

Design-Build Documents for:

**Chignik Lagoon DERA Clean Diesel Engine Replacement –
Design/Build Project No. 18008**



Alaska Energy Authority

813 West Northern Lights Blvd., Anchorage, Alaska 99503

Advertising Date: November 9, 2017

TABLE OF CONTENTS

Design Build (DB) - Competitive Sealed Proposals – 3 AAC 109.340(3)

**PROJECT MANUAL FOR: Chignik Lagoon DERA Clean Diesel Engine Replacement – Design/Build
Project No. 18008**

PROPOSAL AND CONTRACT REQUIREMENTS

<u>Section</u>	<u>Color Code</u>
00 02 00 DB Request For Proposals (RFP)	Yellow
00 02 10 DB Submittal Checklist	Yellow
00 02 20 DB Evaluation Criteria	Yellow
00 30 00 DB Proposal Form	Yellow
00 31 00 DB Price Proposal	Yellow
00 31 20 DB Bid Schedule	Yellow
00 41 00 DB Bid Bond	Yellow
00 42 00 Bid Modification, 25D-16	Yellow
00 51 00 Standard Form of Agreement between Owner and Design Builder	Yellow
00 61 00 Performance Bond, 25D-13	Yellow
00 62 00 Payment Bond, 25D-12	Yellow
00 83 00 <u>State Wage Rates</u> State wage rates can be obtained at http://www.labor.state.ak.us/lss/pamp600.htm . Use the State wage rates that are in effect 10 days before Proposal Due Date. The Department will include a paper copy of the State wage rates in the signed Contract.	
00 85 00 <u>Federal Wage Rates</u> Federal wage rates can be obtained at http://www.wdol.gov/dba.aspx#0 for the State of Alaska. Use the federal wage rates that are in effect 10 days before bid opening.	
00 92 00 General Conditions	White
00 95 00 Federal Conditions	White
00 96 00 DERA Clean Diesel Grant Program Information Guide	White
00 97 00 Contract Definitions	White
DIVISION 01	
01 10 00 Program of Facility Requirements	White
01 10 50 Design and Construction Procedures	White
01 12 19 Contractor's Certification of Subcontracts	White
01 20 00 Construction Project Meetings	White
01 26 00 Change Order Procedures	White
01 29 00 Applications for Payment	White
01 32 00 Work Schedules and Reports	White
01 33 00 Submittals	White
01 37 00 Schedule of Values	White
01 41 00 Work Coordination	White
01 50 00 Construction Facilities and Temporary Controls	White
01 60 00 Materials and Equipment	White
01 73 10 Cutting and Patching	White
01 73 32 Selective Demolition	White
01 77 00 Contract Closeout Procedures	White

End of Table of Contents



DESIGN BUILD (DB) REQUEST FOR PROPOSALS (RFP)

Competitive Sealed Proposals - Design Build - 3 AAC 109.340(3)

ISSUING OFFICE

Agency Contact (Technical Issues).....	: Alan Fetters, Project Manager, afetters@aidea.org(cc:rwooten@aidea.org)
.....	:
Agency Contact (Proposal Procedures)	: Rich Wooten, CDT, CPSM, Contracting Officer, rwooten@aidea.org
Contracting Agency	: Alaska Energy Authority (AEA)

PROJECT

**Project: Chignik Lagoon DERA Clean Diesel Engine Replacement –
Design/Build**

Project No. : 18008

Project Site (City, Village, etc.): **Chignik Lagoon, Alaska**

Contract Description: This contract requires the contractor to provide the necessary design and installation of a new diesel engine into the existing switchgear, fuel, exhaust, and cooling systems.

SCHEDULE & PRICE

Anticipated period for performance-Begin/End: December 2017 – December 2018

Anticipated NTP Date: Substantial Completion Date: Completion Date: May 31, 2018 / June 30, 2018

<u>Estimated amount of proposed contract:</u>	<input checked="" type="checkbox"/> Not exceeding \$200,000	<input type="checkbox"/> \$200,000 to \$300,000
<input type="checkbox"/> \$300,000 to \$600,000	<input type="checkbox"/> \$600,000 to \$1,500,000	<input type="checkbox"/> \$1,500,000 to \$3,000,000
<input type="checkbox"/> \$3,000,000 to \$5,000,000	<input type="checkbox"/> \$5,000,000 or greater	

<u>Proposed Method(s) of Payment:</u>	<input checked="" type="checkbox"/> Firm Fixed Price (FFP)	<input type="checkbox"/> Cost Plus Fixed Fee (CPFF)
<input type="checkbox"/> Fixed Price Plus Expenses (FPPE)	<input type="checkbox"/> Other:	

SUBMITTAL DEADLINE AND LOCATION

*OFFERORS ARE RESPONSIBLE TO ASSURE DELIVERY PRIOR TO DEADLINE (2 AAC 12.250).
ONLY PROPOSALS RECEIVED PRIOR TO THE FOLLOWING DATE AND TIME WILL BE OPENED.*

DATE: November 30, 2017 PREVAILING TIME: 2:00 P.M.
DELIVER DIRECTLY TO FOLLOWING LOCATION (and person, if named):

AEA
813 West Northern Lights Blvd.
Anchorage, Alaska 99503

IMPORTANT NOTICE: If you downloaded this solicitation from the AIDEA's Website, you must register on the online planholders list to receive subsequent addenda. Failure to register may adversely affect your proposal. It is the Offeror's responsibility to ensure that they have received all addenda affecting this RFP. To register, go to www.AIDEA.org and provide the project name & number, company name & contact person, address, phone number & fax number.

SELECTION PROCEDURE

1. The provisions of 2 AAC 12.931 – 2 AAC 12.949 set out requirements for the procurement and administration under AS 36.30.200 (c) of design build construction contracts.
2. Technical and Price proposals will be solicited from all offerors. Offerors will respond to a Design Criteria Package with separate technical and price proposals. Technical Proposals are evaluated first using a numerical points system (reference Section 00 02 20). Price Proposals are then opened and prices are figured into the points system to determine the final selection.
 - 2.1 Price Proposals will be separated from Offerors responses to other criteria, if not already done by the Offerors, and not examined until after all other criteria are evaluated.
3. Scoring of proposals will be accomplished as follows:
 - 3.1 Each Evaluator will individually read and rate Offeror's response to each criterion except price proposal. Ratings will be based solely on contents of proposals. Except as may be stated within any criterion description, a rating of "5" indicates the most responsive; ratings of "4-1" indicate progressively less responsiveness; and a rating of "0" indicates Non-responsive. Tie scores are permissible for evaluation criteria addressing schedule and design. Ratings are multiplied by the assigned weights for each criterion to obtain criterion scores.
 - 3.2 After completion of individual ratings, the Evaluation Committee will meet to discuss proposals. Evaluators may then alter their ratings however, any changes shall be based solely on the Evaluation Criteria set forth in the Project Manual. Additional criteria may not be considered. (2 AAC 12.260(b)).
 - 3.3 DESIGN BUILD TECHNICAL AND PRICE PROPOSALS SHALL NOT BE DISCLOSED TO THE PUBLIC OR TO COMPETING OFFERORS UNTIL AFTER A NOTICE OF INTENT TO AWARD IS ISSUED (see paragraph 7, below).
4. Evaluators may discuss factual knowledge of, and may investigate Offerors' and proposed Subcontractors' prior work experience and performance, including projects referenced in proposal, available written evaluations, etcetera, and may contact listed references or other persons knowledgeable of a Contractor's and/or a Subcontractor's past performance. Factors such as overall experience relative to the proposed contract, quality of work, control of cost, and ability to meet schedules may be addressed. If any issues of significant concern to the proposed contract are discovered, the Committee may:
 - 4.1 Provide written recommendations for consideration prior to contract award;
 - 4.2 Recommend suspension of the Offeror from consideration for award of the contract if there is probable cause for debarment (AS 36.30.635); or
 - 4.3 Conduct discussions in accordance with paragraph 5, below.
5. The Committee may decide to conduct discussions (or "interviews") with responsible Offerors whose proposals are determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements (AS 36.30.240 & 2 AAC 12.290). After discussions, Evaluators will determine the final scoring and ranking for award by evaluating written and oral responses using only the Evaluation Criteria set forth in the Project Manual. Additional criteria may not be considered. (2 AAC 12.260(b)).
6. N/A
7. All Offerors will be advised of the Offeror selected for award after completion of the evaluation process. A Notice of Intent to Award will be provided to all Offerors.

NOTICES

COPIES

1. Copies of this Design Build Project Manual (including Proposal and Contract Requirements, Program Criteria and Design Criteria) are available for review and may be purchased for a fee at the following address:

ADDITIONAL INFORMATION

2. The following items which may assist Offerors in preparing proposals are available to Offerors in electronic format on the AIDEA FTP site at <ftp://ftp.aidea.org/RPSU/ChignikLagoon/>

The Contractor shall be responsible for all permitting associated with this project.

PRE-PROPOSAL CONFERENCE

3. No site visit has been scheduled during the advertising period. Contact Rebecca Garrett at 771-3042 for more information if a site visit is desired.

ADDENDA

4. Every effort will be made by the Contracting Agency to insure that Offerors receive all addenda when issued. Addenda will be issued to the individuals and companies to whom the Project Manual was issued. Addenda may be issued by any reasonable method such as hand delivery, mail, email, telefacsimile, and courier and in special circumstances by phone. Addenda will be issued to the address, email address, telefacsimile number or phone number as stated on the planholder's list unless picked up in person or included with the Project Manual. It is the Offeror's responsibility to insure receipt of all addenda. No claim or protest will be allowed based on the Offeror's allegation that the Offeror did not receive all of the addenda.

TECHNICAL QUESTIONS

5. All questions relating to design features, constructability, quantities, or other technical aspects of the project and any requests to view the project should be directed to the Agency Project Manager and Contracting Officer cited under "Issuing Office" on page 1 of this RFP. All questions shall be submitted 72 hours before the proposal due date, any questions received after may be disregarded.

PROCEDURAL QUESTIONS

6. All questions concerning proposal procedures should be directed to the Contracting Officer cited under "Issuing Office" on page 1 of this RFP.

COST INCURRED PRIOR TO CONTRACT

7. Offerors are specifically advised that a contract shall not be in effect until a written agreement is executed by an authorized agent of the Contracting Agency. The Contracting Agency shall not be liable for any cost incurred by an Offeror in response to this solicitation, including any work done, even in good faith, prior to execution of a contract and issue of a Notice to Proceed.

CONFLICT OF INTEREST

8. The Contracting Agency may preclude or disqualify a Prospective Proposer from participation in the Contract if the Prospective Proposer is deemed to have an unfair competitive advantage or a conflict of interest as stated in 2 AAC 12.935 (e) and (f). The Prospective Proposer, including all Entities in the Prospective Proposer's organization, shall voluntarily disclose to the Contracting Agency, in writing, any factors that may provide it with an unfair competitive advantage and/or potential or actual conflict of interest. Requests for clarification on this issue shall be made in writing to the Contracting Agency more than 10 days prior to the submittal deadline for Proposals.

LICENSING

9. Prospective Proposers shall possess an Alaska business license prior to award. Prospective Proposers shall also be registered as a general contractor in accordance with AS 08.18 and 12 AAC 21 prior to award, or licensed as an architect or engineer in accordance with AS 08.48 and 12 AAC 36. Both professional licensing and contractor registration will be required for the appropriate entities and members of the Design-Builder's Project Team in accordance with Section 00 30 00. Prospective Proposers may contact the Alaska Department of Community and

BID SECURITY

10. All Proposals shall be accompanied by a Bid Security in the amount of 5% of the Proposed Price. The Bid Security shall be in the form of an acceptable Bid Bond (section 00 41 00), or a certified check, cashier's check or money order made payable to the State of Alaska. Bid Bonds must be accompanied by a legible Power of Attorney. The surety of a Bid Bond may be any corporation or partnership authorized to do business in Alaska as an insurer under AS 21.09. Telegraphic or telefacsimile notification of execution of a Bid Bond does not meet the requirements of Bid Security accompanying the Proposal. An individual surety will not be accepted as a Bid Security. Bid Securities, other than Bid Bonds, will be returned to all Offerors, except for the two highest scored proposals, as soon as practicable. The Bid Security of the two highest scored proposals will be returned immediately after the contract has been awarded. If all proposals are rejected, all Bid Securities will be returned as soon as practicable.

PROPRIETARY INFORMATION

11. Offerors should not include proprietary information in proposals if such information should not be disclosed to the public. Any language within a submittal purporting to render all or portions of a proposal confidential will be disregarded. Proprietary information which may be provided after selection for contract negotiations will be confidential if expressly agreed to by the Contracting Agency (AS 36.30.230).

MINOR INFORMALITIES

12. The Contracting Agency expressly reserves the right to waive minor informalities, negotiate changes or reject any and all proposals and to not award the proposed contract, if in its best interest. "Minor Informalities" means matters of form rather than substance which are evident from the submittal, or are insignificant matters that have a negligible effect on price, quantity, quality, delivery, or contractual conditions and can be waived or corrected without prejudice to other Offerors (2 AAC 12.990).

RECEIPT AND OPENING OF PROPOSALS

13. All proposals, including any amendment or withdrawal must be received by the Contracting Agency prior to the scheduled time for submitting proposals. Any proposal, amendment, or withdrawal which has not been actually received by the Contracting Agency prior to the scheduled time for submitting proposals will not be considered. No responsibility will be attached to any officer or employee of the Contracting Agency for the premature opening of, or failure to open, a proposal improperly delivered, addressed or identified.

Design Build Proposals are not publicly opened because they are obtained under Alaska statutes and regulations regarding Competitive Sealed Proposals (vs Bids). Proposals are therefore not available for public inspection until after a Notice of Intent to AWARD is issued (AS 36.30.230). Proposals will be evaluated as described in the RFP under "Selection Procedure." The ranking of Offerors will be made available to the public in a Notice of Intent to AWARD as soon as practicable.

Until award of the contract, the Contracting Agency reserves the right to reject any or all proposals, to waive technicalities or to advertise for new proposals without liability against the Contracting Agency, if in the judgment of the awarding authority the best interests of the Contracting Agency will be promoted thereby.

Submitted design plans and/or design concepts become the property of the Contracting Agency.

DISQUALIFICATION OF OFFERORS

14. Either of the following reasons may be considered as being sufficient for the disqualification of an Offeror:
 - * More than one proposal for the same work from an individual, firm, or corporation under the same or different name. [A party who has quoted prices to an Offeror is not thereby disqualified from quoting prices to other Offerors or from submitting a proposal directly for the project.]
 - * Evidence of collusion among Offerors. Participants in such collusion will receive no recognition as Offerors for any future work of the Contracting Agency until any such participant shall have been reinstated as a qualified Offeror.

REJECTION OF PROPOSALS

15. The Contracting Agency reserves the right to reject any and all proposals when such rejection is in the best interest

of the State; to reject the proposal of an Offeror who has previously failed to perform properly, or complete on time, contracts of a similar nature; to reject the proposal of an Offeror who is not, in the opinion of the Contracting Officer, in a position to perform the contract; and to reject a proposal as nonresponsive where the Offeror fails to furnish the required documents, fails to complete required documents in the manner directed, or makes unauthorized alterations to proposal documents.

NON-RESPONSIVE PROPOSALS

16. Proposals may be considered non-responsive and may be rejected for the following reasons:
- * If the proposal is on a form other than that furnished by the Contracting Agency, or copies thereof; or if the form is altered or any part thereof is detached; or if the proposal is improperly signed.
 - * If there are unauthorized additions, conditional or alternative proposals, or irregularities of any kind which may tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning.
 - * If the Offeror adds any provisions reserving the right to accept or reject any award, or to enter into a contract pursuant to an award. This does not exclude a proposal limiting the maximum gross amount of awards acceptable to any one Offeror at any one time, provided that any selection of awards will be made by the Contracting Agency.
 - * If the proposal does not contain a unit price for each pay item listed, except in the case of authorized alternate pay items.
 - * If the Offeror has not acknowledged receipt of each addendum by its assigned number and date of issue.
 - * If the Offeror fails to furnish an acceptable Bid Security with the proposal.
 - * If any of the alternate prices proposed are excessively unbalanced (either above or below the amount of a reasonable proposals) to the potential detriment of the Contracting Agency.
 - * If the Offeror fails to specifically name in their Technical Proposal, any of the required Design-Build team individuals who will be "in responsible charge" for performance of Architectural, Engineering, and/or Land Surveying disciplines as may be required by this solicitation and listed in Criterion 2 of Section 00 02 20.

TAXES

17. If it is discovered that a Prequalified Proposer is in arrears on taxes due to the State, a Contract may not be awarded until the Alaska Department of Revenue approves the payment provisions for the Contract.

DOCUMENTS FROM SUCCESSFUL OFFEROR PRIOR TO AWARD

18. Prior to award, the successful Offeror must complete and submit the following documents and such other documents as may be specified in the Intent to Award letter:

<u>Section</u>	<u>Form</u>
00 51 00	Standard Form of Agreement between Owner and Design Builder
00 61 00	Performance Bond (25D-13)
00 62 00	Payment Bond (25D-12).

CHANGES

19. The successful Offeror may make no change to elements of its organization except upon prior written approval of the Contracting Agency.

PER DIEM

20. Alaska State law requires payment of food and lodging or per diem payments to some classes of workers stationed away from their hometown. Proposers may contact the Alaska Department of Labor at telephone number (907) 465-4842 or at Internet address <http://www.labor.state.ak.us/lss/whhome.htm> for information.

AWARD AND EXECUTION OF CONTRACT

21. All Offerors will be notified of the Contracting Agency's Intent to Award the contract and the successful Offeror will be

requested to execute certain documents, including the Contract form and bonds.

The Offeror may be requested by the Contracting Agency to submit a statement of facts, in detail, as to previous experience in performing comparable work, business and technical organization, financial resources, and plant available to be used in performing the contemplated work.

Offerors and proposed subcontractors must be in compliance with statutory requirements for Alaska licensing.

If it is discovered that a selected Offeror is in arrears on taxes due the State of Alaska, a contract may not be awarded until the Alaska Department of Revenue approves the payment provisions for the contract.

The contract form and all other required documents shall be executed by the successful Offeror and returned to the Contracting Agency within the time frame specified in the Intent to Award Letter.

The Letter of Award, if the contract is to be awarded, will be issued to the highest scored Offeror generally as soon as practicable.

No contract shall be considered as effective until it has been fully executed by all of the parties thereto.

FAILURE TO EXECUTE CONTRACT

22. Failure of the successful Offeror to appropriately execute and return the contract form and other documents within 15 days after receipt from the Contracting Agency, will be just cause for the annulment of the award and the forfeiture of the Bid Security to the Contracting Agency, for damages sustained. Award may then be made to the next highest scored responsive and qualified Offeror, or the work may be readvertised.

If the contract is not executed by the Contracting Agency within 15 days following receipt from the Offeror of all required documents appropriately executed for the award of the contract, the Offeror shall have the right to withdraw its proposal without penalty.

PROTEST PROCEDURES

23. An interested party, as defined in AS 36.30.699, may protest this RFP. Protests based on alleged improprieties or ambiguities in the RFP must be filed at least 10 days prior to the submittal deadline. Protests must be submitted in writing to the Contracting Officer and shall be governed by the terms of AS 36.30.560 - 615.

EQUAL EMPLOYMENT OPPORTUNITY

24. The Contracting Agency is an equal opportunity employer.

STIPEND

25. There is no stipend available to proposers.

PRECLUSION OF CONTRACTORS

26. The Authority shall preclude or disqualify a design-builder or member of the design-build team from participation in a design-build construction contract if the procurement officer determines that the design-builder or design-build team member has an unfair competitive advantage or a conflict of interest.

A consultant or subconsultant to the agency may not be allowed to participate in a project in other than a consultant or subconsultant capacity unless the procurement officer determines that (1) the role of the consultant or subconsultant(A) was limited to provision of preliminary design, reports, or similar low-level documents that will be incorporated in to the request for proposals; and(B) did not include assistance in the development of instructions to offerors, qualification factors, performance criteria, or other evaluation criteria; or (2) each document or report that the consultant or subconsultant delivered to the agency is made available to all offerors.

With or without a request from the agency, a design-builder, or a member of the design-build team, must promptly disclose to the agency, in writing, any factor that may provide an unfair competitive advantage or potential or actual conflict of interest for the design-builder or design-build team member.

DESIGN BUILD (DB) SUBMITTAL CHECKLIST

Design Build (DB) - Competitive Sealed Proposals - 3 AAC 109.340(3)

**Project: Chignik Lagoon DERA Clean Diesel Engine Replacement –
Design/Build**

Project No. : 18008

EXAMINATION OF WORK SITE AND PROJECT MANUAL

- [] 1. Offerors are expected to examine carefully the site of the proposed work and the Project Manual before submitting a proposal. The submission of a proposal shall be considered prima facie evidence that the Offeror has made such examination and is satisfied as to the conditions to be encountered in performing the work and as to the requirements of the Contract Documents.

PREPARATION OF PROPOSAL

- [] 2. Offerors must carefully review the Project Manual for defects and questionable material and become familiar with submittal requirements before preparing proposals. Any explanation desired by Offerors regarding the meaning or interpretation of any of the project documents provided by the Contracting Agency must be requested in writing to the address shown under "Submittal Deadline and Location" on page 1 of the Design Build Request for Proposals (DB RFP). Substantive issues will be addressed in an addendum to all recipients on record as receiving the Project Manual. Oral explanations or instructions given before the award of the contract will not be binding. Failure to comply with directions will result in lower score and may eliminate a submittal from consideration. **Protests based upon any omission, error or content of this solicitation may be disallowed at the discretion of the contracting agency if the protest is not received in writing at least ten agency work days prior to the submittal deadline (2 AAC 12.615(a)).**
- [] 3. Review all parts of the Project Manual, and then focus on the following documents: RFP, this Submittal Checklist, Evaluation Criteria, and the Proposal Form.
- [] 4. Review the Evaluation Criteria. Read the criteria in each section in light of the proposed project as portrayed in the Project Manual. Be aware of the assigned weight for each criterion. Plan your proposal to address the applicable criteria. All criteria Responses shall not exceed the number of pages stated below.
- [] 5. Prepare a distinct Response for each criterion. Failure to respond directly to any criteria will result in an evaluation score of zero for that criterion. Acceptable Responses must be specific and directly related to the proposed project. Marketing brochures and photographs, federal standard forms 254 and 255, and other non-project specific materials will be discarded without evaluation and should not be submitted.
- [] 6. **Each criterion Response must be titled, numbered and assembled in the order in which the criteria are listed in Section 00 02 20**, so the criterion to which information applies shall be plainly evident. Material not so identified or assembled may be discarded without evaluation. Responses shall be presented on 8 ½" X 11" paper, except for a minimal number of larger sheets (e.g. 11"x17") that may be used for drawings & schedules if they are folded to 8½" x 11" size. **CAUTION:** small print or typeface that is difficult to read will negatively influence evaluation of your submittal.
- [] 7. Complete all entries on the DB Proposal Form, Section 00 30 00. Note the statutory requirements for Alaska Licenses and be sure to sign and date the Certification.
- [] 8. Attach criteria Responses (**EXCEPT PRICE PROPOSAL**) to the DB Proposal Form. The maximum number of attached pages including any design drawings (each printed side equals one page) for criteria Responses shall not exceed: **10 Pages.**

Page limit does not include the two page DB Proposal form or the DB Price Proposal, requested submittals (Section 00 02 20, Criteria 4), Bid Schedule, and Bid Bond documents. **CAUTION:** Criteria Responses, which exceed the maximum page limit or otherwise do not meet requirements stated herein, may result in disqualification.

PRICE PROPOSAL

- [] 9. Review the DB: Price Proposal, Bid Schedule, and Bid Bond documents. Prepare a PRICE PROPOSAL for all design, labor, subcontracts, equipment, expenses, etc., in compliance with the Project Manual. Complete the three documents on the forms furnished, or copies thereof.
- [] 9.1 The Bid Schedule will provide for quotation of a price or prices for one or more contract items which may include unit price or lump sum items and alternative, optional or supplemental price schedules or a combination thereof which will result in a total proposed price for the work. When an item in the Bid Schedule contains a choice to be made by the Offeror, the Offeror shall indicate his choice in accordance with the specifications for that particular item, and no further choice will be permitted.
- [] 9.2 Where required, Offerors must quote on all items and THEY ARE WARNED that failure to do so will disqualify them. When quotations on all items are not required, Offerors should insert the words "no bid" in the space provided for any item not requiring a quotation and for which no quotation is made.
- [] 9.3 On unit price contracts Offerors shall also show the products of the respective unit prices and quantities written in figures in the column provided for the purpose and the total amount of the proposal obtained by adding the amounts of the several items. All the words and figures shall be in ink or typed.
- [] 9.4 When provided within the supplements to the bid schedule Offerors shall specify Alaska Bidder to their proposal. All entries made by Offerors and designating applicable preferences must conform to the requirements of AS 36.30 and the instructions on the forms to warrant consideration.
- [] 9.5 Neither conditional nor alternative bids will be considered unless called for.
- [] 9.6 Unless specifically called for, telegraphic or telefacsimile bids will not be considered.
- [] 9.7 The Price Proposal must be signed with ink. If the Offeror is a corporation, the proposal shall be signed by an individual having authority to sign the contract. If the Offeror is a partnership, the proposal shall be signed by any authorized member of the partnership. If the Offeror is a sole proprietorship, the proposal shall be signed by the owner. Any erasure or change on the Price Proposal or Bid Schedule must be initialed by the person signing the proposal.

ACKNOWLEDGEMENT OF ADDENDA

- [] 10. The Proposal Form provides for acknowledgement individually of all Addenda to the Project Manual. All addenda shall be acknowledged on the Proposal Form or by email prior to the scheduled time for submittal of proposals. If no addenda are received, the word "None" should be shown as specified.

REQUIRED DOCUMENTS

- [] 11. Submittals shall consist of the following applicable items assembled as follows and in the order listed. Proposals will not be considered if documents are not completely filled out. Telegraphic or telefacsimile submittals are NOT acceptable.
- [] 11.1 Five (5) copies plus one copy provided via electronic file on a flash drive of DB Proposal Form (at least one copy with original signature) with responses to all Evaluation Criteria **[EXCEPT PRICE PROPOSAL]** attached. Each copy shall be fastened with one staple in the upper left corner. No other form of binding shall be used and no cover and no transmittal letter other than the DB Proposal Form will be included. CAUTION: Failure to comply with this instruction will negatively influence evaluation of Submittal.
- [] 11.2 **One copy** of the DB Price Proposal, with the DB Bid Schedule and DB Bid Bond attached, with one staple in the upper left corner. The Price Proposal, Bid Schedule and Bid Bond shall be enclosed together in a separate sealed envelope marked on the outside to identify it as **PRICE PROPOSAL** and with the names of the Project and Offeror.

DO NOT place the Design Build (DB) Proposal Form (Section 00 30 00) in the sealed price proposal envelope.

- [] 11.3 **CAUTION:** If you replicate (other than by photocopy) any form in the Project Manual in lieu of filling out forms provided by the Contracting Agency, provide a signed certification that lists such forms and attests that they are exact replicas of that issued by the Contracting Agency. Changed forms may result in rejection at the Contracting

Agency's discretion. Any alteration may be cause for rejection without recourse.

DELIVERY

- [] 12. Deliver **submittals in one sealed package** to the location and before the submittal deadline cited on page 1 of the DB Request for Proposal. Do not include in the package any proposals or bids for other projects. **Mark the outside of the package** to identify the Project and the Offeror. Proposals must be received prior to the specified date and time. Late proposals will not be opened (2 AAC 12.250).

WITHDRAWAL OR REVISION OF BIDS

- [] 13. A Offeror may withdraw or revise a proposal after it has been delivered to the Contracting Agency, provided that the request for such withdrawal or revision is received by the designated office, in writing, or by telefacsimile, before the time set for submittal of proposals. If the Price Proposal is to be changed, the telefacsimile modifications shall include both the modification of the unit bid price and the total modification of each item modified, but shall not reveal the amount of the total original or revised Price Proposal.

DESIGN BUILD EVALUATION CRITERIA

Design Build (DB) - Competitive Sealed Proposals – 3 AAC 109.340(3)

1. Prime Contractor

1. Weight: 15

Response must describe the history and experience of the firm and the current principals. How long has the firm been in business? How long under the current management? Describe the firm's **experience with Design Build projects** on which the prime contractor performed a lead role. Describe the firm's **experience with Rural Power System related projects**. Discuss other ongoing work which may have relevance to this project. How much work does the firm perform on an annual basis? How long has the firm been established in Alaska?

Address the design-builder's safety record, to include safety and drug-testing policies and programs. Address quality control and quality assurance policies and programs to be employed on this project.

Identify any **distinct and substantive qualifications** for undertaking the proposed contract such as the availability of specialized equipment, technical resources and information technology, as well as unique approaches or concepts relevant to the project.

Address capacity to bond the entirety of the Contract. Address any arrangements you have made to finance the work. Has the firm ever failed to complete a contract due to insufficient resources?

2. Design Build Team (Prime and Subcontractors)

2. Weight: 20

Response must name all the firms to participate in the contract and define areas of responsibility that apply including, but not limited to, the following:

- a) General Contractor
- b) Mechanical/Electrical Engineering
- c) Civil Engineering
- d) Mechanical Subcontractor
- e) Project Manager
- f) Other Major Suppliers/Subcontractors

*Response must name all individuals to be "in responsible charge" for performance of Engineering and Construction plus any other key functions, and other key individuals you deem essential to perform the contract. Caution – all individuals "in responsible charge" must be identified (See Section 00 02 00 Notice 16).

Describe the work to be performed by the individuals you name and detail their specific qualifications and substantive **experience directly related to the proposed contract**. A response prepared specifically for this proposal is required. Provide a detailed narrative that demonstrates specific knowledge and or experience with projects similar to cordwood boiler district heating systems. Marketing resumes often include non-relevant information which may detract from the evaluation of proposals and should be limited to one page per team member. Lists of projects are not useful. Focus on individual's specific duties and responsibilities and how project experience is relevant to the proposed contract.

For each person named, identify their: employer, professional discipline or job classification, professional registration number if applicable, and state of residency. List at least 3 professional references (contact persons and telephone numbers) for each person.

Discuss any prior work relationships among the firms - in particular, Design-Build and/or Biomass projects. Discuss each firm's particular responsibilities for prior contracts that were similar to the work proposed in the RFP. Indicate which of the firms were involved in such contracts. For each contract, list the contracting entity and a reference (contact person and a telephone number).

Specifically for the Project Manager, address the following:

- 1) Response must name the one individual "in responsible charge" to perform daily project management (single point-of-contact directly engaged in contract performance).
- 2) Experience in Management of design/build projects of the type described in the RFP.
- 3) Knowledge of the Contracting Agency's construction management, engineering, and inspection policies and procedures.
- 4) List recent projects managed including employer, project name, location, client/owner, project value, and proposed **Project Manager's role** on the management team for each project. Provide a reference name and phone number.

3. Project Schedule and Management Plan

3. Weight: 5

The scheduled work should be broken into 3 phases: 1) Design, 2) Construction, 3) commission/closeout. The Contracting Agency anticipates design work be concluded in January 2018. The Construction phase should begin in February 2018, with the majority of tasks occurring during the March-April of 2018. The final deliverables should be completed by June 30, 2018. The design-builder will need to coordinate with the Agency at all times. Address your team's projected workload during the scheduled time for this project. Provide a Project Schedule which shows how your team will achieve (or beat) this schedule and address major project components including:

- a) Design, Approvals and Permitting
- b) Materials procurement and delivery
- c) Site preparation and construction
- d) Phasing of Construction
- e) Inspections by design professionals
- f) Substantial and Final Completion

The most specific schedule is desired (dates in lieu of time blocks, time blocks in lieu of ranges etc.)

Discuss your proposed management plan and indicate the following:

- a) Organization structure, chain of command, decision authority, and communications.
- b) Construction approach including: logistics, use of local labor, etc.
- c) Procedure for solving problems on the project.

4. Design Narratives

4. Weight: 10

Response must demonstrate knowledge of project requirements. Provide a design narrative for each design discipline, describing the various proposed building systems, e.g. mechanical, civil, etc. Include – but do not limit discussion to – quality of proposed envelope systems to be installed, including quality of materials, durability, serviceability and length of warranty. Define your approach to the problem and to proposed solutions based on the minimum requirements listed in Section 01 10 00 - Program of Facility Requirements.

6. Price Proposal**6. Weight: 50**

Provide a Price Proposal (as instructed by the Submittal Checklist) for all design, labor, subcontracts, equipment, expenses, etc., in compliance with the RFP. Submit a completed DB Price Proposals (Section 003100), the Bid Schedule (Section 003120), and Bid Bond (Section 004100.)

The Price Proposal score will be calculated as follows:

$$\text{Criterion Score} = \frac{(\text{Lowest Total Basic Bid Price} \times \text{MPP})}{\text{Offeror's Total Basic Bid Price}}$$

Wherein: For the purpose of scoring, the Total Basic Bid Price will be the Total Basic Bid as stated on the Bid Schedule, and:

The MPP (Maximum Possible Points) will equal (5) x (# of Evaluators) x (Weight assigned to Criterion).

CAUTION – Funding is limited for this project. Price Proposals that exceed **\$171,000** for the Total Bid (line a. on the Bid Schedule) MAY be considered non-responsive.

DESIGN BUILD (DB) PROPOSAL FORM

Competitive Sealed Proposals - Design Build (DB) - 3 AAC 109.340(3)

THIS FORM MUST BE THE FIRST PAGE OF EACH COPY OF PROPOSAL. Attach criteria responses as explained in the Submittal Checklist. **No transmittal letter or cover sheet will be used.**

Project: **Chignik Lagoon DERA Clean Diesel Engine Replacement – Design/Build**

Project: **18008**

OFFEROR (PRIME CONTRACTOR)

Contractor :	
Street :	
P.O. Box :	
City, State, Zip :	
Alaska Business License Number :	
General Contractor Registration No. :	
Federal Tax Identification No. :	
Individual(s) to sign contract :	
Title(s) :	
Type of business enterprise (check one) : <input type="checkbox"/> Corporation in the state of	
<input type="checkbox"/> Individual	<input type="checkbox"/> Partnership..... <input type="checkbox"/> Other(specify)

PROPOSED SUBCONTRACTOR(S)

Subcontractor	AK Business License No.	Contractor Registration No.

ACKNOWLEDGEMENT OF ADDENDA

The undersigned acknowledges receipt of the following addenda to the RFP (give number and date of each).

<u>Addenda</u>	<u>Date Issued</u>	<u>Addenda</u>	<u>Date Issued</u>	<u>Addenda</u>	<u>Date Issued</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

CERTIFICATIONS

I certify: that I am a duly authorized representative of the Contractor; that this Submittal accurately represents capabilities of the Contractor and Subcontractors identified herein for providing the services indicated; and, that the requirements of the Certifications on page 2 of this form for: 1) Alaska Licenses/Registrations, 2) Insurance, 3) Cost and Pricing Data, and 4) Covenant Against Contingent fees - will be complied with in full. These Certifications are material representations of fact upon which reliance will be placed if the proposed contract is awarded. Failure to comply with these Certifications is a fraudulent act. The Contracting Agency is hereby authorized to request any entity identified in this proposal to furnish information deemed necessary to verify the reputation and capabilities of the Contractor and Subcontractors. The undersigned declares, under penalty of perjury under the laws of the United States, that neither he nor the firm, association or corporation of which he is a member, a Offerer on this project has, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competition in connection with this proposal. This proposal is valid for at least ninety days.

Signature: _____

Name: _____ Date : _____

Title: _____ Telephone(voice/fax)..... : _____

CERTIFICATION FOR ALASKA BUSINESS LICENSES/REGISTRATIONS

Contractor and all Subcontractors shall comply with the following applicable requirements of Alaska Statutes prior to contract award unless otherwise noted:

1. **Alaska Business License** (Form 08-070 issued under AS 43.70) for the Prospective Proposer prior to contract award. Required for Construction Subcontractors prior to award of subcontract.
2. **Certificate of Registration** (Form 08-2407) as required by AS 08.18.011 for Construction Contractors, including General Contractors, Specialty Contractors (AS 08.18.024), Residential Contractors (AS 08.18.025), Electrical Contractors (AS 08.18.026), and Mechanical Contractors (AS 08.18.028). Required for the Prospective Proposer prior to contract award. Required for Construction Subcontractors prior to award of subcontract.
3. **Certificate of Registration** for each individual to be in "responsible charge" (AS 08.48.341(14)) for Architecture, Engineering or Land Surveying (Form 08-2407 issued under AS 08.48.211) issued prior to submittal of proposal. Associates, consultants, or specialists under the supervision of a registered individual in "responsible charge" are exempt from registration requirements (AS 08.48.331).
4. **Certificate of Authorization for Corporate Practice** for incorporated Contractors and incorporated Subcontractors for Architecture, Engineering or Land Surveying (Form 08-2407 issued under AS 08.48.241). Corporations offering to provide Architectural, Engineering or Land Surveying services do not need to be registered for such disciplines at the time proposal is submitted provided they obtain corporate registration before contract award (AS 08.48.241).
5. **Certificate of Incorporation** (Alaska firms) or **Certificate of Authorization for Foreign Firm** ("Out-Of-State" firms). All corporations, regardless of type of services provided, must have one of the certificates (AS 10.06.218 and other sections of Title 10.06 - Alaska Corporations Code).
6. **Current Board of Director's Resolution** for incorporated Contractors and incorporated Subcontractors for Architecture, Engineering or Land Surveying (reference AS 08.48.241) which names the person(s) designated in "responsible charge" for each discipline. Such persons shall be licensed in Alaska and shall participate as project staff in the Contract/Subcontracts.
7. **All partners** in a Partnership to provide Architectural, Engineering, or Land Surveying **must be legally registered in Alaska** prior to submittal of proposal for at least one of those disciplines (AS 08.48.251) which the Partnership offers.
8. **Partnerships and Joint Ventures**, regardless of type of services provided, must be licensed/registered in the legal name of the Partnership or Joint Venture as used in this proposal (AS 43.70.020 and 43.70.110(4)).

CERTIFICATION FOR INSURANCE

Contractor will ensure that it and all Subcontractors have insurance coverage to effectuate the requirements of General Conditions of the Construction Contract for Buildings, Article 5 - Bonds, Insurance and Indemnification.

