its surety with a written Notice of Default Termination that details the default and the failure to cure it.

14.2.3 If the CONTRACTOR or Surety, within the time specified in the above notice of default, shall not proceed in accordance therewith, then the DEPARTMENT may, upon written notification of termination from the Contracting Officer of the fact of such delay, neglect or default and the CONTRACTOR's failure to comply with such notice, have full power and authority without violating the Contract, to take the prosecution of the Work out of the hands of the CONTRACTOR. The DEPARTMENT may terminate the services of the CONTRACTOR, exclude the CONTRACTOR from the site and take possession of the

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Work and of all the CONTRACTOR's tools, appliances, construction equipment, machinery plant and associated items at the site and use the same to the full extent they could be used by the CONTRACTOR (without liability to the CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which the DEPARTMENT has paid the CONTRACTOR but which are stored elsewhere, and finish the Work as the DEPARTMENT may deem expedient. The DEPARTMENT may enter into an agreement for the completion of said Contract according to the terms and provisions thereof, or use such other methods that in the opinion of the Contracting Officer are required for the completion of said Contract in an acceptable manner.

- 14.2.4 Rather than taking over the work itself, the DEPARTMENT may, by written notice to the CONTRACTOR and its Surety or its representative, transfer the employment of the Work from the CONTRACTOR to the Surety, or if the CONTRACTOR abandons the Work undertaken under the Contract, the Contracting Officer may, at his option with written notice to the Surety and without any written notice to the CONTRACTOR, transfer the employment for said Work directly to the Surety. The Surety shall submit its plan for completion of the Work, including any contracts or agreements with third parties for such completion, to the DEPARTMENT for Approval prior to beginning completion of the Work. Approval of such contracts shall be in accordance with all applicable requirements and procedures for Approval of subcontracts as stated in the Contract Documents.
- 14.2.5 On receipt of the transfer notice, the surety must take possession of all tools, appliances, construction equipment, machinery plant and associated items at the work site, provide required items, employ an appropriate work force, and complete the Contract work, as specified. The Contract specifications and requirements shall remain in effect. However the DEPARTMENT will make subsequent Contract payments directly to the Surety for work performed under the terms of the Contract. The CONTRACTOR forfeits any right to claim for the same work or any part thereof and is not entitled to receive any further balance of the amount to be paid under the Contract.
- 14.2.6 If the Contract is terminated for default, the CONTRACTOR and the Surety shall be jointly and severally liable for damages for delay as provided by paragraph 11.8, and for the excess cost of completion, and all costs and expenses incurred by the DEPARTMENT in completing the Work or arranging for completion of the Work, including but not limited to costs of assessing the Work to be done, costs associated with advertising, soliciting or negotiating for bids or proposals for completion, and other re-procurement costs. Following termination the CONTRACTOR shall not be entitled to receive any further balance of the amount to be paid under the Contract until the Work is fully finished and accepted, at which time if the unpaid balance exceeds the amount due the DEPARTMENT and any amounts due to persons for whose benefit the DEPARTMENT has withheld funds, such excess shall be paid by the DEPARTMENT to the CONTRACTOR or the Surety, as appropriate. If the damages, costs, and expenses due the DEPARTMENT exceed the unpaid balance, the CONTRACTOR and his Surety shall pay the difference.
- 14.2.7 If, after notice of termination of the CONTRACTOR's right to proceed under the provisions of this clause, it is determined for any reason that the CONTRACTOR was not in default under the provisions of this clause, or that the delay was excusable under the provisions of this clause, or that termination was wrongful, the rights and obligations of the parties shall be determined in accordance with the clause providing for convenience termination.

#### **14.3 Rights or Remedies**

Where the CONTRACTOR's services have been so terminated by the DEPARTMENT, the termination will not affect any rights or remedies of the DEPARTMENT against the CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due the CONTRACTOR by the DEPARTMENT will not release the CONTRACTOR from liability.

