

INVITATION TO BID (ITB) NUMBER

2518N044

RETURN THIS BID TO THE ISSUING OFFICE AT:



Department of Transportation & Public Facilities
Northern Region Procurement Office
2301 Peger Road
Fairbanks, Alaska 99709

THIS IS NOT AN ORDER

DATE ITB ISSUED: May 23, 2018

ITB TITLE: Crushed Aggregate, D-1 Modified, Denali Highway, Federally Funded

SEALED BIDS MUST BE SUBMITTED TO THE DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES AT THE ABOVE ADDRESS AND MUST BE TIME AND DATE STAMPED BY THE PURCHASING SECTION PRIOR TO 10:00 AM ON June 13th, 2018, AT WHICH TIME THEY WILL BE PUBLICLY OPENED.

DELIVERY LOCATION: See Bid Schedule

DELIVERY DATE: See Bid Schedule

F.O.B. POINT: FINAL DESTINATION

IMPORTANT NOTICE: If you received this solicitation from the State's "Online Public Notice" web site, you must register with the Procurement Officer listed on this document to receive notification of subsequent amendments. Failure to contact the Procurement Officer may result in the rejection of your offer.

BIDDER'S NOTICE:

Contracts for purchases resulting from this bid will be made utilizing Federal Funds. As such, and per AS 36.30.890, no State of Alaska Bidder or Product Preferences may apply.

Sec. 36.30.890. Federal Assistance

If a procurement involves the expenditure of federal funds or federal assistance and there is a conflict between a provision of this chapter or a regulation adopted under a provision of this chapter and a federal statute, regulation, policy, or requirement, the federal statute, regulation, policy, or requirement shall prevail.

2 AAC 12.730. Federal Assistance

If a procurement involves the expenditure of federal funds or requires federal assistance and there is a conflict between a provision of this chapter and federal statute, regulation, policy, or requirement, the procurement officer shall comply with the federal statute, regulation, policy, or requirement.

Authority: AS 36.30.040; AS 36.30.890

A handwritten signature of Eric Johnson in black ink.

Eric Johnson
PROCUREMENT OFFICER

TELEPHONE NUMBER
(907) 451-5102

FAX NUMBER
(907) 451-2313

EMAIL: eric.johnson@alaska.gov

COMPANY SUBMITTING BID

AUTHORIZED SIGNATURE

PRINTED NAME

DATE

E-MAIL ADDRESS

ALASKA BUSINESS LICENSE NUMBER

FEDERAL TAX ID NUMBER

TELEPHONE NUMBER

Note: An Alaska Business License will be required prior to award. Out-of-State bidders must also comply with all corporate laws of the State of Alaska regarding performing business in the State.

INSTRUCTIONS TO BIDDERS:

1. INVITATION TO BID (ITB) REVIEW: Bidders shall carefully review this ITB for defects and questionable or objectionable material. Bidders' comments concerning defects and questionable or objectionable material in the ITB must be made in writing and received by the purchasing authority at least ten (10) days before the bid opening date. This will allow time for an amendment to be issued if one is required. It will also help prevent the opening of a defective bid, upon which award cannot be made, and the resultant exposure of bidders' prices. Bidders' original comments should be sent to the purchasing authority listed on the front of this ITB.

2. BID FORMS: Bidders shall use this and attached forms in submitting bids. A photocopied bid may be submitted.

3. SUBMITTING BIDS: Envelopes containing bids must be sealed, marked, and addressed as shown in the example below. Do not put the ITB number and opening date on the envelope of a request for bid information. Envelopes with ITB numbers annotated on the outside will not be opened until the scheduled date and time.

Bidder's Return Address

Department of Transportation & Public Facilities
Supply & Services
2301 Peger Road
Fairbanks, AK 99709

ITB Name & No.: Crushed Aggregate, D-1 Modified, Denali Highway, Federally Funded, ITB 2518N044

Opening Date: June 13, 2018 at 10:00 AM

ELECTRONIC BID SUBMISSION: Bids may be emailed to eric.johnson@alaska.gov, no later than the date and time listed on page one of this ITB as the deadline for receipt of bids, and must contain the ITB number in the subject line of the email. Emailed bids must be submitted as an attachment in PDF format. Please note that the **maximum** size of a single email (including *all* text and attachments) that can be received by the state is **20mb (megabytes)**. If the email containing the bid exceeds this size, the bid must be sent in multiple emails that are each less than 20 megabytes and each email must comply with the requirements described above. The state is not responsible for unreadable, corrupt, or missing attachments. It is the bidder's responsibility to contact the issuing office at (907) 451-5102 to confirm that the bid has been received. Failure to follow the above instructions may result in the bid being found non-responsive and rejected.