CERTIFICATION - COST AND PRICING DATA

In accordance with AS 36.30.400, any cost and pricing data submitted herewith, or in any future price proposals for the proposed contract, will be accurate, complete and current as of the date submitted and will continue to be accurate and complete during the performance of the contract, if awarded.

COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that he has not employed any person to solicit or secure this contract upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Contracting Agency the right to annul the contract, or, at its discretion, to deduct from the contract price, the amount of such commission, percentage, brokerage, or contingent fee. This warranty shall not apply to commissions payable by the Contractor upon contracts or sales secured or made through bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

DESIGN BUILD (DB) PRICE PROPOSAL

Competitive Sealed Proposals - Design Build - 3 AAC 109.340(3)

**Project: Chignik Lagoon DERA Clean Diesel Engine Replacement –
Design/Build**

Project No. : 18008

Price Proposal of : _____

Address : _____

To the CONTRACTING OFFICER of the ALASKA ENERGY AUTHORITY:

In compliance with your REQUEST FOR PROPOSAL the Undersigned proposes to furnish and deliver all the material and do all the work and labor required in the construction of the above identified project located at or near:

Chignik Lagoon, Alaska

according to the Project Manual and for the amount and prices named herein as indicated on the Bid Schedule consisting of **1** sheet(s), which is made a part of this Price Proposal.

The Undersigned declares that we have carefully examined the contract requirements and that we have made an examination of the site of the work; that we understand that the quantities, where such are specified in the Bid Schedule or in the Project Manual for this project, are approximate only and subject to increase or decrease, and that we are willing to perform increased or decreased quantities of work at unit prices proposed under the conditions set forth in the Contract Documents.

The Undersigned hereby agrees to execute the said contract and bonds within fifteen calendar days, or such further time as may be allowed in writing by the Contracting Officer, after receiving notification of the acceptance of this Price Proposal, and it is hereby mutually understood and agreed that in case the Undersigned does not, the accompanying Bid Security shall be forfeited to the Alaska Energy Authority as liquidated damages, and the said Contracting Officer may proceed to award the contract to others.

The Undersigned agrees to commence the work within **10** calendar days and **to substantially complete the work by May 31, 2018**, unless extended in writing by the Contracting Officer.

The Undersigned proposes to furnish Payment Bond in the amount of 100% (of the contract) and Performance Bond in the amount of 100% (of the contract), as surety conditioned for the full, complete and faithful performance of this contract.

NON-COLLUSION AFFIDAVIT

The Undersigned declares, under penalty of perjury under the laws of the United States, that neither he nor the firm, association or corporation of which he is a member, a Offeror on this project has, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competition in connection with this proposal.

The Undersigned has read the foregoing proposal and hereby agrees to the conditions stated therein by affixing his/her signature below:

Signature

Name and Title of Person Signing

Telephone Number

DESIGN-BUILD (DB) BID SCHEDULE

Competitive Sealed Proposals - Design Build - 3 AAC 109.340(3)

Project: **Chignik Lagoon DERA Clean Diesel Engine Replacement –
Design/Build**

Project No. : **18008**

Offerors, please read the following carefully before preparing this bid schedule:

The Offeror shall insert a fixed price in figures opposite each pay item which appears in the bid schedule. No price is to be entered or tendered for any item not appearing in the bid schedule.

Conditioned or qualified proposals will be considered non-responsive.

NOTICE: Price Proposals will be evaluated as described in the Evaluation Criteria under "Price."

A. TOTAL BID: All work described in the Basic
Bid Scope of Work in Section 01 10 00.1.1.B.:

\$ _____

B. Total Adjusted Basic Bid: \$ _____

Signature

Name and Title of Person Signing (Printed)

Name of Business (Printed)

DESIGN-BUILD (DB) BID BOND

Competitive Sealed Proposals - Design Build - 3 AAC 109.340(3)

**Project: Chignik Lagoon DERA Clean Diesel Engine Replacement –
Design/Build**

Project No. : 18008

(See Instructions on Reverse)			DATE BOND EXECUTED
PRINCIPAL (Legal name and business address)			TYPE OF ORGANIZATION [] INDIVIDUAL [] PARTNERSHIP [] JOINT VENTURE [] CORPORATION
			STATE OF INCORPORATION
SURETY(IES) (Name and business address)			
A.	B.	C.	
PENAL SUM OF BOND			DATE OF PROPOSAL
<p>We, the PRINCIPAL and SURETY above named, are held and firmly bound to the State (State of Alaska), in the penal sum of the amount stated above, for the payment of which sum will be made, we bind ourselves and our legal representatives and successors, jointly and severally, by this instrument.</p> <p>THE CONDITION OF THE FOREGOING OBLIGATION is that the Principal has submitted the accompanying bid/proposal in writing, date as shown above, on Project: Chignik Lagoon DERA Clean Diesel Engine Replacement – Design/Build in accordance with contract documents filed in the office of the Contracting Officer, and under the Request for Proposals therefor, and is required to furnish a bond in the amount stated above.</p> <p>If the Principal's bid is accepted and he is offered the proposed contract for award, and if Principal fails to enter into the contract, then the obligation to the State created by this bond shall be in full force and effect.</p> <p>If the Principal enters into the contract, then the foregoing obligation is null and void.</p>			
PRINCIPAL			
Signature(s)	1.	2.	3.
Name(s) & Titles (Typed)	1.	2.	3.
			Corporate Seal

CORPORATE SURETY(IES)				
S U R E T Y C	Name of Corporation		State of Incorporation	Liability Limit \$
	Signature(s)	1.	2.	Corporate Seal
	Name(s) & Titles (Typed)	1.	2.	
CORPORATE SURETY(IES) (Continued)				
S U R E T Y C	Name of Corporation		State of Incorporation	Liability Limit \$
	Signature(s)	1.	2.	Corporate Seal
	Name(s) & Titles (Typed)	1.	2.	
CORPORATE SURETY(IES) (Continued)				
S U R E T Y C	Name of Corporation		State of Incorporation	Liability Limit \$
	Signature(s)	1.	2.	Corporate Seal
	Name(s) & Titles (Typed)	1.	2.	

INSTRUCTIONS

1. This form shall be used whenever a bid bond is submitted.
2. Insert the full legal name and business address of the Principal in the space designated. If the principal is a partnership or joint venture, the names of all principal parties must be included (e.g., "Smith Construction, Inc. and Jones Contracting, Inc. DBA Smith/Jones Builders, a joint venture"). If the Principal is a corporation, the name of the state in which incorporated shall be inserted in the space provided.
3. Insert the full legal name and business address of the Surety in the space designated. The Surety on the bond may be any corporation or partnership authorized to do business in Alaska as an insurer under AS 21.09. Individual sureties will not be accepted.
4. The penal amount of the bond may be shown either as an amount (in words and figures) or as a percent of the contract bid price (a not-to-exceed amount may be included).
5. The scheduled submittal deadline for proposals shall be entered in the space marked Date of Bid .
6. The bond shall be executed by authorized representatives of the Principal and Surety. Corporations executing the bond shall also affix their corporate seal.
7. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.
8. The states of incorporation and the limits of liability of each surety shall be indicated in the spaces provided.
9. The date that bond is executed must not be later than the submittal deadline for proposals.



BID MODIFICATION

**Chignik Lagoon DERA Clean Diesel Engine Replacement – Design/Build
Project No. 18008**

Modification Number: _____

Note: All revisions shall be made to the unadjusted bid amount(s).
Changes to the adjusted bid amounts will be computed by the Authority.

PAY ITEM NO.	PAY ITEM DESCRIPTION	REVISION TO UNIT BID PRICE +/-	REVISION TO BID AMOUNT +/-

TOTAL REVISION: \$ _____

Name of Bidding Firm

Responsible Party Signature

Date

This form may be duplicated if additional pages are needed.

Standard Form of Agreement Between Owner and Design-Builder Lump Sum

This **AGREEMENT** is made as of the _____ day of _____
in the year of _____, by and between the following parties, for services in connection with the Project
identified below.

OWNER:

AEA(Contracting Agency)
813 West Northern Lights Blvd
Anchorage, Alaska 99503

DESIGN-BUILDER:

(Name and address)

PROJECT:

Chignik Lagoon DERA Clean Diesel Engine Replacement –
Design/Build
Chignik Lagoon, Alaska
Project Number: 18008

In consideration of the mutual covenants and obligations contained herein, Owner and Design-Builder
agree as set forth herein.

Article 1

Scope of Work

1.1 Design-Builder shall perform all design and construction services, and provide all material,
equipment, tools and labor, necessary to complete the Work described in and reasonably inferable from
the Contract Documents.

Article 2

Contract Documents

- 2.1** The Contract Documents are comprised of the following:
- 2.1.1** All written modifications, amendments and change orders to this Agreement issued in accordance with Section 00 92 00, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (“General Conditions of Contract”);
 - 2.1.2** This Agreement, including all exhibits and attachments, executed by Owner and Design-Builder;
 - 2.1.3** The General Conditions of Contract;
 - 2.1.4** Owner’s Project Criteria; including the Owner’s Request for Proposals (RFP) dated July 15, 2017 and all addenda thereto, in their entireties.
 - 2.1.5** Design-Builder’s Proposal, and Proposal Exhibits submitted in response to Owner’s Project Criteria and Request for Proposals.

Article 3

Interpretation and Intent

3.1 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event of any inconsistency, conflict, or ambiguity between or among the Contract Documents, the Contract Documents shall take precedence in the order in which they are listed in Section 2.1 hereof with the lower numbered Contract Documents having precedence over higher numbered Contract Documents. Within listed documents or group of documents, the later dated shall have precedence over the earlier, and specific requirements shall have precedence over general requirements.

3.2 Terms, words and phrases used in the Contract Documents, including this Agreement, shall have the meanings given them in the General Conditions of Contract.

3.3 The Contract Documents form the entire agreement between Owner and Design-Builder and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

Article 4

Ownership of Work Product

4.1 Work Product. All drawings, specifications and other documents and electronic data furnished by Design-Builder to Owner under this Agreement (“Work Product”), except items which have pre-existing copyrights, are the property of the Owner. Payments to the Design-Builder for services hereunder include full compensation for all work products produced by the Design-Builder and its Subcontractors and the Owner shall have royalty free non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, such work products.

4.2 Owner’s Limited License. Owner shall own a paid-up, nonexclusive, royalty-free license to use and utilize the Work Product in connection with the Owner’s design and construction of the Project.

4.3 Owner’ Responsibility for Use of the Work Product Except in Connection with the Work. Should the Owner elect to reuse Work Products provided under this Agreement for other than the original project and/or purpose, the Owner will indemnify the Design-Builder and its Subcontractors against any responsibilities or liabilities arising from such reuse. Additionally, any reuse of design drawings or specifications provided under this Agreement must be limited to conceptual or preliminary use for adaptation and the original Design-Builder’s or Subcontractor’s signature, professional seals and dates removed. Such reuse of drawings and specifications, which require professional seals and dates removed, will be signed, sealed and dated by the professional who is in direct supervisory control and responsible for all adaptation.

Article 5

Contract Time

5.1 Date of Commencement. The Work shall commence within ten (10) days of Design-Builder’s receipt of Owner’s Notice to Proceed (“Date of Commencement”) unless the parties mutually agree otherwise in writing.

5.2 Substantial Completion and Final Completion

5.2.1 Scheduled Substantial Completion Date: Substantial Completion of all Work shall be achieved no later than **May 31, 2018**.

5.2.2 Not Used

5.2.3 Final Completion of the Work or identified portions of the Work shall be achieved within the time frame identified in 00 51 00-5.4.

5.2.4 All of the dates set forth in this Article 5 (“Contract Time(s)”) shall be subject to adjustment in accordance with the General Conditions of Contract.

5.3 Time is of the Essence. Owner and Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

Article 6

Contract Price

6.1 Contract Price. Owner shall pay Design-Builder in accordance with Article 6 of the General Conditions of Contract the sum of _____ Dollars (\$ _____) (“Contract Price”), subject to adjustments made in accordance with the General Conditions of Contract. Unless otherwise provided in the Contract Documents, the Contract Price is deemed to include all sales, use, consumer and other taxes mandated by applicable Legal Requirements.

6.2 Markups for Changes. If the Contract Price requires an adjustment due to changes in the Work, and the cost of such changes is determined under Sections 9 of the General Conditions of Contract, markups shall be as provided for in Article 9.14 Contractors Fee:

Article 7

Procedure for Payment

7.1 Progress Payments

7.1.1 Design-Builder shall submit to Owner on the seventh (7th) day of each month, beginning with the first month after the Date of Commencement, Design-Builder’s Application for Payment in accordance with Article 6 of the General Conditions of Contract. However, the first Application shall not be submitted until the Design-Builder’s schedule of values have been received and approved by the Owner.

7.1.2 Owner shall make payment within thirty (30) days after Owner’s receipt of each properly submitted and accurate Application for Payment in accordance with Article 6 of the General Conditions of Contract and with AS 36.90.200(a), but in each case less the total of payments previously made, and less amounts properly withheld under Section 6.3 of the General Conditions of Contract.

7.2 Withholding Payments and Retainage on Progress Payments

7.2.1 Withholding Payments. The Owner 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:

7.2.1.1 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;

7.2.1.2 The Contract Price has been reduced by Change Order;

7.2.1.3 The Owner has been required to correct defective Work or complete Work in accordance with Article 2.10.2 of the General Conditions of Contract.

7.2.1.4 The Owner has actual knowledge of the occurrence of any of the events enumerated in Article 11.2.1 of the General Conditions of Contract;

7.2.1.5 Claims have been made against the Owner or against the funds held by the Owner on account of the Design-Builder’s actions or inactions in performing this Contract, or there are other items entitling the Owner to set off funds to satisfy such claims;

7.2.1.6 Subsequently discovered evidence or the results of subsequent inspections or tests, nullify any previous payments for reasons stated in Articles 7.2.1.1 through 7.2.1.5 above;

7.2.1.7 The Design-Builder has failed to fulfill or is in violation of any of its obligations under any provision of this Contract.

7.2.2 Joint Payment of Funds. If the Owner has received written notice from the Surety that a Subcontractor, laborer or material man has not been paid as required in their contract with the Design-Builder for services performed, labor furnished or materials supplied; then the Owner may issue payment jointly to both the Design-Builder and Surety. If initiated, joint payment shall continue until notified in writing by the Surety that such action is no longer necessary.

7.2.3 Retainage. At any time the Owner finds that satisfactory progress is not being made it may in addition to the amounts withheld under Article 7.2.1 above retain a maximum amount equal to ten percent (10%) of the total amount earned on all subsequent progress payments. This retainage may be released at such time as the Owner finds that satisfactory progress is being made.

7.2.4 Upon Substantial Completion of the entire Work or, if applicable, any portion of the Work, pursuant to Section 6.6 of the General Conditions of Contract, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion.

7.3 Final Payment. Design-Builder shall submit its Final Application for Payment to Owner in accordance with Section 6.7 of the General Conditions of Contract.

7.4 Interest. Payments due and unpaid by Owner to Design-Builder, whether progress payments or final payment, shall accrued interest in accordance with the provisions of AS 36.90.200-290.

7.5 Record Keeping and Finance Controls. With respect to changes in the Work performed on a cost basis by Design-Builder pursuant to the Contract Documents, Design-Builder shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents. During the performance of the Work and for a period of five (5) years after Final Payment, or longer as required by applicable laws, Owner and Owner's representatives shall be afforded access from time to time, upon reasonable notice, to Design-Builder's records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to changes in the Work performed on a cost basis in accordance with the Contract Documents, all of which Design-Builder shall preserve for a period of five (5) years after Final Payment.

Article 8

Termination for Convenience

8.1 In accordance with Article 12.4 of Section 00 92 00.

Article 9

Representatives of the Parties

Chignik Lagoon DERA Clean Diesel Engine Replacement – Design/Build
Chignik Lagoon, Alaska
Alaska Energy Authority
Project Number: 18008

00 51 00-6

9.1 Owner's Representatives

9.1.1 Owner designates the individual listed below as its, Contracting Officer which individual has the authority and responsibility for avoiding and resolving disputes under Article 10 of the General Conditions of Contract:

Rebecca Garrett, Project Manager
Alaska Energy Authority
813 West Northern Lights Blvd
Anchorage, Alaska 99503
(907) 771-3042

9.1.2 Owner designates the individual listed below as its Owner's Representative, which individual has the authority and responsibility set forth in Section 3.4 of the General Conditions of Contract:

N/A

9.2 Design-Builder's Representatives

9.2.1 Design-Builder designates the individual listed below as its Design-Builder's Representative, which individual has the authority and responsibility set forth in Section 2.1.1 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

Article 10

Bonds and Insurance

10.1 Insurance and Indemnification. Design-Builder shall procure in accordance with Article 5 of the General Conditions of Contract the following insurance coverages:

10.1.1 The Design-Builder shall provide evidence of insurance with a carrier or carriers satisfactory to the OWNER 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 DESIGN BUILDER or by any Subcontractor. This coverage will also provide protection against injuries to all employees of the DESIGN BUILDER and the employees of any Subcontractor engaged in Work under this Contract. The delivery to the OWNER of a written notice in accordance with policy provisions is required before cancellation of any coverage or reduction in any limits of liability. Insurance carriers shall have an acceptable financial rating.

10.1.2 The DESIGN BUILDER 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 DESIGN BUILDER's responsibility to indemnify under paragraph 10.1.5. Additional insurance requirements specific to this Contract are contained in the Supplementary Conditions, when applicable.

- a. Workers' Compensation Insurance: The DESIGN BUILDER shall provide and maintain, for all employees of the DESIGN BUILDER engaged in work under this contract, Workers' Compensation Insurance as required by AS 23.30.045. The DESIGN BUILDER shall be responsible for Workers' Compensation Insurance for any Subcontractor who provides services under this contract. Coverage shall include:
 1. Waiver of subrogation against the State.
 2. Employer's Liability Protection in the amount of \$500,000 each accident / \$500,000 each disease.
 3. If the DESIGN BUILDER 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.

4. 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 DESIGN BUILDER 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 10.1.5, Indemnification; broad form property damage; and personal injury liability.

The minimum limits of liability shall be:

1. If the DESIGN BUILDER 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:
 - a) \$1,000,000 each occurrence
 - b) \$2,000,000 aggregate
2. If the CONTRATOR carries a *Commercial General Liability* policy, the limits of liability shall not be less than:
 - a) \$1,000,000 each occurrence (Combined Single Limit for bodily injury and property damage)
 - b) \$1,000,000 for Personal Injury Liability
 - c) \$2,000,000 aggregate for Products-Completed Operations
 - d) \$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. Other Coverages:
As specified in the General Conditions.

10.1.3 In addition to providing the above coverages the DESIGN BUILDER 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 indemnity and as additional insured.

Evidence of insurance shall be furnished to the OWNER prior to the award of the contract. Such evidence, executed by the carrier's representative and issued to the OWNER, 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 OWNER 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).

10.1.4 Design Builders Professional Liability.

- a. **Design Professional Liability (E&O) Insurance.** A policy providing coverage for claims involving design errors or omissions of the design professionals employed by the Design Builder, Subcontractor or anyone directly or indirectly employed by them, for professional services and design documents provided under this Agreement. Professional liability policy(s) may be provided by the individual professionals as a subcontractor to the General Contractor. Such Professional Liability policy shall provide for an aggregate limit of not less than \$1,000,000. The Department shall be listed as the Certificate Holder for this policy whether provided by the Design Builder or Subcontractor. *If a project specific policy is provided*, at the conclusion of the work, and as part of the Certificate of Substantial Completion, the Design-Builder shall transmit to the Owner a certificate of insurance indicating that the policy has been prepaid for 12 months from the Date of Substantial Completion.

10.1.5 Indemnification: The DESIGN BUILDER shall indemnify, save harmless, and defend the OWNER, 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 DESIGN BUILDER'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 OWNER's negligence.

10.2 Bonds and Other Performance Security. Design-Builder shall provide the following performance bond and labor and material payment bond or other performance security: Bid Bond at 5% of total bid amount (see sections 00 41 00 and 00 02 00), Performance Bond at 50% of the total bid amount (see section 00 61 00) and Payment Bond at 50% of the total bid amount (see section 00 62 00).

Article 11

Other Provisions

11.1 Other provisions, if any, are as follows:

11.2 Information and Services from Others. The Owner may, at its election or in response to a request from the Design-Builder, furnish information or services from other contractors. If, in the Design-Builder's opinion, such information or services is inadequate, the Design-Builder must notify the Owner of the specific service or material deemed inadequate and the extent of the inadequacy prior to use in the performance of this Agreement. The Owner will then evaluate and resolve the matter in writing. Unless so notified by the Design-Builder, the Owner may assume the information or services provided are adequate.

11.3 Equal Employment Opportunity.

11.3.1 The Design-Builder shall comply with the following applicable laws and directives and regulations of the Owner which effectuate them; all of which are incorporated herein by reference:

- Title IV of Federal Civil Rights Act of 1964;
- Title VII of the Civil Rights Act of 1964
- Executive order 11246 [3CFR, 1964-1965 Comp. p. 339], as implemented by Department of Labor regulations issued thereunder 941 CFR part 60)

- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.-794) as implemented by Department of Justice Regulations at 28 CFR part 41 and DoD Regulations at 32 CFR Part 56
- Age Discrimination Act of 1975 (42 U.S.C-6101 et seq.) as implemented by Department of Health and Human Services regulations at 45 CFR Part 90
- Federal Executive Order 11625 (Equal Employment Opportunity);
- Title 41, Code of Federal Regulations, Part 60 (Equal Employment Opportunity);
- Title 49 Code of Federal Regulations, Part 21 (Discrimination);
- Title 49, Code of Federal Regulations, Part 23 (Minority Business Enterprises);
- Office of Management and Budget (OMB) circular 102, Attachment O (Procurement Standards);
- Alaska Statute (AS) 18.80.200-300 (Discrimination).

11.3.2 The Design-Builder may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, age, physical disability, sex, or marital status, change in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on such basis. The Design-Builder shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, age, physical disability, sex, or marital status. This action must include, but need not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Design-Builder shall post in conspicuous places, available employees and applicants for employment, notices setting out the provisions of this paragraph.

11.3.3 The Design-Builder shall state, in all solicitations or advertisements for employees to work in performance of this Agreement, that it is an equal opportunity employer and that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, age, physical disability, sex, or marital status.

11.3.4 The Design-Builder shall send to each labor union or representative or workers with which the Design-Builder has a collective bargaining Agreement or other contract or understanding a notice advising the labor union or workers' representative of the Design-Builder's commitments under this article and post copies of the notice in conspicuous places available to all employees and applicants for employment.

11.3.5 In the event the Design-Builder subcontracts any part of the services to be performed under this Agreement, the Design-Builder agrees to make good faith efforts to utilize Disadvantaged Business Enterprises, to affirmatively solicit their interest, capability and prices and to furnish documentation of the results of all such direct contacts on forms provided by or acceptable to the Owner.

11.3.6 The Design-Builder shall make, keep and preserve such records necessary to determine compliance with equal employment opportunity obligations and shall furnish required information and reports. All records must be retained and made available in accordance with Article A9, Audits and Records.

11.3.7 The Design-Builder shall include the provisions of this article in every contract, and shall require the inclusion of these provisions in every contract entered into by any of its Subcontractors, so that these provisions will be binding upon each Subcontractor.

11.4 Owner Inspections. The Owner has the right to inspect, in the manner and at reasonable times it considers appropriate during the period of this Agreement, all facilities and activities of the Design-Builder as may be engaged in the performance of this Agreement.

11.5 Officials Not to Benefit. No member of or delegate to Congress, United States Commissioner or other officials of the Federal, State, Political subdivision or Local Government shall be admitted to any share or part of this Agreement or any benefit to arise therefrom.

11.6 Independent Contractor

11.6.1 The Design-Builder and its agents and employees shall act in an independent capacity and not as officers or agents of the Owner in the performance of this Agreement except that the Design-Builder may function as the Owner's agent as may be specifically set forth in this Agreement.

11.6.2 Any and all employees of the Design-Builder, while engaged in the performance of any work or services required by the Design-Builder under this Agreement, shall be considered employees of the Design-Builder only and not of the Owner and any and all Claims that may or might arise under the Worker's Compensation Act on behalf of said employees, while so engaged and any and all Claims made by a third party as a consequence of any negligent act or omission on the part of the Design-Builder's employees, while so engaged on any of the services to be rendered herein, shall be the sole obligation and responsibility of the Design-Builder.

11.6.3 This Agreement will be declared null and void should the Owner determine that by Internal Revenue Service definitions the Design-Builder is an employee of the Owner.

11.7 Proselytizing. The Design-Builder agrees that it will not engage on a full or part time basis, during the period of this Agreement, any person or persons who are or have been employed by the Owner during the period of this Agreement or during the 90 days immediately preceding the date of this Agreement except those who have been regularly retired or approved in writing by the Owner.

11.8 Covenant Against Contingent Fees

11.8.1 The Design-Builder shall comply with the Copeland "Anti-Kickback" Act (18 USC 874) as supplemented in Federal Department of Labor regulations (29 CFR, part 3), which are incorporated by reference and made a part of this Agreement.

11.8.2 The Design-Builder warrants that it has not employed or retained any organization or person, other than a bona fide employee, to solicit or secure this Agreement and that it has not paid or agreed to pay any organization or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Owner has the right to annul this Agreement without liability or, in its discretion, to deduct from the allowable compensation the full amount of such commission, percentage, brokerage or contingent fee.

11.8.3 The Owner warrants that the Design-Builder or the Design-Builder's representative has not been required, directly or indirectly as an express or implied condition in obtaining or carrying out this

Agreement, to employ or retain, or agree to employ or retain, any organization or person or to make a contribution, donation or consideration of any kind.

11.9 Extent Of Agreement

11.9.1 This Agreement including appendices represents the entire and integrated Agreement between the Owner and the Design-Builder and supersedes all prior negotiations, representations or Agreements, written or oral.

11.9.2 Nothing contained herein may be deemed to create any contractual relationship between the Owner and any Subcontractors or material suppliers; nor may anything contained herein be deemed to give any third party Claim or right of action against the Owner or the Design-Builder which does not otherwise exist without this Agreement.

11.9.3 This Agreement may be changed only by written Amendment executed by both the Owner and the Design-Builder.

11.9.4 All communications that affect this Agreement must be made or confirmed in writing and must be sent to the addresses designated in this Agreement.

11.9.5 The Design-Builder on receiving final payment will execute a release, if required, in full of all Claims against the Owner arising out of or by reason of the services and work products furnished and under this Agreement.

In executing this Agreement, Owner and Design-Builder each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

OWNER:

DESIGN-BUILDER:

(Name of Owner)

(Name of Design-Builder)

(Signature)

(Signature)

(Printed Name)

(Printed Name)

(Title)

(Title)

Date: _____

Date: _____



ALASKA ENERGY AUTHORITY

PERFORMANCE BOND

Bond No. _____

For

Chignik Lagoon DERA Clean Diesel Engine Replacement – Design/Build

KNOW ALL WHO SHALL SEE THESE PRESENTS:

That _____ of _____ as Principal, and _____ of _____ as Surety, firmly bound and held unto the State of Alaska in the penal sum of _____ Dollars

(\$ _____) good and lawful money of the United States of America for the payment whereof, well and truly to be paid to the State of Alaska, we bind ourselves, our heirs, successors, executors, administrators, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said Principal has entered into a written contract with said State of Alaska, on the _____ of _____ A.D., 20____, for construction of the above-named project, said work to be done according to the terms of said contract.

Now, THEREFORE, the conditions of the foregoing obligation are such that if the said Principal shall well and truly perform and complete all obligations and work under said contract and if the Principal shall reimburse upon demand of the Alaska Energy Authority any sums paid him which exceed the final payment determined to be due upon completion of the project, then these presents shall become null and void; otherwise they shall remain in full force and effect.

IN WITNESS WHEREOF, we have hereunto set our hands and seals at _____ this _____ day of _____ A.D., 20____.

Principal: _____

Address: _____

By: _____

Contact Name: _____

Phone: () _____

Surety: _____

Address: _____

By: _____

Contact Name: _____

Phone: () _____

The offered bond has been checked for adequacy under the applicable statutes and regulations:

Alaska Energy Authority Authorized Representative

Date

See Instructions on Reverse

INSTRUCTIONS

1. This form shall be used whenever a performance bond is required. There shall be no deviation from this form without approval from the Contracting Officer.
2. The full legal name, business address, phone number, and point of contact of the Principal and Surety shall be typed on the face of the form. Where more than a single surety is involved, a separate form shall be executed for each surety.
3. The penal amount of the bond, or in the case of more than one surety the amount of obligation, shall be typed in words and in figures.
4. Where individual sureties are involved, a completed Affidavit of Individual Surety shall accompany the bond. Such forms are available upon request from the Contracting Officer.
5. The bond shall be signed by authorized persons. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved, evidence of authority must be furnished.



ALASKA ENERGY AUTHORITY

PAYMENT BOND

Bond No. _____

For

Chignik Lagoon DERA Clean Diesel Engine Replacement – Design/Build

KNOW ALL WHO SHALL SEE THESE PRESENTS:

That _____
of _____ as Principal,
and _____
of _____ as Surety,
firmly bound and held unto the State of Alaska in the penal sum of _____ Dollars

(\$ _____) good and lawful money of the United States of America for the payment whereof, well and truly to be paid to the State of Alaska, we bind ourselves, our heirs, successors, executors, administrators, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said Principal has entered into a written contract with said State of Alaska, on the _____ of _____ A.D., 20____, for construction of the above-referenced project, said work to be done according to the terms of said contract.

Now, THEREFORE, the conditions of the foregoing obligation are such that if the said Principal shall comply with all requirements of law and pay, as they become due, all just claims for labor performed and materials and supplies furnished upon or for the work under said contract, whether said labor be performed and said materials and supplies be furnished under the original contract, any subcontract, or any and all duly authorized modifications thereto, then these presents shall become null and void; otherwise they shall remain in full force and effect.

IN WITNESS WHEREOF, we have hereunto set our hands and seals at _____, _____ this _____ day of _____ A.D., 20____.

Principal: _____

Address: _____

By: _____

Contact Name: _____

Phone: () _____

Surety: _____

Address: _____

By: _____

Contact Name: _____

Phone: () _____

The offered bond has been checked for adequacy under the applicable statutes and regulations:

Alaska Energy Authority Authorized Representative

Date

See Instructions on Reverse

INSTRUCTIONS

1. This form, for the protection of persons supplying labor and material, shall be used whenever a payment bond is required. There shall be no deviation from this form without approval from the Contracting Officer.
2. The full legal name, business address, phone number, and point of contact of the Principal and Surety shall be typed on the face of the form. Where more than a single surety is involved, a separate form shall be executed for each surety.
3. The penal amount of the bond, or in the case of more than one surety the amount of obligation, shall be typed in words and in figures.
4. Where individual sureties are involved, a completed Affidavit of Individual Surety shall accompany the bond. Such forms are available upon request from the Contracting Officer.
5. The bond shall be signed by authorized persons. Where such persons are signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved, evidence of authority must be furnished.

General Conditions of Contract Between Owner and Design-Builder

Table of Contents

Article 1: General	00 92 00-02
Article 2: Design-Builder's Services and Responsibilities	00 92 00-03
Article 3: Owners Services and Responsibilities	00 92 00-10
Article 4: Hazardous Materials and Waste and Differing Site Conditions	00 92 00-11
Article 5: Insurance and Bonds	00 92 00-12
Article 6: Payment	00 92 00-13
Article 7: Indemnification	00 92 00-15
Article 8: Time	00 92 00-17
Article 9: Changes to the Contract Price and Time	00 92 00-17
Article 10: Claims and Disputes	00 92 00-24
Article 11: Suspension of Work, Default, and Termination	00 92 00-25
Article 12: Miscellaneous	00 92 00-30
Article 13: Design-Builder Generated Hazardous Materials and Waste	00 92 00-31

Article 1

General

1.1 Mutual Obligations

1.1.1 Owner and Design-Builder commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

1.2 Basic Definitions

1.2.1 *Agreement* refers to the executed contract between Owner and Design-Builder under article 00 51 00.

1.2.2 *Day* or *Days* shall mean calendar days unless otherwise specifically noted in the Contract Documents.

1.2.3 *Design Consultant* is a qualified, licensed design professional who is not an employee of Design-Builder, but is retained by Design-Builder, or employed or retained by anyone under contract with Design-Builder or Subcontractor, to furnish design services required under the Contract Documents.

1.2.4 *Hazardous Materials and Waste* are any materials, wastes, substances and chemicals deemed to be hazardous under applicable Legal Requirements, or the handling, storage, remediation, or disposal of which are regulated by applicable Legal Requirements. This term is further defined in Article 13 - Design-Builder Generated Hazardous Materials and Waste.

1.2.5 *General Conditions of Contract* refer to this section of the contract.

1.2.6 *Regulatory Requirements* are all applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

1.2.7 *Owner's Project Criteria* are developed by or for Owner to describe Owner's program requirements and objectives for the Project, including use, space, price, time, site and expandability requirements, as well as submittal requirements and other requirements governing Design-Builder's performance of the Work. Owner's Project Criteria may include conceptual documents, design criteria, performance requirements and other Project-specific technical materials and requirements. Owner's Project Criteria includes the Owner's Request for Qualifications (RFQ) and the Owner's Request for Proposals (RFP) in their entireties.

1.2.8 *Site* is the land or premises on which the Project is located.

1.2.9 *Subcontractor* is any person or entity retained by Design-Builder as an independent contractor to perform a portion of the Work and shall include firms that employ Design Consultants, materialmen and suppliers.

1.2.10 *Sub-Subcontractor* (lower tier subcontractor) is any person or entity retained by a Subcontractor as an independent contractor to perform any portion of a Subcontractor's Work and shall include firms that employ Design Consultants, materialmen, and suppliers.

1.2.11 *Substantial Completion* is the date on which the Work, or an agreed upon portion of the Work, is sufficiently complete so that Owner can occupy and use the Project or a portion thereof for its intended purposes.

1.2.12 Work is comprised of all Design-Builder's design, construction and other services required by the Contract Documents, including procuring and furnishing all materials, equipment, services and labor reasonably inferable from the Contract Documents.

1.2.13 *Contracting Officer* is the individual identified in the Agreement and authorized by the Owner to execute the Agreement between the Owner the Design-Builder.

Article 2

Design-Builder's Services and Responsibilities

2.1 General Services

2.1.1 Design-Builder's Project Manager shall be reasonably available to Owner and shall have the necessary expertise and experience required to manage the Work. Design-Builder's Representative shall communicate regularly with Owner and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's Project Manager may be replaced only with the mutual agreement of Owner and Design-Builder.

2.1.1.1 Construction Superintendence by Design-Builder:

During any onsite construction activities, the Design-Builder shall keep on the Work at all times during its progress a competent resident superintendent. The Owner 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 Owner. The superintendent will be the Design-Builder's representative at the site and shall have full authority to act and sign documents on behalf of the Design-Builder. The Design-builders superintendent shall be the OWNERS primary point of contact during the construction phase and shall be reasonably available to OWNER during normal business hours or at any time that construction work is active.

All communications given to the superintendent shall be as binding as if given to the Design-Builder. The Design-Builder shall cooperate with the Owner in every way possible

2.1.1.2 Character of the 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.

2.1.1.3 Design-Build Team:

All services must be performed by or under the direct supervision of the individuals and or subcontractors identified in the Design Builders proposal as incorporated into the contract by Section 00 51 00 Article 2.1.5. Replacement of, or addition to, the Design-Build Team identified above shall only be accomplished only by prior written approval from the Contracting Agency.

2.1.2 Design-Builder shall provide Owner with a monthly status report detailing the progress of the Work, including whether (i) the Work is proceeding according to schedule, (ii) discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, (iii) health and safety issues exist in connection with the Work, and (iv) other items require resolution so as not to jeopardize Design-Builder's ability to complete the Work for the Contract Price and within the Contract Time(s).

2.1.3 Design-Builder shall prepare and submit, at least three (3) days prior to the meeting contemplated by Section 2.1.4 hereof, a schedule for the execution of the Work for Owner's review and response. The schedule shall be prepared in accordance Section 01 32 00. The schedule shall be revised only as prescribed in Section 13 20 00. Owner's review of and response to the schedule shall not be construed as

relieving Design-Builder of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

2.1.4 The parties will meet within seven (7) days after execution of the Agreement to discuss issues affecting the administration of the Work and to implement the necessary procedures, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.

2.2 Design Professional Services

2.2.1 Design-Builder shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed Design Consultants, the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Design-Builder to complete the Work consistent with the Contract Documents. The Owner is a third-party beneficiary of the contracts between the Design-Builder and the Design Consultants. Without limiting the generality of the foregoing, the Owner is a third-party beneficiary of the duty of care owed by the Design Consultant to the Design-Builder.

2.3 Standard of Care for Design Professional Services

2.3.1 The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design profession practicing under similar conditions at the same time and locality of the Project. Notwithstanding the preceding sentence, if the parties agree upon specific performance standards for any aspect of the Work, which standards are set forth below in the paragraph entitled "Performance Standard Requirements," the design professional services shall be performed to achieve such standards.

2.3.2 Performance Standard Requirements.

2.3.2.1 The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design profession that possess the same or similar skills and experiences as the Design-Builder, as evidenced by the Design-Builder's Statement of Qualifications submitted in response to the Owner's Request for Qualifications (RFQ). Such Statement of Qualifications is attached to and made a part of this Agreement. This remedy of reperformance shall be in addition to, and not exclusive of, any other remedy allowed by law.

2.3.2.2 When such standards are in dispute, they shall be established by a panel of three qualified, impartial professionals objectively selected and appointed by the Owner's Contracting Officer.

2.3.2.3 The Design-Builder shall correct, through reperformance at its expense, any service which is deficient or defective because of the design-builder's failure to perform said services in accordance with professional standards, provided Owner has notified the Design-builder in writing within a reasonable time, not to exceed 60 days, of the discovery of any such deficiency during the performance of the services and within 12 months of the date of final payment under this Agreement.