#### **14.4 Convenience Termination**

- 14.4.1 The performance of the Work may be terminated by the DEPARTMENT in accordance with this section in whole or in part, whenever, for any reason the Contracting Officer shall determine that such termination is in the best interest of the DEPARTMENT. Any such termination shall be effected by delivery to the CONTRACTOR of a Notice of Termination, specifying termination is for the convenience of the DEPARTMENT the extent to which performance of Work is terminated, and the date upon which such

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termination becomes effective.

- 14.4.2 Immediately upon receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer, the CONTRACTOR shall:
- a. Stop Work on the date and to the extent specified in the Notice of Termination;
  - b. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the Work as is not terminated;
  - c. Terminate all orders and subcontracts to the extent that they relate to the performance of Work terminated by the Notice of Termination;
  - d. With the written Approval of the Contracting Officer, to the extent he may require, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable, in whole, or in part, in accordance with the provisions of the Contract;
  - e. Submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory exclusive of items the disposition of which had been directed or authorized by the Contracting Officer;
  - f. Transfer to the Contracting Officer the completed or partially completed record drawings, Shop Drawings, information, and other property which, if the Contract had been completed, would be required to be furnished to the DEPARTMENT;
  - g. Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to the Contract which is in the possession of the CONTRACTOR and in which the DEPARTMENT has or may acquire any interest.

The CONTRACTOR shall proceed immediately with the performance of the above obligations.

- 14.4.3 When the DEPARTMENT orders termination of the Work effective on a certain date, all Work in place as of that date will be paid for in accordance with Article 13 of the Contract. Materials required for completion and on hand but not incorporated in the Work will be paid for at invoice cost plus fifteen (15) percent with materials becoming the property of the DEPARTMENT - or the CONTRACTOR may retain title to the materials and be paid an agreed upon lump sum. Materials on order shall be cancelled, and the DEPARTMENT shall pay reasonable factory cancellation charges with the option of taking delivery of the materials in lieu of payment of cancellation charges. The CONTRACTOR shall be paid ten (10) percent of the cost, freight not included, of materials cancelled, and direct expenses only for CONTRACTOR chartered freight transport which cannot be cancelled without charges, to the extent that the CONTRACTOR can establish them. The extra costs due to cancellation of bonds and insurance and that part of job start-up and phase-out costs not amortized by the amount of Work accomplished shall be paid by the DEPARTMENT. Charges for loss of profit or consequential damages shall not be recoverable except as provided above.

- a. The following costs are not payable under a termination settlement agreement or Contracting Officer's determination of the termination claim:
  1. Loss of anticipated profits or consequential or compensatory damages
  2. Unabsorbed home office overhead (also termed "General & Administrative Expense") related to ongoing business operations
  3. Bidding and project investigative costs
  4. Direct costs of repairing equipment to render it operable for use on the terminated work

- 14.4.4 The termination claim shall be submitted promptly, but in no event later than 90 days from the effective date of termination, unless extensions in writing are granted by the Contracting Officer upon written request of the CONTRACTOR made within the 90 day period. Upon failure of the CONTRACTOR to submit his termination claim within the time allowed, the Contracting Officer may determine, on the basis of information available to him, the amount, if any, due to the CONTRACTOR by reason of the

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termination and shall thereupon pay to the CONTRACTOR the amount so determined.