FAX BID SUBMISSION: Bids may be faxed to (907) 451-2313, no later than the date and time listed on page one of this ITB as the deadline for receipt of bids. It is the bidder's responsibility to contact the issuing office at (907) 451-5102 to make arrangements prior to faxing the bid and to confirm that the bid has been received. Failure to follow the above instructions may result in the bid being found non-responsive and rejected.

4. PRICES: The bidder shall state prices in the units of issue on this ITB. Prices quoted for commodities must be in U.S. funds and include applicable federal duty, brokerage fees, packaging, and transportation cost to the FOB point so that upon transfer of title the commodity can be utilized without further cost. Prices quoted for services must be quoted in U.S. funds and include applicable federal duty, brokerage fee, packaging, and transportation cost so that the services can be provided without further cost. Prices quoted in bids must be exclusive of federal, state, and local taxes. If the bidder believes that certain taxes are payable by the State, the bidder may list such taxes separately, directly below the bid price for the affected item. The State is exempt from Federal Excise Tax except the following:

- Coal - Internal Revenue Code of 1986 (IRC), Section 4121 - on the purchase of coal;

- “Gas Guzzler” - IRC, Section 4064 - on the purchase of low m.p.g. automobiles, except that police and other emergency type vehicles are not subject to the tax;
- Air Cargo - IRC, Section 4271 - on the purchase of property transportation services by air;
- Air Passenger - IRC, Section 4261 - on the purchase of passenger transportation services by air carriers.
- Leaking Underground Storage Tank Trust Fund Tax (LUST) - IRC, Section 4081 - on the purchase of Aviation Gasoline, Diesel Fuel, Gasoline, and Kerosene.

5. VENDOR TAX ID NUMBER: If goods or services procured through this ITB are of a type that is required to be included on a Miscellaneous Tax Statement, as described in the Internal Revenue Code, a valid tax identification number must be provided to the State of Alaska before payment will be made.

6. FILING A PROTEST: A bidder may protest the award of a contract or the proposed award of a contract for supplies, services, or professional services. The protest must be filed in writing and include the following information: (1) the name, address, and telephone number of the protester; (2) the signature of the protester or the protester's representative; (3) identification of the contracting agency and the solicitation or contract at issue; (4) a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents; and (5) the form of relief requested. Protests will be treated in accordance with Alaska Statutes (AS) 36.30.560-36.30.610.

CONDITIONS:

1. AUTHORITY: This ITB is written in accordance with AS 36.30 and 2 AAC 12.

2. COMPLIANCE: In the performance of a contract that results from this ITB, the contractor must comply with all applicable federal, state, and borough regulations, codes, and laws; and be liable for all required insurance, licenses, permits and bonds; and pay all applicable federal, state, and borough taxes.

3. SUITABLE MATERIALS, ETC.: Unless otherwise specified, all materials, supplies or equipment offered by a bidder shall be new, unused, and of the latest edition, version, model or crop and of recent manufacture.

4. SPECIFICATIONS: Unless otherwise specified in the ITB, product brand names or model numbers specified in this ITB are examples of the type and quality of product required, and are not statements of preference. If the specifications describing an item conflict with a brand name or model number describing the item, the specifications govern. Reference to brand name or number does not preclude an offer of a comparable or better product, if full specifications and descriptive literature are provided for the product. Failure to provide such specifications and descriptive literature may be cause for rejection of the offer.

5. FIRM OFFER: For the purpose of award, offers made in accordance with this ITB must be good and firm for a period of ninety (90) days from the date of bid opening.

6. EXTENSION OF PRICES: In case of error in the extension of prices in the bid, the unit prices will govern; in a lot bid, the lot prices will govern.

7. BID PREPARATION COSTS: The State is not liable for any costs incurred by the bidder in bid preparation.

8. CONSOLIDATION OF AWARDS: Due to high administrative costs associated with processing of purchase orders, a single low bid of \$50 or less may, at the discretion of the State, be awarded to the next low bidder receiving other awards for consolidation purposes. This paragraph is not subject to the protest terms enumerated in “*INSTRUCTION TO BIDDERS*”, “*FILING A PROTEST*” above.