2.4 Design Development Services

2.4.1 Design-Builder and Owner shall, consistent with any applicable provision of the Contract Documents, agree upon any interim design submissions that Owner may wish to review, which interim design submissions may include design criteria, drawings, diagrams and specifications setting forth the Project requirements. On or about the time of the scheduled submissions, Design-Builder and Owner shall meet and confer about the submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any significant changes or deviations from the Contract Documents, or, if applicable, previously submitted design submissions. Minutes of the meetings will be maintained by Design-Builder and provided to all attendees for review. Following the design review meeting, Owner shall

Project Number: 18008

review and approve the interim design submissions in a time that is consistent with the turnaround times set forth in Design-Builder's schedule.

2.4.2 Design-Builder shall submit to Owner, Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting. The parties shall have a design review meeting to discuss, and Owner shall review and approve, the Construction Documents in accordance with the procedures set forth Section 2.4.1 above. Design-Builder shall proceed with construction in accordance with the approved Construction Documents and shall submit one set of approved Construction Documents to Owner prior to commencement of construction.

2.4.3 Owner's review and approval of interim design submissions and the Construction Documents is for the purpose of mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. Neither Owner's review nor approval of any interim design submissions and Construction Documents shall be deemed to transfer any design liability from Design-Builder to Owner.

2.4.4 Not Used.

2.5 Regulatory Requirements

2.5.1 Design-Builder shall perform the Work in accordance with all Regulatory Requirements and shall provide all notices applicable to the Work as required by the Regulatory Requirements.

2.5.2 The Contract Price and/or Contract Time(s) shall be adjusted to compensate Design-Builder for the effects of any changes in the Regulatory Requirements enacted after the date of the Agreement affecting the performance of the Work, or if a Guaranteed Maximum Price is established after the date of the Agreement, the date the parties agree upon the Guaranteed Maximum Price. Such effects may include, without limitation, revisions Design-Builder is required to make to the Construction Documents because of changes in Regulatory Requirements.

2.6 Government Approvals and Permits

2.6.1 Design-Builder shall obtain and pay for all necessary building and occupancy permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project. The Design-Builder shall cooperate with and assist the Owner to obtain the necessary zoning and land-use permits.

2.6.2 Design-Builder shall provide reasonable assistance to Owner in obtaining those permits, approvals and licenses that are Owner's responsibility.

2.7 Design-Builder's Construction Phase Services

2.7.1 Unless otherwise provided in the Contract Documents to be the responsibility of Owner or a separate contractor under contract to Owner, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

2.7.2 Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Design-Builder shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

2.7.3 Subcontractors:

The Design-Builder 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:

2.7.3.1 The Design-Builder shall not award any Work to any Subcontractor without prior written Approval of the Contracting Officer. This Approval will not be given until the Design-Builder 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 Owner, 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 Owner to reject Defective Work.

2.7.3.2 The Design-Builder shall be fully responsible to the Owner 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 Design-Builder just as Design-Builder is responsible for Design-Builder 's own acts and omissions.

2.7.3.3 All Work performed for Design-Builder by a Subcontractor will be pursuant to an appropriate written agreement between Design-Builder and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the Owner and contains waiver provisions as required by Section 00 51 00-Article 7.2.1 and termination provisions as required by Section 00 92 00 Article 11.

2.7.3.4 Nothing in the Contract Documents shall create any contractual relationship between the Owner and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of the Owner 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 Owner will not undertake to settle any differences between or among the Design-Builder, Subcontractors, or Suppliers.

2.7.3.5 The Design-Builder 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 Design-Builder with no change in Contract Price or Contract Time.

2.7.3.6 The Design-Builder 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.

2.7.3.7 The Design-Builder may, without penalty, replace a subcontractor who:

1. Fails to comply with the licensing and registration requirements of AS 08.18;
2. Fails to obtain or maintain a valid Alaska Business License;
3. Files for bankruptcy or becomes insolvent;
4. Fails to execute a subcontract or performance of the work for which the subcontractor was listed, and the Design-Builder has acted in good faith;
5. Fails to obtain bonding acceptable to the Owner;
6. Fails to obtain insurance acceptable to the Owner;
7. Fails to perform subcontract work for which the subcontractor was listed;
8. Must be replaced to meet the Design-Builder's required state or federal affirmative action requirements.
9. Refuses to agree to abide by the Design-Builder's labor agreement; or

10. Is determined by the Owner to be not responsible.

In addition to the circumstances described above, a Design-Builder may in writing request permission from the Owner to add a new subcontractor or replace a listed subcontractor. The Owner will approve the request if it determines in writing that allowing the addition or replacement is in the best interest of the state.

The Design-Builder shall submit a written request to add a new Subcontractor or replace a listed Subcontractor to the Contracting Officer a minimum of five working days prior to the date the new Subcontractor is scheduled to begin work on the construction site. The request must state the basis for the request and include supporting documentation acceptable to the Contracting Officer.

If a Design-Builder violates this article, the Contracting Officer may:

1. Cancel the Contract after Award without any damages accruing to the Department; or
2. After notice and hearing, assess a penalty on the bidder in an amount not exceeding 10 percent of the value of the subcontract at issue.

2.7.4 Design-Builder assumes responsibility to Owner for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

2.7.5 Design-Builder shall coordinate the activities of all Subcontractors. If Owner performs other work on the Project or at the Site with separate contractors under Owner's control, Design-Builder agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.7.6 Design-Builder shall keep the Site free from debris, trash and construction wastes to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, Design-Builder shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit Owner to occupy the Project or a portion of the Project for its intended use.

2.7.7 BUY AMERICAN STEEL AND MANUFACTURED PRODUCTS. (Federal-Aid Contracts)

2.7.7.1 The Contractor agrees that only domestic steel and manufactured products will be used by the contractor, subcontractors, material, men, and suppliers in the performance of this contract, as defined below.

2.7.7.2 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 60% 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.
- (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.

2.7.7.3 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 25%.

2.8 Design-Builder's Responsibility for Project Safety

2.8.1 Design-Builder recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto. Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work. Design-Builder shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, Design-Builder's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Design-Builder's personnel, Subcontractors and others as applicable.

2.8.2 Design-Builder and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any Owner-specific safety requirements set forth in the Contract Documents, provided that such Owner-specific requirements do not violate any applicable Regulatory Requirement. Design-Builder will immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to Owner's Representative and, to the extent mandated by Regulatory Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

2.8.3 Design-Builder's responsibility for safety under this Section 2.8 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injury, losses, damages or accidents resulting from their performance of the Work.

2.9 Design-Builder's Warranty

2.9.1 Design-Builder warrants to Owner that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents fit for their intended purposes, and free of defects in materials and workmanship. Design-Builder's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work by persons other than Design-Builder or anyone for whose acts Design-Builder may be liable. Nothing in this warranty is intended to limit any manufacturer's warranty which provides Owner with greater warranty rights than set forth in this Section 2.9 or the Contract Documents. Design-Builder will provide Owner with all manufacturers' warranties upon Substantial Completion.

2.9.1.1 Qualifications: Design-Builder warrants to the Owner that it and its Design Consultants, Subcontractors, suppliers, materials men, and manufacturers have specialized knowledge and expertise of the Work described in the Contract Documents, including, but not limited to, design, installation, construction details, methods, procedures, and techniques necessary to provide the specified Work at specific locations in the Project in accordance with the Contract Documents.

2.9.1.2 Exclusion of Restrictions: No warranty or guarantee shall be impaired, limited, reduced, or restricted for overseas shipment of Products, or Products installed outside of the "contiguous United States", or Products installed outside of the "continental United States", or Products installed outside of the "48 states", or Products installed in the forty ninth (49th.) state, or Products installed in the State of Alaska. No warranty or guarantee shall be impaired, limited, reduced, or restricted by any language that limits the rights, privileges, or obligations of citizens of the State or Alaska or the United States of America; or by any language that limits the rights, privileges, or obligations of legally chartered corporations of the State or Alaska or the United States of America; or by any language that limits the rights, privileges, or obligations of legally empowered governmental entities of the State of Alaska or the United States of America.

2.9.1.3 "Manufacturer's Standard Warranties and Guarantees": "Manufacturer's Standard Warranties and Guarantees" shall mean "those warranties and guarantees normally furnished by a manufacturer, wholesaler, seller, or reseller to the consumer, without payment of additional charges, surcharges or premiums by the purchaser".

2.9.1.4 Fees For Warranties And Guarantees: Design-Builder shall pay all fees, additional charges, surcharges, premiums, or additional sums of money necessary or required by manufacturers, materials men, suppliers, subcontractors, or other persons and entities to obtain for the benefit of the Owner the Warranties and Guarantees described in the Contract Documents.

2.9.1.5 Warranty And Guaranty Provisions: Design-Builder shall include these Warranty and Guaranty provisions in all subcontracts, purchase orders and agreements. Design-Builder shall include specific Warranty and Guaranty provisions specified in individual sections in the applicable subcontracts, purchase orders and agreements. Failure of the Design-Builder to include these provisions in applicable subcontracts, purchase orders and agreements shall not relieve the Design-Builder of the obligation to obtain these Warranties and Guarantees for the benefit of the Owner.

2.10 Correction of Defective Work

2.10.1 Design-Builder agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Section 2.9 hereof, within a period of one year from the date of Substantial Completion of the Work or any portion of the Work, or within such longer period to the extent required by the Contract Documents.

2.10.1.1 Warranties and Guaranties All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment. If, within one year after the date of Substantial Completion of the Work or designated portion thereof or within one year after acceptance by the Owner of designated equipment or within such longer periods of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any Work is found to be defective or not in accordance with the Contract Documents, the Design-Builder shall correct it promptly after receipt of a written notice from the Owner to do so, unless the Owner has previously given the Design-Builder a written acceptance of such condition. Warranties may be separate documents covering portions of the Work. This

obligation shall survive termination of the Contract. The Owner shall give such notice promptly after discovery of the condition.

2.10.2 Design-Builder shall, within seven (7) days of receipt of written notice from Owner that the Work is not in conformance, with the Contract Documents, take meaningful steps to commence, and diligently and continuously prosecute, correction of such nonconforming Work, including the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If Design-Builder fails to commence the necessary steps within such seven (7) day period, Owner, in addition to any other remedies provided under the Contract Documents, may provide Design-Builder with written notice that Owner will commence correction of such nonconforming Work with its own forces. If Owner does perform such corrective Work, Design-Builder shall be responsible for all reasonable costs incurred by Owner in performing such correction. If the nonconforming Work creates an emergency requiring an immediate response, the seven (7) day periods identified herein shall be deemed inapplicable.

2.10.3 The one-year period referenced in Section 2.10.1 above applies only to Design-Builder's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies Owner may have regarding Design-Builder's other obligations under the Contract Documents. This remedy of correction shall be in addition to, and not exclusive of, any other remedy allowed by law.

Article 3

Owner's Services and Responsibilities

3.1 Duty to Cooperate

3.1.1 Owner shall, throughout the performance of the Work, exercise due diligence to cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner to facilitate Design-Builder's timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

3.1.2 Owner shall exercise due diligence to provide timely reviews and approvals of interim design submissions and Construction Documents consistent with the turnaround times set forth in Design-Builder's schedule.

3.1.3 Design-Builder and the Owner shall mutually agree upon the length of review time necessary for each interim submission and Contract Documents consistent with complexity of the submission. In no case shall a review time be less than five (5) workdays.

3.2 Furnishing of Services and Information

3.2.1 Unless expressly stated to the contrary in the Contract Documents, Owner shall provide, at its own cost and expense, for Design-Builder's information and use the following, all of which Design-Builder is entitled to rely upon in performing the Work:

3.2.1.1 To the extent available, surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;

3.2.1.2 Geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the Site;

3.2.1.3 Temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable Design-Builder to perform the Work;

3.2.1.4 A legal description of the Site;

3.2.1.5 To the extent available, as-built and record drawings of any existing structures at the Site;
and

3.2.1.6 To the extent available, environmental studies, reports and impact statements describing
the environmental conditions, including Hazardous Conditions, in existence at the Site.

3.2.2 Owner is not responsible for securing and executing all necessary agreements with adjacent land
or property owners that are necessary to enable Design-Builder to perform the Work.

3.3 Financial Information

3.3.1 Owner represents and warrants that it has adequate funds available and committed to fulfill all of
Owner's contractual obligations under the Contract Documents.

3.3.2 Design-Builder shall cooperate with the reasonable requirements of Owner's lenders or other
financial sources. Notwithstanding the preceding sentence, after execution of the Agreement Design-
Builder shall have no obligation to execute for Owner or Owner's lenders or other financial sources any
documents or agreements that require Design-Builder to assume obligations or responsibilities greater than
those existing obligations Design-Builder has under the Contract Documents.

3.4 Owner's Representative

3.4.1 Owner's Representative shall be responsible for providing Owner-supplied information and
approvals in a timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents.
Owner's Representative shall also provide Design-Builder with prompt notice if it observes any failure on
the part of Design-Builder to fulfill its contractual obligations, including any errors, omissions or defects in
the performance of the Work.

3.5 Government Approvals and Permits

3.5.2 Owner shall provide reasonable assistance to Design-Builder in obtaining those permits, approvals
and licenses that are Design-Builder's responsibility.

3.6 Owner's Separate Contractors

3.6.1 Owner is responsible for all work performed on the Project or at the Site by separate contractors
under Owner's control. Owner shall contractually require its separate contractors to cooperate with, and
coordinate their activities so as not to interfere with, Design-Builder in order to enable Design-Builder to
timely complete the Work consistent with the Contract Documents.

Article 4

Hazardous Materials and Waste

4.1 Hazardous Materials and Waste

4.1.1 Design-Builder is responsible for any and all Hazardous Materials and Waste generated or
discharged at the Site by Design-Builder or any of its Subcontractors of any tier. As between Design-
Builder and Owner, Owner is responsible for all other Hazardous Material and Waste found at the Site.
Known hazardous materials identified in the scope of work for abatement or containment shall be abated
or contained by the Design-Builder in accordance with all applicable laws and regulations.

4.1.2 Upon encountering any suspected discharges of Hazardous Materials or Waste not identified in
the scope of work, the Design-Builder will stop Work immediately in the affected area and notify the Owner.
Owner and Design-Builder will attempt to characterize the Hazardous Materials or Waste and to determine

whether the presence of the Hazardous Materials or Waste at the Site is the responsibility of the Design-Builder or the Owner.

4.1.3 The party that is responsible for the presence of the Hazardous Materials or Waste at the Site shall take the necessary measures required to ensure that the Hazardous Materials or Waste are remediated or rendered harmless. Such necessary measures shall include retaining qualified independent experts to (i) ascertain whether Hazardous Materials or Waste have actually been encountered, and, if they have been encountered, (ii) prescribe the remedial measures that Owner must take either to remove the Hazardous Materials or Waste or render the Hazardous Materials or Waste harmless. The Owner may by Work Change Directive or Change Order request the Design-Builder to undertake these measures.

4.1.4 Design-Builder will be entitled, in accordance with these General Conditions of Contract, to an adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by the presence of Hazardous Materials or Waste.

Article 5

Insurance and Bonds

5.1 Design-Builder's Insurance Requirements

5.1.1 Design-Builder is responsible for procuring and maintaining from insurance companies authorized to do business in the state in which the Project is located, and with a minimum rating set forth in the Agreement, the following insurance coverages for certain claims which may arise from or out of the performance of the Work and obligations under the Contract Documents:

5.1.1.1 Coverage for claims arising under workers' compensation, disability and other similar employee benefit laws applicable to the Work;

5.1.1.2 Coverage for claims by Design-Builder's employees for bodily injury, sickness, disease, or death;

5.1.1.3 Coverage for claims by any person other than Design-Builder's employees for bodily injury, sickness, disease, or death;

5.1.1.4 Coverage for usual personal injury liability claims for damages sustained by a person as a direct or indirect result of Design-Builder's employment of the person, or sustained by any other person;

5.1.1.5 Coverage for claims for damages (other than to the Work) because of injury to or destruction of tangible property, including loss of use;

5.1.1.6 Coverage for claims of damages because of personal injury or death, or property damage resulting from ownership, use and maintenance of any motor vehicle; and

5.1.1.7 Coverage for contractual liability claims arising out of Design-Builder's obligations under Section 7.4.1 hereof.

5.1.2 Design-Builder's liability insurance required by Section 5.1.1 above shall be written for the coverage amounts set forth in the Agreement and shall include completed operations insurance for the period of time set forth in the Agreement.

5.1.3 Design-Builder's liability insurance set forth in Sections 5.1.1.1 through 5.1.1.7 above shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project.

Project Number: 18008

5.1.4 To the extent Owner requires Design-Builder or any Design Consultant to provide professional liability insurance for claims arising from the negligent performance of design services by Design-Builder or the Design Consultant, the coverage limits, duration and other specifics of such insurance shall be as set forth in the Agreement. Any professional liability shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project. Such policies shall be provided prior to the commencement of any design services hereunder.

5.1.5 Prior to commencing any construction services hereunder, Design-Builder shall provide Owner with certificates evidencing that (i) all insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect for the duration required by the Contract Documents and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to Owner.

5.2 Owner's Liability Insurance

5.2.1 The parties acknowledge that Owner is a governmental entity which has a comprehensive program of self-insuring all risks of general liability for part or all of the Owner's risks of loss or damage.

5.3 Owner's Property Insurance

5.3.1 The parties acknowledge that Owner is a governmental entity which has a comprehensive program of self-insuring all real property risks.

5.4 Bonds and Other Performance Security

5.4.1 If Owner requires Design-Builder to obtain performance and labor and material payment bonds, or other forms of performance security, the amount, form and other conditions of such security shall be as set forth in the Agreement.

Article 6

Payment

6.1 Schedule of Values

6.1.1 Within ten (10) days of execution of the Agreement, Design-Builder shall submit for Owner's review and approval a schedule of values for all of the Work. The Schedule of Values will (i) subdivide the Work into its respective parts, (ii) include values for all items comprising the Work and (iii) serve as the basis for monthly progress payments made to Design-Builder throughout the Work. Items in the schedule of values shall correspond with the Design Builder's activities in the Design Builder's project schedule prepared in accordance with Section 01 32 00 such that no item in the schedule of values does not appear in the Progress Schedule. Items required for listing in the Project Schedule that have zero value need not appear in the Schedule of Values.

6.1.2 Owner's minimum acceptable value amounts for specific line items are listed below and must be included on all approved Schedules of Values and Applications for Payment.

a. The value of Mobilization to the site for construction activities shall be less than or equal to three and one half percent (3.5%) of the total Contract Price. The aggregate value of **all other** preconstruction costs and activities (excluding bonding) such as but not limited to all design activities, permitting, submittals, preconstruction conferences etc. shall be less than or equal to 10% of the total contract amount. Bonding shall be a separate line item on the schedule of values and shall not exceed the documented cost of the bonding.

b. The value of Demobilization shall be greater than or equal to one and a half percent (1.5%) of the total Contract Price.

c. The value of all required Closeout Submittals shall be \$25,000 dollars. No progress payments will be

made for Closeout Submittals until all submittals have been submitted to and accepted by Owner's concurrent review section. This means that the payment for this item will be on the Design-Builder's Final Application for Payment.

6.2 Monthly Progress Payments

6.2.1 On or before the date established in the Agreement, Design-Builder shall submit for Owner's review and approval its Application for Payment requesting payment for all Work performed as of the date of the Application for Payment. The Application for Payment shall be accompanied by all supporting documentation required by the Contract Documents and/or established at the meeting required by Section 2.1.4 hereof. A schedule update, current to the date of the application for payment and approved in accordance with Section 13 20 00 is required before the Owner will review any application for payment.

6.2.2 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 OWNER 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 OWNER'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.

6.2.3 The Application for Payment shall constitute Design-Builder's representation that the Work has been performed consistent with the Contract Documents, has progressed to the point indicated in the Application for Payment, and that title to all Work will pass to Owner free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project, or upon Design-Builder's receipt of payment, whichever occurs earlier.

6.2.4 Each Application for Payment shall be accompanied by Releases of Lien from the Design-Builder and each of his subcontractors, whatever tier, for the full amount of the previous Application for Payment. Release of Liens is a condition precedent for processing the current Application for Payment.

6.3 Withholding of Payments

6.3.1 This Agreement is subject to the requirements of AS 36.90.200-290. See Agreement Article 7.2 Withholding Payments and Retainage on Progress Payments

6.4 Not Used

6.5 Design-Builder's Payment Obligations

6.5.1 Design-Builder shall pay Design Consultants and Subcontractors, in accordance with its contractual obligations to such parties, all the amounts Design-Builder has received from Owner on account of their work. Design-Builder will impose similar requirements on Design Consultants and Subcontractors to pay those parties with whom they have contracted. Design-Builder will indemnify and defend Owner against any claims for payment and mechanic's liens as set forth in Section 7.3 hereof.

6.5.2 Design Builder shall comply with AS 36.30.200-290 as applicable to contracts between a prime contractor and a subcontractor.

6.6 Substantial Completion

6.6.1 Prior to requesting verification for certification of Substantial Completion for either the entire Work, Design-Builder shall complete the following and shall list all known exceptions in the request progress payment request, coincident with or the first following date claimed, show either 100% completion for the portion of the Work claimed as "substantially complete", or list incomplete items, value of incompleteness, and

Project Number: 18008

reasons for being incomplete; and include supporting documentation for completion as indicated in these Contract Documents, and Design-Builder shall submit a statement showing an accounting of changes to Contract Sum. Design-Builder shall advise the Owner of any change over requirements for insurance, and security measures, and utilities, and maintenance.

Upon receipt of Design-Builder's request for Substantial Completion verification, the Owner will either proceed with verification or advise the Design-Builder of any prerequisites not fulfilled. Following initial verification, Owner will either prepare Certificate of Substantial Completion, or advise Design-Builder of Work which must be performed prior to issuance of the certificate. Owner will repeat the verification when requested and assured by the Design-Builder that the Work has been substantially completed. Results of completed verification will form the initial "punch-list" for final acceptance. Following the initial Substantial Completion verification, if the Owner finds the Work so far from completion as to make a later visit necessary, the Design-Builder shall be liable to the Owner for all expenses incurred by reason of such reverification.

6.6.2 Upon Substantial Completion of the entire Work or, if applicable, any portion of the Work, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to twice the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion.

6.6.3 Owner, at its option, may use a portion of the Work which has been determined to be substantially complete, provided, however, that a Certificate of Partial Substantial Completion has been issued for the portion of Work addressing the items set forth in Section 6.6.1 above; and (i) Design-Builder and Owner have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (ii) Owner and Design-Builder agree that Owner's use or occupancy will not interfere with Design-Builder's completion of the remaining Work.

6.7 Final Payment

6.7.1 After receipt of a Final Application for Payment from Design-Builder, Owner shall make final payment by the time required in the Agreement, provided that Design-Builder has completed all of the Work in conformance with the Contract Documents.

6.7.2 At the time of submission of its Final Application for Payment, Design-Builder shall provide the following information:

6.7.2.1 an affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect Owner's interests;

6.7.2.2 a general release executed by Design-Builder and a release of liens from all subcontractors of all tiers, waiving, upon receipt of final payment by Design-Builder and by the subcontractors, all claims, except those claims previously made in writing to Owner or the Design-Builder and remaining unsettled at the time of final payment;

6.7.2.3 consent of Design-Builder's surety, if any, to final payment;

6.7.2.4 all operating manuals, warranties and other deliverables required by the Contract Documents;
and

6.7.2.5 certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents.

6.7.3 Upon making final payment, Owner waives all claims against Design-Builder except claims relating to (i) Design-Builder's failure to satisfy its payment obligations, if such failure affects Owner's interests, (ii) Design-Builder's failure to complete the Work consistent with the Contract Documents, including defects

appearing after Substantial Completion and (iii) the terms of any special warranties required by the Contract Documents.

Article 7

Indemnification

7.1 Patent and Copyright Infringement

7.1.1 Design-Builder represents and warrants that Design-Builder has exercised due diligence to ensure that its design and performance of the Work, and the Owner's use and occupancy of the Work, will not violate any copyright, patent, or other intellectual property right. Design-Builder shall defend any action or proceeding brought against Owner based on any claim that the Work, or any part thereof, or the operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright or other intellectual property right, now or hereafter issued. Owner shall give prompt written notice to Design-Builder of any such action or proceeding and will reasonably provide authority, information and assistance in the defense of same. Design-Builder shall indemnify and hold harmless Owner from and against all damages and costs, including but not limited to attorneys' fees and expenses awarded against Owner or Design-Builder in any such action or proceeding. Design-Builder agrees to keep Owner informed of all developments in the defense of such actions.

7.1.2 If Owner is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Design-Builder shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Design-Builder cannot so procure such right within a reasonable time, Design-Builder shall promptly, at Design-Builder's option and at Design-Builder's expense, (i) modify the Work so as to avoid infringement of any such patent or copyright or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

7.1.3 Sections 7.1.1 and 7.1.2 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely to a particular process or product of a particular manufacturer specified by Owner and not offered or recommended by Design-Builder to Owner or (ii) arising from modifications to the Work by Owner or its agents after acceptance of the Work.

7.1.4 The obligations set forth in this Section 7.1 shall constitute the sole agreement between the parties relating to liability for infringement or violation of any patent or copyright.

7.2 Tax Claim Indemnification

7.2.1 Design-Builder shall comply with all procedures necessary to ensure payment of all payroll taxes by Design-Builder and its Subcontractors, Design Consultants, and sub-subcontractors of any tier.

7.3 Payment Claim Indemnification

7.3.1 Providing that Owner is not in breach of its contractual obligation to make payments to Design-Builder for the Work, Design-Builder shall indemnify, defend and hold harmless Owner from any claims or mechanic's liens brought against Owner or against the Project as a result of the failure of Design-Builder, or those for whose acts it is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work. Within three (3) days of receiving written notice from Owner that such a claim or mechanic's lien has been filed, Design-Builder shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Design-Builder fails to do so, Owner will have the right to discharge the claim or lien and hold Design-Builder liable for costs and expenses incurred, including attorneys' fees.

7.4 Design-Builder's General Indemnification

7.4.1 The Design-Builder shall indemnify, hold harmless, and defend the Owner from and against any claim of, or liability for negligent acts, errors or omissions of the Design-Builder under this Agreement. The Design-Builder shall not be required to indemnify the Owner for a claim of, or liability for, the independent negligence of the Owner. If there is a claim of, or liability for, the joint negligent error or omission of the Design-Builder and the independent negligence of the Owner, the Design-Builder's indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "Design-Builder" and "Owner", as used within this article, include the employees, agents and other contractors who are directly responsible, respectively, to each. The term "Independent Negligence" is negligence other than in the Owner's selection, administration, monitoring, or controlling of the Design-Builder and in approving or accepting the Design-Builder's work.

7.4.2 If an employee of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable has a claim against Owner, its officers, directors, employees, or agents, Design-Builder's indemnity obligation set forth in Section 7.4.1 above shall not be limited by any limitation on the amount of damages, compensation or benefits payable by or for Design-Builder, Design Consultants, Subcontractors, or other entity under any employee benefit acts, including workers' compensation or disability acts.

Article 8

Time

8.1 Obligation to Achieve the Contract Times

8.1.1 Design-Builder agrees that it will commence performance of the Work and achieve the Contract Time(s) in accordance with Article 5 of the Agreement.

8.2 Delays to the Work

8.2.1 If Design-Builder is delayed in the performance of the Work due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom Design-Builder is responsible, and such delay(s) are shown to extend the time necessary to achieve Substantial Completion, the Contract Time(s) for performance shall be reasonably extended by Change Order. By way of example, events that may entitle Design-Builder to an extension of the Contract Time(s) include acts or omissions of Owner or anyone under Owner's control (including separate contractors), changes in the Work directed by the Owner, Differing Site Conditions, Hazardous Conditions, wars, floods, labor disputes, unusual delay in transportation, epidemics abroad, earthquakes, adverse weather conditions not reasonably anticipated, and other acts of God. In order to be entitled to an extension of Contract Time, the Design-Builder must demonstrate through Critical Path Method schedule analysis and other reliable evidence that the event complained of was not one for which the Design-Builder was responsible and that the event complained of to affected one or more critical elements of the Work for a reasonably certain period of time.

8.2.2 In addition to Design-Builder's right to claim a time extension for those events set forth in Section 8.2.1 above, Design-Builder shall also be entitled to claim an appropriate adjustment of the Contract Price provided, however, that the Contract Price shall not be adjusted for those events set forth in Section 8.2.1 above that are beyond the control of both Design-Builder and Owner, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God.

Article 9

Changes to the Contract Price and Time

9.1 OWNER's Right to Change

Without invalidating the Contract and without notice to any Surety, the OWNER 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 Owner-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 the 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 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.
- 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 9.5).
- 9.3.5 Upon the issuance of a Directive to the DESIGN-BUILDER by the Contracting Officer, the DESIGN-BUILDER shall proceed with the performance of the Work as prescribed by such Directive.
- 9.3.6 If the DESIGN-BUILDER believes that the changes noted in a Directive may cause an increase in the Contract Price or an extension of Contract Time, the DESIGN-BUILDER 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 DESIGN-BUILDER to proceed with the Work. The DESIGN-BUILDER 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 9.12 "Cost of the work".

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 DESIGN-BUILDER

Project Number: 18008

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 00 92 00 Articles 8 and 9. The OWNER will issue Change Orders for the DESIGN-BUILDER to sign. A Change Order shall be considered executed when the OWNER signs it. The DESIGN-BUILDER'S signature indicates that they accept the Change Order or acknowledge it. Acknowledgement of a Change Order does not surrender the DESIGN-BUILDER'S right to claim.

9.5 Emergencies

In any emergency affecting the safety of persons and/or property, Design-Builder shall act at its discretion to prevent threatened damage injury or loss. Any change to the contract price and/or contract time(s) on account of emergency work shall be determined as provided in Article 8 and Article 9

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 OWNER and the DESIGN-BUILDER.

9.7 Unauthorized Work:

The DESIGN-BUILDER 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 9.5 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 DESIGN-BUILDER's responsibility, and the amount of each applicable bond will be adjusted accordingly.

9.9 Differing Site Conditions:

9.9.1 The DESIGN-BUILDER shall promptly, and before such conditions are disturbed (except in an emergency as permitted by paragraph 9.5), 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 DESIGN-BUILDER'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 DESIGN-BUILDER under this clause shall be made in accordance with 00 92 00 Article 10. In the event that the Contracting Officer and the DESIGN-BUILDER are unable to reach an agreement concerning an alleged differing site condition, the DESIGN-BUILDER 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 (IWA)

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 9.12 "Cost of the Work", to establish a basis for negotiating a lump sum price for the Change Order.

9.11 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:

- 9.11.1 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.
- 9.11.2 By mutual acceptance of a lump sum price, that includes a fee for overhead and profit, which shall be based upon the estimated "cost of the work" as determined in paragraphs 9.12 and 9.13. The fee for overhead and profit shall be based on the following percentages of the various portions of the estimated "cost of the work":
 - a. For estimated costs incurred under paragraphs 9.12.1 and 9.12.2, the DESIGN-BUILDER's fee shall be twenty percent;
 - b. For estimated costs incurred under paragraph 9.12.3, the DESIGN-BUILDER's fee shall be ten percent; and if a Change Order involves multiple tier SUBCONTRACTORS, the total combined fee for overhead and profit for the DESIGN-BUILDER, and all SUBCONTRACTORS, regardless of tier, shall not exceed 35%.
 - c. No fee shall be payable on the basis of estimated costs itemized under paragraphs 9.12.4, 9.12.5 and 9.13;
 - d. The amount of credit to be allowed by the DESIGN-BUILDER to the OWNER for any such change which results in a net decrease in cost will be the amount of the estimated net decrease plus a deduction in DESIGN-BUILDER'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 DESIGN-BUILDER's fee shall be computed on the basis of the net change in accordance with paragraphs 9.11.2.a through 9.11.2.d, inclusive.
- 9.11.3 When 9.11.1 and 9.11.2 are inapplicable, on the basis of the "cost of the work" (determined as provided in paragraphs 9.12 Cost of the work and 9.13 Excluded Costs) plus a DESIGN-BUILDER's fee for overhead and profit (determined as provided in paragraph 9.14 Design-Builders Fee).
- 9.11.4 Before a Change Order or Supplemental Agreement is Approved, the DESIGN-BUILDER shall submit cost or pricing data regarding the changed or extra Work. The DESIGN-BUILDER 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.

9.12 Cost of the Work:

The term "cost of the work" means the sum of all costs necessarily incurred and paid by the DESIGN-BUILDER in the proper performance of the Work. Except as otherwise may be agreed to in writing by

Project Number: 18008

the OWNER, 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 9.13 Excluded Costs:

- 9.12.1 Payroll costs for employees in the direct employ of the DESIGN-BUILDER in the performance of the Work under schedules of job classifications agreed upon by the OWNER and the DESIGN-BUILDER. 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 include, but not 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 OWNER.
- 9.12.2 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 DESIGN-BUILDER unless the OWNER deposits funds with the DESIGN-BUILDER with which to make payments, in which case the cash discounts shall accrue to the OWNER. All trade discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to the OWNER, and the DESIGN-BUILDER shall make provisions so that they may be obtained.
- 9.12.3 Payments made by the DESIGN-BUILDER to Subcontractors for Work performed by Subcontractors. If required by the OWNER, DESIGN-BUILDER shall obtain competitive quotes from Subcontractors or Suppliers acceptable to the DESIGN-BUILDER and shall deliver such quotes to the OWNER 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's "cost of the work" shall be determined in the same manner as the DESIGN-BUILDER's "cost of work" as described in paragraphs 9.12 Cost of the Work through 9.13 Excluded Costs; and the Subcontractor's fee shall be established as provided for under subparagraph 9.14.2 (Design-Builders fee) clause b. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.
- 9.12.4 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.
- 9.12.5 Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel and subsistence expenses of the DESIGN-BUILDER'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 DESIGN-BUILDER.
 - c. Rentals of all construction equipment and machinery and the parts thereof whether rented from the DESIGN-BUILDER or others in accordance with rental agreements Approved by the OWNER 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 DESIGN-BUILDER 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 (Alaska South), 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 DESIGN-BUILDER shall receive a rental rate as agreed upon before such work is begun. If agreement cannot be reached, the OWNER 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 DESIGN-BUILDER's regular shift of 10 hours per day. Where the equipment is used more than 10 hours per day, either on the DESIGN-BUILDER'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 (Alaska South), plus the estimated hourly operating cost.

The Project Manager shall authorize equipment rented or leased specifically for work required under this section in writing. The DESIGN-BUILDER shall be paid invoice price plus 15 percent.

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 DESIGN-BUILDER 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 DESIGN-BUILDER'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 (Alaska South).

Time will be recorded to the nearest one-quarter hour for purposes of computing compensation to the DESIGN-BUILDER 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 DESIGN-BUILDER is liable, imposed by Regulatory Requirements.
- e. Deposits lost for causes other than negligence of the DESIGN-BUILDER, 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 DESIGN-BUILDER in connection with the performance and furnishing of the Work provided they have resulted from causes other than the negligence of the DESIGN-BUILDER, 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 OWNER. No such losses, damages and expenses shall be included in the "cost of the work" for the purpose of determining the DESIGN-BUILDER's fee. If, however, any such loss or damage requires reconstruction and the DESIGN-BUILDER is placed in charge thereof, the DESIGN-BUILDER shall be paid for services a fee proportionate to that stated in paragraphs 9.14.2.a and 9.14.2.b Design-Builders Fee.
- 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.
- l. 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 OWNER in accordance with 00 51 00 Article 10 Bonds and Insurance.

9.13 Excluded Costs:

The term "cost of the work" shall not include any of the following:

- 9.13.1 Payroll costs and other compensation of DESIGN-BUILDER'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 DESIGN-BUILDER whether at the site or in DESIGN-BUILDER'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 9.12.1 Cost of Work or specifically covered by paragraph 9.12.4 all of which are to be considered administrative costs covered by the DESIGN-BUILDER's fee.
- 9.13.2 Expenses of DESIGN-BUILDER's principal and branch offices other than DESIGN-BUILDER's office at the site.
- 9.13.3 Any part of DESIGN-BUILDER's capital expenses including interest on DESIGN-

BUILDER's capital employed for the Work and charges against DESIGN-BUILDER for delinquent payments.

- 9.13.4 Cost of premiums for all bonds and for all insurance whether or not DESIGN-BUILDER is required by the Contract Documents to purchase and maintain the same (except for the cost of premiums covered by subparagraph 9.12.5.i above).
- 9.13.5 Costs due to the negligence of DESIGN-BUILDER, 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.
- 9.13.6 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraph 9.12.4 Cost of the work.

9.14 DESIGN-BUILDER's Fee:

The DESIGN-BUILDER's fee allowed to DESIGN-BUILDER for overhead and profit shall be determined as follows.

- 9.14.1 A mutually acceptable fixed fee; or if none can be agreed upon.
- 9.14.2 A fee based on the following percentages of the various portions of the "cost of the work":
 - a. For costs incurred under paragraphs 9.12.1 and 9.12.2, the DESIGN-BUILDER's fee shall be fifteen percent;
 - b. For costs incurred under paragraph 9.12.3, the DESIGN-BUILDER's fee shall be five percent; and if a Change Order involves multiple tier SUBCONTRACTORS, the total combined fee for overhead and profit for the DESIGN-BUILDER, and all SUBCONTRACTORS, regardless of tier, shall not exceed 25%.
 - c. No fee shall be payable on the basis of costs itemized under paragraphs 9.12.4, 9.12.5 and 9.13;
 - d. The amount of credit to be allowed by the DESIGN-BUILDER to the OWNER 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 DESIGN-BUILDER's fee by an amount equal to ten percent of the net decrease; and
 - e. When both additions and credits are involved in any one change, the adjustment in Design-Builder's fee shall be computed on the basis of the net change in accordance with paragraphs 9.14.2 Design-Builders Fee .a through 9.14.2.d, inclusive.

9.15 Cost Breakdown:

Whenever the cost of any Work is to be determined pursuant to paragraphs 9.12 and 9.13, the DESIGN-BUILDER will submit in a form acceptable to the OWNER an itemized cost breakdown together with supporting data.

9.16 Federal Disadvantaged Business Enterprise (DBE) Program

~~The DBE Program shall be in accordance with Section 00120.~~

Article 10

CLAIMS AND DISPUTES

10.1 Notification

10.1.1 The DESIGN-BUILDER shall notify the OWNER in writing as soon as the DESIGN-BUILDER 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 OWNER 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 DESIGN-BUILDER has notified the OWNER in writing in a timely manner of all facts the DESIGN-BUILDER believes form the basis for the claim.