- 14.4.5 The CONTRACTOR and the Contracting Officer may agree upon whole or any part of the amount or amounts to be paid to the CONTRACTOR by reason of the total or partial termination of Work pursuant to this section. The Contract shall be amended accordingly, and the CONTRACTOR shall be paid the agreed amount.
- 14.4.6 In the event of the failure of the CONTRACTOR and the Contracting Officer to agree in whole or in part, as provided heretofore, as to the amounts with respect to costs to be paid to the CONTRACTOR in connection with the termination of the Work the Contracting Officer shall determine, on the basis of information available to him, the amount, if any, due to the CONTRACTOR by reason of the termination and shall pay to the CONTRACTOR the amount determined as follows:
- a. All costs and expenses reimbursable in accordance with the Contract not previously paid to the CONTRACTOR for the performance of the Work prior to the effective date of the Notice of Termination;
  - b. So far as not included under "a" above, the cost of settling and paying claims arising out of the termination of the Work under subcontracts or orders which are properly chargeable to the terminated portions of the Contract;
  - c. So far as practicable, claims by the CONTRACTOR for idled or stand-by equipment shall be made as follows: Equipment claims will be reimbursed as follows:
    1. CONTRACTOR-owned equipment usage, based on the CONTRACTOR'S ownership and operating costs for each piece of equipment as determined from the CONTRACTOR'S accounting records. Under no circumstance, may the CONTRACTOR base equipment claims on published rental rates.
    2. Idle or stand-by time for CONTRACTOR-owned equipment, based on the CONTRACTOR'S internal ownership and depreciation costs. Idle or stand-by equipment time is limited to the actual period of time equipment is idle or on stand-by as a direct result of the termination, not to exceed 30 days. Operating expenses will not be included for payment of idle or stand-by equipment time.
    3. Rented equipment, based on reasonable, actual rental costs. Equipment leased under "capital leases" as defined in Financial Accounting Standard No. 13 will be considered CONTRACTOR-owned equipment. Equipment leased from an affiliate, division, subsidiary or other organization under common control with the CONTRACTOR will be considered CONTRACTOR-owned equipment, unless the lessor has an established record of leasing to unaffiliated lessees at competitive rates consistent with the rates the CONTRACTOR has agreed to pay and no more than forty (40) percent of the lessor's leasing business, measured in dollars, is with organizations affiliated with the lessor.
- 14.4.7 The CONTRACTOR shall have the right of appeal under the DEPARTMENT's claim procedures, as defined in Article 15, for any determination made by the Contracting Officer, except if the CONTRACTOR has failed to submit its claim within the time provided and has failed to request extension of such time, CONTRACTOR shall have no such right of appeal. In arriving at the amount due the CONTRACTOR under this section, there shall be deducted:
- a. All previous payments made to the CONTRACTOR for the performance of Work under the Contract prior to termination;
  - b. Any claim for which the DEPARTMENT may have against the CONTRACTOR;
  - c. The agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the CONTRACTOR or sold pursuant to the provisions of this section and not otherwise recovered by or credited to the DEPARTMENT; and,
  - d. All progress payments made to the CONTRACTOR under the provisions of this section.

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- 14.4.8 Where the Work has been terminated by the DEPARTMENT said termination shall not affect or terminate any of the rights of the DEPARTMENT against the CONTRACTOR or its Surety then existing or which may thereafter accrue because of such default. Any retention or payment of monies by the DEPARTMENT due to the CONTRACTOR under the terms of the Contract shall not release the CONTRACTOR or its Surety from liability.
- 14.4.9 The CONTRACTOR'S termination claim may not include claims that pre dated the notice for termination for convenience. Those claims shall be prosecuted by the CONTRACTOR under Article 15.
- 14.4.10 The CONTRACTOR'S termination claim may not exceed the total dollar value of the contract as awarded plus agreed upon change orders less the amounts that have been paid for work completed.
- a. Unless otherwise provided for in the Contract Documents, or by applicable statute, the CONTRACTOR, from the effective date of termination and for a period of 3 years after final settlement under this Contract, shall preserve and make available to the DEPARTMENT at all reasonable times at the office of the CONTRACTOR, all its books, records, documents, and other evidence bearing on the cost and expenses of the CONTRACTOR under his Contract and relating to the Work terminated hereunder.
- b. Definitions. In this paragraph 14.4, the term "cost" and the term "expense" mean a monetary amount in U.S. Dollars actually incurred by the CONTRACTOR, actually reflected in its contemporaneously maintained accounting or other financial records and supported by original source documentation.