9. CONTRACT FUNDING: Bidders are advised that funds are available for the initial purchase and/or the first term of the contract. Payment and performance obligations for succeeding purchases and/or additional terms of the contract are subject to the availability and appropriation of funds.

10. CONFLICT OF INTEREST: An officer or employee of the State of Alaska may not seek to acquire, be a party to, or possess a financial interest in, this contract if (1) the officer or employee is an employee of the administrative unit that supervises the award of this contract; or (2) the officer or employee has the power to take or withhold official action so as to affect the award or execution of the contract.

11. ASSIGNMENT(S): Assignment of rights, duties, or payments under a contract resulting from this ITB is not permitted unless authorized in writing by the State of Alaska, Department of Administration, Division of General Services. Bids that are conditioned upon the State's approval of an assignment will be rejected as nonresponsive.

12. SUBCONTRACTOR(S): Within five (5) working days of notice from the state, the apparent low bidder must submit a list of the subcontractors that will be used in the performance of the contract. The list must include the name of each subcontractor and the location of the place of business for each subcontractor and evidence of each subcontractor's valid Alaska business license.

13. FORCE MAJEURE (Impossibility to perform): The contractor is not liable for the consequences of any failure to perform, or default in performing, any of its obligations under this Agreement, if that failure or default is caused by any unforeseeable Force Majeure, beyond the control of, and without the fault or negligence of, the contractor. For the purposes of this Agreement, Force Majeure will mean war (whether declared or not); revolution; invasion; insurrection; riot; civil commotion; sabotage; military or usurped power; lightning; explosion; fire; storm; drought; flood; earthquake; epidemic; quarantine; strikes; acts or restraints of governmental authorities affecting the project or directly or indirectly prohibiting or restricting the furnishing or use of materials or labor required; inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities.

14. LATE BIDS: Late bids are bids received after the time and date set for receipt of the bids. Late bids will not be accepted.

15. CONTRACT EXTENSION: Unless otherwise provided in this ITB, the State and the successful bidder/contractor agree: (1) that any holding over of the contract excluding any exercised renewal options, will be considered as a month-to-month extension, and all other terms and conditions shall remain in full force and effect and (2) to provide written notice to the other party of the intent to cancel such month-to-month extension at least thirty (30) days before the desired date of cancellation.

16. DEFAULT: In case of default by the contractor, for any reason whatsoever, the State of Alaska may procure the goods or services from another source and hold the contractor responsible for any resulting excess cost and may seek other remedies under law or equity.

17. DISPUTES: Any dispute arising out of this agreement shall be resolved under the laws of Alaska. Any appeal of an administrative order or any original action to enforce any provision of this agreement or to obtain any relief from or remedy in connection with this agreement may be brought only in the superior court for the State of Alaska.

18. CONSUMER ELECTRICAL PRODUCT: AS 45.45.910 requires that "...a person may not sell, offer to sell, or otherwise transfer in the course of the person's business a consumer electrical product that is manufactured after August 14, 1990, unless the product is clearly marked as being listed by an approved third party certification program." Electrical consumer products manufactured before August 14, 1990, must either be clearly marked as being third party certified or be marked with a warning label that complies with AS

45.45.910(e). Even exempted electrical products must be marked with the warning label. By signature on this bid the bidder certifies that the product offered is in compliance with the law. A list of approved third party certifiers, warning labels and additional information is available from: Department of Labor and Workforce Development, Labor Standards & Safety Division, Mechanical Inspection Section, P.O. Box 107020, Anchorage, Alaska 99510-7020, (907)269-4925.

19. SEVERABILITY: If any provision of the contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and, the rights and obligations of the parties will be construed and enforced as if the contract did not contain the particular provision held to be invalid.

SPECIAL CONDITIONS:

1.ORDER DOCUMENTS: Except as specifically allowed under this ITB, an ordering agency will not sign any vendor contract. The State is not bound by a vendor contract signed by a person who is not specifically authorized to sign for the State under this ITB. The State of Alaska Purchase Order, Contract Award and Delivery Order are the only order documents that may be used to place orders against the contract(s) resulting from this ITB.

2.BILLING INSTRUCTIONS: Invoices must be billed to the ordering agency's address shown on the individual Purchase Order, Contract Award or Delivery Order, not to the Division of General Services. The ordering agency will make payment after it receives the merchandise or service and the invoice. Questions concerning payment must be addressed to the ordering agency.