10.1.2 If the DESIGN-BUILDER believes that he is entitled to an extension of Contract Time, then the DESIGN-BUILDER must state the contract section on which he basis his extension request, provide the OWNER with sufficient information to demonstrate that the DESIGN-BUILDER has suffered excusable delay, and show the specific amount of time to which the DESIGN-BUILDER is entitled. The OWNER will not grant an extension of Contract Time if the DESIGN-BUILDER does not timely submit revised schedules as required by Section 00 92 00, Article 2.1.3.

10.1.3 If the matter is not resolved by agreement within 7 days, the DESIGN-BUILDER shall submit an Intent to Claim, in writing, to the OWNER within the next 14 days.

10.1.4 If the DESIGN-BUILDER 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 DESIGN-BUILDER shall provide the OWNER access to any such records and furnish the OWNER copies, if requested. Equipment costs must be based on the DESIGN-BUILDER'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 OWNER for additional time, compensation or both, the DESIGN-BUILDER 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 OWNER.

10.1.5 If the claim or dispute is not resolved by the OWNER, then the DESIGN-BUILDER shall submit a written Claim to the Contracting Officer within 90 days after the DESIGN-BUILDER 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.

10.1.6 The DESIGN-BUILDER waives any right to claim if the OWNER 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.

10.2 Presenting the Claim

10.2.1 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 DESIGN-BUILDER believes is due.

10.3 Claim Validity, Additional Information, and Owner's Action

10.3.1 The Claim, in order to be valid, must not only show that the DESIGN-BUILDER 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.

10.3.2 The OWNER can make written request to the DESIGN-BUILDER at any time for additional information relative to the Claim. The DESIGN-BUILDER shall provide the OWNER 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.

10.4 Contracting Officer's Decision

The DESIGN-BUILDER will be furnished the Contracting Officer's Decision within 90 days, unless the Contracting Officer requests additional information or gives the DESIGN-BUILDER 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 DESIGN-BUILDER delivers a Notice of Appeal to the Appeals Officer. Procedures for appeals are covered under AS 36.30.625 and AS 36.30.630.

10.5 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 DESIGN-BUILDER if the DESIGN-BUILDER makes or uses a misrepresentation in support of a claim or defraud or attempt to defraud the OWNER at any stage of prosecuting a claim under this Contract.”

Article 11

SUSPENSION OF WORK, DEFAULT AND TERMINATION

11.1 OWNER May Suspend Work:

11.1.1 The OWNER may, at any time, suspend the Work or any portion thereof by notice in writing to the DESIGN-BUILDER. If the Work is suspended without cause the DESIGN-BUILDER 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 DESIGN-BUILDER makes an Approved claim therefore 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 DESIGN-BUILDER, 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 DESIGN-BUILDER.

11.1.2 In case of suspension of Work, the DESIGN-BUILDER 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.

11.2 Default of Contract:

11.2.1 The Contracting Officer may give the DESIGN-BUILDER and its surety a written Notice to Cure Default if the DESIGN-BUILDER:

- 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 DESIGN-BUILDER declares bankruptcy, termination will be under Title 11 US Code 362 and/or 365. The DESIGN-BUILDER'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

Project Number: 18008

- 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.

11.2.2 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 OWNER 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 OWNER. The OWNER will provide the DESIGN-BUILDER or its surety with a written Notice of Default Termination that details the default and the failure to cure it. If the DESIGN-BUILDER or its Surety, within the time specified in the above notice of default, shall not proceed in accordance therewith, then the OWNER may, upon written notification from the Contracting Officer of the fact of such delay, neglect or default and the DESIGN-BUILDER'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 DESIGN-BUILDER. The OWNER may terminate the services of the DESIGN-BUILDER, exclude the DESIGN-BUILDER from the site and take possession of the Work and of all the DESIGN-BUILDER's tools, appliances, construction equipment and machinery at the site and use the same to the full extent they could be used by the DESIGN-BUILDER (without liability to the DESIGN-BUILDER for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which the OWNER has paid the DESIGN-BUILDER but which are stored elsewhere, and finish the Work as the OWNER may deem expedient. The OWNER 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.

11.2.3 The Contracting Officer may, by written notice to the DESIGN-BUILDER and its Surety or its representative, transfer the employment of the Work from the DESIGN-BUILDER to the Surety, or if the DESIGN-BUILDER 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 DESIGN-BUILDER, 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 OWNER 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.

11.2.4 After the notice of termination is issued, the OWNER 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.

11.2.5 Rather than taking over the work itself, the OWNER may transfer the obligation to perform the work from the DESIGN-BUILDER 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 OWNER 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.

11.2.6 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 OWNER will make subsequent Contract payments directly to the Surety for work performed under the terms of the Contract. The DESIGN-BUILDER shall forfeit any right to claim for the same work or any part thereof. The DESIGN-BUILDER shall not be entitled to receive any further balance of the amount to be paid under the Contract.

11.2.7 Upon receipt of the notice terminating the services of the DESIGN-BUILDER, 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 DESIGN-BUILDER to make any claim for the same or any part thereof.

11.2.8 If the Contract is terminated for default, the DESIGN-BUILDER 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 OWNER 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 DESIGN-BUILDER 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 OWNER and any amounts due to persons for whose benefit the OWNER has withheld funds, such excess shall be paid by the OWNER to the DESIGN-BUILDER. If the damages, costs, and expenses due the OWNER exceed the unpaid balance, the DESIGN-BUILDER and its Surety shall pay the difference.

11.2.9 If, after notice of termination of the DESIGN-BUILDER's right to proceed under the provisions of this clause, it is determined for any reason that the DESIGN-BUILDER 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.

11.3 Rights or Remedies:

Where the DESIGN-BUILDER's services have been so terminated by the OWNER, the termination will not affect any rights or remedies of the OWNER against the DESIGN-BUILDER then existing or which may thereafter accrue. Any retention or payment of moneys due the DESIGN-BUILDER by the OWNER will not release the DESIGN-BUILDER from liability.

11.4 Convenience Termination:

11.4.1 The performance of the Work may be terminated by the OWNER 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 OWNER. Any such termination shall be effected by delivery to the DESIGN-BUILDER of a Notice of Termination, specifying termination is for the convenience of the OWNER the extent to which performance of Work is terminated, and the date upon which such termination becomes effective.

11.4.2 Immediately upon receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer, the DESIGN-BUILDER 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 OWNER;

Project Number: 18008

- 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 DESIGN-BUILDER and in which the OWNER has or may acquire any interest.
- h. The DESIGN-BUILDER shall proceed immediately with the performance of the above obligations.

11.4.3 When the OWNER 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 OWNER - or the DESIGN-BUILDER may retain title to the materials and be paid an agreed upon lump sum. Materials on order shall be cancelled, and the OWNER shall pay reasonable factory cancellation charges with the option of taking delivery of the materials in lieu of payment of cancellation charges. The DESIGN-BUILDER shall be paid 10% of the cost, freight not included, of materials cancelled, and direct expenses only for DESIGN-BUILDER chartered freight transport which cannot be cancelled without charges, to the extent that the DESIGN-BUILDER 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 OWNER. 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

11.4.4 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 DESIGN-BUILDER made within the 90-day period. Upon failure of the DESIGN-BUILDER 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 DESIGN-BUILDER by reason of the termination and shall thereupon pay to the DESIGN-BUILDER the amount so determined.

11.4.5 The DESIGN-BUILDER and the Contracting Officer may agree upon whole or any part of the amount or amounts to be paid to the DESIGN-BUILDER by reason of the total or partial termination of Work pursuant to this section. The Contract shall be amended accordingly, and the DESIGN-BUILDER shall be paid the agreed amount.

11.4.6 In the event of the failure of the DESIGN-BUILDER 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 DESIGN-BUILDER 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 DESIGN-BUILDER by reason of the termination and shall pay to the DESIGN-BUILDER the amount determined as follows:

- a. All costs and expenses reimbursable in accordance with the Contract not previously paid to the DESIGN-BUILDER 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 DESIGN-BUILDER for idled or stand-by equipment shall be made as follows: Equipment claims will be reimbursed as follows:
 1. Design-Builder-owned equipment usage, based on the DESIGN-BUILDER'S ownership and operating costs for each piece of equipment as determined from the DESIGN-BUILDER'S accounting records. Under no circumstance, may the DESIGN-BUILDER base equipment claims on published rental rates.

2. Idle or stand-by time for Design-Builder-owned equipment, based on the DESIGN-BUILDER'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 Design-Builder-owned equipment. Equipment leased from an affiliate, division, subsidiary or other organization under common control with the DESIGN-BUILDER will be considered Design-Builder-owned equipment, unless the lessor has an established record of leasing to unaffiliated lessees at competitive rates consistent with the rates the DESIGN-BUILDER 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.

11.4.7 The DESIGN-BUILDER shall have the right of appeal under the OWNER's claim procedures, as defined in Article 15, for any determination made by the Contracting Officer, except if the DESIGN-BUILDER has failed to submit his claim within the time provided and has failed to request extension of such time, DESIGN-BUILDER shall have no such right of appeal. In arriving at the amount due the DESIGN-BUILDER under this section, there shall be deducted:

- a. All previous payments made to the DESIGN-BUILDER for the performance of Work under the Contract prior to termination;
- b. Any claim for which the OWNER may have against the DESIGN-BUILDER;
- c. The agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the DESIGN-BUILDER or sold pursuant to the provisions of this section and not otherwise recovered by or credited to the OWNER; and,
- d. All progress payments made to the DESIGN-BUILDER under the provisions of this section.

12.4.7 Where the Work has been terminated by the OWNER said termination shall not affect or terminate any of the rights of the OWNER against the DESIGN-BUILDER or his Surety then existing or which may thereafter accrue because of such default. Any retention or payment of monies by the OWNER due to the DESIGN-BUILDER under the terms of the Contract shall not release the DESIGN-BUILDER or its Surety from liability.

12.4.8 The DESIGN-BUILDER's termination claim may not include claims that pre dated the notice for termination for convenience. Those claims shall be prosecuted by the DESIGN-BUILDER under Article 15.

12.4.9 The DESIGN-BUILDER'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 DESIGN-BUILDER, 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 OWNER at all reasonable times at the office of the DESIGN-BUILDER, all its books, records, documents, and other evidence bearing on the cost and expenses of the DESIGN-BUILDER 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 DESIGN-BUILDER, actually reflected in its contemporaneously maintained accounting or other financial records and supported by original source documentation.

c. Cost Principles. The OWNER 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 12

Miscellaneous

12.1 Assignment

12.1.1 Neither Design-Builder nor Owner shall, without the written consent of the other assign, transfer or sublet any portion or part of the Work or the obligations required by the Contract Documents.

12.2 Successorship

12.2.1 Design-Builder and Owner intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.

12.3 Governing Law

12.3.1 The Agreement and all Contract Documents shall be governed by the laws of the place of the Project, without giving effect to its conflict of law principles. This Agreement is subject to the claims provisions of the State Procurement Code. Any judicial appeal of an administrative decision made under or in connection with this Agreement shall be commenced and maintained in the Superior Court of the State of Alaska at Anchorage. Proposer consents to the jurisdiction of said court to dispose of any claim which might be brought by the Owner under or in connection with this Agreement.

12.4 Severability

12.4.1 If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

12.5 No Waiver

12.5.1 The failure of either Design-Builder or Owner to insist, in any one or more instances, on the performance of any of the obligations required by the other under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

12.6 Headings

12.6.1 The headings used in these General Conditions of Contract, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

12.7 Notice

12.7.1 Whenever the Contract Documents require that notice be provided to the other party, notice will be deemed to have been validly given (i) if delivered in person to the individual intended to receive such notice, (ii) four (4) days after being sent by registered or certified mail, postage prepaid to the address indicated in the Agreement or (iii) if transmitted by facsimile, by the time stated in a machine generated confirmation that notice was received at the facsimile number of the intended recipient.

12.8 Amendments

12.8.1 The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

Article 13

Design-Builder Generated Hazardous Materials and Waste

13.1 Definitions:

13.1.1 Hazardous Material: A substance or material which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. Appendix Section 1801 et seq. The term includes materials designated as hazardous materials under the provisions of 49 CFR 172, Sections .101 and .102 and materials which meet the defining criteria for hazard classes and divisions in 49 CFR 173. EPA designated hazardous wastes are also hazardous materials.

13.1.2 Hazardous Waste: A waste which meets criteria established in RCRA or specified by the EPA in 40 CFR 261 or which has been designated as hazardous by a RCRA authorized state program.

13.2 Code of Federal Regulations (CFR):

13.2.1 40 CFR 61 “National Emission Standards for Hazardous Air Pollutants”.

13.2.2 40 CFR 261 “Identification and Listing of Hazardous Waste”.

13.2.3 40 CFR 262 “Standards Applicable to Generators of Hazardous Waste”.

13.2.4 40 CFR 263 “Standards Applicable to Transporters of Hazardous Waste”.

13.2.5 40 CFR 264 “Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities”.

13.2.6 40 CFR 265 “Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities”.

13.2.7 40 CFR 266 “Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities”.

13.2.8 40 CFR 268 “Land Disposal Restrictions”.

13.2.9 40 CFR 270 “EPA Administered Permit Programs: The Hazardous Waste Permit Program”.

13.2.10 40 CFR 279 “Standards for the Management of Used Oil”.

13.2.11 40 CFR 300 “National Oil and Hazardous Substances Pollution Contingency Plan”.

13.2.12 40 CFR 302 “Designation, Reportable Quantities, and Notification”.

13.2.13 40 CFR 761 “Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions”.

13.2.14 49 CFR 107 “Hazardous Materials Program Procedures”.

13.2.15 49 CFR 172 “Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements”.

13.2.16 49 CFR 173 “Shippers - General Requirements for Shipments and Packagings”.

13.2.17 49 CFR 178 “Specifications for Packagings”.

13.3 Transportation and Disposal Coordinator: Design-Builder shall designate, by position and title, one person to act as the Transportation and Disposal Coordinator (TDC) for this contract. TDC shall serve as the single point of contact for all environmental regulatory matters and shall have overall responsibility for total environmental compliance at the site including, but not limited to, accurate identification and classification of hazardous waste and hazardous materials determination of proper shipping names identification of marking, labeling, packaging and

Project Number: 18008

placarding requirements completion of waste profiles, hazardous waste manifests, asbestos waste shipment records, PCB manifests, Bill of Ladings, exception and discrepancy reports and all other environmental documentation. TDC shall have, at a minimum, one year of specialized experience in the management and transportation of hazardous waste.

- 13.4 Training:** Design-Builder's hazardous materials employees shall be trained, tested, and certified to safely and effectively carry out their assigned duties. Design-Builder's employees transporting hazardous materials or preparing hazardous materials for transportation shall be trained, tested, and certified in accordance with 49 CFR 172.1.3.3 Certification Design-Builder and subcontractors transporting hazardous materials shall possess a current certificate of registration issued by the Research and Special Programs Administration (RSPA), U.S. Owner of Transportation, when required by 49 CFR 107, Subpart G.1.4
- 13.5 Requirements:** Work shall meet or exceed the minimum requirements established by Federal, state, and local laws and regulations which are applicable. Design-Builder shall be responsible for complying with amendments as they become effective, irregardless of the date of this Contract. In the event that compliance exceeds the scope of Work or conflicts with specific requirements of the Contract, Design-Builder shall notify the Contacting Officer immediately.
- 13.6 On-site And Off-site Hazardous Materials Management Plans:** Prior to start of work, a plan shall be prepared detailing the manner in which hazardous materials shall be managed.
- 13.7 On-site And Off-site Hazardous Waste Management Plans:** Prior to start of work, a plan shall be prepared detailing the manner in which hazardous wastes shall be managed.
- 13.8 Record Keeping:** Information necessary to file state annual or EPA biennial reports for all hazardous waste transported, treated, stored, or disposed of under this contract. Design-Builder shall not forward these data directly to the regulatory agency but to the Contacting Officer at the specified time. The submittal shall contain all the information necessary for filing of the formal reports in the form and format required by the governing Federal or state regulatory agency. A cover letter shall accompany the data to include the contract number, Design-Builder name, and project location.
- 13.9 Spill Response:** In the event of a spill or release of a hazardous substance (as designated in 40 CFR 302), or pollutant or contaminant, or oil (as governed by the Oil Pollution Act (OPA), 33 U.S.C.2701 et seq.), Design-Builder shall notify the Contacting Officer immediately. If the spill exceeds a reporting threshold, Design-Builder shall follow the pre-established procedures for immediate reporting to the Contacting Officer.
- 13.10 Exception Reports:** In the event that a manifest copy documenting receipt of hazardous waste at the treatment, storage, and disposal facility is not received within 35 days of shipment initiation, Design-Builder shall prepare and submit an exception report to the Contacting Officer within 37 days of shipment initiation.
- 13.11 Qualifications:** Copies of the current certificates of registration issued to Design-Builder and/or subcontractors or written statements certifying exemption from these requirements.
- 13.12 Off-Site Policy Compliance Certification:** A letter certifying that EPA considers the facilities to be used for all off-site disposal to be acceptable in accordance with the Off-Site policy in 40 CFR 300, Section .440. This certification shall be provided for wastes from Resource Conservation and Recovery Act (RCRA), 42 U.S.C.6901 et seq., sites as well as from Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 et seq., responses.
- 13.13 Certificates of Disposal:** Certificates documenting the ultimate disposal of hazardous wastes, polychlorinated biphenyls (PCBs), and/or asbestos within 180 days of initial shipment. Receipt of these certificates will be required for final payment

- 13.14** Shipping Documents and Packagings Certification: All transportation related shipping documents to the Contacting Officer, including draft hazardous waste manifests, draft land disposal restriction notifications, draft asbestos waste shipment records, draft manifests for PCBs, draft Bill of Ladings for hazardous materials, lists of corresponding proposed labels, packages, marks, and placards to be used for shipment, waste profiles, supporting waste analysis documents, for review a minimum of 14 days prior to anticipated pickup. Packaging assurances shall be furnished prior to transporting hazardous material "generator copies" of hazardous waste manifests, land disposal restriction notifications, asbestos waste shipment records, "generator copies" of manifests used for initiating shipments of PCBs, used oil invoices/shipment records, Bill of Ladings, supporting waste analysis documents shall be furnished when shipments are originated and "receipt copies" of asbestos waste shipment records at the designated disposal facility shall be furnished not later than 35 days after acceptance of the shipment.
- 13.15** Notices of Non-Compliance and Notices of Violation: Notices of non-compliance or notices of violation by a Federal, state, or local regulatory agency issued to Design-Builder in relation to any work performed under this contract. Design-Builder shall immediately provide copies of such notices to the Contacting Officer. Design-Builder shall also furnish all relevant documents regarding the incident and any information requested by the Contacting Officer, and shall coordinate its response to the notice with the Contacting Officer or his designated representative prior to submission to the notifying authority. Design-Builder shall also furnish a copy to the Contacting Officer of all documents submitted to the regulatory authority, including the final reply to the notice, and all other materials, until the matter is resolved.
- 13.16** Materials: Design-Builder shall provide all of the materials required for the packaging, labeling, marking, placarding and transportation of hazardous wastes and hazardous materials in conformance with Department of Transportation standards. Details in this specification shall not be construed as establishing the limits of Design-Builder's responsibility.
- 13.17** Packagings: Design-Builder shall provide [bulk] [non-bulk] [bulk and non-bulk] containers for packaging hazardous materials/wastes consistent with the authorizations referenced in the Hazardous Materials Table in 49 CFR 172, Section .101, Column 8. Bulk and non-bulk packaging shall meet the corresponding specifications in 49 CFR 173 referenced in the Hazardous Materials Table, 49 CFR 172, Section .101. Each packaging shall conform to the general packaging requirements of Subpart B of 49 CFR 173, to the requirements of 49 CFR 178 at the specified packing group performance level, to the requirements of special provisions of column 7 of the Hazardous Materials Table in 49 CFR 172, Section .101, and shall be compatible with the material to be packaged as required by 40 CFR 262. Design-Builder shall also provide other packaging related materials such as materials used to cushion or fill voids in overacted containers, etc. Sorbent materials shall not be capable of reacting dangerously with, being decomposed by, or being ignited by the hazardous materials being packaged. Additionally, sorbents used to treat free liquids to be disposed of in landfills shall be non-biodegradable as specified in 40 CFR 264, Section .314.
- 13.18** Markings: Design-Builder shall provide markings for each hazardous material/waste package, freight container, and transport vehicle consistent with the requirements of 49 CFR 172, Subpart D and [40 CFR 262, Section .32 (for hazardous waste), 40 CFR 761, Section .45 (for PCBs), 40 CFR 61, Section .149(d) (for asbestos)]. Markings shall be capable of withstanding, without deterioration or substantial color change, a 180 day exposure to conditions reasonably expected to be encountered during container storage and transportation.
- 13.19** Labeling: Design-Builder shall provide primary and subsidiary labels for hazardous materials/wastes consistent with the requirements in the Hazardous Materials Table in 49 CFR 172, Section .101, Column 6. Labels shall meet design specifications required by 49 CFR 172, Subpart E including size, shape, color, printing, and symbol requirements. Labels shall be durable and weather resistant and capable of withstanding, without deterioration or substantial color

Project Number: 18008

change, a 180 day exposure to conditions reasonably expected to be encountered during container storage and transportation.

- 13.20** Placards: For each off-site shipment of hazardous material/waste, Design-Builder shall provide primary and subsidiary placards consistent with the requirements of 49 CFR 172, Subpart F. Placards shall be provided for each side and each end of bulk packaging, freight containers, transport vehicles, and rail cars requiring such placarding. Placards may be plastic, metal, or other material capable of withstanding, without deterioration, a 30 day exposure to open weather conditions and shall meet design requirements specified in 49 CFR 172, Subpart F.2.1.5
- 13.21** Spill Response Materials: Design-Builder shall provide spill response materials including, but not limited to, containers, adsorbent, shovels, and personal protective equipment. Spill response materials shall be available at all times in which hazardous materials/wastes are being handled or transported. Spill response materials shall be compatible with the type of material being handled.
- 13.22** Equipment and Tools: Design-Builder shall provide miscellaneous equipment and tools necessary to handle hazardous materials and hazardous wastes in a safe and environmentally sound manner.
- 13.23** Material Safety Data Sheets (MSDS): Material Safety Data Sheets (MSDS) for all Hazardous Materials and Hazardous Waste at the Work shall be on file with Owner, and Contacting Officer, and Design-Builder's Office at the Project Site.
- 13.24** On-site Hazardous Waste Management: Design-Builders are prohibited by 10 U.S.C.2692 from storing Design-Builder owned waste on site for any length of time. Design-Builder shall be responsible for ensuring compliance with all Federal, state, and local hazardous waste laws and regulations and shall verify those requirements when preparing reports, waste shipment records, hazardous waste manifests, or other documents. Design-Builder shall identify hazardous wastes using criteria set forth in 40 CFR 261 or all applicable state and local laws, regulations, and ordinances. When accumulating hazardous waste on-site, Design-Builder shall comply with generator requirements in 40 CFR 262 and any applicable state or local law or regulations. On-site accumulation times shall be restricted to applicable time frames referenced in 40 CFR 262, Section .34 and any applicable state or local law or regulation. Accumulation start dates shall commence when waste is first generated (i.e. containerized or otherwise collected for discard). Design-Builder shall only use containers in good condition and compatible with the waste to be stored. Design-Builder shall be responsible for ensuring containers are closed except when adding or removing waste. Design-Builder shall be responsible for immediately marking all hazardous waste containers with the words "hazardous waste" and other information required by 40 CFR 262, Section .32 [and] [any applicable state or local law or regulation] as soon as the waste is containerized. An additional marking shall be placed on containers of "unknowns" designating the date sampled, and the suspected hazard. Design-Builder shall be responsible for inspecting containers for signs of deterioration and shall be responsible for responding to any spills or leaks. Design-Builder shall inspect all hazardous waste areas weekly and shall provide written documentation of the inspection. Inspection logs shall contain date and time of inspection, name of individual conducting the inspection, problems noted, and corrective actions taken.
- 13.25** Hazardous Waste Classification: Design-Builder, in consultation with the waste generator, shall identify all waste codes applicable to each hazardous waste stream based on requirements in 40 CFR 261 or any applicable state or local law or regulation. Design-Builder shall also identify all applicable treatment standards in 40 CFR 268 and state land disposal restrictions and shall make a determination as to whether or not the waste meets or exceeds the standards. Waste profiles, analyses, classification and treatment standards information shall be submitted to Contacting Officer for review and comments, if any. Review by the Contacting Officer, with or without comments, shall not relieve the Design-Builder of total, full, and complete responsibility for all Hazardous Materials and Waste. Review by the Contacting Officer, with or without comments, shall not relieve the Design-Builder of total, full, and complete responsibility for all Hazardous Waste.

- 13.26 Management Plans:** Design-Builder shall prepare a plans detailing the manner in which hazardous materials and hazardous wastes will be managed and describing the types and volumes of hazardous materials and hazardous wastes anticipated to be managed as well as the management practices to be utilized. The plan shall identify the method to be used to ensure accurate piece counts and/or weights of shipments: shall identify waste minimization methods, shall propose facilities to be utilized for treatment, storage, and/or disposal; shall identify areas on-site where hazardous wastes are to be handled, shall identify whether transfer facilities are to be utilized, and if so, how the wastes will be tracked to ultimate disposal.
- 13.27 Hazardous Waste Management:** Design-Builder shall use RCRA Subtitle C permitted facilities which meet the requirements of 40 CFR 264 or facilities operating under interim status which meet the requirements of 40 CFR 265. Off-site treatment, storage, and/or disposal facilities with significant RCRA violations or compliance problems (such as facilities known to be releasing hazardous constituents into ground water, surface water, soil, or air) shall not be used.
- 13.28 Description of TSD Facility and Transporter:** Design-Builder shall provide the Contacting Officer with EPA ID numbers, names, locations, and telephone numbers of TSD facilities and transporters. This information shall be contained in the Hazardous Waste Management Plan for approval prior to waste disposal.
- 13.29 Status of the Facility:** Facilities receiving hazardous waste must be permitted in accordance with 40 CFR 270 or operating under interim status in accordance with 40 CFR 265 requirements, or must be permitted by an authorized state program. Additionally, prior to using a TSD Facility, Design-Builder shall contact the EPA Regional Off-site Coordinator specified in 40 CFR 300, Section .440, to determine the facility's status, and document all information necessary to satisfy the requirements of the EPA Off-Site policy and furnish this information to the Contacting Officer.
- 13.30 Shipping Documents and Packagings:**
- 13.30.1 Certification:** Prior to shipment of any hazardous material off-site, Design-Builder's TDC shall provide written certification to the Contacting Officer that hazardous materials have been properly packaged, labeled, and marked in accordance with Department of Transportation and EPA requirements.
- 13.30.2 Transportation:** Design-Builder shall use manifests for transporting hazardous wastes as required by 40 CFR 263 or any applicable state or local law or regulation. Transportation shall comply with all requirements in the Department of Transportation referenced regulations in the 49 CFR series. Design-Builder shall acquire manifests in accordance with the hierarchy established in 40 CFR 262, Section .21. Design-Builder shall prepare hazardous waste manifests for each shipment of hazardous waste shipped off-site. Manifests shall be completed using instructions in 40 CFR 262, Subpart B and any applicable state or local law or regulation. Manifests and waste profiles shall be submitted to Contacting Officer for review and comments, if any. Review by the Contacting Officer, with or without comments, shall not relieve the Design-Builder of total, full, and complete responsibility for all Hazardous Materials and Waste. Design-Builder shall prepare land disposal restriction notifications as required by 40 CFR 268 or any applicable state or local law or regulation for each shipment of hazardous waste. Notifications shall be submitted with the manifest to the Contacting Officer for review and comments, if any. Review by the Contacting Officer, with or without comments, shall not relieve the Design-Builder of total, full, and complete responsibility for all Hazardous Materials and Waste.
- 13.31 Treatment and Disposal of Hazardous Wastes:** Hazardous waste shall be transported to an approved hazardous waste treatment, storage, or disposal facility within 90 days of the accumulation start date on each container. Design-Builder shall ship hazardous wastes only to facilities which are properly permitted to accept the hazardous waste or operating under interim status. Design-Builder shall ensure wastes are treated to meet land disposal treatment standards

Project Number: 18008

in 40 CFR 268 prior to land disposal. Design-Builder shall propose TSD facilities via submission of the Hazardous Waste Management Plan, subject to the approval of the Contacting Officer.

- 13.32 Hazardous Materials Management:** Design-Builder, in consultation with the generator, shall evaluate, prior to shipment of any material off-site, whether the material is regulated as a hazardous waste in addition to being regulated as a hazardous material this shall be done for the purpose of determining proper shipping descriptions, marking requirements, etc., as described below.
- 13.33 Identification of Proper Shipping Names:** Design-Builder shall use 49 CFR 172, Section .101 to identify proper shipping names for each hazardous material (including hazardous wastes) to be shipped off-site. Proper shipping names shall be submitted to the Contacting Officer in the form of draft shipping documents for review and comments, if any. Review by the Contacting Officer, with or without comments, shall not relieve the Design-Builder of total, full, and complete responsibility for all Hazardous Materials and Waste.
- 13.34 Packaging, Labeling, and Marking:** Design-Builder shall package, label, and mark hazardous materials/wastes using the specified materials and in accordance with the referenced authorizations. Design-Builder shall mark each container of hazardous waste of 418 L (104 gallons) or less with the following: "HAZARDOUS WASTE - Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency. Generator's Name. Manifest Document Number".
- 13.35 Shipping Documents:** Design-Builder shall ensure that each shipment of hazardous material sent off-site is accompanied by properly completed shipping documents.
- 13.35.1 PCB Waste Shipment Documents:** Design-Builder shall prepare hazardous waste manifests for each shipment of PCB waste shipped off-site. Manifests shall be completed using instructions in 40 CFR 761, Sections .207 and .208 and all other applicable requirements. Documents shall be submitted to Contacting Officer for review and comments, if any. Review by the Contacting Officer, with or without comments, shall not relieve the Design-Builder of total, full, and complete responsibility for all Hazardous Materials and Waste.
- 13.35.2 Asbestos Waste Shipment Documents:** Design-Builder shall prepare waste shipment records as required by 40 CFR 61 for shipments of asbestos. Waste shipment records shall be submitted to the Contacting Officer for review and comments, if any. Review by the Contacting Officer, with or without comments, shall not relieve the Design-Builder of total, full, and complete responsibility for all Hazardous Materials and Waste. Waste shipment records shall be signed by Design-Builder.
- 13.35.3 Other Hazardous Material Shipment Documents:** The bill of lading shall satisfy the requirements of 49 CFR 172, Subpart C, [and 40 CFR 279 if shipping used oil] and any applicable state or local law or regulation, and shall be submitted to the Contacting Officer for review and comments, if any. Review by the Contacting Officer, with or without comments, shall not relieve the Design-Builder of total, full, and complete responsibility for all Hazardous Materials and Waste. For laboratory samples and treatability study samples, Design-Builder shall prepare bills of lading and other documentation as necessary to satisfy conditions of the sample exclusions in 40 CFR 261, Section .4(d) and (e) and any applicable state or local law or regulation. Bill of Ladings requiring shipper's certifications [will] [shall] be signed by the [Owner] [Design-Builder].
- 13.36 Obtaining EPA ID Numbers:** Design-Builder shall complete EPA Form 8700-12, Notification of Hazardous Waste Activity, and submit to the Contacting Officer for review and comments, if any. Review by the Contacting Officer, with or without comments, shall not relieve the Design-Builder of total, full, and complete responsibility for all Hazardous Materials and Waste. Design-Builder shall allow a minimum of 30 days for processing the application and assigning the EPA ID number. Shipment shall be made not earlier than one week after receipt of the EPA ID number.
- 13.37 Waste Minimization:** Design-Builder shall minimize the generation of hazardous waste to the maximum extent practicable. Design-Builder shall take all necessary precautions to avoid mixing

clean and contaminated wastes. Design-Builder shall identify and evaluate recycling and reclamation options as alternatives to land disposal. Requirements of 40 CFR 266 shall apply to: hazardous wastes recycled in a manner constituting disposal, hazardous waste burned for energy recovery, lead-acid battery recycling, and hazardous wastes with economically recoverable precious metals.

- 13.38 Record Keeping:** Design-Builder shall be responsible for maintaining adequate records to support information provided to the Contacting Officer regarding exception reports, annual reports, and biennial reports. Design-Builder shall be responsible for maintaining asbestos waste shipment records for a minimum of 3 years from the date of shipment or any longer period required by any applicable law or regulation or any other provision of this contract.
- 13.39 Spill Response:** Design-Builder shall respond to any spill of hazardous material or hazardous waste which are in the custody or care of Design-Builder pursuant to this contract. Any direction from the Contacting Officer concerning a spill or release shall not be considered a change under the contract. Design-Builder shall comply with all applicable requirements of Federal, state, or local laws or regulations regarding any spill incident.
- 13.40 Emergency Contacts:** Design-Builder shall be responsible for complying with the emergency contact provisions in 49 CFR 172, Section .604. Whenever Design-Builder ships hazardous materials, Design-Builder shall provide a 24 hr emergency response contact and phone number of a person knowledgeable about the hazardous materials being shipped and who has comprehensive emergency response and incident mitigation information for that material, or has immediate access to a person who possesses such knowledge and information. The phone must be monitored on a 24 hour basis at all times when the hazardous materials are in transportation, including during storage incidental to transportation. Design-Builder shall ensure that information regarding this emergency contact and phone number are placed on all hazardous material shipping documents. Design-Builder shall designate an emergency coordinator and post the following information at areas in which hazardous wastes are managed: The name of the emergency coordinator. Phone number through which the emergency coordinator can be contacted on a 24 hour basis. The telephone number of the local fire department. The location of fire extinguishers and spill control materials.”

REQUIRED CONTRACT PROVISIONS
For
FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Non-discrimination
- III. Non-segregated Facilities³
- IV. Payment of Predetermined Minimum Wages
- V. Statements and Payrolls
- VI. Record of Materials, Supplies, and Labor
- VII. Subletting or Assigning the Contract
- VIII. Safety: Accident Prevention
- IX. False Statements
- X. Implementation of Clean Air Act and Federal Water Pollution Control Act
- XI. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion
- XII. Certification Regarding Use of Contract Funds for Lobbying

I. GENERAL

1. These contract provisions shall apply to all work performed on the contract by the Contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.

3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

4. A breach of the following clauses of these Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:

Section I, paragraph 2;
Section IV, paragraphs 1, 2, 3, 4, and 7;
Section V, paragraphs 1 and 2a through 2g.

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the DOL, or the contractor's employees or their representatives.

6. Selection of Labor: During the performance of this contract, the contractor shall not:

- a. discriminate against labor from any other State, possession, or territory of the United States, or
- b. Employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

II. NONDISCRIMINATION (Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the Alaska Energy Authority (AEA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.

b. The contractor will accept as his operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the AEA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the AEA and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the AEA.

8. Selection of Subcontractors, Procurement of Materials, and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.

b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 26 shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from AEA personnel.

c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.

9. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years

following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the AEA and the U.S. DOT.

a. The records kept by the contractor shall document the following:

(1) The number of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women;

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and

(4) The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

b. The contractors will submit an annual report to the AEA each July for the duration of the project, indicating the number of minority, women, and non minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. If on the job training is being required by special provision, the contractor will be required to collect and report training data.

III. NONSEGREGATED FACILITIES (Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

1. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO Provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

2. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, or national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

3. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to the award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

IV. PAYMENT OF PREDETERMINED MINIMUM WAGES (Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

1. General:

a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on

any account [except such payroll deductions as are permitted by regulations (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.

b. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

c. All rulings and interpretations of the Davis-Bacon and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

2. Classification:

a. The AEA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

(1) The work to be performed by the additional classification requested is not performed by a classification in the wage determination;

(2) The additional classification is utilized in the area by the construction industry;

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) With respect to helpers, when such a classification prevails in the area in which the work is performed.

c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the U.S. Department of Labor, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days

of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. Said Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

3. Payment of Fringe Benefits:

a. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor or subcontractors, as appropriate shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

4. Apprentices and Trainees (Programs of the U. S. DOL) and Helpers:

a. Apprentices:

(1) Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeyman-level employees on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate listed in the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor or subcontractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

(3) Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(4) In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. Trainees:

(1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the DOL, Employment and Training Administration.

(2) The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(3) Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

(4) In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Helpers: Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, which is not a helper under an approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

5. Apprentices and Trainees (Programs of the U.S. DOT): Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and

trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

6. Withholding: The AEA shall, upon its own action or upon written request of an authorized representative of the DOL, withhold or cause to be withheld from the contractor or subcontractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, as much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the AEA Procurement Officer may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

7. Overtime Requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such work week unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

8. Violation: Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible therefor shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

9. Withholding for Unpaid Wages and Liquidated Damages: The AEA shall, upon its own action or upon written request of an authorized representative of the U.S. Department of Labor, withhold or cause to be withheld from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 8 above.

V. STATEMENTS AND PAYROLLS (Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

1. Compliance with Copeland Regulations (29 CFR 3): The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

2. Payrolls and Payroll Records:

a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.

b. The payroll records shall contain the name, social security number, and address of each such employee, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b) (2) (B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees and ratios and wage rates prescribed in the applicable programs.

c. Each contractor and subcontractor shall furnish each week in which any contract work is performed a payroll of wages paid each of its employees (including apprentices, trainees, and helpers described in Section IV, paragraphs 4 and 5 and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402 or the Government Bookstore, 915 Second Avenue, Seattle, WA 98174. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

d. Each payroll submitted shall be accompanied by a "Statement of Compliance", signed by the contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;

(2) that such laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid in full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions set forth in the Regulations, 29 CFR 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

e. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 2d of this Section V.

f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

g. The contractor or subcontractor shall make the records required under paragraph 2b of this section V available for inspection, copying, or transcription by authorized representatives of the AEA, the U.S. DOT, or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the AEA, the U.S. DOT, DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any

further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

VI. RECORDS OF MATERIALS, SUPPLIES, AND LABOR (Applicable to highway contracts)

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR Part 635) the contractor shall:

a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.

b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on the Form FHWA-47.

c. Furnish, upon the completion of the contract, to the AEA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

VII. SUBLETTING OR ASSIGNING THE CONTRACT

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items so performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR Part 635).

a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph 1 of this Section VII is computed includes the cost of materials and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the AEA contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the AEA contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the AEA is assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

VIII. SAFETY: ACCIDENT PREVENTION

1. In the performance of this contract, the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the AEA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract entered into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

IX. FALSE STATEMENTS

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. Title 18, United States Code, Section 1001, states:

“Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.” (June 25, 1948, ch. 645, 62 Stat. 749.)