Cost Principles. The DEPARTMENT may use the federal cost principles at 48 CFR §§ 31.201-1 to 31.205-52 (or succeeding cost principles for fixed price contracts) as guidelines in determining allowable costs under this Subsection to the extent they are applicable to construction contracts and consistent with the specifications of this Contract. The provisions of this contract control where they are more restrictive than, or inconsistent with, these federal cost principles.

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## ARTICLE 15 - CLAIMS FOR ADJUSTMENT AND DISPUTES

### 15.1 Notification

- 15.1.1 The CONTRACTOR shall notify the DEPARTMENT in writing as soon as the CONTRACTOR becomes aware of any act or occurrence which may form the basis of a claim for additional compensation or an extension of Contract Time or of any dispute regarding a question of fact or interpretation of the Contract. The DEPARTMENT has no obligation to investigate any fact or occurrence that might form the basis of a claim or to provide any additional compensation or extension of Contract Time unless the CONTRACTOR has notified the DEPARTMENT in writing in a timely manner of all facts the CONTRACTOR believes form the basis for the claim.
- 15.1.2 If the CONTRACTOR believes that he is entitled to an extension of Contract Time, then the CONTRACTOR must state the contract section on which he bases his extension request, provide the DEPARTMENT with sufficient information to demonstrate that the CONTRACTOR has suffered excusable delay, and show the specific amount of time to which the CONTRACTOR is entitled. The DEPARTMENT will not grant an extension of Contract Time if the CONTRACTOR does not timely submit revised schedules under Section 01310 and Article 6.8.
- 15.1.3 If the matter is not resolved by agreement within 7 days, the CONTRACTOR shall submit an Intent to Claim, in writing, to the DEPARTMENT within the next 14 days.
- 15.1.4 If the CONTRACTOR believes additional compensation or time is warranted, then he must immediately begin keeping complete, accurate, and specific daily records concerning every detail of the potential claim including actual costs incurred. The CONTRACTOR shall provide the DEPARTMENT access to any such records and furnish the DEPARTMENT copies, if requested. Equipment costs must be based on the CONTRACTOR's internal rates for ownership, depreciation, and operating expenses and not on published rental rates.
- 15.1.5 If the claim or dispute is not resolved by the DEPARTMENT, then the CONTRACTOR shall submit a written Claim to the Contracting Officer within 90 days after the CONTRACTOR becomes aware of the basis of the claim or should have known the basis of the claim, whichever is earlier. The Contracting Officer will issue written acknowledgment of the receipt of the Claim.
- 15.1.6 The CONTRACTOR waives any right to claim if the DEPARTMENT was not notified properly or afforded the opportunity to inspect conditions or monitor actual costs or if the Claim is not filed on the date required.

### 15.2 Presenting the Claim

- 15.2.1 The Claim must include all of the following:
- a. The act, event, or condition the claim is based on
  - b. The Contract provisions which apply to the claim and provide relief
  - c. The item or items of Contract work affected and how they are affected
  - d. The specific relief requested, including Contract Time if applicable, and the basis upon which it was calculated
  - e. A statement certifying that the claim is made in good faith, that the supporting cost and pricing data are accurate and complete to the best of the CONTRACTOR'S knowledge and belief, and that the amount requested accurately reflects the Contract adjustment which the CONTRACTOR believes is due.

### 15.3 Claim Validity, Additional Information, and DEPARTMENT's Action

- 15.3.1 The Claim, in order to be valid, must not only show that the CONTRACTOR suffered damages or delay but that it was caused by the act, event, or condition complained of and that the Contract provides entitlement to relief for such act, event, or condition.
- 15.3.2 The DEPARTMENT can make written request to the CONTRACTOR at any time for additional information relative to the Claim. The CONTRACTOR shall provide the DEPARTMENT the additional information within 30 days of receipt of such a request. Failure to furnish the additional information may

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be regarded as a waiver of the Claim.