3.CONTINUING OBLIGATION OF CONTRACTOR: Notwithstanding the expiration date of a contract resulting from this ITB, the contractor is obligated to fulfill its responsibilities until warranty, guarantee, maintenance and parts availability requirements have completely expired.

ALASKA VENDOR & PRODUCT PREFERENCES:

State and local preferences will not be applied to federally funded projects.

FEDERAL REQUIREMENTS AND CONDITIONS

FEDERALLY FUNDED PROJECT(S) / ALASKA BUSINESS LICENSE REQUIREMENTS

When Federal funds are involved, the Alaska Business License must be obtained prior to the award of a contract.

23 CFR 635.110; "Licensing and qualification of contractors", (c) reads:

"No contractor shall be required by law, regulation, or practice to obtain a license before submission of a bid or before the bid may be considered for award of a contract"

Offerors should contact the Department of Community and Economic Development, Division of Occupational Licensing, P. O. Box 110806, Juneau, Alaska 99811-0806, for information on obtaining applicable licenses.

CERTIFICATIONS

The Contractor must meet the following Federal certification requirements:

1. Debarment, suspension, and other responsibility matters for primary covered transactions

The Contractor certifies, to the best of its knowledge and belief, that it and its principles:

- 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 three (3) year period preceding this certification, 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 listed in subparagraph (1)(b) of this certification: and
- d) Have not within three (3)-year period preceding this certification had one or more public transaction (federal, state, or local) terminated from clause or default.
- e) Contractor also certifies that, if it later becomes aware of any information contradicting the statements of paragraph a) above, it will promptly provide that information to the Alaska Department of Transportation.

DISADVANTAGE BUSINESS ENTERPRISE ASSURANCE

In accordance with 49 CFR 26.13(a), contractor assures that it shall not discriminate on the basis of race, color, national origin, or sex in the implementation of the project and in the award and performance of any third party contract, or sub-agreement supported with Federal assistance derived from the U.S. DOT or in the administration of its DBE program or the requirement of 49 CFR part 26. The recipient assures that it shall take all necessary and reasonable steps under 49CFR part 26 to ensure nondiscrimination in the award and administration of all third party contracts and sub-agreement supported with Federal assistance derived from the U.S. Department of Transportation.

ALASKA BUSINESS LICENSE AND OTHER REQUIRED LICENSES: Prior to the award of a contract, a bidder must hold a valid Alaska business license. However, in order to receive the Alaska Bidder Preference and other related preferences, such as the Alaska Veteran and Alaskans with Disabilities Preference, a bidder must hold a valid Alaska business license at the time designated for bid opening. Bidders should contact the Department of Commerce, Community and Economic Development, Division of Corporations, Business, and Professional Licensing for information on these licenses.

Website: <https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing.aspx>
Phone: (907) 465-2550
Email: license@alaska.gov

Acceptable evidence that the bidder possesses a valid Alaska business license may consist of any one of the following:

- (a) copy of an Alaska business license;
- (b) certification on the bid that the bidder has a valid Alaska business license and has included the license number in the bid (see front page);
- (c) a canceled check for the Alaska business license fee;
- (d) a copy of the Alaska business license application with a receipt stamp from the state's occupational licensing office; or
- (e) a sworn and notarized statement that the bidder has applied and paid for the Alaska business license.

You are not required to hold a valid Alaska business license at the time bids are opened if you possess one of the following licenses and are offering services or supplies under that specific line of business:

- fisheries business licenses issued by Alaska Department of Revenue or Alaska Department of Fish and Game,
- liquor licenses issued by Alaska Department of Revenue for alcohol sales only,
- insurance licenses issued by Alaska Department of Commerce, Community and Economic Development, Division of Insurance, or
- Mining licenses issued by Alaska Department of Revenue.

At the time designated for bid opening, all bidders must hold any other necessary applicable professional licenses required by Alaska Statute.

BIDDERS WITH DISABILITIES: The State of Alaska complies with Title II of the Americans with Disabilities Act of 1990. Individuals with disabilities who may need auxiliary aids, services, and/or special modifications to participate in this procurement should contact the

STATE OF ALASKA ITB # 2518N044
Crushed Aggregate, D-1 Modified, Denali Highway, Federally Funded

Department of Transportation & Public Facilities at one of the following numbers no later than Ten (10) days prior to bid opening to make any necessary arrangements.