To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all personnel concerned with the project:

X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

By submission of this bid, or the execution of this contract or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub. L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq., as amended by Pub. L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR Part 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.
3. That the firm shall promptly notify the AEA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
4. That the firm agrees to include or cause to be included the requirements of paragraphs 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

1. Instructions for Certification - Primary Covered Transactions: (Applicable to all Federal-aid contracts - 49 CFR 29)
 - a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
 - b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
 - c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
 - d. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
 - e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.
 - f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from

participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and

d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Covered Transactions: (Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “primary covered transaction,” “participant,” “person,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

g. A participation in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment,

Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING (Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 - 49 CFR 20)

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

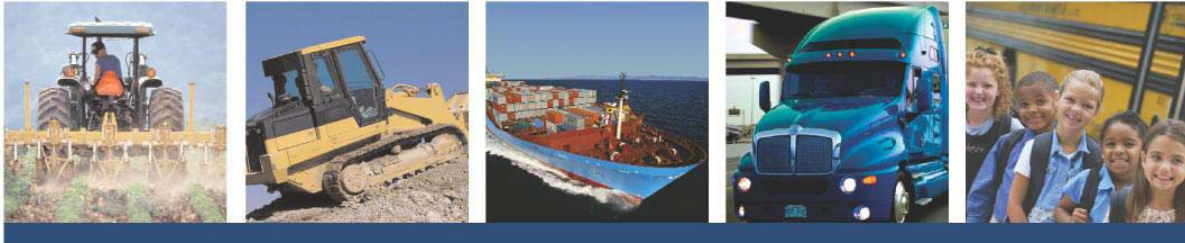
a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

This page is blank intentionally.



National Clean Diesel Campaign

FY 2014 – 2016 STATE CLEAN DIESEL GRANT PROGRAM INFORMATION GUIDE

March 1, 2016

SUMMARY

EPA's Office of Transportation and Air Quality is soliciting proposals from eligible states and territories for participation in the fiscal year (FY) 2016 Diesel Emission Reduction Program (DERA), State Clean Diesel Grant Program. EPA has approximately \$49.5 million available for the FY 2016 DERA Program. In accordance with DERA, EPA makes 30 percent (approximately \$14.8 million for FY 2016) of the annual allocation available to states and territories in the form of assistance agreements under the State Clean Diesel Grant Program. Funding can support grant, rebate, and loan programs administered by eligible states or territories that are designed to achieve significant reductions in diesel emissions.

The State Clean Diesel Grant Program is not a competition; it is an allocation process in which the eligible states and territories submit their interest to participate to EPA, and EPA awards a specific allocation by formula, based on the number of states and territories with approved applications that participate.

State Clean Diesel Grant Program funding for FY 2016 will be distributed to those states and territories that participated in FY 2014/2015 as supplemental amendments to their current FY 2014/2015 awards. Those states and territories that did not participate in the FY 2014/2015 State Clean Diesel Grant Program will receive FY 2016 funds as a new award, pending successful close-out of any FY 2013 or older State Clean Diesel Grant Program awards.

Under the State Clean Diesel Grant Program, eligible diesel emission reduction solutions include verified emission control technologies such as exhaust controls, cleaner fuels, and engine upgrades, verified idle reduction technologies, verified aerodynamic technologies and low rolling resistance tires, certified engine repowers, and/or certified vehicle or equipment replacement. Eligible diesel vehicles, engines and equipment may include buses, Class 5 – Class 8 heavy-duty highway vehicles, marine engines, locomotives and nonroad engines, equipment or vehicles used in construction, handling of cargo (including at a port or airport), agriculture, mining or energy production (including stationary generators and pumps).

This document contains the FY 2014 - 2016 State Clean Diesel Grant Program information for both internal and external stakeholders. All public materials for the State Clean Diesel Grant Program are available at www.epa.gov/cleandiesel/clean-diesel-state-allocations.

Table of Contents

I.	OVERVIEW	1
II.	STATUTORY AUTHORITY.....	1
III.	ELIGIBLE APPLICANTS	1
IV.	FY 2016 FUNDING SCHEDULE AND PROCEDURES	2
V.	NOTICE OF INTENT	2
VI.	ALLOCATION OF FUNDS.....	4
VII.	APPLICATION PACKAGE AND SUBMISSION INFORMATION.....	5
VIII.	SCOPE OF WORK.....	6
IX.	USE OF FUNDS RESTRICTIONS.....	14
X.	MANDATORY COST-SHARE REQUIREMENT	20
XI.	WAIVER OF PROGRAMMATIC REQUIREMENTS	21
XII.	AWARD ADMINISTRATION INFORMATION	21

I. OVERVIEW

Beginning in FY 2014, programmatic requirements from EPA's competitive Clean Diesel Funding Assistance Program, specifically RFP# EPA-OAR-OTAQ-14-05, were incorporated into the FY 2014 State Clean Diesel Grant Program by reference. These programmatic requirements include, but are not limited to, mandatory cost share requirements for certain types of projects, and specific vehicle, engine and technology eligibility criteria. In FY 2015, a few minor modifications and clarifications were included in the FY 2015 State Clean Diesel Grant Program.

This document, the FY 2014 - 2016 State Clean Diesel Grant Program Information Guide, consolidates and streamlines the programmatic requirements applicable to all new and continuing State Clean Diesel Grant Program awards receiving FY2016 funding. All projects funded with FY 2014, 2015 and/or 2016 State Clean Diesel Grant Program funds, must meet all eligibility and funding requirements set forth in this program guide.

This document provides information to EPA Regions and to participating states and territories concerning how the Agency intends to exercise its discretion in awarding and managing State Clean Diesel Grant Program rebates, grants, and/or loans for FY 2014 - 2016. This guidance is designed to provide national policy on these issues. Some of the statutory provisions described in this document contain legally binding requirements. However, this document does not substitute for those provisions or regulations, nor is it a regulation itself. Thus, it cannot impose legally binding requirements on EPA, states, territories or the regulated community, and may not apply to a particular situation based upon the circumstances. Any decisions regarding a particular situation will be made, based on the statutes and regulations, and EPA decision-makers retain the discretion to adopt approaches on a case-by-case basis, that differ from this guidance where appropriate.

II. STATUTORY AUTHORITY

Title VII, Subtitle G, Section 793 of the Diesel Emissions Reduction Program (DERA) in the Energy Policy Act of 2005 (codified at 42 U.S.C. 16133) authorizes the U.S. Environmental Protection Agency (EPA) to support grant, rebate, and loan programs, administered by eligible states or territories, which are designed to achieve significant reductions in diesel emissions. This program is referred to as the *State Clean Diesel Grant Program* (the Program).

III. ELIGIBLE APPLICANTS

Eligibility to apply for and receive funds under the Program is limited to the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. For the purposes of this document, the term "state" will be used to describe the 50 states and the District of Columbia, Puerto Rico, Guam, the US Virgin Islands, American Samoa and the Commonwealth of the Northern Mariana Islands.

EPA presumes that the state agency with jurisdiction over air quality will be the lead agency to receive these funds. If a state's circumstances dictate that another state agency administer the funds, then a letter from the state governor or designee to the Administrator of EPA is required in order to certify one state Agency as the recipient of funds who has the legal and administrative authority to enter into a grant or cooperative agreement with EPA. Upon receipt, EPA will consider that agency the lead agency from that point forward. However, if there is a change, a new Governor's letter to

the Administrator must be submitted during the renewal process and the new agency would be considered the lead agency for future grants. For fiscal year 2016, the letter to identify an alternate lead agency and provide specific contact information should be sent to the following contacts and be received on or before May 1, 2016.

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W., Mail Code: 1101A
Washington, DC 20460

Cc: Jennifer Keller, Director
Legacy Fleets Incentives and Assessment Center
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W., Mail Code: 6406A
Washington, DC 20460
Phone: (202) 343-9541, Fax: (202) 343-2803, Email: keller.jennifer@epa.gov

IV. FY 2016 FUNDING SCHEDULE AND PROCEDURES

The steps below outline the procedure and schedule for states to participate in the FY 2016 State Clean Diesel Grant Program.

- A. February 29, 2016:** OTAQ sends all eligible states the FY 2016 Program materials.
- B. March 18, 2016:** All participating states must submit a Notice of Intent to Participate (NOIP) or a Notice of Intent to Continue (NOIC), to OTAQ via email (cleandiesel@epa.gov).
- C. March 21, 2016:** OTAQ will perform the funding allocation calculation and email the final funding allocation table to the EPA Regional Air Division Directors.
- D. March 22, 2016:** Regions will inform the states of their final allocation via email and/or hard copy.
- E. April 26, 2016:** Participating states must submit their application package to www.Grants.gov.
- F. October 1, 2016:** Project period for FY 2016 awards begins. Regional offices will finalize the FY 2016 Program awards prior to October 1, 2016.

V. NOTICE OF INTENT

States that want to receive FY 2016 State Clean Diesel Grant Program funding must submit a Notice of intent to Participate (NOIP) or Notice of Intent to Continue (NOIC).

- A. Notice of Intent to Continue:** States with an open FY 2014/2015 Program award must submit a Notice of Intent to Continue. Continuing states will receive FY 2016 funds as a supplemental

amendment to the existing award. OTAQ will work with regional staff on the progress of those continuing states that have yet to complete all their FY 2014/2015 grant activities.

B. Notice of Intent to Participate: States that do not have an open FY 2014/2015 State Clean Diesel Grant Program award must submit a Notice of Intent to Participate.

Any state with an open Program award from FY 2008 - 2013 must ensure that the project period of the FY 2008 – 2013 award ends by September 30, 2016, in order for the state to receive FY 2016 funding. This means that vehicles/equipment should be delivered, technologies installed, and clean diesel project work completed by September 30, 2016. If the state has already obligated but not drawn down funds by the grant period end date, it will have to make a final request for a drawdown payment. If the state is unable to complete all the tasks outlined in the work plan and obligate or expend all FY 2008 - 2013 funds by September 30, 2016, the Region can close out the FY 2008 – 2013 award and de-obligate the remaining funds so that the state can participate in the FY2016 Program.

Alternatively, if a state with an open Program award from FY 2008 – 2013 is unable to complete all the tasks outlined in the work plan and obligate or expend all FY 2008 – 2013 funds by September 30, 2016, the state can request an additional no-cost time extension under extenuating circumstances. However, a state requesting a no-cost time extension for a currently open FY 2008 – 2013 Program award will not be able to receive FY 2016 Program funding.

C. Voluntary Match Incentive: The NOIC/NOIP must indicate whether or not the state intends to voluntarily contribute funding to the FY 2016 Program project budget. The NOIC/NOIP must also indicate the types and sources of cost-share funds.

If a state provides a voluntary match equal to the base allocation offered by EPA, EPA will provide a matching incentive equal to 50 percent of the base allocation. For example: A state legislature has provided \$1M per year to the state air agency to fund clean diesel activities in the state. If EPA offers a base allocation of \$200,000 to the state, the state could contribute \$200,000 of the state funding as a voluntary match and the state would receive an additional \$100,000 in EPA funding as a matching incentive. The total project budget would then be \$500,000, not including any mandatory cost-share funds.

The voluntary cost-share may be satisfied by allowable costs incurred by the state (i.e. in-kind contributions), or by cash donations of state funds or private funds. State matching funds are subject to the same terms and conditions as EPA awarded funds. A recipient is legally obligated to expend any voluntary cost-share included in the approved project budget within the project period of that award.

Mandatory cost-share funds provided by the state and/or eligible third parties cannot count towards the state's voluntary matching funds to qualify for the matching incentive. However, if a state requires a third-party cost-share contribution above and beyond the mandatory cost-share amount for the implemented technology, then the "excess" cost-share may be applied towards the state voluntary match funds for the purpose of qualifying for the matching incentive. See Section X for additional information on mandatory cost-share requirements. Detailed sample

budgets representing various mandatory cost-share versus state match scenarios are available at: www.epa.gov/cleandiesel/clean-diesel-state-allocations.

D. Submission of NOIC/NOIP: The Notice, which is available in a fillable Word form (www.epa.gov/cleandiesel/clean-diesel-state-allocations), can be submitted in one of two ways: 1) a state can fill out the form electronically or by hand, print and sign the document, scan the document, and return the document via email at cleandiesel@epa.gov; or 2) a state can fill out the form electronically, digitally sign the document, save the document and return via email at cleandiesel@epa.gov. The Notice must be signed by the Environmental Commissioner or other authorized official, but does not need to be emailed from this person directly; the Notice can be emailed from the programmatic contact at the state.

E. Review of NOIC/NOIP: OTAQ will forward the Notices to the appropriate EPA Regional Office for review. Regions will inform OTAQ if there are issues regarding the state matching amounts (source, etc.), continuing states that have yet to make sufficient progress on their FY 2014/2015 Program activities, or states that have open Program awards from FY 2008 – 2013. Regions will work with the states as necessary to resolve these issues.

VI. ALLOCATION OF FUNDS

A. Allocation Formula: EPA has approximately \$49.5 million available for the FY 2016 DERA Program. In accordance with 42 U.S.C. 16133, subject to the availability of appropriations, EPA makes 30 percent (approximately \$14.8 million for FY 2016) of the DERA Program's annual allocation available to states and territories in the form of assistance agreements under the State Clean Diesel Grant Program. This 30 percent is divided: two-thirds is provided as a base allocation and one-third is provided as an incentive to match.

If all 50 states, the District of Columbia, and the five qualifying territories participate in the FY 2016 program, then the 50 states, the District of Columbia, and Puerto Rico will each receive 1.887 percent of the two-thirds of the funds set aside for the State Clean Diesel Grant Program as a potential base allocation. The remaining territories each qualify for 0.472 percent of the two-thirds of the funds set aside for the State Clean Diesel Grant Program as a potential base allocation. If fewer than all 50 states, the District of Columbia, and the five qualifying territories submit a Notice to Continue/Participate in FY 2016, then the population formula outlined in 42 U.S.C. 16133(c)(2)(B) will be applied to any unclaimed base funds, and these funds will be added to the all participating states' and territories' potential base allocations. In that case, OTAQ will perform the allocation calculation using the U.S. Census Bureau estimated population data for 2010, found at www.census.gov/2010census/.

Participating states and territories may choose to voluntarily match the EPA award amount. If a state or territory provides a state match equal to the base allocation awarded by EPA, EPA will provide a matching bonus equal to 50 percent of the base allocation. See Section V.3 for additional information on the voluntary match incentive.

B. Allocation Notification: OTAQ will prepare draft formal funding allocation letters and send them to the Regions. Regions should send the formal funding allocation letters to their states and

territories via email and follow-up with a hardcopy letter with original signatures. All funding allocation letters should be emailed to the states and territories by Tuesday, March 22, 2016.

VII. APPLICATION PACKAGE AND SUBMISSION INFORMATION

A. Content of Application Package: The application package must include all of the following materials:

1. **Standard Form (SF) 424**, Application for Federal Assistance
2. **Standard Form (SF) 424A**, Budget Information
3. **Standard Form (SF) 424B**, Assurances for Non Construction Programs
4. **Key Contacts Form**
5. **EPA Form 4700-4**, Preaward Compliance Review
6. **Certification Regarding Lobbying** (Grants.gov Lobbying Form)
7. **Project Narrative Attachment Form, with final Work Plan and Budget Narrative** attached. States must use the template available at www.epa.gov/cleandiesel/clean-diesel-state-allocations to prepare their Work Plan and Budget Narrative.

B. Grants.gov Application Instructions

1. Your organization's authorized official representative (AOR) must submit your complete application package electronically to EPA through Grants.gov (www.grants.gov) no later than Tuesday, April 26, 2016.
2. Follow the steps below to download, complete, and submit an application package through Grants.gov. The application package contains the required forms listed above.
 - a) Go to Grants.gov and then click on the "Applicants" tab in the horizontal row of blue tabs. A drop down list will appear.
 - b) Click on "Apply for Grants."
 - c) Click on the red button titled, "Get Application Package," on the right hand side of the page.
 - d) Search by **Funding Opportunity Number: EPA-CEP-01**, or by **CFDA#: 66.040**.
 - e) From the list of Opportunity Package(s) currently available, click on the "Select Package" corresponding with CFDA#: 66.040.

- f) Enter your email or check the box titled, “No, I do not wish to provide my email.” Then click on the gray box titled, “Submit”.
- g) You can now access and download Application Instructions as well as the Application Package from this webpage.
- h) After downloading an application and saving it, you do not need to be online to complete the application.
- i) Complete the required forms listed above, including uploading and attaching your final Work Plan and Budget Narrative. While filling out the application package, be sure to save frequently by clicking the Save button on the cover page of the application package.
- j) Click the Check Package for Errors button to ensure all of the required portions of the application package are complete. Address any errors that are identified before submitting.
- k) Click the Save & Submit button after completing the application package. The Save & Submit button will not be functional until the application is properly completed with no errors and saved.

VIII. SCOPE OF WORK

Title VII, Subtitle G, Section 793 of the Diesel Emissions Reduction Program (DERA) allows states to use funds provided under the State Clean Diesel Grant Program to develop and implement such grant, rebate and low-cost revolving loan programs in the state as are appropriate to meet state needs and goals relating to the reduction of diesel emissions, subject to the following eligibility limitations and funding priorities.

- A. Project and Budget Period:** FY 2016 funds will be dispersed as new awards or supplemental amendments which have project and budget periods of October 1, 2016 to September 30, 2017. All states will need to complete work and close-out any FY 2014 - 2016 State Clean Diesel Program awards by September 30, 2017 in order to be eligible to receive FY 2017 Program funding, pending a FY 2017 DERA appropriation.
- B. Eligible Diesel Vehicles, Engines and Equipment:** Projects may include, but are not limited to, diesel emission reduction solutions from the following heavy-duty diesel emission source types:
 1. Buses^{1,2};
 2. Medium-duty or heavy-duty trucks³;

¹ For the purposes of the Program, buses include school buses of Type A, B, C and D. To be eligible as a school bus a vehicle should meet the definition of a school bus as defined by the National Highway Transportation Safety Administration. This definition includes, but is not limited to: 1) A bus that is used for purposes that included carrying students to and from school or related events on a regular basis; 2) Be identified with the words “School Bus”; and 3) Be painted National School Bus Glossy Yellow.

² For the purposes of the Program, buses include and medium and heavy-duty transit buses (see footnote #5, below).

³ For the purposes of the Program, medium heavy-duty and heavy heavy-duty highway vehicles are defined as Class 5 through Class 8: Class 5 (16,001 -19,500 lbs GVWR); Class 6 (19,501 - 26,000 lbs GVWR); Class 7 (26,001 - 33,000 lbs GVWR); Class 8a (33,001 - 60,000 lbs GVWR); Class 8b (60,001 lbs GVWR and over).

3. Marine Engines;
4. Locomotives; and
5. Nonroad engines, equipment or vehicles used in:
 - a) Construction;
 - b) Handling of cargo (including at a port or airport);
 - c) Agriculture;
 - d) Mining; or
 - e) Energy production (including stationary generators and pumps).

C. Eligible Diesel Emission Reduction Solutions: Projects must include one or more of the following diesel emission reduction solutions that utilize a certified engine configuration and/or a verified technology.

A “retrofit” project is defined broadly to include any technology, device, fuel or system that, when applied to an existing diesel engine, achieves emission reductions beyond what is currently required by EPA regulations at the time of the engine’s certification.

1. **Exhaust Controls:** Exhaust Controls include pollution control devices installed in the exhaust system (such as oxidation catalysts and particulate matter filters), or systems that include crankcase emission control (like a closed crankcase filtration system). The state may fund up to 100% of the cost (labor and equipment) for an eligible verified emission control. EPA suggests that each applicant requesting diesel particulate filters datalog the exhaust temperature of all vehicles to be considered before the application is submitted, so that there is evidence that the fleets can accommodate the technology.

A list of eligible, EPA verified exhaust control technologies is available at: www3.epa.gov/otaq/diesel/verification/verif-list.htm and a list of eligible, California Air Resources Board (CARB) verified exhaust control technologies is available at: www.arb.ca.gov/diesel/verdev/vt/cvt.htm. The types (e.g. DOC, DPF, etc) of exhaust control technologies proposed for funding under this category must exist on one of these lists for the specific vehicle/engine application specified in the proposal at the time of proposal submission to EPA. If selected for funding, the actual exhaust control technologies used by the grant recipient must be specifically named on EPA or CARB’s Verified Exhaust Control Technologies lists at the time of acquisition, and used only for the vehicle/engine applications specified on the list, in order to be eligible for funding.

2. **Engine Upgrades:** Generally, an engine upgrade involves the removal of parts on an engine during a rebuild and replacement with parts that cause the engine to represent an engine configuration which is cleaner than the original engine. Some nonroad and marine engines are able to be upgraded to reduce their emissions by applying manufacturer upgrades that are retrofits currently verified by EPA or CARB as a package of components demonstrated to achieve specific levels of emission reductions. Some locomotives and marine engines are able to be upgraded through the application of a certified remanufacture system that is used to rebuild the engine to represent a cleaner engine configuration. Engine upgrades may not be available for all engines, and not all upgrades may achieve an emissions benefit. Proposals for upgrades should include a discussion of the availability of engine upgrade kits/systems and indicate the pre- and post-project emission standard levels of the engines in order to demonstrate that the upgrade will result in an emissions benefit.

The state may fund up to 40% of the cost (labor and equipment) of an eligible nonroad, locomotive or marine engine upgrade. To be eligible for funding, the upgrade must either be a verified retrofit as described above, or a certified remanufacture system that will result in an emissions benefit by rebuilding the engine to a cleaner engine configuration. For an engine to be eligible for an upgrade, the engine must be currently operating and performing its intended function. If a certified remanufacture system for a locomotive includes a full engine replacement, the funding restrictions applicable to engine repowers in Section IX.C will apply.

A list of eligible, EPA verified engine upgrade technologies is available at: www3.epa.gov/otaq/diesel/verification/verif-list.htm. Lists of certified remanufacture systems for locomotives and marine engines, and additional information on remanufacture systems, are available at: www.epa.gov/otaq/certdata.htm. Engine upgrades proposed for funding under this category must exist on one of these lists for the specific vehicle/engine application specified in the proposal at the time of proposal submission to EPA. If selected for funding, the actual engine upgrades used by the grant recipient must be specifically named on EPA's list of certified remanufacture systems or EPA or CARB's Verified Exhaust Control Technologies lists at the time of acquisition, and used only for the vehicle/engine applications specified on the lists, in order to be eligible for funding.

- 3. Cleaner Fuels Use:** Cleaner fuels include, but are not limited to, biodiesel, diesel fuel additives verified by EPA or CARB, compressed natural gas, propane and other certified alternative fuels. EPA will not fund stand-alone cleaner fuel use. For new or expanded use of a cleaner fuel, the state may fund the cost differential between the cleaner fuel and conventional diesel fuel if that cleaner fuel is used in combination, and on the same vehicle, with a new eligible verified exhaust control or an eligible clean alternative fuel conversion or an eligible engine upgrade or an eligible certified engine repower or an eligible certified vehicle/equipment replacement, as described in this Section.
- 4. Verified Idle Reduction Technologies:** An idle reduction project is generally defined as the installation of a technology or device that reduces unnecessary idling of diesel vehicles or equipment and/or is designed to provide services (such as heat, air conditioning, and/or electricity) to vehicles and equipment that would otherwise require the operation of the main drive or auxiliary engine(s) while the vehicle is temporarily parked or remains stationary. The reduction in idling will conserve diesel fuel and must also lower emissions.

A list of eligible, EPA verified idle reduction technologies is available at: www.epa.gov/smartway/forpartners/technology.htm#tabs-4. The types of idle reduction technologies proposed for funding under this category must exist on this list for the vehicle/engine application specified in the proposal at the time of proposal submission to EPA. The technology categories include: Auxiliary power units and generator sets, battery air conditioning systems, thermal storage systems, electrified parking spaces (truck stop electrification), fuel operated heaters, shore connection systems and alternative maritime power, shore connection systems for locomotives, and automatic shutdown/start-up systems for locomotives. The actual idle reduction technologies used must be specifically named on EPA's SmartWay Verified Technologies list at the time of acquisition, and used only for the vehicle/engine applications specified on the list, in order to be eligible for funding.

Please note that technologies for the electrification of engines/vehicles/equipment other than those specifically listed on EPA's SmartWay Verified Technologies list, cannot be considered verified idle reduction technologies, but may be eligible as a Repower (removal of a diesel engine and its replacement with an electric power source, see Section VIII.C.6 below) or a Replacement (replacement of a diesel powered engine/vehicle/equipment with an eligible electric engine/vehicle/equipment, see VII.C.7, below).

- a) **Verified Idle Reduction Technologies on Locomotives:** The state may fund up to 40% of the cost (labor and equipment) of the installation of eligible verified idle reduction technologies on locomotives.
 - b) **Shore Connection Systems and Truck Stop Electrification:** The state may fund up to 25% of the cost (labor and equipment) of eligible shore connection systems and truck stop electrification/electrified parking space technologies.
 - c) **Verified Idle Reduction Technologies on School Buses:** The state may fund up to 100% of the cost (labor and equipment) of verified idle reduction technologies on school buses with model year 2006 or older engines that have been previously retrofitted with a verified emission control device.
 - d) **All Other Verified Idle Reduction Technologies:** The state may fund up to 100% of the cost (labor and equipment) for all other eligible, verified idle reduction technologies, only if the technology is combined on the same vehicle with a new eligible verified exhaust control funded under the Program, as described in Section VIII.C.1, above. Auxiliary power units (APUs) and generators are not eligible for vehicles with 2007 model year or newer certified engine configurations on long haul Class 8 vehicles.
5. **Verified Aerodynamic Technologies and Verified Low Rolling Resistance Tires:** To improve fuel efficiency, long haul Class 8 trucks can be retrofitted with aerodynamic trailer fairings or the fairings can be provided as new equipment options. Certain tire models can provide a reduction in NOx emissions and fuel savings, relative to the "standard" new tires for long haul Class 8 trucks, when used on all axles.

A list of eligible, EPA verified aerodynamic technologies is available at: www.epa.gov/smartway/forpartners/technology.htm#tabs-2, and includes:

- gap fairings that reduce the gap between the tractor and the trailer to reduce turbulence;
- trailer side skirts that minimize wind under the trailer; and
- trailer rear fairings that reduce turbulence and pressure drop at the rear of the trailer.

A list of EPA verified low rolling resistance tires is available at: www.epa.gov/smartway/forpartners/technology.htm#tabs-3, and includes both dual tires and single wide tires (single wide tires replace the double tire on each end of a drive or trailer axle, in effect turning an "18" wheeler into a "10" wheeler). Low rolling resistance tires can be used with lower-weight aluminum wheels to further improve fuel savings, however aluminum wheels are not eligible for funding under this RFP.

The types of aerodynamic technologies and low rolling resistance tires proposed for funding under this category must exist on EPA's SmartWay Verified Technologies list for the vehicle/engine application specified in the proposal at the time of proposal submission to EPA. If selected for funding, the actual technologies/tires used by the grant recipient must be specifically named on EPA's SmartWay Verified Technologies list at the time of acquisition, and used only for the vehicle/engine applications specified on the list, in order to be eligible for funding.

The state cannot fund stand-alone aerodynamic technologies or low rolling resistance tires. The state may fund up to 100% of the cost (labor and equipment) for verified aerodynamic technologies or verified low rolling resistance tires installed on long haul Class 8 trucks, if combined on the same vehicle with the new installation of one or more of the Verified Exhaust Controls funded under the Program, as described in Section VIII.C.1, above.

Note: Low rolling resistance tires are not eligible for funding where these types of tires have already been installed on the truck.

- 6. Certified Engine Repowers:** "Repower" refers to replacing an existing engine with a newer, cleaner engine that is certified to a more stringent set of engine emission standards. Repower includes, but is not limited to, diesel engine replacement with an engine certified for use with a clean alternative fuel, diesel engine replacement with an electric power source (grid, battery or fuel cell⁴), and/or the replacement of a nonroad engine with a highway engine. The state may fund up to 40% of the cost (labor and equipment) of an eligible engine repower. All-electric (i.e. zero emission) repowers do not require EPA or CARB certification.

a) Electric Generator Repower:

- i.** For a repower that involves the replacement of an existing diesel propulsion engine with a stationary or auxiliary diesel powered electric generator (genset), the electric generator and the newer, cleaner engine comprising the genset are both eligible costs of the repower.
- ii.** Repower of an existing genset involves replacing the existing diesel engine in the genset with a newer, cleaner engine. Only the newer, cleaner engine (labor and equipment) is an eligible cost of the repower.

- 7. Vehicle and Equipment Replacements:** Nonroad and highway diesel vehicles and equipment can be replaced under this program with newer, cleaner vehicles and equipment that operate on diesel or alternative fuels and use engines certified by EPA or CARB to meet a more stringent set of engine emission standards. Replacement projects can include the replacement of diesel vehicles/equipment with newer, cleaner diesel, electric (grid, battery or fuel cell⁵), hybrid or alternative fuel vehicles/equipment. All-electric (i.e. zero emission)

⁴ Hydrogen fuel cells are eligible only for repowers for eligible medium and heavy-duty urban transit buses and eligible drayage trucks.

⁵ Hydrogen fuel cell vehicles and equipment are eligible only as replacements for eligible medium and heavy-duty urban transit buses, eligible drayage trucks, and eligible forklifts.

vehicles and equipment do not require EPA or CARB certification. Marine vessels are not eligible for full replacement.

- a) **Nonroad Diesel Vehicles and Equipment:** The state may fund up to 25% of the cost of a replacement vehicle or piece of equipment powered by a 2013 model year or newer certified nonroad engine. Nonroad engine emission standards are on EPA’s website at: www.epa.gov/otaq/standards/nonroad/index.htm.
 - i. **Electric Generator Replacement:** For stationary or auxiliary diesel powered electric generator (genset), replacement means the removal of the entire genset and its replacement with a newer, cleaner genset. The electric generator in a genset together with the newer, cleaner engine is an eligible cost of the replacement.
 - b) **Highway Diesel Vehicles:** The state may fund up to 25% the cost of a newer, cleaner medium or heavy-duty vehicle, powered by a 2013 model year or newer certified highway heavy-duty engine, (except for drayage vehicles as explained in Section VIII.C.7.c, below).
 - c) **Replacements for Drayage Vehicles:** The state may fund up to 50% of the cost of an eligible drayage truck powered by a 2010 model year or newer certified heavy-duty engine equipped with a diesel particulate filter (or catalyst equipped in the case of a CNG engine).
 - i. **Definition of Drayage Truck:** A “Drayage Truck” means any Class 8b in-use on-road vehicle with a gross vehicle weight rating (GVWR) of greater than 33,000 pounds operating on or transgressing through port or intermodal rail yard property for the purpose of loading, unloading or transporting cargo, such as containerized, bulk or break-bulk goods.
 - ii. **Drayage Operating Guidelines:** The subgrant recipient will be required to establish guidelines to ensure that all drayage trucks purchased with grant funds are operated in a manner consistent with the definition of a drayage truck, as defined above. For an example of sample guidelines, see www.epa.gov/sites/production/files/2015-10/documents/fy14-sample-drayage-operating-guidelines.pdf.
 - iii. **Required/Scheduled Maintenance:** The state may fund the required/scheduled vehicle maintenance, as specified in the owner’s manual, which is necessary to meet the warranty requirements for diesel particulate filters installed on drayage trucks. Funding for required maintenance is available for the duration of the project period.
8. **Clean Alternative Fuel Conversions:** Conventional, original equipment manufacturer (OEM) highway diesel vehicles and engines that are altered to operate on alternative fuels such as propane, natural gas, alcohol, or electricity are classified as aftermarket clean alternative fuel conversions. Clean alternative fuel conversions are accomplished by applying a certified or compliant alternative fuel conversion “kit” to an existing highway diesel engine. The state may fund up to 40% of the cost (labor and equipment) of an eligible certified or compliant clean alternative fuel conversion. Proposals for clean alternative fuel conversions should include a discussion of the availability of conversion systems and indicate the pre- and post-project emission standard levels of the engines in order to demonstrate that the conversion will result in an emissions benefit.

In the United States, all clean alternative fuel conversions (except pure battery electric) must meet applicable EPA standards pursuant to 40 CFR Parts 85 and 86. Lists of certified and compliant clean alternative fuel conversion systems, and additional guidance, can be found at www.epa.gov/otaq/consumer/fuels/altfuels/altfuels.htm. Vehicles operating in California must follow conversion rules issued by CARB.

Clean alternative fuel conversions must be “dedicated” or “mixed fuel”, meaning the engine runs only on the alternative fuel, or uses a small amount of diesel mixed with the alternative fuel. Dedicated or mixed fuel engines do not have the ability to operate solely on diesel fuel. “Dual fuel” or “bi-fuel” conversions, meaning the engine can switch between fuel sources and still has the capability of running on 100% diesel, are not eligible for funding.

D. DERA Programmatic Priorities: The principal objective of the assistance to be awarded under this program is to achieve significant reductions in diesel emissions in terms of tons of pollution produced and reductions in diesel emissions exposure from vehicles, engines and equipment operating in areas designated as poor air quality areas. The state’s workplan must discuss how, in providing grants, rebates, and loans under the Program, the state will ensure that projects selected for funding support the programmatic priorities listed below. Please note that these are funding priorities, and are not eligibility factors.

The term “project location” refers to the primary area where the affected vehicles/engines operate, or the primary area where the emissions benefits of the project will be realized. A list of priority counties and areas can be found at: www.epa.gov/sites/production/files/2015-10/documents/fy14-county-area-list.pdf. These counties and areas were identified as priority locations for the DERA program because they are:

- in nonattainment or maintenance of national ambient air quality standards for Ozone and/or PM2.5;
- areas with toxic air pollutant concerns as identified from the National Air Toxics Assessment data;
- designated as Federal Class I areas; and/or
- accepted to participate in EPA’s Ozone Advance or PM Advance Programs.

In addition, priority should be given to projects located in areas that receive a disproportionate quantity of air pollution from diesel fleets, including:

- truckstops (e.g. places especially for truckers that are usually by a highway or interstate and that include a parking area, fueling services, and other facilities)
- ports (e.g. a cities, towns, or other places alongside navigable water with facilities for the loading and unloading of cargo from ships; places from which aircraft operate that have paved runways and passenger and cargo terminals which include baggage-movement and passenger-transit operations; places where foreign goods are inspected by customs officers and allowed to pass into and out of a country)
- rail yards (e.g. places at which trains originate or terminate, or at which they are distributed or combined)
- terminals (e.g. freight or passenger stations at the end of carrier lines, or that serve as junctions at any point with other lines, that have facilities for the handling of freight and passengers)

- construction sites (e.g. sites of ongoing large scale commercial, industrial, or heavy civil construction)
- school bus depots/yards (e.g. parking areas and/or garages where school buses are stored and maintained, or where school buses queue), distribution centers (e.g. facilities that perform consolidation, warehousing, packaging, decomposition and other functions linked with handling freight, often in proximity to major transport routes or terminals, and which generate large amounts of truck traffic)

E. EPA Strategic Plan Linkage and Anticipated Outputs/Outcomes

Pursuant to Section 6a of EPA Order 5700.7, “Environmental Results under EPA Assistance Agreements,” EPA must link proposed assistance agreements with the Agency’s Strategic Plan. EPA also requires that grant applicants and recipients adequately describe environmental outputs and outcomes to be achieved under assistance agreements (see EPA Order 5700.7, Environmental Results under Assistance Agreements, www.epa.gov/sites/production/files/2015-03/documents/epa_order_5700_7a1.pdf).

1. **Linkage to EPA Strategic Plan:** All proposals must support progress towards EPA’s 2014-2018 Strategic Plan Goal 1, ‘Addressing Climate Change and Improving Air Quality,’ Objective 1.2, ‘Improve Air Quality,’ which states, “achieve and maintain health-and welfare-based air pollution standards and reduce risk from toxic air pollutants and indoor air contaminants.” Specifically, the proposed activities must reduce emissions from diesel fleets, thereby reducing local and regional air pollution of criteria pollutants, air toxics, and greenhouse gases.

Please read [EPA’s FY 2014-2018 Strategic Plan](#) for more information.

2. **Outputs:** The term “output” means an environmental activity, effort and/or associated work product related to an environmental goal and objective that will be produced or provided over a period of time or by a specified date. Outputs may be quantitative or qualitative but must be measurable during an assistance agreement funding period.

Expected outputs from the projects to be funded under this Program include, but are not limited to:

- number of replaced or retrofitted engines/vehicles/equipment; and/or
- hours of idling reduced.

Other potential outputs may include, but are not limited to:

- engaging local communities with respect to the design and performance of the project;
- the project’s inclusion in a broader-based environmental or air quality plan;
- the implementation of contract specifications requiring the use of cleaner vehicles and equipment;
- a documented commitment to continue to identify and address air quality issues in the affected community;
- adoption of an idle reduction policy;
- providing support to clean diesel coalitions by sharing information, working with interested fleets, and addressing specific geographic needs;

- number of subawards; and/or
- dissemination of project/technology information via list serves, websites, journals and outreach events.

Progress reports and a final report will also be required outputs.

- 3. Outcomes:** The term “outcome” means the result, effect or consequence that will occur from carrying out an environmental program or activity that is related to an environmental or programmatic goal or objective. Outcomes may be qualitative and environmental, behavioral, health-related or programmatic in nature, but must also be quantitative. They may not necessarily be achievable within an assistance agreement funding period.

Expected outcomes from the projects to be funded under this Program include, but are not limited to:

- Tons of pollution reduced over the lifetime of the vehicles/engines/equipment, specifically:
 - fine particulate matter (PM_{2.5}),
 - nitrogen oxides (NO_x),
 - greenhouse gases (GHG) such as carbon dioxide (CO₂) and black carbon, and/or
 - volatile organic compounds (VOCs).
- net reduction in gallons of diesel fuel used;
- benefits to the communities affected by the project, including improvements to human health and the environment, the local economy, social conditions, and the welfare of residents in such communities.