**15.4 Contracting Officer's Decision**

The CONTRACTOR will be furnished the Contracting Officer's Decision within 90 days, unless the Contracting Officer requests additional information or gives the CONTRACTOR notice that the time for issuing a decision is being extended for a specified period under AS 36.30.620. The Contracting Officer's decision is final and conclusive unless, within 14 days of receipt of the decision, the CONTRACTOR delivers a Notice of Appeal to the Appeals Officer. Procedures for appeals are covered under AS 36.30.625 and AS 36.30.630.

**15.5 Fraud and Misrepresentation in Making Claims**

Criminal and Civil penalties authorized under AS 36.30.687 (including, but not limited to, forfeiture of all claimed amounts) may be imposed on the CONTRACTOR if the CONTRACTOR makes or uses a misrepresentation in support of a claim or defraud or attempt to defraud the DEPARTMENT at any stage of prosecuting a claim under this Contract.

**END OF SECTION**

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**18.3. RESERVED (General Conditions Modified for Design – Build Contracts)**

18.4. Statewide Public Facilities (SWPF) Filing System

**SWPF FILING SYSTEM** (Legal File)

Project Name \_\_\_\_\_

Project Number \_\_\_\_\_

<u>NUMBERS</u>	<u>FILE NAME</u>
<b>GREEN FILE</b>	<b>CLOSE OUT PAPERWORK</b>
<b>000</b>	<b>FISCAL</b>
001	PDA'S – RSA'S/REVISIONS
002	ENCUMBRANCE MEMO'S & RECORD
003	BUDGET & COST CONTROL
004	BOND SALE FILE
005	FISCAL CORRESPONDENCE
006	MISC. INVOICES/OTHER THAN CONSULTANT
<b>010</b>	<b>PROGRAM</b>
011	CIP PACKAGE & PROGRAM
013	PROGRAM CHANGES (Document A/E Scope Changes)
015	LAND/LEASE
<b>020</b>	<b>CONSULTANT AGREEMENT FILE</b>
021	AE SELECTION
	A. ASPS
	B. RFP
	C. Advertisements
	D. Proposals
	E. Committee Evaluation Report
022	PROFESSIONAL SERVICES AGREEMENT
	A. Notice of Intent to Negotiate
	B. Audit
	C. RON
	D. Notice Of Intent to Award
	E. PSA
	F. Insurance Certificates
	G. Amendments
023	NTP'S & INVOICES
024	RELATED CORRESPONDENCE
	PSA WAIVERS
025	EVALUATIONS
026	CONSULTANT CLAIMS
<b>030</b>	<b>DESIGN ADMINISTRATION</b>
031	PROJECT CORRESPONDENCE
	A. Correspondence – In
	B. Correspondence – Out
	C. Memos – In

# **SWPF FILING SYSTEM** (Legal File)

	D. Memos – Out
	E. Transmittals
	F. Directory
032	PROJECT STATUS REPORTS
033	PROJECT SCHEDULE
034	MEETINGS
035	PUBLIC RELATIONS
036	CONSULTANT SUBMITTALS
	A. Program/Concepts
	B. Schematic
	C. Design Development
	D. Construction Document
	E. Cost Estimates
	F. Special Studies/Investigations/Reports
037	ARTWORK
038	UTILITIES
039	IN – HOUSE SPECIFICATIONS
040	DESIGN REVIEW/REGULATORY/APPROVALS
041	DOT & PF TECHNICAL REVIEW COMMENTS
042	CLIENT AGENCY COMMENTS
043	REGULATORY REVIEWS & APPROVALS/PERMITS
050	BID/AWARD
051	BIDDING DOCUMENT ORIGINALS
052	CONFORMED SPECIFICATIONS
060	CONSTRUCTION CLOSEOUT
061	CONTRACT ADMINISTRATION
	A. Schedules
	B. Subcontractors
	C. Certified Payroll
	D. Quality Assurance Reviews/Closeout Documents
	E. Insurance's
	F. Accident Reports/OSHA Reports
	G. Inspections
	H. General Correspondence – IN, OUT or BOTH
	I. Field Questions/RFI's
	J. Request For Proposal (RFP's)
	K. Change Orders
	L. Directives/Interim Work Authorizations (IWA)
	M. Pay Estimates/Schedule of Values
	N. Daily Reports (Logs)
	O. Monthly Status Reports
	P. Claims/Disputes
	Q. Meetings
	R. Photographs Transmittal
	S. Substantial & Final Inspection/Certificate of Occupancy
	T. Badging
	U. Permits