Telephone: (907) 451-5102
Fax: (907) 451-2313
TDD: (907) 451-2363

COMPLIANCE WITH ADA: By signature of their bid the bidder certifies that they comply with the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the federal government.

Services or activities furnished to the general public on behalf of the state must be fully accessible. This is intended to ensure that agencies are in accordance with 28 CFR Part 35 Section 35.130 and that services, programs or activities furnished to the public through a contract do not subject qualified individuals with a disability to discrimination based on the disability.

CONTRACT PERFORMANCE LOCATION: By signature on their bid, the bidder certifies that all services provided under this contract by the contractor and all subcontractors shall be performed in the United States.

If the bidder cannot certify that all work will be performed in the United States, the bidder must contact the procurement officer in writing to request a waiver at least 10 days prior to the deadline for receipt of bids.

The request must include a detailed description of the portion of work that will be performed outside the United States, where, by whom, and the reason the waiver is necessary.

Failure to comply with these requirements may cause the state to reject the bid as non-responsive, or cancel the contract.

HUMAN TRAFFICKING: By signature on their bid, the bidder certifies that the bidder is not established and headquartered or incorporated and headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: <http://www.state.gov/g/tip/>

Failure to comply with this requirement will cause the state to reject the bid as non-responsive, or cancel the contract

CONTRACT INTENT: This Invitation to Bid (ITB) is intended to result in the purchase of Crushed Aggregate, D-1 Modified, in multiple locations, for the Department of Transportation & Public Facilities.

NOTICE OF INTENT TO AWARD: After the responses to this ITB have been opened and evaluated, a tabulation of the bids will be prepared. This tabulation, called a Notice of Intent to

Award, serves two purposes. It lists the name of each company or person that offered a bid and the price they bid. It also provides notice of the state's intent to award a contract(s) to the bidder(s) indicated. A copy of the Notice of Intent will be mailed to each company or person who responded to the ITB. Bidders identified as the apparent low responsive bidders are instructed not to proceed until a Purchase Order, Contract Award, Lease, or some other form of written notice is given by the contracting officer. A company or person who proceeds prior to receiving a Purchase Order, Contract Award, Lease, or some other form of written notice from the contracting officer does so without a contract and at their own risk.

PAYMENT FOR STATE PURCHASES: Payment for agreements under \$500,000 for the undisputed purchase of goods or services provided to a state agency, will be made within 30 days of the receipt of a proper billing or the delivery of the goods or services to the location(s) specified in the agreement, whichever is later. A late payment is subject to 1.5% interest per month on the unpaid balance. Interest will not be paid if there is a dispute or if there is an agreement that establishes a lower interest rate or precludes the charging of interest.

PROMP PAYMENT FOR STATE PURCHASES: The state is eligible to receive a 5% discount for all invoices paid within 15 business days from the date of receipt of the commodities or services and/or a correct invoice, whichever is later. The discount shall be taken on the full invoice amount. The state shall consider payment being made as either the date a printed warrant is issued or the date an electronic funds transfer (EFT) is initiated

FEDERAL EXCISE TAX: The State of Alaska is exempt from Federal Excise Tax except for the following:

- Coal - Internal Revenue Code of 1986 (IRC), Section 4121 - on the purchase of coal;
- "Gas Guzzler" - IRC, Section 4064 - on the purchase of low m.p.g. automobiles, except that police and other emergency type vehicles are not subject to the tax;
- Air Cargo - IRC, Section 4271 - on the purchase of property transportation services by air;
- Air Passenger - IRC, Section 4261 - on the purchase of passenger transportation services by air charter.
- Leaking Underground Storage Tank Trust Fund Tax (LUST) - IRC, Section 4081 - on the purchase of Aviation gasoline, Diesel Fuel, Gasoline, and Kerosene.

The State of Alaska is also exempt from State Motor Fuel Taxes. The appropriate exemption forms will accompany a contract(s) resulting from this ITB. The state is not exempt from the Federal Superfund Tax.

CONTRACT ADMINISTRATION: The administration of this contract is the responsibility of Eric Johnson, Procurement Officer, Department of Transportation & Public Facilities.

INDEMNIFICATION: The contractor shall indemnify, hold harmless, and defend the contracting agency from and against any claim of, or liability for error, omission or negligent act of the contractor under this agreement. The contractor shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the contracting

agency. If there is a claim of, or liability for, the joint negligent error or omission of the contractor and the independent negligence of the Contracting agency, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "Contractor" and "Contracting agency", as used within this and the following 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 Contracting agency's selection, administration, monitoring, or controlling of the contractor and in approving or accepting the contractor's work.