Other potential outcomes may include, but are not limited to:

- community engagement and partnership;
- improved ambient air quality;
- health benefits achieved;
- changes in driver behavior regarding idling practices;
- an increased understanding of the environmental or economic effectiveness of the implemented technology;
- increased public awareness of project and results;
- widespread adoption of the implemented technology;
- demonstration and deployment of zero and near-zero emission vehicles and engines; and
- emission reductions along freight transportation corridors.

IX. USE OF FUNDS RESTRICTIONS

- A. Mandated Measures:** Pursuant to 42 U.S.C. 16132(d)(2), no funds awarded under the Program shall be used to fund the costs of emission reductions that are mandated under federal law. The restriction applies when the mandate takes effect (the effective date) for any affected vehicles, engines or equipment. This restriction does not apply to a mandate in a State Implementation Plan approved by the Administrator under the Clean Air Act. Voluntary or elective emission reduction measures shall not be considered “mandated,” regardless of whether the reductions are included in the State Implementation Plan.

Specifically, projects involving locomotives and marine engines are not eligible for funding if the emission reductions are required by EPA’s locomotive and marine rule, “Control of Emissions of Air Pollution from Locomotives and Marine Compression-Ignition Engines Less than 30 liters per Cylinder.” Also, projects involving stationary engines will not be considered for funding if the emission reductions proposed for funding are required by EPA’s RICE rule, “National Emission Standards for Hazardous Air Pollutants (NESHAP) for Stationary Reciprocating Internal Combustion Engines (40 CFR Part 63 Subpart ZZZZ). Projects which include locomotives and/or marine engines and/or stationary engines must provide the state and EPA a clear and concise justification for why/how the proposed emission reduction are not subject to the Restriction for Mandated Measures. The justification must clearly demonstrate that:

- the target engines are exempt from any federal requirements; or
- emission reductions funded under the Program will be implemented prior to the effective date of any applicable federal requirements; and/or
- emission reductions funded under the Program will not be used to satisfy any applicable federal requirements, but instead are in excess of (above and beyond) those required by the applicable mandate.

Sufficient information must be provided to support the justification, including maintenance records, if applicable. The mandated measures justification must be approved by EPA before any grant funds are expended on applicable projects.

B. Normal Attrition: Repowers and replacements that would have occurred through normal attrition are considered to be the result of normal fleet turnover and are not eligible for funding under this program. Normal attrition is generally defined as a replacement that is scheduled to take place within 3 years of the project start date. Normal attrition is typically defined by the vehicle or fleet owner’s budget plan, operating plan, standard procedures, or retirement schedule. For example, if a school bus fleet typically retires vehicles after 20 years, a bus that is currently in its 18th or 19th year of service is not eligible for replacement. A bus that is currently in its 17th year of service and has three years of useful life remaining (as defined by the fleet’s retirement schedule) is eligible for replacement. Therefore, FY 2016 award funds, including recipient cost-share, shall not be used for replacements/repowers that would have occurred through normal fleet turnover prior to September 30, 2019). Normal attrition does not include replacements that must occur due to a state or Local mandate. Any question as to eligibility of a vehicle/equipment replacement or repower should be directed to the EPA Project Officer.

C. Fleet Expansion: Funding under this Program cannot be used for the purchase of vehicles, engines, or equipment to expand a fleet. Repower and replacement projects are eligible for funding on the condition that the following criteria are satisfied:

1. The replacement vehicle, engine, or equipment will perform the same function and operation as the vehicle, engine, or equipment that is being replaced (e.g., an excavator used to dig pipelines would be replaced by an excavator that continues to dig pipelines).
2. The replacement vehicle, engine, or equipment will be of the same type and similar gross vehicle weight rating or horsepower as the vehicle, engine, or equipment being replaced (e.g., a 300 horsepower bulldozer is replaced by a bulldozer of similar horsepower). Horsepower increases of more than 25 percent require specific written approval from the

EPA Project Officer prior to purchase, and the grantee/subgrantee may be required to pay the additional costs associated with the higher horsepower equipment.

3. The engine being replaced will be scrapped or rendered permanently disabled within ninety (90) days of the replacement, or remanufactured to a certified cleaner emission standard. Cutting a three inch by three inch hole in the engine block (the part of the engine containing the cylinders) is the preferred scrapping method. Remanufacturing shall be performed by the original engine manufacturer, or by a dealership/distributor that has a service program that is sponsored/backed by original engine manufacturer warranties (i.e. the new, remanufactured and upgraded engine is warranted by the OEM). Non-road engines shall be remanufactured to the cleanest certified emission standard possible. Highway engines shall be remanufactured to Model Year (MY) 2007 or newer certified emission standards. Remanufacturing must be completed during the project period. Other acceptable scrapping methods may be considered and will require prior written approval from the EPA Project Officer. If scrapped or remanufactured engines are to be sold, program income requirements apply.
4. The vehicle/equipment being replaced will be scrapped or rendered permanently disabled within ninety (90) days of the replacement, or remanufactured to a certified cleaner emission standard. Permanently disabling the chassis and disabling or remanufacturing the engine (see above) while retaining possession of the vehicle/equipment is an acceptable scrapping method. Disabling the chassis may be completed by cutting through the frame/frame rails on each side at a point located between the front and rear axles. Other acceptable scrapping methods may be considered and will require prior written approval from the EPA Project Officer. Vehicle/equipment components that are not part of the engine or chassis may be salvaged from the unit being replaced (e.g. plow blades, shovels, seats, etc.). If scrapped or remanufactured vehicles/equipment or salvaged vehicle/equipment chassis or components are to be sold, program income requirements apply.
5. Evidence of appropriate disposal (such as digital photos of the engine tag showing serial number, engine family number, and engine model year, and of the destroyed engine block and cut frame rails or other structural components) is required in a final assistance agreement report submitted to EPA.
6. For tire replacement projects, the original tires should be scrapped according to local or state requirements, or the tires can be salvaged for reuse or retreading. If salvaged tires are sold, program income requirements apply.

D. Federal Matching Funds: No funds awarded under the Program shall be used for matching funds for other federal grants, lobbying, or intervention in federal regulatory or adjudicatory proceedings, and cannot be used to sue the Federal Government or any other government entity. Likewise, recipient may not use federal funds as cost-share funds for the State Clean Diesel Grant Program, including funds received under the National Clean Diesel Emissions Reduction Program and federal Supplemental Environmental Project (SEP) funds.

E. Expenses Incurred Prior to the Project Period: No funds awarded under the Program shall be used to cover expenses incurred prior to the project period set forth in any assistance agreement funded under the Program. Additionally, expenses incurred prior to the project period set forth in any assistance agreement funded under the Program are not eligible as a cost-share.

F. Performance Partnership Grants: Funds awarded under this program are not eligible for inclusion with the state's Performance Partnership Grants.

- G. Direct Implementation:** States cannot use Program funds to directly implement diesel emissions reduction projects; however, the state may use Program funds to award subgrants, rebates, and/or loans to other entities to carry out diesel emission reduction projects.
- H. State Fleets:** Recipients may use funds to provide subgrants, rebates, and/or loans for the benefit of state fleets and state projects. The recipient may transfer funds to another state entity as a subgrantee as allowable under state law.
- I. In-Kind Assistance:** The state may purchase equipment through blanket purchase agreements or some other mechanism that ensures a low price for the item. The state may then provide the equipment in lieu of money as in-kind assistance through a subgrant. In general, except where providing goods and/or services in lieu of money under a subgrant agreement, the state cannot directly contract or procure goods and/or services with their Program funds.
- J. Administrative Costs Expense Cap:** No more than 15 percent of the state's total project costs may be used to cover administrative type costs (e.g. personnel, benefits, travel, and office supplies). Total project costs include the federal share as well as any cost-share provided by the state. However, Regions have the discretion to allow state matching funds to exceed the 15% cap if the state provides justification for unique circumstances. In general, the majority of the funding from EPA and from states, if they provide a cost-share, should go directly to subgrants, rebates, or loans for eligible projects. The state's indirect costs are not considered as administrative type costs and do not count towards the 15 percent maximum.
- K. Formerly Verified Technologies:** No funds awarded under the Program shall be used for retrofit technologies on EPA's or CARB's, "Formerly Verified Technologies" lists. EPA's formerly verified list can be found at: www3.epa.gov/otaq/diesel/verification/deleted-list.htm, and CARB's formerly verified lists can be found at: www.arb.ca.gov/diesel/verdev/vt/fv1.htm, www.arb.ca.gov/diesel/verdev/vt/fv2.htm, and www.arb.ca.gov/diesel/verdev/vt/fv3.htm. No funds awarded under this RFP shall be used for technologies on EPA's Former Emerging Technologies list which can be found at: www3.epa.gov/otaq/diesel/verification/emerg-list.htm.
- L. Emissions Testing:** No funds awarded under the Program shall be used for emissions testing and/or air monitoring activities (including the acquisition cost of emissions testing equipment), or research and development.
- M. Fueling Infrastructure:** No funds awarded under the Program shall be used for fueling infrastructure, such as that used for the production and/or distribution of biodiesel, compressed natural gas, liquefied natural gas, and or other fuels.
- N. Aluminum Wheels:** Low rolling resistance tires may be used with lower-weight aluminum wheels to further improve fuel savings; however, no funds awarded under the Program shall be used for the purchase of aluminum wheels except where a fleet is retrofitting from standard dual tires to SmartWay-verified single-wide low rolling resistance tires. In this case, the cost of aluminum single-wide wheels would be acceptable as additional equipment necessary to use the SmartWay verified technology, as would the cost of steel or light weight steel single-wide wheels.

O. Tires and Aerodynamics: No funds awarded under the Program shall be used for the purchase of low rolling resistance tires or advanced aerodynamic technologies if similar technologies have previously been installed on the truck or trailer.

P. Auxiliary Power Units: No funds awarded under the Program shall be used for the purchase of APUs or generators for vehicles with 2007 or newer certified engine configurations on long haul Class 8 vehicles.

Q. On-highway Model Year: No funds awarded under the Program shall be used to retrofit, repower, convert or replace a transit bus, medium-duty, or heavy-duty highway vehicle with engine model year 1990 older, or to retrofit engine model year 2007 or newer with DOCs or DPFs, or retrofit engine model year 2010 or newer with SCR, or replace engine model year 2004-2006 with other than with an all-electric vehicle, or replace, repower or convert engine model year 2007 or newer. Refer to Table 1 for further explanation.

Table 1: Medium and Heavy-Duty Trucks and Transit Buses Funding Restrictions

Current Engine Model Year	DOC	DPF	SCR	Replace with 2010 or Newer (Dray Only)	Replace with 2013 or Newer	Repower or Conversion of Engine to Higher Certification Level	Repower, Replacement or Conversion to All-Electric (Includes Dray)
1991-2003	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2004 to 2006	Yes	Yes	Yes	No	No	Yes	Yes
2007 to 2009	No	No	Yes	No	No	No	No
2010 to current	No	No	No	No	No	No	No

R. School Bus Model Year: No funds awarded under the Program shall be used to retrofit, repower, convert or replace a school bus with engine model year 1990 or older, or replace school buses with engine model year 2004-2006 other than with an all-electric vehicle, or retrofit, replace, repower or convert school buses with engine model year 2007 or newer. Refer to Table 2 for further explanation.

Table 2: School Bus Funding Restrictions

Current Engine Model Year	DOC	DOC + CCV	DPF	Replace with 2013 or Newer	Repower or Conversion of Engine to Higher Certification Level	Repower, Replacement or Conversion to All-Electric
1991 to 2003	Yes	Yes	Yes	Yes	Yes	Yes
2004 to 2006	Yes	Yes	Yes	No	Yes	Yes
2007 to current	No	No	No	No	No	No

S. Nonroad Useful Life and Operating Hours: No funds awarded under the Program shall be used to retrofit, repower, upgrade or replace a nonroad engine or equipment that has less than seven years of useful life remaining. A table distinguishing which nonroad engine model years EPA has determined to have at least seven years of useful life remaining, based on the type and

age of vehicle, can be found at www.epa.gov/sites/production/files/2015-10/documents/fy14-nonroad-remaining-useful-life.pdf. No funds awarded under the Program shall be used to retrofit, repower, replace or upgrade nonroad engines and equipment that operate less than 500 hours per year.

T. Nonroad Repower/Replacement: No funds awarded under the Program shall be used to repower or replace nonroad Tier 0 (unregulated) engines to a nonroad Tier 1 or lower nonroad engine standard or from a Tier 2 nonroad engine standard to a Tier 3 or lower nonroad engine standard. Refer to Table 3 for further explanation.

Table 3: Nonroad Engine Funding Restrictions

Current Engine Tier	Repowered or Replaced 2013 or Newer Certified Engine				
	Tier 0	Tier 1	Tier 2/3	Tier 4	All-Electric
Tier 0 / 1	No	No	Yes	Yes	Yes
Tier 2 / 3	No	No	No	Yes	Yes

U. Locomotive and Marine Operating Hours: No funds awarded under the Program shall be used to retrofit, repower, replace, upgrade or install idle reduction technologies on eligible locomotives or marine engines that operate less than 1000 hours per year.

V. Marine Repower/Replacement/Upgrade: No funds awarded under the Program shall be used to repower, replace or upgrade Tier 3 or Tier 4 marine engines, or to repower or replace marine engines from Tier 1 marine engine standard to Tier 1 marine engine standard, or from a Tier 2 marine engine standard to a Tier 2 or lower marine engine standard. Refer to Table 4 for further explanation.

Table 4: Marine Engines Funding Restrictions

Current Engine Tier	Repowered or Replaced New Certified Engine				Certified Engine Upgrade (Remanufacture System)	Verified Engine Upgrade
	Tier 1	Tier 2	Tier 3	Tier 4		
Unregulated	Yes	Yes	Yes	Yes	Yes	Yes
Tier 1	No	Yes	Yes	Yes	Yes	Yes
Tier 2	No	No	Yes	Yes	Yes	Yes
Tier 3 and Tier 4	No	No	No	No	No	No

W. Marine Shore Connection: No funds awarded under the Program shall be used for marine shore connection system projects that are expected to be utilized less than 2,000 MW-hr/year.

X. Locomotive Retrofit/Repower/Replacement/Upgrade: No funds awarded under the Program shall be used to retrofit unregulated or Tier 0 locomotives with SCR, or to upgrade, repower or replace locomotives from: Tier 0+/1 to Tier 0+ or lower; Tier 1+/2 to Tier 1+ or lower; Tier 2 to Tier 1+ or lower; or, from Tier 2+ to Tier 2+ or lower. Additionally, no funds awarded under this RFP shall be used upgrade, repower or replace line-haul locomotives from Tier 2 to Tier 4, or to upgrade, repower or replace line-haul locomotives from Tier 2+ to Tiers 3 and 4. No funds

awarded under the Program shall be used to install Automatic Engine Start-Stop technologies on locomotives currently certified to Tier 0+ or higher. Refer to Table 5 for further explanation.

Table 5: Locomotive Engines Funding Restrictions

Current Locomotive Tier	New Locomotive Tier					Verified Exhaust Controls
	Tier 0+	Tier 1+	Tier 2+	Tier 3	Tier 4	SCR
Unregulated and Tier 0	Yes	Yes	Yes	Yes	Yes	No
Tier 0+ and Tier 1	No	Yes	Yes	Yes	Yes	Yes
Tier 1+	No	No	Yes	Yes	Yes	Yes
Tier 2	No	No	Yes	Yes	Yes*	Yes
Tier 2+	No	No	No	Yes*	Yes*	Yes

*Applies to switcher locomotives only

Note: Tier 0+, Tier 1+, and Tier 2+. Tier 3, and Tier 4 represent locomotives manufactured or remanufactured under the more stringent Tier standards promulgated under the 2008 (current) locomotive and marine rule. Tier 0, Tier 1, and Tier 2 represent locomotives originally manufactured or remanufactured under the less stringent Tier standards promulgated in 1997.

Y. Locomotive Shore Connection: No funds awarded under the Program shall be used for locomotive shore connection system projects that are expected to be utilized less than 1,000 hours/year.

X. MANDATORY COST-SHARE REQUIREMENT

Projects involving engine upgrades, certain idle reduction technologies, shore connection systems, truck stop electrification technologies, certified engine repowers, clean alternative fuel conversions, or certified vehicle/equipment replacements, as defined in Section VIII.C, are subject to the following funding limitations and mandatory cost-share requirements.

Any voluntary matching funds provided by the state to qualify for the matching incentive, count towards the “EPA funds and state voluntary matching funds” described below. Further, mandatory cost share funds provided by the state and/or eligible third parties cannot count towards the state’s voluntary matching funds to qualify for the matching incentive. However, if a state requires a third-party cost-share contribution above and beyond the mandatory cost-share amount for the elected technology, then the “excess” cost-share may be applied towards the state voluntary match funds for the purpose of qualifying for the matching incentive. See Section V.C for additional information on the matching incentive.

A. Engine Upgrades: EPA funds and state voluntary matching funds can cover up to 40% of the cost (labor and equipment) of an eligible engine upgrade (i.e. states and/or eligible third parties are responsible for cost-sharing at least 60% of the cost of an eligible engine upgrade).

B. Idle Reduction Technologies on Locomotives: EPA funds and state voluntary matching funds can cover up to 40% of the cost (labor and equipment) of an eligible idle reduction technology

on a locomotive (i.e. states and/or eligible third parties are responsible for cost-sharing at least 60% of the cost of an eligible idle reduction technology on a locomotive).

C. Shore Connection Systems and Truck Stop Electrification Technologies: EPA funds and state voluntary matching funds can cover up to 25% of the cost (labor and equipment) of an eligible shore connection system or truck stop electrification technology (i.e. states and/or eligible third parties are responsible for cost-sharing at least 75% of the cost of an eligible shore connection system or truck stop electrification technology).

D. Certified Engine Repower: EPA funds and state voluntary matching funds can cover up to 40% of the cost (labor and equipment) of an eligible engine repower (i.e. states and/or eligible third parties are responsible for cost-sharing at least 60% of the cost of an eligible engine repower).

E. Certified Vehicle/Equipment Replacement:

1. Nonroad Diesel Vehicles and Equipment: EPA funds and state voluntary matching funds can cover up to 25% of the cost of an eligible vehicle or piece of equipment powered by a 2013 model year or newer certified engine (i.e. states and/or eligible third parties are responsible for cost-sharing at least 75% of the cost of an eligible replacement vehicle or piece of equipment).

2. Highway Diesel Vehicles: EPA funds and state voluntary matching funds can cover up to 25% of the cost of an eligible replacement vehicle/equipment powered by a 2013 model year or newer certified engine (i.e. states and/or eligible third parties are responsible for cost-sharing at least 75% of an eligible replacement vehicle or piece of equipment).

3. Drayage Vehicle Replacement: EPA funds and state voluntary matching funds can cover up to 50% of the cost of an eligible drayage truck powered by a 2010 model year or newer engine equipped with a diesel particulate filter (or diesel oxidation catalyst in the case of a CNG engine) (i.e. states and/or eligible third parties are responsible for cost-sharing at least 50% of an eligible drayage replacement vehicle).

F. Clean Alternative Fuel Conversions: EPA funds and state voluntary matching funds can cover up to 40% of the cost (labor and equipment) of an eligible clean alternative fuel conversion (i.e. states and/or eligible third parties are responsible for cost-sharing at least 60% of the cost of an eligible clean alternative fuel conversion).

XI. WAIVER OF PROGRAMMATIC REQUIREMENTS

EPA will consider, on a case-by-case basis, waiver requests from programmatic requirements. Waivers will only be approved for non-statutory and/or non-regulatory requirements. Sufficient justification for the waiver must be provided by the state. States must obtain EPA approval for any waiver request before conducting any work or expending any funds on a project involving a waiver request. Any questions regarding waivers should be directed to the EPA Project Officer.

XII. AWARD ADMINISTRATION INFORMATION

A. Terms and Conditions: General administrative and programmatic terms and conditions applicable to EPA assistance agreements under this Program may be viewed at:

www.epa.gov/grants/grant-terms-and-conditions.

B. Subgrants, Rebates, and Loans to For-Profit Entities: Program funds may be used for the benefit of private fleets. Under EPA's subaward policy, a for-profit company may be awarded a subgrant when doing so is "consistent with applicable EPA regulations, EPA policies, EPA guidance, and OMB Circulars" and "only where consistent with Section 210(a)-(d) of OMB Circular A-133". See Assistance Administration Manual 5700, Part 2, Section 01. The nature of the transaction between the recipient and the subawardee or subgrantee must be consistent with the standards for distinguishing between vendor transactions and subrecipient assistance found at 2 CFR 200.330, and the definitions of subaward at 2 CFR 200.92 and subrecipient at 2 CFR 200.93. EPA will not be a party to these transactions. Applicants acquiring commercial goods or services must comply with the competitive procurement standards in 2 CFR 200.317-326 and cannot use a subaward as the funding mechanism.

C. State Notification: Executive Order 12372, Intergovernmental Review of Federal Programs, may be applicable to awards resulting from this announcement. Recipients may be required to provide a copy of their application to their State Point of Contact (SPOC) for review, pursuant to EO 12372. This review is not required with the initial application, and not all states require such a review. A listing of State Point of Contacts (SPOC) may be viewed at: www.whitehouse.gov/omb/grants_spoc. For application purposes, applicants may choose to not respond to question #19 on the SF 424 form; EPA will provide additional guidance to Recipients during the award process.

D. Public Notification: Not later than 60 days after the date of the award of a subgrant, rebate, or loan by a state, the state shall publish the following on the Web site of the state:

1. For subgrants, rebates, and loans provided to the owner of a diesel vehicle or fleet, the total number and dollar amount of subgrants, rebates, or loans provided, as well as a breakdown of the technologies funded through the subgrants, rebates, or loans; and
2. For other subgrants, rebates, and loans, a description of each application for which the subgrant, rebate, or loan is provided.

E. Reporting Requirements: Quarterly programmatic progress reports and a detailed final programmatic report will be required. Additional administrative and financial reporting may be required per the terms and conditions of the award.

1. **Quarterly Reports:** Quarterly reports summarizing technical progress, planned activities for the next quarter and a summary of expenditures are required. The schedule for submission of quarterly reports will be established by EPA, after the grants are awarded. A template for quarterly reports is available at www.epa.gov/cleandiesel/clean-diesel-state-allocations.
2. **Final Reports:** The final report must include: summary of the project or activity, emissions benefits and other outputs and outcomes achieved, and costs of the project or activity addition, the final report shall discuss the problems, successes, and lessons learned from the project or activity that could help overcome structural, organizational or technical obstacles to implementing a similar project elsewhere. Award recipients may be provided with additional information and guidance on reporting performance measures and project progress after award. A template for the final report is available at www.epa.gov/cleandiesel/clean-diesel-state-allocations. The final report shall be submitted to EPA within 90 calendar days of the completion of the period of performance. However, in order to facilitate awarding

funds the following fiscal year, it is recommended that the report be completed well before 90 days.

**CHAPTER 00 97 00
CONTRACT DEFINITIONS**

APPLICABILITY: THESE DEFINITIONS ARE INTEGRAL TO THE AGREEMENT.

DOCUMENTS

- A. Contract Documents: Those documents identified in the Agreement.
- B. Conceptual Documents (Request for Proposals Documents):
 - 1. The Contracting Requirements
 - 2. The Program Requirements
 - 3. The Performance Requirements.
 - 4. The Product Specifications.
 - 5. The Design and Construction Procedures.
- C. Project Program: The Owner's requirements for size, arrangement, organization, and location of functional spaces, description of space functions, identification of fittings, equipment, and furnishings, description of the physical and environmental requirements for each space, together with a description of the image, goals, or "mission" of the project.
- D. Proposal: The Proposal Form and Exhibits, which comprise the information prepared by the Prospective Proposers to show their method of complying with the Conceptual Documents.
 - 1. The Proposal period is the time frame during which Prospective Proposers prepare their Proposals.
 - 2. Substantiation submittals specified to occur during the Proposal period are intended to accompany the Proposal.

DESIGN AND CONSTRUCTION PHASES OR STAGES

- A. Schematic Design: The process of finalizing the design criteria and preparing schematic design drawings and written descriptions to illustrate the proposed design of the work or a portion of the work to the Owner, as described in the Conditions of the Contract and the Design and Construction Procedures.
 - 1. The end of the Schematic Design period is a Milestone.
- B. Design Development: The process of determining the form, arrangement, size, and materials of the work or a portion of the work, as described in the Conditions of the Contract and the Design and Construction Procedures.
 - 1. The end of Design Development is the time at which the Design Development documents are complete.
 - 2. The end of Design Development for the project as a whole is a Milestone.
- C. Construction Documents: The process of preparing working drawings, specifications, and other documents describing the work or a portion of the work in sufficient detail to allow accurate and complete construction, as described in the Design and Construction Procedures.
 - 1. The end of Construction Documents for the project as a whole is a Milestone.
 - 2. The end of Construction Documents is the time at which all portions of the Construction Documents are complete.

- D. Construction:
1. The Construction period is the time from the beginning of work on the project site until final payment as defined by the Conditions of the Contract.
- E. Substantial Completion: As defined in the Conditions of the Contract; prerequisites are:
1. Design-Builder's complete punchlist of items to be completed.
 2. Owner's complete punchlist of items to be completed.
 3. Compliance with requirements of governing authorities, for submittals, inspections, and permits.
 4. Compliance with Owner's requirements for access to areas occupied by the Owner.
 5. Commissioning.
 6. Final cleaning.
 7. Maintenance manuals.
 8. Warranties.
 9. Spare parts and extra materials.
 10. Maintenance supplies and tools.
 11. Project record documents.
 12. Training of Owner's personnel.
 13. Maintenance plan.
 14. Occupancy certificate from authorities having jurisdiction.
- F. Closeout: The process of completing all details of construction.
1. The Closeout period is the time from the Date of Substantial Completion until final payment, both as defined by the Conditions of the Contract.
 2. Before and during the Closeout period, the Owner will ascertain whether the completed project complies with the Contract Documents.
- G. Occupancy: The period during which the project is occupied for its intended purpose.
1. The Occupancy period begins at the Date of Substantial Completion, as defined by the Conditions of the Contract.
 2. Owner is responsible for operation and maintenance of the project during Occupancy, unless specifically indicated otherwise for certain items.
- H. Correction Period: Function and time frame as defined by the Conditions of the Contract.

END OF SECTION 00 97 00

SECTION 01 10 00 - PROGRAM OF FACILITIES REQUIREMENTS

PART 1 GENERAL

1.1 INTRODUCTION

- A. Chignik Lagoon received money from the U.S. Environmental Protection Agency's (EPA) Clean Diesel Program through the Alaska Energy Authority to replace their 1995 John Deere 6076 Non-Certified 148kW diesel generator. The EPA funds will be used to purchase engine/generators and associated equipment. Equipment includes freight, labor engineering, and materials needed to install the cleaner engines and implement required upgrades to interface the engines with the existing power plants cooling, fuel, switchgear and exhaust systems. Where remanufactured or rebuilt engines are used they will be "certified Tier compliant" by conformance with 40 CFR 1068.120 as explained in the EPA-420-F-12-052 document.

AEA will oversee the EPA grant and issue the award to Chignik Lagoon using EPA Diesel Emissions Reduction Act (DERA) and State funds needed to implement the project. This project will be phased for design and then construction

- B. BASIC SCOPE: The following items of work identify the minimum Basic Scope for the project:
1. PHASE I: Travel to Chignik Lagoon to understand the current system and determine which engine would be the best replacement.
 - a. Pictures of the existing system and current engine.
 - b. Design the engine/generator installation and develop specifications for the diesel replacement.
 - c. Construction estimate for phase II.
 2. PHASE II: Purchase engines, generators, and associated equipment required for assembly and or testing.
 3. Ship engines/generators and materials to Chignik Lagoon.
 4. Install the new engine and integrate the new diesel engine into the existing switchgear, fuel, exhaust, and cooling systems.
 5. Deliver electronic documentation of new, updated, and modified equipment and systems including, but not limited to, drawings, schematics, bills of material, protective settings/ranges, and programmable logic controller (PLC) flow charts or process diagrams. Systems operator sequencing or switching checklist(s) for safe and reliable normal operations shall be included. Two (2) electronic copies (PDF and editable, native file format), each, shall be provided and delivered to the Chignik Lagoon Village Council and AEA, for archiving and future uses.

1.2 PROJECT REQUIREMENTS

- A. General Design Requirements: The basic scope of work is described in the RFP documents and included in the General conditions (Division 00 and 01)
- B. The Design-Builder shall provide materials that either meet or exceed the quality level depicted in the Contract Documents.
- C. Project Code Review:
 - 1. The Design-Builder will be required to perform a complete code review. The diesel engine replacement will need to be constructed according to all applicable codes.
- D. MECHANICAL
 - 1. Work around and protect in place existing mechanical systems.
 - a. Integrate the new diesel engine into the existing systems (such as switchgear, fuel exhaust, and cooling systems) present in target structures.
- E. ELECTRICAL
 - 1. Work around and protect in place existing electrical systems
 - 2. Install any required electronic control systems required for the successful operation and integration of the diesel engine.
- F. HAZARDOUS MATERIALS
 - 1. If there is existing hazardous materials present in any of the target buildings, the Agency and Village should be informed.
 - 2. Hazardous material produced as a product of construction is to be disposed of in accordance with local regulations by the builder.

1.3 ENGINEERING DESIGN AND CONSTRUCTION CRITERIA

- A. Scope and Objectives:
 - 1. Civil, Mechanical, and Electrical design, detailing, and construction of all diesel engine replacement and system elements, building and/or structural elements.
- B. Code Requirements:
 - 1. The project shall be designed and constructed In accordance with all applicable codes, standards, and municipal ordinances. The contractor will be responsible for coordinating the design and construction with the contracting Agency
- C. Performance Standards:
 - 1. All work, including testing and documentation, shall be in conformance with applicable industry standards, including, but not limited to:
 - o NEMA MG 1 (2009): “Motors and Generators”

- IEEE 1547: “Standard for Interconnecting Distributed Resources with Electric Power Systems”
- ANSI C84.1 (2016): “Electric Power Systems and Equipment— Voltage Ratings (60 Hertz)”
- NFPA 70: National Electrical Code (NEC)
- National Electrical Safety Code (NESC)/ANSI C2

Technical drawings related to the safety and reliability of the power system shall be reviewed and stamped by a professional engineer.

PART 2 PRODUCTS - Not Used

PART 3 EXECUTION - Not Used

END OF SECTION 01 10 00

SECTION 01 10 50
DESIGN AND CONSTRUCTION PROCEDURES

PART 1 – GENERAL

1.01 MANAGEMENT AND COORDINATION

- A. Access to and Use of Site
 - 1. Following Notice to Proceed (NTP) with construction phase, DESIGN-BUILDER CONTRACTOR (CONTRACTOR) shall have access to the site. User Group will occupy and use the facility, site during construction phase; Contractor shall coordinate with AUTHORITY as required for access, construction schedule.
 - 2. Access to site prior to NTP for construction shall be coordinated through AUTHORITY Any on-site staging of materials and equipment in advance shall be allowed only with prior coordination through AUTHORITY.
- B. Changes in Work:
 - 1. See Conditions of the Contract for procedures
 - 2. Requests for Information or Clarification of request for Proposal: AUTHORITY
 - 3. Requests for Substitutions from Approved Construction Documents: AUTHORITY
 - 4. Requests for Modifications to Approved Construction Documents: AUTHORITY
- C. Progress Schedule:
 - 1. As specified in Specification Section 01 32 00 — Work Schedules and Reports
- D. Progress Documentation for AUTHORITY Information
 - 1. Update AUTHORITY during Design Development with graphic and narrative detail to allow AUTHORITY to determine progress of work and design strategy
 - 2. Update AUTHORITY during Construction with narrative and meetings as coordinated with AUTHORITY to allow AUTHORITY to identify status of construction, i.e., progress meetings.

1.02 QUALITY REQUIREMENTS

- A. Design Criteria: During development of design, design performance and criteria must be refined, finalized and documented. Refer to Section 01 10 00 — Program of Facility Requirements
 - 1. Pre-Design Conference: CONTRACTOR shall administer a pre-design conference to establish and confirm scope of work, design and performance criteria as included in the Request for Proposal (RFP). CONTRACTOR shall coordinate with AUTHORITY to facilitate attendance to conference of all major stakeholders. Design-Builder team should include architect/engineer of record and a representative from each construction trade involved in the project. CONTRACTOR

shall prepare a written record of the conference for review and approval by the AUTHORITY.

B. Design and Construction Documents

1. CONTRACTOR, upon acceptance of the Pre-Design Conference written record by AUTHORITY, shall move into Construction Documents, and incorporate into the design any comments, revisions and changes as requested by the AUTHORITY or clarified during RFP process and the conference.
 - a. Construction Documents shall consist of drawings and specifications setting forth in detail the requirements for construction of the entire project, for approval by the AUTHORITY. CONTRACTOR shall incorporate into document resolution any Owner requested scope changes.
 - b. CONTRACTOR shall prepare a complete set of signed and sealed Construction Documents for the project in accordance with the latest edition of the Construction Specifications Institute Manual of Practice, Volume Two, Formats for Specifications and Manuals, and Manual of Practice, MasterFormat, Master List of Section Titles and Numbers, as may be revised and updated. CONTRACTOR submit construction documents on electronic media, i.e.; Adobe Acrobat © PDF files for drawings and specifications as well as in Word 2010 format (.doc or .docx) for text oriented documents, and either AutoCAD 2015 (.dwg) or Revit 2015 (.rvt) format for drawing documents. Drawings and specifications shall specifically include the following carefully coordinated items:
 - 1) Architectural working drawings, plans, elevations, sections and details, plus notes and schedules, illustrating the design, location, size, and dimensions of project components.
 - 2) Structural working drawings, which present graphically the complete structural concept of the project and includes plans, sections details, schedules, notes and other information.
 - 3) Detailed engineering working drawings for heating, ventilating, plumbing work, and engineering analysis. Mechanical working drawings should include plans, sections, details, schedules, diagrams, and notes.
 - 4) Project Manuals including detailed Architectural, Structural, specifications describing related work, standards references, product descriptions, acceptable substitutions, and installation requirements.

- 5) CONTRACTOR shall submit to the AUTHORITY any copies of all engineering calculations that establish the size, shape, dimensions, and capacity of the work involved and energy calculations in a format acceptable to the AUTHORITY.
 - 6) CONTRACTOR shall obtain and coordinate all approvals as required by government or private entities, which have regulatory authority over a proposed project. CONTRACTOR shall obtain and coordinate all approvals with local, regional, state, and/or federal agencies having jurisdiction regarding applicable laws, statutes, regulations, and codes or privately owned utility companies or other entities that may impose conditions for a project and from such agencies as may be specifically designated by AUTHORITY.
 - 7) CONTRACTOR shall submit to AUTHORITY a statement of design and construction costs (or credits) associated with the AUTHORITY comments and requested scope changes, if any, provided upon approval of the Construction Documents.
2. Construction Phase Services shall consist of providing assistance to AUTHORITY in its oversight of the construction, commencing with NTP with construction and terminating following final acceptance of the Project and AUTHORITY approval of the CONTRACTOR's final invoice for all services throughout the construction phase.
- a. CONTRACTOR shall respond to AUTHORITY -initiated requests for clarifications of the Construction Documents including any inadequacies in the documents. CONTRACTOR shall prepare appropriate instructions or modifications to the Construction Documents for field use. CONTRACTOR shall advise AUTHORITY on those matters, which may affect the utilization of the project, or extra cost or additional time associated with AUTHORITY 's change directives.
 - b. Project Meetings: As coordinated with AUTHORITY and as specified in Section 01 20 00 — Project Meetings
 - c. CONTRACTOR shall review, and recommend for approval or disapproval shop drawings, test results, samples, color selections, and other submissions of the contractor for conformance with the design concept of the Project and for compliance with the information given in the Construction Documents. CONTRACTOR shall coordinate directly with the Subcontractors to obtain all submittals required by the Construction Documents and shall promptly notify the AUTHORITY concerning any submittals, or lack of submittals, which may

delay construction progress. CONTRACTOR's recommendation for approval of submittals must be in writing to the AUTHORITY. AUTHORITY will issue final submittal approvals, conditional approvals or disapprovals. Related communication with Subcontractors is the responsibility of the CONTRACTOR.

- d. CONTRACTOR's Design Consultant (Architect-of-Record) shall certify in each Application for Payment that the Consultant has personally inspected the Work, and that the Work represented by the Application has been constructed in accordance with the intent of the Design Consultant's Construction Documents.
 - e. Record Documents maintained and updated on site. 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 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 AUTHORITY for reference and copying. Upon completion of the Work, the annotated record documents, samples and Shop Drawings will be delivered to the AUTHORITY. Record documents shall accurately record variations in the Work, which vary from requirements shown or indicated in the Contract Documents.
 - f. Upon notice of Substantial Completion, CONTRACTOR and design Consultants shall participate in a detailed final construction inspection with the AUTHORITY all aspects of the Project. CONTRACTOR and its Design Consultants shall assist AUTHORITY in the preparation of a list identifying any deficiencies or items to be accomplished and may be required to participate in final re-inspection of the Project with the AUTHORITY to ascertain that the corrections have been made.
- C. Substantiation Submittal Procedures:
- 1. Time Frames: As specified in Section 00 51 00; paragraph 5.2. If there is a conflict between the degree of detail or completion specified and the progress of the design or construction, obtain a clarification before submitting.
 - 2. Recipient: AUTHORITY
 - 3. Number of Copies: (3) hardcopies, plus copy on electronic media for AUTHORITY use and records.

- D. AUTHORITY of Substantiation Submittals (Construction Documents Submittal prior to Construction Phase NTP): Unless otherwise indicated, AUTHORITY will make formal acceptance of substantiation submittal.
 - 1. If a submittal is not acceptable, AUTHORITY will promptly notify CONTRACTOR
- E. Reference Standards: Where products or workmanship is specified by reference to a document not included in the Contract Documents, comply with the requirements of the document, except where more stringent requirements are specified.