# **SWPF FILING SYSTEM** (Legal File)

## V. Commissioning

062	<b>TOPICAL BY CSI DIVISION (April 2012 Master Format)</b>
	01 00 00 General Requirements
	02 00 00 Existing Conditions
	03 00 00 Concrete
	04 00 00 Masonry
	05 00 00 Metals
	06 00 00 Wood, Plastics, and Composites
	07 00 00 Thermal and Moisture Protection
	08 00 00 Openings
	09 00 00 Finishes
	10 00 00 Specialties
	11 00 00 Equipment
	12 00 00 Furnishings
	13 00 00 Special Construction
	14 00 00 Conveying Equipment
	21 00 00 Fire Suppression
	22 00 00 Plumbing
	23 00 00 Heating, Ventilation and Air Conditioning (HVAC)
	25 00 00 Integrated Automation
	26 00 00 Electrical
	27 00 00 Communications
	28 00 00 Electronic Safety and Security
	31 00 00 Earthwork
	32 00 00 Exterior Improvements
	33 00 00 Utilities
	34 00 00 Transportation
	35 00 00 Waterway and Marine Construction
	40 00 00 Process Integration
	41 00 00 Material Processing and Handling Equipment
	42 00 00 Process Heating, Cooling, and Drying Equipment
	43 00 00 Process Gas and Liquid Handling, Purification, and Storage Equipment
	44 00 00 Pollution and Waste Control Equipment
	45 00 00 Industry-Specific Manufacturing Equipment
	46 00 00 Water and Wastewater Equipment
	48 00 00 Electrical Power Generation
070	<b>OCCUPANCY</b>
071	O & M MANUALS
072	WARRANTIES
073	CORRECTIVE WORK
074	SERVICE CONTRACTS
075	TRAINING
076	RECORD DRAWINGS



18.5. Commissioner Leo von Scheben Memorandum

**MEMORANDUM**

**State of Alaska**

Department of Transportation & Public Facilities  
Office of the Commissioner

TO: John MacKinnon  
Deputy Commissioner

DATE: August 3, 2007

TELEPHONE NO: 465-3901  
TEXT TELEPHONE: 465-3652  
FAX NUMBER: 586-8365



FROM: Leo von Scheben, P.E., L.S., M.B.A.  
Commissioner

SUBJECT: Statewide Facilities

Governor Palin's transition team recommended that state buildings be consolidated as much as possible and their status elevated to one of a division, unit, or entity. This proposal reflects what some other states have found to be the most effective way of managing building and facility assets. It is critical that this department elevate facilities planning, design and construction so that the issues of aging, deteriorating state buildings can be addressed.

I am directing that the Facilities Construction Section be transferred from Central Region to the Commissioner's Office and that the Engineer IV in charge of that organization report to you. This section will then take on the responsibility of department-wide oversight of all building design and construction related activities and act as advocates for department-wide facility needs. I encourage you to review the staffing structure and make a determination on whether changes will be needed. I expect that the new Statewide Facilities Section will continue to receive support from Central Region in such areas as contracts, quality assurance, etc.

This reorganization shall be effective September 1, 2007.

cc: Joel St. Aubin, Engineer/Architect IV, Facilities Construction Section ✓  
Gordon Keith, Central Regional Director  
Malcolm Menzies, Southeast Regional Director  
Steve Titus, Northern Regional Director  
Nancy Slagle, Director, Division of Administrative Services  
Frank Richards, P.E., Statewide M&O Engineer

08-09-07A10:13 RCVD

*"Providing for the movement of people and goods and the delivery of state services."*

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