INSURANCE: Without limiting contractor's indemnification, it is agreed that contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the contractor's policy contains higher limits, the state shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the contracting officer prior to beginning work and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for termination of the contractor's services. All insurance policies shall comply with, and be issued by insurers licensed to transact the business of insurance under AS 21.

Proof of insurance is required for the following:

Workers' Compensation Insurance: The contractor shall provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, and; where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements. The policy must waive subrogation against the state.

Commercial General Liability Insurance: covering all business premises and operations used by the contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per occurrence.

Commercial Automobile Liability Insurance: covering all vehicles used by the contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per occurrence.

Failure to supply satisfactory proof of insurance within the time required will cause the state to declare the bidder non-responsible and to reject the bid.

SUPPORTING INFORMATION: The state strongly desires that bidders submit all required technical, specification, and other supporting information with their bid, so that a detailed analysis and determination can be made by the contracting officer that the product offered meets the ITB specifications and that other requirements of the ITB have been met. However, provided a bid meets the requirements for a definite, firm, unqualified, and unconditional offer, the state reserves the right to request supplemental information from the bidder, after the bids have been opened, to ensure that the products offered completely meet the ITB requirements. The

requirement for such supplemental information will be at the reasonable discretion of the state and may include the requirement that a bidder will provide a sample product(s) so that the state can make a first-hand examination and determination.

A bidder's failure to provide this supplemental information or the product sample(s), within the time set by the state, will cause the state to consider the offer non-responsive and reject the bid.

FIRM, UNQUALIFIED AND UNCONDITIONAL OFFER: Bidders must provide enough information with their bid to constitute a definite, firm, unqualified and unconditional offer. To be responsive a bid must constitute a definite, firm, unqualified and unconditional offer to meet all of the material terms of the ITB. Material terms are those that could affect the price, quantity, quality, or delivery. Also included as material terms are those which are clearly identified in the ITB and which, for reasons of policy, must be complied with at risk of bid rejection for non-responsiveness.

NONDISCLOSURE AND CONFIDENTIALITY: Contractor agrees that all confidential information shall be used only for purposes of providing the deliverables and performing the services specified herein and shall not disseminate or allow dissemination of confidential information except as provided for in this section. The contractor shall hold as confidential and will use reasonable care (including both facility physical security and electronic security) to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, the confidential information. "Reasonable care" means compliance by the contractor with all applicable federal and state law, including the Social Security Act and HIPAA. The contractor must promptly notify the state in writing if it becomes aware of any storage, disclosure, loss, unauthorized access to or use of the confidential information.

Confidential information, as used herein, means any data, files, software, information or materials (whether prepared by the state or its agents or advisors) in oral, electronic, tangible or intangible form and however stored, compiled or memorialized that is classified confidential as defined by State of Alaska classification and categorization guidelines (i) provided by the state to the contractor or a contractor agent or otherwise made available to the contractor or a contractor agent in connection with this contract, or (ii) acquired, obtained or learned by the contractor or a contractor agent in the performance of this contract. Examples of confidential information include, but are not limited to: technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data (infrastructure, architecture, operating systems, security tools, IP addresses, etc).

Additional information that the contractor shall hold as confidential during the performance of services under this contract include: N\A

If confidential information is requested to be disclosed by the contractor pursuant to a request received by a third party and such disclosure of the confidential information is required under applicable state or federal law, regulation, governmental or regulatory authority, the contractor may disclose the confidential information after providing the state with written notice of the requested disclosure (to the extent such notice to the state is permitted by applicable law) and giving the state opportunity to review the request. If the contractor receives no objection from the

state, it may release the confidential information within 30 days. Notice of the requested disclosure of confidential information by the contractor must be provided to the state within a reasonable time after the contractor's receipt of notice of the requested disclosure and, upon request of the state, shall seek to obtain legal protection from the release of the confidential information.

The following information shall not be considered confidential information: information previously known to be public information when received from the other party; information freely available to the general public; information which now is or hereafter becomes publicly known by other than a breach of confidentiality hereof; or information which is disclosed by a party pursuant to subpoena or other legal process and which as a result becomes lawfully obtainable by the general public.

CONTRACT PERIOD: From date of award through August 31, 2018.