1.03 QUALITY ASSURANCE

- A. CONTRACTOR shall provide a mechanism for monitoring performance and products of its own forces, Design Consultants, Subcontractors, Sub-subcontractors of all tiers, during all phases of work, and coordination and cooperation with AUTHORITY.
- B. Testing, Observations, Inspections:
 - 1. Except as indicated below, CONTRACTOR shall provide all testing, observations, inspections, reports.
- C. International Building Code (IBC) Special Inspections
 - 1. AUTHORITY with its own forces shall provide all “Special Inspections” as required by IBC
 - 2. CONTRACTOR will be furnished a copy of all reports of inspections required by IBC
 - 3. Special Inspections and testing shall not relieve CONTRACTOR of its responsibilities for testing, observation, inspections necessary for Quality Assurance
 - 4. CONTRACTOR shall coordinate and schedule all IBC-required Special Inspections directly with AUTHORITY’S Special Inspector
 - a. Maybe be coordinated through AUTHORITY, if mutually agreed

END OF SECTION

THIS PAGE INTENTIONALLY LEFT BLANK

**SECTION 01 12 19
CONTRACTOR'S CERTIFICATION OF SUBCONTRACTS**

PART 1 – GENERAL

1.01 REQUIREMENTS INCLUDED

- A. Procedures to prepare, submit and accept subcontracts

1.02 PREPARATION OF CERTIFICATION

- A. Certification Forms: Use only forms provided by AUTHORITY.
- B. DESIGN-BUILDER CONTRACTOR (CONTRACTOR) to prepare certification form in accordance with the instructions on form. Multiple subcontractors may be included under single submittal. Where required, attach additional information. Cross reference to appropriate Subcontract.
- C. Substitute certification forms will not be considered.
- D. CONTRACTOR to prepare certification for **ALL** subcontractors

1.03 SUBMITTAL OF CERTIFICATION

- A. Submit initial and all subsequent certification forms in accordance with Part 1.02, this Section.

1.04 CONSIDERATION OF CERTIFICATION

- A. Following receipt of submittal and within a reasonable period of time, AUTHORITY shall review of each of the following:
 - 1. Completeness of forms and attachments.
 - 2. Proper execution (signatures) of forms and attachments
- B. Submittals which are not complete or not properly executed will be returned to CONTRACTOR denoting deficiencies. CONTRACTOR to revise and resubmit per Part 1.03, this Section.
- C. SUBCONTRACTORS WHICH HAVE NOT BEEN APPROVED BY THE AUTHORITY SHALL BE NE ALLOWED ONSITE.
- D. THE AUTHORITY WILL NOT PROCESS PAYMENTS FOR WORK PERFORMED BY A NON-CERTIFIED SUBCONTRACTOR.

1.05 ACKNOWLEDGEMENT OF CERTIFICATION

- A. Submittals which have been examined by AUTHORITY and are determined to be complete and properly executed shall be acknowledged as such by AUTHORITY on approval line of the certification form and returned to CONTRACTOR.

1.06 CHANGES TO APPROVED SUBCONTRACTOR LIST

- A. Deletion or Replacement of a Subcontractor listed on approved document 00 30 00 — Design-Build Proposal Form or in the Offeror's proposal shall be in accordance with Article 00 92 00-2.7.3.

1.07 SUBCONTRACTORS NOT REQUIRED TO BE LISTED ON APPROVED SUBCONTRACTS LIST

- A. Addition of subcontractors not required to be listed on approved document 00 30 00 — Design-Build Proposal Form or in the Offeror's proposal require CONTRACTORS certification of subcontractors.

END OF SECTION



Note: The referenced paragraphs in General Provisions sections do not apply to Small Procurement Contracts, however this form is still applicable and must be completed in full.

PROJECT: Chignik Lagoon DERA Clean Diesel Engine Replacement – Design/ Build

PROJECT. #. 18008

PRIME DESIGN-BUILDER/CONTRACTOR:

Pursuant 00 09 20 2.7.3, we hereby stipulate the following concerning the award of Work to the last Subcontractor on the following list:

- 1. First Tier Sub-Contractor
Second Tier
Third Tier
Fourth Tier

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 (circle appropriate answer)?

Contract Minimum Wage Schedule Y N

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? Y N

7. Does the Subcontract specifically bind the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the Authority and does it contain waiver provisions as required by 0 092 00 6.7.2 and termination provisions as required by 00 92 00 Article 11? Y N

8. a. Does the Subcontractor have adequate insurance coverages as specified in 00 92 00 Article 5? Y N

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? Y N

b. Does the evidence of insurance certify that the policies described thereon comply with all aspects of the insurance requirements for this project? Y N

c. Does the evidence of insurance list the Department as an "Additional Insured" or "Certificate Holder"? Y N

Certification for: _____

d. Does the evidence of insurance commit to providing 30 day written notice of cancellation or reduction of any coverage? **Y** **N**

e. Insurance Expiration dates:

Comprehensive or Commercial General Liability: _____

Automobile: _____ Workers' Compensation: _____

(Other) _____

9. 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 License

Other: _____

10. Exceptions to any of the above are explained as follows: _____

CERTIFICATION (to be completed by prime contractor): I certify all the above to be true and correct.

Signature: _____

Printed Name: _____

Company: _____

Date: _____

AUTHORITY'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 Manager

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

Signature: _____ Date: _____
Project Manager

**SECTION 01 20 00
CONSTRUCTION PROJECT MEETINGS**

PART 1 – GENERAL

1.01 SECTION INCLUDES

- A. Site Mobilization Meeting
- B. Progress Meetings

1.01 RELATED REQUIREMENTS

- A. Section 00 51 00 — Standard Form of Agreement between Owner and Design-Builder
- B. Section 00 92 00 — General Conditions of the Contract
- C. Section 01 10 00 — Program of Facility Requirements
- D. Section 01 10 50 — Design and Construction Procedures
- E. Section 01 32 00 — Work Schedules and Reports

1.01 SUBMITTALS

- A. Submit Site Mobilization Meeting Minutes
- B. Submit Progress Meeting Minutes

1.01 SITE MOBILIZATION MEETING

- A. AUTHORITY may administer site mobilization conference before any physical construction begins at the site.
- B. Attendance: Job superintendent, Subcontractors (if available), the AUTHORITY and Consultants as appropriate to agenda topics for each meeting. If Subcontractors are not available at the beginning of the project, then the AUTHORITY will administer other site mobilization meetings as the Subcontractors arrive at the site.
- C. DESIGN-BUILD CONTRACTOR (CONTRACTOR) to prepare a detailed written work plan in preparation for this meeting
- D. Agenda (including, but not limited to the following, as applicable):
 - 1. CONTRACTOR's responsibilities and use of premises
 - 2. Coordination with AUTHORITY/User Group use of site during construction
 - 3. Coordination with related work at the site
 - 4. Review security, safety, and housekeeping procedures
 - 5. Schedules and submittals
 - 6. Manufacturer's instructions and Material Safety Data Sheets (MSDS)
 - 7. Material storage
 - 8. Procedures for testing and inspection
 - 9. Procedures for maintaining record documents

10. Wage reporting requirements and labor compliance interviews
11. Unusual conditions, potential construction difficulties or specialty items
12. Special Inspection schedules
13. QA/QC

E. The CONTRACTOR will take notes and distribute meeting minutes to AUTHORITY

1.01 PROGRESS MEETINGS

- A. Schedule and administer weekly Project meetings throughout progress of the Work (unless this requirement is waived by the AUTHORITY).
- B. Make physical arrangements for meetings, prepare agenda with copies for participants, preside at meetings, record minutes, and distribute copies within two days to AUTHORITY, participants, and those affected by decisions made at meetings.
- C. Attendance: Job superintendent, major Subcontractors and Suppliers, AUTHORITY and Consultants as appropriate to agenda topics for each meeting.
- D. Minimum Required Agenda:
 1. Review of Work progress
 2. Status of progress schedule and adjustments thereto
 3. Work anticipated in the next two weeks (two week look ahead schedule)
 4. Delivery schedules
 5. Submittals
 6. Maintenance of quality standards
 7. Pending changes
 8. Other items affecting progress of Work
- E. CONTRACTOR will take notes and submit meeting minutes to AUTHORITY

1.01 OTHER MEETINGS

- A. When required in Individual Specification Section, or directed by the AUTHORITY to convene a meeting prior to commencing Work of a Section.


PART 2 – PRODUCTS

Not Used

PART 3 – EXECUTION

Not Used

END OF SECTION

ALASKA ENERGY AUTHORITY	DESIGN-BUILDER DELEGATION OF AUTHORITY	
--------------------------------	---	---

DESIGN-BUILDER: _____

PROJECT NAME: TAZLINA DISTRICT HEAT SYSTEM BIOMASS BOILER – DESIGN/BUILD

PROJECT NO.: 18004

The contract documents contain several requirements that the Design-Builder 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.

Please complete the applicable portions of this form and return it to the Project Manager. A letter will be furnished to you that define the authorities and responsibilities of AUTHORITY, 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 & Change Notices</u>

Printed Name

Sample Signature

Printed Name

Sample Signature

Safety Representative

Printed Name

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

Name, printed or typed

**SECTION 01 26 00
CHANGE ORDER PROCEDURES**

PART 1 – GENERAL

1.01 REQUIREMENTS INCLUDED

- A. Procedures for processing Change Orders.

1.02 RELATED REQUIREMENTS

- A. Document 00 31 20 — Bid Schedule: Total amount bid for lump sum items
- B. Document 00 51 00 — Contract Form: Total amount of Contract Price, as awarded
- C. Document 00 92 00 — General Conditions: Governing requirements for changes in the Work, in Contract Price, and Contract Time
- D. Section 01 29 00 — Applications for Payment
- E. Section 01 33 00 — Submittals
- F. Section 01 32 00 — Work Schedules and Reports
- G. Section 01 37 00 — Schedule of Values
- H. Section 01 60 00 — Material and Equipment
- I. Section 01 77 00 — Contract Closeout

1.03 SUBMITTALS

- A. Submit name of the individual authorized to accept changes, and to be responsible for informing others in DESIGN-BUILD CONTRACTOR's employ of changes in the Work
- B. Change Order Forms will be prepared by the AUTHORITY

1.04 DOCUMENTATION OF CHANGE IN CONTRACT PRICE AND CONTRACT TIME

- A. Maintain detailed records of work done on a Cost of the Work plus a Fee basis. Provide full information required for evaluation of proposed changes, and to substantiate costs of changes in the Work. Incomplete or unsubstantiated costs will be disallowed.
- B. CONTRACTOR shall submit a complete, detailed, itemized cost breakdown addressing impact on Contract Time and Contract Price with each proposal.
- C. On request, provide additional data to support computations:
 - 1. Quantities of products, labor, and equipment.
 - 2. Taxes, insurance and bonds
 - 3. Overhead and profit
 - 4. Justification for any change in Contract Time
 - 5. Credit for deletions from Contract, similarly documented
- D. Support each claim for additional costs, and for work done on a cost of the Work plus a Fee basis, with additional information:
 - 1. Origin and date of claim
 - 2. Dates and times work was performed, and by whom

3. Time records and wage rates paid
4. Invoices and receipts for products, equipment, and subcontracts, similarly documented

1.05 PRELIMINARY PROCEDURES

- A. AUTHORITY may submit a Proposal Request which includes: Detailed description of change with supplementary or revised Drawings and Specifications, the projected time for executing the change, with a stipulation of any overtime work required, and the period of time during which the requested price will be considered valid.
- B. CONTRACTOR may initiate a change by submittal of a request to AUTHORITY describing the proposed change with a statement of the reason for the change, and the effect on Contract Price and Contract Time with full documentation.

1.06 CONSTRUCTION CHANGE AUTHORIZATION

- A. Shall be in accordance with Article 9 - Changes: in Document 00 92 00 - General Conditions as modified by the Special Conditions.

1.07 FIXED PRICE CHANGE ORDER

- A. CONTRACTOR shall submit an itemized price proposal in sufficient detail to fully explain the basis for the proposal. Attach invoices and receipts for products, equipment, subcontracts, and as requested by the AUTHORITY. CONTRACTOR and the AUTHORITY shall then negotiate an equitable price (and time adjustment if appropriate) in good faith. The Change Order will reflect the results of those negotiations. If negotiations break down CONTRACTOR may be directed to perform the work under COST OF THE WORK CHANGE ORDER.
- B. The following maximum rates of cost markup (to cover both overhead and profit of the CONTRACTOR) shall be used in the negotiation of a "Fixed-Price" Change Order:
 1. 15% - where a cost is borne directly by prime contractor.
 2. 10% - where a cost is borne by a subordinate contractor
 3. 20% total cost markup for the CONTRACTOR and all subcontractors, including multiple tiers, of the cost borne by the subcontractor actually performing the work.
- C. These terms shall also apply to the proposal of subcontractors and allowances.
- D. Will be based on proposal request and CONTRACTOR's lump sum quotation or CONTRACTOR's request for Change Order as approved by the AUTHORITY.

1.08 UNIT PRICE CHANGE ORDER

- A. For pre-determined Unit Prices and quantities, Change Order will be executed on a lump sum basis.
- B. For unit costs or quantities of units of Work which are not predetermined, execute Work under a Directive. Changes in Contract Price or Contract Time will be computed as specified for cost of the Work plus fee via Change Order.

1.09 COST OF THE WORK CHANGE ORDER

- A. CONTRACTOR shall submit documentation required in Part 1.04, this Section, on a daily basis for certification by AUTHORITY will indicate by signature that the submitted documentation is acceptable.
- B. After completion of the change and within (14) Calendar Days, unless extended by the Project Manager, the CONTRACTOR shall submit in final form an itemized account with support data of all costs. Support data shall have been certified by AUTHORITY, as required above in paragraph A, this Part.

1.10 EXECUTION OF CHANGE ORDERS

- A. AUTHORITY will issue Change Orders for signatures of parties as provided in Conditions of the Contract.
- B. A Change Order shall be considered executed when it is signed by the AUTHORITY
- c. The individual authorized to act on behalf of the CONTRACTOR shall affix their signature and date of acceptance or acknowledgement. Acknowledgement of a Change Order does not surrender the CONTRACTOR's right to claim.

1.11 CORRELATION OF CONTRACTOR SUBMITTALS

- A. Promptly revise Schedule of Values and Application for Payment forms to record each authorized Change Order as a separate line item and adjust the Contract Price as shown on Change Order.
- B. Promptly revise progress schedules to reflect any change in Contract Time, revise sub-schedules to adjust times for other items of Work affected by the change, and resubmit.
- C. Promptly enter changes in project record documents.

PART 2 – PRODUCTS

Not Used

PART 3 – EXECUTION

Not Used

END OF SECTION

THIS PAGE INTENTIONALLY LEFT BLANK

**SECTION 01 29 00
APPLICATIONS FOR PAYMENT**

PART 1 – GENERAL

1.01 REQUIREMENTS INCLUDED

- A. Procedures for preparation and submittal of Applications for Payment

1.02 RELATED REQUIREMENTS

- A. Document 00 51 00 — Construction Contract and Bid Schedule: Method of Payment and Contract Price and Amounts of Liquidated Damages
- B. Document 00 92 00 — General Conditions: Progress Payments, and Final Payment
- C. Section 01 33 00 — Submittals: Procedures
- D. Section 01 32 00 — Project Schedule
- E. Section 01 37 00 — Schedule of Values
- F. Section 01 77 00 — Contract Closeout: Closeout Procedures

1.03 FORMAT

- A. Application for Payment form in format approved by the AUTHORITY

1.04 PREPARATION OF APPLICATIONS

- A. Type required information on Application for Payment form approved by CONTRACTING AGENCY.
- B. Execute certification by original signature of authorized officer upon each copy of the Application for Payment.
- C. Submit names of individuals authorized to be responsible for information submitted on application for payment.
- D. Indicate breakdown of costs for each item of the Work on accepted schedule of values. Provide dollar value in each column for each line item for portion of Work performed and for stored products.
- E. List each authorized Change Order as an extension on continuation sheet, listing Change Order number and dollar amount as for an original item of Work.
- F. Prepare Application for Final Payment as specified in Section 01 77 00.

1.05 SUBMITTAL PROCEDURES

- A. Submit two copies of each Application for Payment at times stipulated in Contract.**
- B. Submit under transmittal letter specified in Section 01 33 00.**

PART 2 – PRODUCTS

Not Used

PART 3 – EXECUTION

Not Used

END OF SECTION

**SECTION 01 32 00
WORK SCHEDULES AND REPORTS**

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section includes administrative and procedural requirements for documenting the progress of design and construction during the performance of the Work; including the following:
 - 1. Preliminary Construction Schedule
 - 2. Design-Builders Construction Schedule; CPM
 - 3. Submittals (Shop Drawings) Schedule
 - 4. Contracting Officer Required Progress Schedule

1.02 REFERENCES

- A. 00 51 00 — Standard Form of Agreement between Design-Builder and Owner
- B. 00 92 00 — General Conditions of Contract Between Owner and Design-Builder
- C. 01 10 50 — Design and Construction Procedures

1.03 QUALIFICATIONS

- A. Design-Build CONTRACTOR shall designate an authorized representative who shall be responsible for the preparation of all required project schedule reports

PART 2 – PRODUCTS

2.01 SOFTWARE

- A. Provide documents compatible with Microsoft Project 2013, or an earlier version

PART 3 – EXECUTION

3.01 GENERAL REQUIREMENTS

- A. Pursuant to the Contract General Conditions Section 00 92 00, Article 2.1.3, a project schedule as described below shall be prepared. The scheduling of design and construction shall be the responsibility of the CONTRACTOR — CONTRACTOR management personnel shall actively participate in its development. Designer's subcontractors and suppliers working on the project shall also contribute in developing and maintaining an accurate project schedule. The approved project schedule shall be used to measure the progress of the work to aid in evaluating time extensions, and to provide the basis of all progress payments

3.02 BASIS FOR PAYMENT

- A. The schedule shall be the basis for measuring the CONTRACTOR progress. Lack of an approved schedule or scheduling personnel will result in the inability of the Contracting

Officer to evaluate the CONTRACTOR'S progress for purpose of payment. Failure of the CONTRACTOR to provide all information as specified below shall result in the disapproval of the entire Project Schedule submission and the inability of the Contracting Officer to evaluate CONTRACTOR progress for payment purposes. In the case where Project Schedule revisions have been directed by the Contracting Officer and those revisions have not been included in the Project Schedule, the Contracting Officer may hold retainage up to the maximum allowed by the contract each payment period until revisions to the Project Schedule have been made.

3.03 SUBMITTALS SCHEDULE

- A. Submittals Schedule (Shop Drawings and Design Milestones): Submit Submittals Schedule (Shop Drawings and Design Milestones) in a format acceptable to the AUTHORITY. If submitting hard copy schedules, submit the number of copies as agreed upon with the AUTHORITY.
- B. Submittal Schedule shall provide the following information:
 - 1. Schedule Date for the First Submittal
 - 2. Specification Section Number, Title or Design Milestone
 - 3. Submittal category
 - 4. Line items for each submittal shall match the Progress Schedule and the Schedule of Values
 - 5. CONTRACTOR'S architect/engineer to create the Submittals Schedule for Contracting Officer review and approval. Upon approval all material and Shop Drawing submittals indicated to be provided by CONTRACTOR
 - 6. Description of Work covered
 - 7. Schedule date for Contracting Officer's Final Release or Approval

3.04 CONTRACT PROGRESS REPORT

- A. Submit Contract Progress Report on form approved by Contracting Officer. The periods on the schedule should be 1st through 15th, and 16th through end of the month. Minimum sheet size shall be 8-1/2" x 11"
 - 1. Identifications of listings: By major specification section numbers and design submittal phases exactly as listed on Schedule of Values

3.05 PROJECT SCHEDULE

- A. Failure of the CONTRACTOR to meet the requirements of this specification shall result in the disapproval of the schedule. Manual methods used to produce any required information shall require approval by the Contracting Officer.
- B. Use of Critical Path Method (CPM)
 - 1. CPM of network calculation shall be used to general Project Schedule

2. Submit Construction Schedule in CPM format. The periods on the schedule should be each week of construction, at a minimum. Minimum sheet size: 11" x 17"
- C. Level of Detail Required: Project Schedule shall include an appropriate level of detail. The project schedule shall include an appropriate level of detail. Failure to develop or update the project schedule or provide data to the contracting officer at the appropriate level of detail specified by the contracting officer shall result in the disapproval of the schedule. The contracting officer will use, but is not limited to the following conditions to determine the appropriate level of detail to be used in the project schedule:
1. **Activity Durations:** Design Builder submissions shall follow the direction of the Contracting Officer regarding reasonable activity duration, which are durations that allow the progress of the activities to be accurately determined between payment periods.
 2. **Design and Permitting Activities:** Design and Permitting activities include necessary conferences and follow-up actions. Design package submission dates shall be integrated into the schedule.
 3. **Procurement Activities:** Tasks related to the procurement of long lead materials or equipment shall be included as separate activities in the project schedule. Long lead materials and equipment are those materials that have a procurement cycle of over 90 days. Examples of procurement process activities include, but are not limited to: submittals, approvals procurement, fabrication, and delivery.
 4. **Critical Activities:** the following activities shall be listed as separate line activities on the CONTRACTOR'S Project Schedule:
 - a. Submission and approval of design packages for review including preliminary design development and construction document milestones
 - b. Submission of mechanical/electrical layout drawings
 - c. Submission and approval of O&M Manuals
 - d. Submission and approval of Record Drawings
 - e. Submission and approval of installed equipment lists
 - f. Submission and approval of testing and balancing of HVAC
 - g. HVAC Commissioning dates
 - h. Controls testing
 - i. Performance verification testing
 - j. Other systems testing if required
 - k. Substantial Completion Inspection
 - l. Correction of Substantial Completion Punch List
 - m. Final Inspection

- n. Important stages of construction for each major portion of the Work
 - o. All items of Work indicated on Schedule of Values. Each shall be included as a discrete activity or a group of discrete activities requiring not more than two weeks duration
 - 5. Owner Activities: Owner and other agency activities that could impact progress shall be shown.
 - 6. Responsibility: All activities shall be identified in the project schedule by party responsible to perform Work. Responsibility shall include but is not limited to the subcontracting firm, CONTRACTOR workforce, Owner, or government agency performing a given task. Activities shall not belong to more than one responsible party.
 - 7. Stage of Work for each Core/AUTHORITY: All activities shall be identified in the project schedule according to the stage of work in which the activity occurs for each Core or AUTHORITY.
 - 8. Category of Work: All activities shall be identified according to the category of work which best describes the activity. Category of work refers to, but is not necessarily limited to, procurement chain of activities, such as Design, Design Package Submissions, Design Reviews, Review Conferences, Permits, Submittals, Approvals, Procurement, Fabrication, Delivery, Installation, Start-up, and Testing.
- A. PROJECT SCHEDULE
- 1. **Project Schedules shall be submitted for interval of Project NTP to Contract Completion AND for Construction NTP through Substantial Completion.**
 - 2. Project Start Date
 - a. Project Start Date shall be no earlier than date on NTP. CONTRACTOR shall include as the first activity in the schedule “Start Project,” equal to the date the NTP was acknowledged and have zero-duration
 - 3. Constraint of Last Activity
 - a. Completion of the last activity in the schedule shall be constrained by contract completion date. Calculation on project updates shall be such that ***if the early finish of the last activity falls after the contract completion date, then the float calculation shall reflect a negative float on the critical path.*** CONTRACTOR shall include as the first activity in the schedule “End Project,” equal to the date the NTP was acknowledged and have zero-duration
 - 4. Early Project Completion

- a. In the event the Project Schedule shows completion of the project prior to the contract completion date, CONTRACTOR shall identify those activities that have been accelerated and/or those activities that are scheduled in parallel
 - b. CONTRACTOR shall specifically address each of the activities noted in the narrative report at every project schedule update period to assist the Contracting Officer in evaluation CONTRACTOR'S ability to complete project early
- B. INTERIM COMPLETION DATES
- 1. Contractually specified interim completion dates shall also be constrained to show negative float if the early finish date of the last activity of that phase falls after the interim completion date
- C. DEFAULT PROGRESS DATA DISALLOWED
- 1. Actual start and finish dates shall not be automatically updated by default mechanisms that may be included in CPM scheduling software systems. Actual start and finish dates on the CPM Schedule shall match those dates provided by the Contracting Officer as Notice to Proceed and Substantial Completion dates
 - a. Updating of the percent complete and the remaining duration of any activity shall be independent functions

3.06 PROJECT SCHEDULE SUBMISSIONS

- A. Preliminary Project Schedule Submission
- 1. Preliminary Project Schedule defining the CONTRACTOR'S planned operations for the first 90 calendar days shall be submitted for approval within fifteen (15) calendar days after the NTP is acknowledged. The approved preliminary schedule shall be used for payment purposes not to exceed 90 calendar days after NTP.
- B. Initial Project Schedule Submission
- 1. Initial Project Schedule shall be submitted for approval within thirty-five (20) calendar after Project NTP. Schedule shall provide reasonable sequence of activities which represent work through the entire project and shall be at a reasonable level of detail. Schedule shall include detailed design and permitting activities including but not limited to: identification of individual design packages, design submission, review and conferences, permit submissions, any required Owner actions, long lead item acquisition prior to design completion. The initial design-build schedule shall also cover the entire construction effort with as much detail as is known at the time but as a minimum shall include all construction start and completion milestones, known constraints, and detailed early construction activities.
- C. Periodic Schedule Updates

1. Based on the result of progress meetings specified in Specification Section 01 32 00 – Work Schedules and Reports, the CONTRACTOR shall submit periodic schedule updates no less than monthly.
2. If CONTRACTOR fails or refuses to furnish the information and Project Schedule, **CONTRACTOR shall be deemed not to have provided an estimate upon which progress payment may be made.** The CONTRACTOR shall update the schedule to include detailed, lower level construction activities as the design progresses, but not later than the submission of the final yet-to-be reviewed design submission, as such activities is authorized.

3.07 PERIODIC PROGRESS MEETINGS

- A. Progress meetings during Design to discuss payment shall include meetings at regular intervals no less than monthly. During these meetings CONTRACTOR shall describe all proposed revisions and adjustments to the Project Schedule required to reflect current status of the project. Contracting Officer will approve as appropriate.
- B. Meeting Attendance: CONTRACTOR'S Project Manager and Scheduler, Designer of Record as appropriate and all major subcontractors active on Project Site.
- C. Meeting Agenda:
 1. Actual Start and Finish Dates
 2. Time Completion: Remaining Duration for each activity in progress
 3. Logic Changes per NTP on Change Orders, Change Orders to be incorporated into the Schedule, CONTRACTOR proposed changes in work sequence, corrections to Schedule logic for out-of-sequence progress, lag durations, and other changes that have been made pursuant to contract provisions shall be specifically identified and discussed
 4. Other Changes required due to delays in completion due to:
 - a. Delays beyond the CONTRACTOR'S control
 - b. Delays encountered due to Submittals, Owner-responsible activities, Deliveries or Work Stoppages

3.08 REQUEST FOR TIME EXTENSION

- A. CONTRACTOR shall furnish the following if request for extension of Contract Completion Date or any interim Milestone:
 1. Justification of Delay
 - a. Submit a Project and Core Schedule that shall clearly display that the CONTRACTOR has used, in full, all float time available for work involved in the request. Contracting Officer to determine the number of allowable days of Contract Extension and shall be based on the Project and Core Schedule

- updates in effect for that time period in question and any other relevant, factual information.
- b. Actual delays that are found to be caused by CONTRACTOR'S own forces and actions, which result in the extension of the schedule, will not be cause for a time extension to the Contract Completion Date.
2. Submission Requirements. CONTRACTOR shall submit a justification for each request for a change in the Contract Completion Date of under two weeks based upon the most recent schedule update at the time of NTP or construction directive issued for change. Such a request shall be in accordance with the requirement of all Contract clauses and shall include, but is not necessarily limited to:
- a. List of all affected activities
 - b. Brief explanation of cause of change
 - c. Analysis of overall Project Schedule impacts
- B. Additional Submission Requirements: For any requested time extension of over two weeks, the Contracting Officer may request an interim update with revised activities for a specific change request. The CONTRACTOR shall provide this information within 4 days of the Contracting Officer's request.

END OF SECTION

THIS PAGE LEFT INTENTIONALLY BLANK

**SECTION 01 33 00
SUBMITTALS**

PART 1 – GENERAL

1.01 REQUIREMENTS INCLUDED

- A. Procedures
- B. Construction Progress Schedules
- C. Schedule of Values
- D. Shop Drawings, Product Data, and Samples
- E. Field Samples

1.02 RELATED REQUIREMENTS

- A. Section 00 92 00 — General Conditions
- B. Section 01 10 50 — Design and Construction Procedures
- C. Section 01 29 00 — Applications for Payment
- D. Section 01 32 00 — Work Schedules and Reports
- E. Section 01 37 00 — Schedule of Values
- F. Section 01 60 00 — Materials and Equipment
- G. Section 01 77 00 — Contract Closeout Procedures

1.03 PROCEDURES

- A. Deliver submittals to AUTHORITY as coordinated with AUTHORITY
- B. Prior to the purchase or ordering of any materials or equipment, submit for approval complete data describing all items intended for use in the Work. Include the item's manufacturer, identifying number or nomenclature, and other information as necessary to describe the item. Also include the manufacturer's published data describing each item's size, capacity, performance, and power requirements. Provide certification stating that the Contractor has reviewed the material and that all items conform to the Contract requirements. Submittals made without such certification will be returned unreviewed. This certification shall be in the form of a stamp on each material item submitted and signed or initialed. The name of the certifier shall be typed or legibly printed in or near the stamp.
- C. Transmit each item under AUTHORITY accepted transmittal letter. Identify Project, DESIGN-BUILDER CONTRACTOR, Subcontractor, major Supplier, identify pertinent Drawing sheet and detail number, and Specification section number, as appropriate. Identify deviations from Contract Documents by submitting a AUTHORITY supplied Substitution Request Form. Provide a minimum of 8 1/2" x 5 1/2" blank space on the front page for DESIGN-BUILDER, and Consultant review stamps. Provide submittals bound in loose leaf, hard cover, three ring binders complete with tabs and indexes by Specification

Section. At the AUTHORITY's option, partial submittals, which encompass less than a single section will be returned unreviewed or held unreviewed until the submittal is complete.

- D. When substitute equipment is proposed, clearly and unambiguously mark submitted material describing the substitute to identify the differences between the qualities and characteristics of the offered substitute and the specified material. Failure to provide this identification of differences when substitutes are submitted for consideration will result in rejection of the proposed material.
- E. When equipment substitutions are approved and that equipment alters the design or space requirements indicated on the plans, the Contractor shall pay for all items of cost for the revised design and construction including costs of other trades involved and any engineering required to incorporate the approved substituted equipment into the Project. Owner shall not pay for the required additional costs.
- F. Material and equipment installed, purchased, furnished, or provided for the Project which has not been submitted and reviewed by the AUTHORITY may be ordered removed and acceptable material and equipment installed in its place at no additional cost to the Owner.
- G. Submit initial progress schedules and Schedule of Values prior to submitting first Application for Payment. Form and content shall be reviewed by the AUTHORITY. After review by AUTHORITY revise and resubmit as required.
- H. Comply with progress schedule for submittals related to Work progress. Coordinate submittal of related items.
- I. After AUTHORITY review of submittal, revise and resubmit as required, identifying changes made since previous submittal. DO NOT submit partial copies of submittals for incorporation into rejected submittal packages. Provide COMPLETE copies for each review.
- J. If drawings, product submittals, samples, mock-ups, or other required submittals are incomplete or not properly submitted, the AUTHORITY will not review the submittal and will immediately return submittal to CONTRACTOR. AUTHORITY will review a submittal no more than two times (incomplete or improper submittals count as one). DESIGN-BUILDER shall pay all review costs associated with more than two reviews, unless a resubmittal is required due to new comments addressing previously submitted information.

1.04 CONSTRUCTION PROGRESS SCHEDULES

- A. Submit in accordance with Section 01 32 00 — Work Schedules and Reports

1.05.1 SCHEDULE OF VALUES

- A. Submit in accordance with Section 01 37 00 — Schedule of Values

1.06 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

A. SHOP DRAWINGS:

1. Present in a clear and thorough manner. Label each Shop Drawing with AUTHORITY's Project name and Project number; identify each element of the Shop Drawings by reference to sheet number and detail, schedule, or room number of Contract Documents.
2. Identify field dimensions; show relation to adjacent or critical features or Work or products.
3. Minimum Sheet Size: 8-1/2"x11". Larger sheets may be submitted in multiples of 8-1/2"x11".

B. PRODUCT DATA

1. Submit only pages which are pertinent; mark each copy of standard printed data to identify pertinent products, referenced to Specification section and Article number. Show reference standards, performance characteristics, and capacities; wiring and piping diagrams and controls; component parts; finishes; dimensions; and required clearances.
2. Modify manufacturer's standard schematic drawings and diagrams to supplement standard information and to provide information specifically applicable to the Work. Delete information not applicable.

C. SAMPLES

1. Submit full range of manufacturer's standard finishes except when more restrictive requirements are specified, indicating colors, textures, and patterns, for AUTHORITY selection.
2. Submit samples to illustrate functional characteristics of products, including parts and attachments.
3. Approved samples, which may be used in the Work, are indicated in the Specification section.
4. Label each sample with identification required for transmittal letter.
5. Provide field samples of finishes at Project, at location acceptable to AUTHORITY, as required by individual Specification section. Install each sample complete and finished. Acceptable finishes in place may be retained in completed Work.

D. MANUFACTURER'S INSTRUCTIONS

1. When required in individual Specification Section, submit manufacturer's printed instructions for delivery, storage, assembly, installation start-up, adjusting, and finishing, in quantities specified for product data.

2. Manufacturer's instructions for storage, preparation, assembly, installation, start-up, adjusting, balancing, and finishing per provisions of
- E. DESIGN-BUILDER CONTRACTOR REVIEW
1. Review submittals prior to transmittal; determine and verify field measurements, field construction criteria, manufacturer's catalog numbers, and conformance of submittal with requirements of Contract Documents.
 2. Coordinate submittals with requirements of Work and of Contract Documents.
 3. Sign or initial each sheet of Shop Drawings and product data, and each sample label to certify compliance with requirements of Contract Documents. Notify AUTHORITY in writing at time of submittal, of any deviations from requirements of Contract Documents.
 4. Do not fabricate products or begin Work that requires submittals until return of submittal with AUTHORITY acceptance.
- F. SUBMITTAL REQUIREMENTS
1. Each submittal to be numbered by Specification Section and Paragraph. Revisions shall be identified by a hyphen after the paragraph, with a letter designator.
 2. Transmit submittals in accordance with the required submittal schedule and in such sequence to avoid delay in the Work.
 3. Provide 8 1/2" x 5 1/2" blank space on each submittal for CONTRACTOR and Consultant stamps.
 4. Apply CONTRACTOR's stamp, signed or initialed, certifying to review, verification of products, field dimensions and field construction criteria, and coordination of information with requirements of Work and Contract Documents.
 5. Coordinate submittals into logical groupings to facilitate interrelation of the several items:
 - a. Finishes which involve AUTHORITY selection of colors, textures, or patterns.
 - b. Associated items that require correlation for efficient function or for installation.
 6. Submit number of opaque reproductions of shop drawings CONTRACTOR requires, plus four that will be retained by AUTHORITY. Submit one electronic copy in PDF format.

7. Submit number of copies of product data and manufacturer's instructions CONTRACTOR requires, plus two copies, which will be retained by AUTHORITY. Submit one electronic copy in PDF format to AUTHORITY.
8. Submit number of samples specified in individual Specifications sections. Electronic samples, color and finish options are not acceptable.
9. Submit under AUTHORITY accepted transmittal form letter. Identify Project by title and AUTHORITY Project number; identify Contract by AUTHORITY contract number. Identify Work and product by Specification section and Article number.
10. Each submittal shall have as its face document a completed AUTHORITY furnished Submittal Summary form.
11. Each submittal shall include the manufacturer's name and address, and supplier's name, address and telephone number.

G. RESUBMITTALS

1. After AUTHORITY review of submittal, revise and resubmit as required, identifying changes made since previous submittal. DO NOT submit partial copies of submittals for incorporation into rejected submittal packages which have been kept by the AUTHORITY and/or Consultants. Provide COMPLETE copies for each review.

H. AUTHORITY REVIEW

1. AUTHORITY or authorized agent will review Shop Drawings, product data, and samples and return submittals within (14) working days.
2. AUTHORITY or authorized agent will examine shop drawings for general arrangement, overall dimensions and suitability, and will return to CONTRACTOR marked as follows;
 - "No Exceptions Taken" - denotes that the submittal generally meets the requirements of the Contract Documents. "No Exceptions Taken" does not indicate a review of CONTRACTOR's design except for general compliance with the requirements of the Contract Documents.
 - "Make Corrections Noted" - denotes review is conditional on compliance with notes made on the submittal. "Revise and Resubmit" - denotes that revisions are required in the submittal in order for the submittal to be generally consistent with the requirements of the Contract Documents. Required revisions will be identified to the CONTRACTOR.

- "Rejected" - denotes that the submittal does not meet the requirements of the Contract Documents and shall not be used in the Work. Reasons for rejection will be identified to the CONTRACTOR.
3. Review by the AUTHORITY of shop and erection drawings shall not be construed as a complete check, but will indicate only that the general method of construction and detailing is consistent with the requirements of the Contract Documents. Review of such drawings shall not relieve the CONTRACTOR of the responsibility for errors, dimensions, and detail design.
 4. AUTHORITY will require submittal of all required color and finish samples in order to approve any on color or finish
- I. DISTRIBUTION
1. Duplicate and distribute reproductions of Shop Drawings, copies of product data, and samples, which bear Consultant's stamp, to job site file, record documents file, Subcontractors, Suppliers, and other entities requiring information.
- J. SCHEDULE OF SUBMITTALS
1. Submittal Register Form to be completed by CONTRACTOR and approved by AUTHORITY prior to submittal of any items
 2. Submit shop drawings, product data and samples as required for each specification section
 3. Format
 - a. Submittal schedule form as provided by AUTHORITY

1.07 FIELD SAMPLES

- A. Provide field samples of finishes at Project as required by individual Specifications section. Install sample complete and finished. Acceptable samples in place may be retained in completed Work.

PART 2 – PRODUCTS

Not Used

PART 3 – EXECUTION

Not Used

END OF SECTION

**SECTION 01 37 00
SCHEDULE OF VALUES**

PART 1 – GENERAL

1.01 SECTION INCLUDES

- A. Requirements for preparing and submitting the Schedule of Values

1.02 RELATED REQUIREMENTS

- A. Section 00 92 00 — General Conditions to Contract Between Owner and Design-Builder
- B. Section 01 10 50 — Design & Construction Procedures
- C. Section 01 26 00 — Change Order Procedures
- D. Section 01 29 00 — Applications for Payment
- E. Section 01 32 00 — Work Schedules and Reports
- F. Section 01 33 00 — Submittal Procedures
- G. Section 01 77 00 — Contract Closeout Procedures

1.03 FORMAT OF SCHEDULE

- A. Form and content must be acceptable to the AUTHORITY
- B. Form shall have a signature block for submission by Design-Build CONTRACTOR and signature block for approval by AUTHORITY
- C. Content shall include the following column headings:
 - 1. CPM Activity Number
 - 2. CPM Activity Description
 - 3. CPM Dollar Value
 - 4. Current Percent Complete
 - 5. Current Dollar Complete
 - 6. Previous Percent Complete
 - 7. Previous Dollar Complete
 - 8. Percent Complete this Period
 - 9. Dollar Complete this Period

1.04 CONTENT

- A. List installed value of each activity shown on the submitted and approved CPM Schedule
- B. For items on which payments will be requested for store products, list sub values for cost of stored products with taxes paid.
- C. Limits for specific line item values shall be as specified below and shall be included on all approved Schedules of Values and Applications for Payment.

1. Mobilization and Demobilization: Unless specified elsewhere, the assigned values for mobilization and demobilization shall be based upon the estimated value of specified Work for each of these tasks.
 2. Contract Closeout Procedures: Refer to Section 001 77 00 — Contract Closeout Procedures
 - a. **Value of all required Substantial Completion Submittals and Closeout Submittals shall be not less than \$15,000.00 (Fifteen Thousand dollars).**
 - b. No progress payments will be made for Closeout Submittals until **all** submittals have been submitted to and accepted by AUTHORITY. In most cases, this means that the payment for these items will be on the CONTRACTOR'S Final Application for Payment
- D. The sum of values listed on the Schedule of Values shall equal total Contract Price
- E. A Schedule of Values containing costs for early activities in excess of actual value (“front end loading”) will be rejected by the AUTHORITY until the CONTRACTOR corrects the deficiency. The AUTHORITY shall not be obligated to pay the CONTRACTOR until front end loading is eliminated and the Schedule of Values is approved

1.05 SUBMITTAL

- A. Submit proposed Schedule of Values with updated CPM Schedule per specification sections for Summary of Work, Work Schedules and Reports and Submittals
- B. Submit Schedule of Values with updated completion percentages sufficiently in advance of each Application for Payment to enable the AUTHORITY to resolve differences.

1.06 SUBSTANTIATING DATA

- A. When the AUTHORITY requires substantiating information, submit data justifying line item amounts in question.
- B. Provide one copy of data with cover letter for each copy of the Application for Payment. Show application number and date and line item by number and description.

PART 2 – PRODUCTS

Not Used

PART 3 – EXECUTION

Not Used

END OF SECTION

SECTION 01 41 00
WORK COORDINATION

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section describes coordination of Work within this job and with work of other contracts, if applicable.

1.02 RELATED REQUIREMENTS

- A. Section 00 92 00 — General Conditions
- B. Section 01 10 00 — Program Requirements
- C. Section 01 10 50 — Design and Construction Procedures

1.03 REQUIREMENTS

- A. Coordinate work of various sections of Specifications to assure efficient and orderly sequence of installation of construction elements, with provisions for accommodating items installed by AUTHORITY or under separate contracts
- B. Verify that characteristics of elements of interrelated operating equipment are compatible; coordinate work of various sections that have interdependent responsibilities for installing connection to, and placing such equipment in service
- C. Coordinate space requirements and installation of electrical, mechanical, and other special work, which are indicated diagrammatically on the Contract Drawings. Follow routing shown for ducts, conduits, pipes etc., as closely as practicable; make runs parallel with lines of buildings and roads. Utilize spaces efficiently to maximize accessibility for other installations, for maintenance, and for repairs
- D. Whenever the Work of a SUBCONTRACTOR is dependent upon the Work of other SUBCONTRACTOR's, CONTRACTOR's, or utility company contractors installing utilities under contract with the AUTHORITY, then the CONTRACTOR shall require the SUBCONTRACTOR to:
 - 1 Coordinate its Work with the dependent work
 - 2 Provide dependent data and requirements
 - 3 Supply and install items to be built into dependent work of others
 - 4 Make provisions for dependent work of others
 - 5 Examine dependent drawings, specifications and submittals
 - 6 Examine previously placed dependent work
 - 7 Check and verify dependent dimensions of previously placed work
 - 8 Notify CONTRACTOR of previously placed dependent work or dependent dimensions, which are unsatisfactory or will prevent a satisfactory installation of its Work
 - 9 Not proceed with its Work until the unsatisfactory dependent conditions have been

corrected

10 CONTRACTOR shall require SUBCONTRACTOR's to participate in coordination meetings as required by the AUTHORITY

1.04 COOPERATION WITH UTILITIES

A. The CONTRACTOR shall coordinate with utility companies and endeavor to have all necessary adjustments to be made by others completed as soon as practicable

1.05 USE OF PREMISES

- A. Coordinate use of premises under direction of AUTHORITY
- B. Assume full responsibility for protection and safekeeping of products under this contract
- C. Assume full responsibility for protecting the site and the User Agency's buildings, utilities, and equipment from damage due to construction operations
- D. Do not stop or otherwise impede traffic without prior written approval from the Project Manager

1.06 USER GROUP OCCUPANCY

- A. The User Agency will continue to operations on the site, in the facility and adjacent to the work area during the entire construction period. Cooperate with the AUTHORITY in scheduling operations to minimize conflict and to facilitate User Group operations.
- B. CONTRACTOR shall provide Material Safety Data Sheets for all products that may produce unpleasant odors

PART 2 – PRODUCTS

NOT USED

PART 3 – EXECUTION

NOT USED

END OF SECTION

SECTION 01 50 00
CONSTRUCTION FACILITIES AND TEMPORARY CONTROLS

PART 1 – GENERAL

1.01 SECTION INCLUDES

- A. Requirements for furnishing and maintaining temporary construction facilities during project

1.02 RELATED REQUIREMENTS

- A. Section 01 10 00 — Program of Facility Requirements
- B. Section 01 29 00 — Application for Payment
- C. Section 01 77 00 — Contract Closeout Procedures

1.03 SUBMITTALS

- A. Submit under transmittal letter specified in Section 01 33 00 — Submittals
- B. Submit written plan on how the Design-Build CONTRACTOR plans to use the User Agency's power and prevent tripping the circuit breakers
- C. Submit a layout plan of temporary storage, field offices, sheds, and sanitary facility locations
- D. Submit a Project Work Plan

1.04 LOCATION AND PROTECTION OF EXISTING UTILITIES AND CABLES

- A. CONTRACTOR shall locate and protect utility lines

1.05 CONTRACTOR'S TEMPORARY STAGING AREA

- A. CONTRACTOR shall coordinate with AUTHORITY on the use of all staging areas on-site prior to Notice to Proceed

1.06 CONNECTING TO THE USER GROUP'S UTILITIES

- A. The CONTRACTOR is responsible for all costs associated with connecting the Facility to the Group's utilities

1.07 TEMPORARY ELECTRICITY AND LIGHTING

- A. CONTRACTOR shall have access to existing electrical service. CONTRACTOR shall be responsible for all temporary power connections, materials and equipment and inspections associated with temporary power. Verify that electrical service is adequate capacity for all construction related Work, including lighting, tools and equipment without overload to existing facilities.
 - 1. Permanent convenience receptacles may be used during construction
 - a. Provide barriers and warning labels on energized equipment
 - b. Replace plates damaged during construction
 - c. Replace wiring device damaged during construction
 - d. Do not overload any circuit

- B. Provide additional lighting for construction operations, including construction area and circulation areas for construction personnel
- C. Inside the Building:
 - 1. Permanent lighting may be used during construction for temporary lighting. Maintain lighting and make routine repairs
 - 2. Promptly replace work or defective parts damaged during CONTRACTOR'S use.
 - 3. New permanent facilities may be used
- D. All temporary equipment and wiring for power and lighting shall be in accordance with the applicable provisions of the governing codes
- E. Take precautions to conserve energy
- F. Any temporary wiring and temporary electrical devices provided by CONTRACTOR shall be removed

1.08 TEMPORARY HEAT

- A. CONTRACTOR shall coordinate use existing heating, cooling and ventilation system with User Agency
- B. CONTRACTOR shall be responsible for the protection of all existing equipment and duct systems from any dust or damage. CONTRACTOR shall be responsible for cleaning duct and equipment or repair if necessary that were not adequately protected during construction
- C. Use of permanent system:
 - 1. Prior to operation of permanent facilities for temporary purposes, verify that installation is approved for operation, and that filters are in place. Replace existing filters upon Substantial Completion

1.09 TEMPORARY WATER SERVICE

- A. If available, CONTRACTOR shall have access to all existing water necessary for construction purposes. Otherwise, CONTRACTOR shall be responsible for obtaining water as needed
- B. CONTRACTOR shall be responsible for providing containers for personnel drinking water consumption

1.10 TEMPORARY SANITARY FACILITIES

- A. Unless specified elsewhere, provide and maintain required facilities and enclosures. Use of existing toilet facilities by CONTRACTOR is prohibited

1.11 PROTECTION OF INSTALLED WORK

- A. Protect installed Work and provide special protection where specified in individual specification sections

- B. Provide temporary and removable protection for installed Products. Control activity in immediate work area to prevent damage

1.12 REMOVAL OF UTILITIES AND FACILITIES

- A. Remove construction facilities, equipment (including temporary boiler stack), facilities, and materials, prior to Substantial Completion inspection
- B. Clean and repair damage caused by installation or use of temporary work
- C. Restore permanent facilities used during construction to specified condition

PART 2 – PRODUCTS

2.01 WASTE STORAGE EQUIPMENT

- A. Provide covered containers for deposit of materials, waste materials, debris and rubbish

PART 3 – EXECUTION

4.01 CLEANING OF THE PROJECT AREA

- A. Maintain all areas under CONTRACTOR'S control free of waste materials, debris and rubbish. Maintain site in clean and orderly condition
- B. Immediately clean interior areas after completion of the Work to provide suitable conditions for User Agency's personnel
- C. Remove debris and rubbish from pipe chases, plenums, other remote spaces prior to closing the space, as necessary
- D. Broom clean interior areas prior to start of surface finishing and continue cleaning on an as-needed basis
- E. Control cleaning operations so that dust and other particulates will not adhere to wet or newly coated surfaces

4.02 DISPOSAL

- A. Promptly remove all water materials, debris and rubbish from the construction site periodically and dispose of off premises in accordance with all Federal, State and local regulations.

END OF SECTION

THIS PAGE INTENTIONALLY LEFT BLANK

**SECTION 01 60 00
MATERIALS AND EQUIPMENT**

PART 1 – GENERAL

1.01 SECTION INCLUDES

- A. Requirements for Product, Transportation and Handling, Storage and Protection

1.02 SUBMITTALS

- A. Submit List of Products, Materials Safety Data Sheet (MSDS) for all materials which may produce noticeable odors or noxious fumes, under letter of transmittal in a format accepted by AUTHORITY
- B. Submit proposed Substitution Means and Methods and Substitution Request Form

1.03 PRODUCTS

- A. Products include material, equipment, systems
- B. Comply with Specifications and reference standards as minimum requirements
- C. Do not use any materials and equipment removed from existing structure, except as specifically required or allowed by Contract Documents.

1.04 TRANSPORTATION AND HANDLING

- A. Transport products by methods to avoid product damage; deliver in undamaged condition in manufacturer's unopened containers or packaging, dry
- B. Provide equipment and personnel to handle products by methods to prevent soiling or damage
- C. Immediately on delivery, inspect shipment to assure:
 - 1. Product complies with requirements of Contract Documents and reviewed submittals
 - 2. Quantities are correct
 - 3. Accessories and installation hardware are correct
 - 4. Containers and packages are intact and labels legible
 - 5. Products are protected and undamaged

1.05 STORAGE AND PROTECTION

- A. Handle and store materials for construction, products of demolition, and other items to avoid damage to existing building, equipment or vehicles on-site. All materials stored or staged on the roof shall be properly covered and anchored to prevent materials from being displaced or blown off the roof. Do not overload the structure.
- B. Store products in accordance with manufacturer's instructions, with seals and labels intact and legible. Store sensitive products in weather-tight enclosures; maintain within temperature and humidity ranges required by manufacturer's instructions.

- C. Store loose granular materials on solid surfaces in a well-drained area; prevent mixing with foreign matter. Cover such material to prevent material from being displaced or wind-blown.
- D. Arrange storage to provide access for inspection. Periodically inspect to assure products are undamaged, and are maintained under required conditions
- E. Provide Material Safety Data Sheets (MSDS) for all chemicals used in accordance with applicable local, state, and federal regulations. CONTRACTOR shall provide for adequate venting, as needed.

PART 2 – PRODUCTS

Not Used

PART 3 – EXECUTION

Not Used

END OF SECTION

SECTION 01 73 10
CUTTING AND PATCHING

PART 1 – GENERAL

1.01 DEFINITIONS

- A. Cutting: Removal of in-place construction necessary to permit installation or performance of other Work
- B. Patching: Fitting and repair work required to restore surfaces to original conditions after installation of other Work

1.02 QUALITY ASSURANCE

- A. Structural Elements: Do not cut and patch structural elements in a manner that could change their load-carrying capacity or load-deflection ratio
- B. Miscellaneous Elements: Do not cut and patch miscellaneous elements or related components in a manner that could change their load-carrying capacity, that results in reducing their capacity to perform as intended, or that results in increased maintenance or decreased operational life or safety
- C. Visual Requirements: Do not cut and patch construction in a manner that results in visual evidence of cutting and patching. Do not cut and patch construction exposed on the exterior or in occupied spaces in a manner that would, in Architect of Record's opinion, reduce the building's aesthetic qualities. Remove and replace construction that has been cut and patched in a visually unsatisfactory manner.

1.03 WARRANTY

- A. Existing Warranties: Remove, replace, patch, and repair materials and surfaces cut or damaged during cutting and patching operations, by methods and with materials so as not to void existing warranties.

PART 2 – PRODUCTS

2.01 MATERIALS

- A. General: Comply with requirements specified in other Sections
- B. In-Place Materials: Use materials identical to in-place materials. For exposed surfaces, use materials that visually match in-place adjacent surfaces to the fullest extent possible.
 - 1. If identical materials are unavailable or cannot be used, use materials that, when installed, will match the visual and functional performance of in-place materials.

PART 3 – EXECUTION

3.01 EXAMINATION

- A. Examine surfaces to be cut and patched and conditions under which cutting and patching are to be performed
 - 1. Compatibility: Before patching, verify compatibility with and suitability of substrates, including compatibility with in-place finishes or primers
 - 2. Proceed with installation only after unsafe or unsatisfactory conditions have been corrected

3.02 PREPARATION

- A. Temporary Support: Provide temporary support of Work to be cut
- B. Protection: Protect in-place construction during cutting and patching to prevent damage. Provide protection from adverse weather conditions for portions of Project that might be exposed during cutting and patching operations
- C. Adjoining Areas: Avoid interference with use of adjoining areas or interruption of free passage to adjoining areas

3.03 PERFORMANCE

- A. General: Employ skilled workers to perform cutting and patching. Proceed with cutting and patching at the earliest feasible time, and complete without delay
 - 1. Cut in-place construction to provide for installation of other components or performance of other construction, and subsequently patch as required to restore surfaces to their original condition
- B. Cutting: Cut in-place construction by sawing, drilling, breaking, chipping, grinding, and similar operations, including excavation, using methods least likely to damage elements retained or adjoining construction. If possible, review proposed procedures with original Installer; comply with original Installer's written recommendations
 - 1. In general, use hand or small power tools designed for sawing and grinding, not hammering and chopping. Cut holes and slots as small as possible, neatly to size required, and with minimum disturbance of adjacent surfaces. Temporarily cover openings when not in use
 - 2. Finished Surfaces: Cut or drill from the exposed or finished side into concealed surfaces
 - 3. Concrete Masonry: Cut using a cutting machine, such as an abrasive saw or a diamond-core drill
 - 4. Excavating and Backfilling: Comply with requirements in applicable Division 2 Sections where required by cutting and patching operations
 - 5. Revise subparagraph below to suit Project

6. Mechanical and Electrical Services: Cut off pipe or conduit in walls or partitions to be removed. Cap, valve, or plug and seal remaining portion of pipe or conduit to prevent entrance of moisture or other foreign matter after cutting
 7. Retain subparagraph below if required to prevent multiple cutting and patching in the same area. Add specific requirements for multiple contracts and special conditions requiring coordination
 8. Proceed with patching after construction operations requiring cutting are complete.
- C. Patching: Patch construction by filling, repairing, refinishing, closing up, and similar operations following performance of other Work. Patch with durable seams that are as invisible as possible. Provide materials and comply with installation requirements specified in other Sections.
1. Inspection: Where feasible, test and inspect patched areas after completion to demonstrate integrity of installation
 2. Exposed Finishes: Restore exposed finishes of patched areas and extend finish restoration into retained adjoining construction in a manner that will eliminate evidence of patching and refinishing
 - a. Clean piping, conduit, and similar features before applying paint or other finishing materials
 - b. Restore damaged pipe covering to its original condition
 3. Floors and Walls: Where walls or partitions that are removed extend one finished area into another, patch and repair floor and wall surfaces in the new space. Provide an even surface of uniform finish, color, texture, and appearance. Remove in-place floor and wall coverings and replace with new materials, if necessary, to achieve uniform color and appearance.
 - a. Where patching occurs in a painted surface, apply primer and intermediate paint coats over the patch and apply final paint coat over entire unbroken surface containing the patch. Provide additional coats until patch blends with adjacent surfaces
 4. Ceilings: Patch, repair, or rehang in-place ceilings as necessary to provide an even-plane surface of uniform appearance
 5. Exterior Building Enclosure: Patch components in a manner that restores enclosure to a weather tight condition
- D. Cleaning: Clean areas and spaces where cutting and patching are performed. Completely remove paint, mortar, oils, putty, and similar materials

END OF SECTION

SECTION 01 73 32
SELECTIVE DEMOLITION

PART 1 – GENERAL

1.01 RELATED REQUIREMENTS

- A. Section 01 10 00 — Program of Facility Requirements
- B. Section 01 10 50 — Design and Construction Procedures

1.02 SUMMARY

- A. Demolition and removal of selected portions of building or structure
- B. Demolition and removal of selected site elements
- C. Salvage of existing items to be reused or recycled

1.03 DEFINITIONS

- A. Remove: Detach items from existing construction and legally dispose of them off-site, unless indicated to be removed and salvaged or removed and reinstalled
- B. Salvage in first paragraph below may add cost to Project; verify with User Agency
- C. Remove and Salvage: Detach items from existing construction and deliver them to User Agency.
- D. Remove and Reinstall: Detach items from existing construction, prepare them for reuse, and reinstall them where indicated.
- E. Existing to Remain: Existing items of construction that are not to be removed and that are not otherwise indicated to be removed, removed and salvaged, or removed and reinstalled.

1.04 SUBMITTALS

- A. Landfill Records: Indicate receipt and acceptance of hazardous wastes by a landfill facility licensed to accept hazardous wastes

1.05 QUALITY ASSURANCE

- A. Demolition Firm Qualifications: An experienced firm that has specialized in demolition work similar in material and extent to that indicated for this Project
- B. Regulatory Requirements: Comply with governing EPA notification regulations before beginning selective demolition. Comply with hauling and disposal regulations of authorities having jurisdiction
- C. Standards: Comply with ANSI A10.6 and NFPA 241

1.06 PROJECT CONDITIONS

- A. Conditions existing at time of inspection for bidding purpose will be maintained by User Agency as far as practical
- B. Notify Architect of discrepancies between existing conditions and Drawings before proceeding with selective demolition

- C. Retain one of first three paragraphs and associated subparagraphs below, or remove all references to asbestos. Expand scope of this Article to include PCBs or other materials if required. Coordinate statements with the General and Supplementary Conditions.
- D. Retain first paragraph and subparagraphs below and delete two paragraphs and associated subparagraphs above if asbestos abatement is part of Work of this Contract. Consult a professional liability insurance carrier for current recommendations. Indemnification and a waiver of claims may be required from User Agency as a condition for providing services related to asbestos abatement.
- E. Hazardous Materials: Hazardous materials may be present in construction to be selectively demolished. A report on the presence of hazardous materials is on file for review and use. Examine report to become aware of locations where hazardous materials are present.
 - 1. Hazardous material remediation is specified elsewhere in the Contract Documents.
 - 2. Do not disturb hazardous materials or items suspected of containing hazardous materials except under procedures specified elsewhere in the Contract Documents.

PART 2 – PRODUCTS

Not Used

PART 3 – EXECUTION

3.01 EXAMINATION

- A. Verify that utilities have been disconnected and capped
- B. Survey existing conditions and correlate with requirements indicated to determine extent of selective demolition required
- C. Inventory and record the condition of items to be removed and reinstalled and items to be removed and salvaged
- D. When unanticipated mechanical, electrical, or structural elements that conflict with intended function or design are encountered, investigate and measure the nature and extent of conflict
- E. Engage a professional engineer to survey condition of building to determine whether removing any element might result in structural deficiency or unplanned collapse of any portion of structure or adjacent structures during selective demolition operations
- F. Perform surveys as the Work progresses to detect hazards resulting from selective demolition activities

3.02 UTILITY SERVICES AND MECHANICAL/ELECTRICAL SYSTEMS

- A. Existing Services/Systems: Maintain services/systems indicated to remain and protect them against damage during selective demolition operations

- B. Cut off pipe or conduit in walls or partitions to be removed. Cap, valve, or plug and seal remaining portion of pipe or conduit after bypassing
- C. Where entire wall is to be removed, existing services/systems may be removed with removal of the wall

3.03 PREPARATION

- A. Site Access and Temporary Controls: Conduct selective demolition and debris-removal operations to ensure minimum interference with roads, streets, walks, walkways, and other adjacent occupied and used facilities
 - 1. Comply with requirements for access and protection specified in Division 1 Section "Temporary Facilities and Controls."
- B. Temporary Facilities: Provide temporary barricades and other protection required to prevent injury to people and damage to adjacent buildings and facilities to remain
 - 1. Provide protection to ensure safe passage of people around selective demolition area and to and from occupied portions of building
 - 2. Provide temporary weather protection, during interval between selective demolition of existing construction on exterior surfaces and new construction, to prevent water leakage and damage to structure and interior areas
 - 3. Protect walls, ceilings, floors, and other existing finish work that are to remain or that are exposed during selective demolition operations
 - 4. Cover and protect furniture, furnishings, and equipment that have not been removed
 - 5. Comply with requirements for temporary enclosures, dust control, heating, and cooling specified in Division 1 Section "Temporary Facilities and Controls"
- C. Temporary Shoring: Provide and maintain shoring, bracing, and structural supports as required to preserve stability and prevent movement, settlement, or collapse of construction and finishes to remain, and to prevent unexpected or uncontrolled movement or collapse of construction being demolished
- D. Strengthen or add new supports when required during progress of selective demolition

3.04 SELECTIVE DEMOLITION, GENERAL

- A. General: Demolish and remove existing construction only to the extent required by new construction and as indicated. Use methods required to complete the Work within limitations of governing regulations and as follows:
 - 1. Proceed with selective demolition systematically, from higher to lower level. Complete selective demolition operations above each floor or tier before disturbing supporting members on the next lower level.

2. Neatly cut openings and holes plumb, square, and true to dimensions required. Use cutting methods least likely to damage construction to remain or adjoining construction. Use hand tools or small power tools designed for sawing or grinding, not hammering and chopping, to minimize disturbance of adjacent surfaces. Temporarily cover openings to remain
3. Cut or drill from the exposed or finished side into concealed surfaces to avoid marring existing finished surfaces
4. Do not use cutting torches until work area is cleared of flammable materials. At concealed spaces, such as duct and pipe interiors, verify condition and contents of hidden space before starting flame-cutting operations. Maintain fire watch and portable fire-suppression devices during flame-cutting operations
5. Maintain adequate ventilation when using cutting torches. Remove decayed, vermin-infested, or otherwise dangerous or unsuitable materials and promptly dispose of off-site
6. Remove structural framing members and lower to ground by method suitable to avoid free fall and to prevent ground impact or dust generation
7. Locate selective demolition equipment and remove debris and materials so as not to impose excessive loads on supporting walls, floors, or framing
8. Protect items from damage during transport and storage
9. Existing Items to Remain: Protect construction indicated to remain against damage and soiling during selective demolition

3.05 SELECTIVE DEMOLITION PROCEDURES FOR SPECIFIC MATERIALS

- A. Concrete Slabs-on-Grade: Saw-cut perimeter of area to be demolished, then break up and remove
- B. Roofing: Maintain schedule of existing roofing removal and new roofing installation to ensure building interior remains watertight and weather tight. Refer to Division 7 Section "Roofing" for new roofing requirements in specifications provided by Design/Builder
 1. Remove existing roof membrane, flashings, copings, and roof accessories as necessary to comply with the Conceptual Drawings

3.06 DISPOSAL OF DEMOLISHED MATERIALS

- A. General: Except for items or materials indicated to be recycled, reused, salvaged, reinstalled, or otherwise indicated to remain User Agency's property, remove demolished materials from Project site and legally dispose of them in an EPA-approved landfill.
 1. Do not allow demolished materials to accumulate on-site
 2. Remove and transport debris in a manner that will prevent spillage on adjacent surfaces and areas

3. Coordinate first subparagraph below with use of elevators, stairs, or building entries permitted by building manager
 4. Remove debris from elevated portions of building by chute, hoist, or other device that will convey debris to grade level in a controlled descent
- B. Disposal: Transport demolished materials off Project Site property and legally dispose

END OF SECTION

THIS PAGE INTENTIONALLY LEFT BLANK

SECTION 01 77 00
CONTRACT CLOSEOUT PROCEDURES

PART 1 – GENERAL

1.01 REQUIREMENTS INCLUDED

- A. Closeout Procedures
- B. Final Cleaning
- C. Project Record Documents
- D. Warranties
- E. Spare Parts and Maintenance Manuals
- F. Maintenance Service

1.02 RELATED REQUIREMENTS

- A. Section 00 92 00 — General Conditions
- B. Section 01 10 00 — Program of Facility Requirements
- C. Section 01 41 00 — Work Coordination
- D. Section 01 10 50 — Design and Construction Procedures
- E. Section 01 50 00 — Construction Facilities and Temporary Controls

1.03 CLOSEOUT PROCEDURES

- A. Substantial Completion
 - 1. Submit the following to **Tazlina District Heat System Biomass Boiler – Design/Build** the following prior to requesting Substantial Completion Inspection for any part of Work:
 - a. Evidence of Compliance with requirements of Authority having Jurisdiction
 - b. Project Record Documents in accordance with this Section, Part 1.07
 - c. Operations & Maintenance Manuals, Spare Parts, Instructions in accordance with this Section, Part 1.08
 - 2. Substantial Completion shall be considered by AUTHORITY when:
 - a. Written notice is provided to AUTHORITY Project Manager (7) days in advance
 - b. List of items remaining to be completed or corrected is submitted to AUTHORITY (Punch List)
 - c. Operations & Maintenance Manuals are submitted to AND approved by AUTHORITY
 - d. Equipment and systems have been tested, adjusted, balanced and are fully operational
 - e. Automated and manual controls are fully operational
 - f. Operation of systems has been demonstrated to User Agency personnel

- g. Certificate of Occupancy is obtained from AHJ
 - h. Certificates of Inspection are submitted for required inspections
 - i. Project Record Documents for the Work have been submitted and approved
 - j. Spare parts and maintenance manuals are turned over to AUTHORITY
 - k. All keys and access cards are turned over to AUTHORITY, as applicable per Core or total Project
 3. Should AUTHORITY find Work not Substantially Complete, the AUTHORITY will promptly notify the Design-Build CONTRACTOR in writing, listing observed deficiencies
 4. CONTRACTOR shall remedy deficiencies and send second written notice of Substantial Completion
 5. When AUTHORITY finds Work substantially complete, AUTHORITY will prepare Certificate of Substantial Completion for Work or that portion of Work in accordance with provisions of Section 00 92 00 — General Conditions
- B. Final Completion
 1. When CONTRACTOR considers Work or portion of Work complete, submit written certification that:
 - a. Contract Documents have been reviewed
 - b. Work has been inspected for compliance with Contract Documents
 - c. Work has been completed in accordance with Contract Documents
 - d. Deficiencies as listed with certificate of Substantial Completion have been corrected
 - e. Work is complete and ready for Final Completion inspection
 2. Should AUTHORITY find Work incomplete, the AUTHORITY will promptly notify CONTRACTOR in writing, listing observed deficiencies
 3. CONTRACTOR shall remedy deficiencies and send second certification of Final Completion
 4. When AUTHORITY finds Work or portion of the Work complete, AUTHORITY will consider Closeout Submittals
- C. Closeout Submittals: See this Section, Part 1.04
- D. Re-Inspection Fees
 1. Should status of completion of Work require more than one re-inspection by AUTHORITY due to failure of Work to comply with CONTRACTOR'S responsibilities, AUTHORITY will deduct cost of re-inspection from final payment to CONTRACTOR as provided in Contract Documents
 2. Re-inspection fees shall not exceed \$5,000.00 for any one re-inspection

- E. Application for Final Payment
 - 1. Submit application for final payment in accordance with provisions of General Conditions of Contract

1.04 CLOSEOUT SUBMITTALS

- A. Maintenance Manual Requirements and Contents: See also this Section, Part 1.08
 - 1. Maintenance Manuals: Design-Builder shall provide digital (.pdf) submission of Operations & Maintenance Manuals to AUTHORITY as specified above for review and approval
 - 2. Upon approval and final acceptance of Operations & Maintenance Manuals, Design-Builder shall submit (2) hardcopy (tangible) complete sets of Operations & Maintenance Manuals to AUTHORITY
- B. Project Record Documents: See this Section, Part 1.07

1.05 DEMONSTRATION AND TRAINING

- A. Training: Perform training of User Agency personnel in operations and maintenance of equipment, consisting of:
 - 1. Training required for all software-based operating systems, HVAC systems and equipment, plumbing equipment, electrical systems equipment, conveying systems and other electronically-operated systems
 - 2. Instruction in operation, control, adjustment, shut-down, servicing, troubleshooting, and maintenance for each equipment item as referenced above
 - 3. Instruction in care, cleaning, maintenance and repair of:
 - a. Each item where training is specified, above
 - b. Roofing, waterproofing, other weather-exposed materials or moisture-protection products
 - c. Finishes, including flooring
 - d. Fixtures and Fittings
 - e. Items as Specified in other Sections
 - f. Training Location: if not otherwise required, on-site
 - g. Minimum Qualifications of Trainers: Trainers must submit proof of manufacturer training or recommendation of items and equipment of training; knowledge of overall project equipment performance when tied to larger system (i.e., pump in a heating zone, heating system)
 - h. Operations & Maintenance Manuals shall be ready for use during training

1.06 FINAL CLEANING

- A. Execute prior to Substantial Completion inspection

- B. Clean interior and exterior surfaces exposed to view; remove temporary labels, stains and foreign substances; polish transparent and glossy surfaces; vacuum carpeted and soft surfaces. Clean equipment and fixtures to a sanitary condition; clean or replace filters or mechanical equipment
- C. Clean site; sweep paved areas, rake clean other surfaces
 - 1. Required upon Substantial Completion of Total Project
- D. For cleaning, use materials which will not create hazards to property or health of occupants. Follow Manufacturer's written instructions where applicable
- E. Maintain cleaning until the AUTHORITY issues certificate of Substantial Completion

1.07 PROJECT RECORD DOCUMENTS

- A. During Construction, maintain on-site (1) set of all documents forming the Contract, including drawings, Specifications, Addenda, Contract Modifications, Reviewed shop drawings, product data and samples, any manufacturer's instructions for assembly, installation, and adjusting for Work or current portion of Work.
- B. Upon Final Completion for Total Project, all changes recorded shall be annotated and revised on digital AutoCAD 2015 or earlier (.dwg) files of the drawings, with complete digital copy of all files submitted to AUTHORITY
- C. Ensure entries are complete, accurate and are accessible for reference by AUTHORITY
- D. Ensure storage separate from documents used for construction, stored in safe and clean location
- E. Record information concurrent with construction progress
- F. Specifications: Legibly mark and record at each product section description of actual products installed, including manufacturer's name and product model and number; Product substitutions and alternates utilized; Changes made by addenda, modifications.
- G. Record and Shop Drawings: Legibly mark each item to record actual construction graphically to scale, including:
 - 1. Measured depths of foundations in relation to finish first floor datum
 - 2. Measured horizontal and vertical locations of underground utilities and appurtenances, referenced to permanent surface improvements
 - 3. Measured locations of internal utilities and appurtenances concealed in construction, referenced to visible and accessible features of the Work
 - 4. Field changes of dimension and detail
 - 5. Details not on original Contract drawings
- H. Spare Parts and Extra Materials: as Specified for specific products, delivered to location on project site as coordinated with AUTHORITY, with receipt from AUTHORITY

- I. Maintenance and Supplied, Tools: as Specified for specific products, delivered to location on project site as coordinated with AUTHORITY, with receipt from AUTHORITY

1.08 OPERATIONS & MAINTENANCE MANUALS, INSTRUCTIONS

- A. Operations and Maintenance Instructions
 1. Design-Builder is responsible for preparation of Maintenance Plan for User Agency, including description of maintenance activities, tools and supplies required.
 2. To be included within Operations and Maintenance Manual, Part Two, as described below:
 3. Operations and Maintenance Manuals — Hard copy Binders:
 1. Submit data bound in 8-1/2" x 11" (A4) text pages in Binders: 3-ring, D-ring, with hardcover; Project Title provided on spine of binder; Table of contents in each volume; provide stiff dividers and labeled tabs; contents divided into logical binders not more than 3" thick, each
 2. Prepare binder covers with printed titles "Operations and Maintenance Manual;" Title of Project; Subject Matter as required to indicate contents
 3. Subdivide each binder internally with page dividers, clearly printed with tab tiling, as organized below:
 4. Contents: prepare Table of Contents for each volume, with each product or system description identified, in three parts:
 - a. Part One: Directory. List names, addresses, telephone numbers of Architect, Engineers, CONTRACTOR, subcontractors, major equipment suppliers
 - b. Part Two: Operations and Maintenance Instruction for User Agency containing information required to operate or prolong service life and replace parts of the Work. Maintenance includes all work necessary to maintain a product in a "like new" state, including, but not necessarily limited to cleaning, repair, replacement of all or portions of the Product, Equipment or System. Arrange by system and subdivided by Specifications Section. For each category, identify names, addresses, telephone numbers of subcontractor and suppliers. Identify:
 - 1) Significant design criteria
 - 2) List of equipment
 - 3) Parts list for each component
 - 4) Operating instructions — Mechanical components Operating and Maintenance Instructions shall include, as applicable:
 - i. Pipe and duct identification schedules

- ii. Equipment nameplate directory with list of equipment, location of equipment, name of manufacturer, model number, serial number, electrical characteristics, primary control switch location and normal position of switch
 - iii. Valve directory indicating valve number, size, location, function service, type, normal position
 - iv. Factory and Field start-up testing reports
- 5) Operating instructions — HVAC components Operating and Maintenance Instructions shall include, as applicable:
- i. Manufacturer’s data sheets / cut sheets
 - ii. Model and Serial Numbers
 - iii. Capacity curves, charts, calculations
 - iv. Electrical characteristics,
 - v. Replacement parts
 - vi. Record Document equipment piping diagrams, wiring diagrams
 - vii. Manufacturer’s instructions
 - viii. Basic system narratives including system description; sequence of operation; interaction with other systems; preventative maintenance; isolation procedures of all major components; how to fill, drain and clean tanks, pumps and tubes; how to clean coils, change air filters; emergency shut-down procedures
- 6) Master Maintenance Schedule: Maintenance instructions for equipment and systems, including requirements for periodic maintenance throughout the product’s useful lifespan
- 7) Maintenance instructions for special finishes, including recommended cleaning methods and materials, and precautions, including detrimental agents
- 8) Operating instructions — Electrical components Operating and Maintenance Instructions shall include, as applicable: One-line diagram showing service and feeder system with raceway and conductor sizes. Locate and identify conduit purpose, size, capacity
- c. Part Three: Project Document and Certificates, including:
- 1) Shop drawings and product data
 - 2) Certificates
 - 3) Originals of warranties and bonds

5. Drawings: Bound into hardcopy manuals, folded as required to size of binder. Include digital AutoCAD 2015 or earlier (.dwg) files (provide on Compact Disc, to be included within Binder at hardcopy submittal)

1.09 WARRANTIES

- A. Precedent to Final Payment, all guarantees, warranties as specified under Sections of Contract Documents shall be obtained by CONTRACTOR and included in Operations and Maintenance Manual, as described above, and to include:
 1. Character of Work affected
 2. Name(s) of Subcontractor(s)
 3. Period of Guarantee
 4. Conditions of Guarantee
- B. Delivery of such shall not relieve the CONTRACTOR from any obligations assumed under any other provisions of the Contract
- C. If repairs or replacements or changes are required in connection to the guaranteed work within the guarantee period, which is rendered necessary as result of defective or inferior materials, equipment or workmanship or not in accordance with the Contract Documents, upon receipt of notice from AUTHORITY, the CONTRACTOR shall proceed within (7) days at no cost to the User Agency/AUTHORITY:
 1. Place in satisfactory conditions in every particular all of such guaranteed Work, correct all defects therein, and make good all damages to the structure or site
 2. Make good all Work or materials, or the equipment and contents of structures or site disturbed in fulfilling any such guarantee
- D. If the CONTRACTOR, after notice, fails to comply with the terms of the guarantee, the AUTHORITY/User Agency may have the defects corrected and the CONTRACTOR and CONTRACTOR'S Surety shall be liable for all expenses incurred in connection therewith, including Engineer's fees

1.10 SPARE PARTS AND MATERIALS

- A. Provide products, spare parts, maintenance and extra materials in quantities specified in individual Specification Sections
- B. Deliver to project site and place in location as directed, obtain receipt prior to final payment

PART 2 – PRODUCTS

Not Used

PART 3 – EXECUTION

Not Used

END OF SECTION

THIS PAGE INTENTIONALLY LEFT BLANK