PRICE DECREASES: During the period of the contract all price decreases experienced by the contractor must be passed on to the state. A contractor's failure to strictly and faithfully adhere to this clause, within the time required, will be considered in breach of contract.

ALTERATIONS: The contractor must obtain the written approval from the contracting officer prior to making any alterations to the specifications contained in this ITB. The state will not pay for alterations that are not approved in advance and in writing by the contracting officer.

LIQUIDATED DAMAGES: Late delivery will cause the state to suffer damages. Please reference Section 108-1.07 Failure to Complete on Time of the Specifications for these charges.

BID GUARANTEE: Bids must be accompanied by a bid guarantee in the form of a Certified or Cashier's check, or Bid Bond in the amount of \$5,000.00 made payable to the State of Alaska. The bid guarantee of each successful bidder will be retained until that bidder has furnished a satisfactory Performance Bond or Individual Surety. If the successful bidder fails to deliver the required Performance Bond or Individual Surety within the time required, the bid guarantee will be forfeited to the State of Alaska. The bid guarantee of each unsuccessful bidder will be returned as soon as practical after award has been made.

Bidders **must** submit their bid guarantee with their bid in order to be considered responsive.

PERFORMANCE BOND: Any posted performance bonds will ensure performance over the entire term of the contract. In the event it becomes necessary for the state to cancel the contract issued as a result of this ITB due to non-compliance during the term of the contract, regardless of the circumstances or time remaining on the contract, the bonding company shall well and truly perform and complete all obligations and work under said contract in accordance with the terms of the performance bond. A performance bond is to be in the amount of **50% of the total bid amount**.

INDIVIDUAL SURETY: In lieu of a performance bond, a successful bidder may post an individual surety to ensure performance over the entire term of the contract. In the event it

becomes necessary for the state to cancel the contract issued as a result of this ITB due to non-compliance during the term of the contract, regardless of the circumstances or time remaining on the contract, the individual surety will be declared as liquidated damages and become due and payable to the state. By signature on this ITB, the bidder acknowledges this condition and voluntarily relinquishes any and all claims to the entire individual surety. The individual surety may be in any of the following forms:

- **CERTIFIED OR CASHIER'S CHECK**: A certified or cashier's check, made payable to the State of Alaska in the amount of **50% of the total bid amount**.

OR

- **SPECIAL NOTICE ACCOUNT OR CERTIFICATE OF DEPOSIT**: A special notice account book or certificate of deposit, made payable to the State of Alaska in the amount of **50% of the total bid amount**.

Failure to supply this document within the time required will cause the state to declare the bidder non-responsible and to reject the bid.

F.O.B. POINT: The F.O.B. point for this ITB will be multiple locations on the Denali Highway. See Bid Schedule for exact locations.

SITE INSPECTION: Bidders are encouraged to visit the work site so that they can see the conditions under which the work described in this ITB will be performed. The bidder's failure to visit the work site will in no way relieve the bidder of the responsibility of performing the work in strict compliance with the true intent and meaning of the terms, conditions and specifications of this ITB. The site may be inspected by contacting; Henry Cole, at telephone number 451-2223. The contact person is only empowered to allow bidders to view the work site. Any questions the bidders have must be directed to the contracting officer named on the front page of this ITB. The contact person cannot and will not answer bidder questions regarding the work to be performed under this ITB or the terms, conditions and specifications of this ITB.

INVOICES: Invoices must be sent directly to the ordering agency's address shown on the individual Purchase Order, Contract Award or Delivery Order. The ordering agency will only make payment after it receives the merchandise or service and the invoice. Question concerning payment must be addressed to the ordering agency.

THIRD-PARTY FINANCING AGREEMENTS NOT ALLOWED: Because of the additional administrative and accounting time required of state agencies when third party financing agreements are permitted, they will not be allowed under this contract.

CONTINUING OBLIGATION OF CONTRACTOR: Regardless of the terms and conditions of any third-party financing agreement, the contractor agrees that none of its responsibilities under this contract are transferable and that the contractor alone will continue to be solely responsible until the expiration date of the contract. Such responsibilities include, but are not limited to, the provision of equipment, training, warranty service, maintenance, parts and the

provision of consumable supplies. By signature on the face page of this ITB the bidder acknowledges this requirement and indicates unconditional acceptance of this continuing obligation clause.

WORKMANSHIP & MATERIALS: All work must be performed in a thorough and workmanlike manner and in accordance with current industry practices. The contractor will be held responsible for the quality of the finished item. The state will reject any item that does not meet the specifications of the ITB. Rejected items will be returned to the contractor at the contractor's risk and expense.

CONTRACT CANCELLATION: The state reserves the right to cancel the contract at its convenience upon Thirty (30) calendar days written notice to the contractor. The state is liable only for payment in accordance with the payment provisions of this contract for services or supplies provided before the effective date of termination.

METHOD OF AWARD: Award will be made as one lot to the lowest responsive and responsible bidder. In order to be considered responsive, bidders must bid on all items.

SPECIFICATIONS

SECTION 101

DEFINITIONS AND TERMS

101-1.03 DEFINITIONS.

ENGINEER. The authorized representative of the Contracting Officer who is responsible for administrating the Contract shall be Henry Cole; phone 907-451-2223 or email Henry.Cole@Alaska.gov. This project takes place in the Denali Maintenance and Operations District; the Superintendent of which is Tom Williams; phone 907-451-5280, or email Frederick.Williams@Alaska.gov.

SECTION 104

SCOPE OF WORK

104-1.01 INTENT OF CONTRACT. The intent of the Contract is to produce and stockpile processed aggregate. The site listed below is the location of the final stockpile only; this does not indicate the source or the quality of the material.

The Contractor must: acquire the material sources and all necessary permits; process and stockpile the required aggregate; and pay all associated fees and royalties. Proof of royalty payments shall be required prior to final payment under this Contract. At least seven days prior to mobilization the Contractor shall submit documentation indicating that the material source meets the quality specifications per Section 703 of the Contract.

The location and quantity required are as follows:

TABLE 104-1

Material Site No.	Location	Quantity (CY)	Royalty	Completion Date
52-2-092-2 **	Denali Highway, mile 99 “Ventures”	7,500	\$1,250	8/31/2018
52-2-040-2 **	Denali Highway, mile 134 “Drashner”	7,500	\$0	7/31/2018

** Note that these sites require a Mining and Reclamation Plan (MRP) in accordance with Section 106-1.02-5, to be submitted at least 30 days in advance of mobilization.

The Contractor shall take all necessary precautions not to contaminate the materials. Final gradations and quantity measurements for acceptance and payment will be taken at the final location of the completed stockpile.

All stockpiles shall be stacked so that they are easily accessible on all sides with heavy hauling equipment, and, if located in a State Material Site, situated so as not to impact future mining operations in the site.

Geotechnical reports for State material sites may be available from the Engineer. State material reports and geotechnical data are for informational purposes only, and may not accurately represent the conditions found onsite. Any information provided should not substitute for personal investigation, research and judgment of the bidders.

The bidder is expected to examine carefully the sites of the proposed work and all contract documents before submitting a bid. The submission of a bid shall be considered prima facie evidence that the bidder has made such examination and is satisfied as to the conditions to be encountered in performing the work and the requirements of the Contract.

SECTION 105 CONTROL OF WORK

105-1.01 AUTHORITY OF THE ENGINEER. The Engineer has immediate charge of the engineering details of the project and is responsible for Contract administration. The Engineer has authority to reject defective material and suspend work being performed improperly. The Engineer has authority to accept completed work, issue Directives, issue Interim Work Authorizations, issue Change Orders, and recommend Contract payments.

The Engineer will decide all questions about the quality and acceptability of the materials furnished and the work performed by the Contractor, the Contractor's rate of progress, Contract interpretation and all other questions relating to Contract performance.

The Engineer has authority to suspend work for reasons listed under Subsection 108-1.06. If the suspension is to protect workers or the public from imminent harm, the Engineer may orally order the suspension of work. Following an oral order of suspension, the Engineer will promptly give written notice of suspension. In other circumstances, the Engineer will give the Contractor written notice of suspension before suspension of work. A notice of suspension will state the defects or reasons for a suspension, the corrective actions required to stop suspension, and the time allowed to complete corrective actions. If the Contractor fails to take the corrective action within the specified time, the Engineer may:

1. Suspend the work until it is corrected; and
2. Employ others to correct the condition and deduct the cost from the Contract amount.

The Engineer may, at reasonable times, inspect any part of the plant or place of business of the Contractor or any subcontractor that is related to Contract performance, including private or commercial plants, shops, offices, or other places of business.

The Engineer may audit all books and records related to performance of the Contract, whether kept by the Contractor or a subcontractor.

105-1.03 CONFORMITY WITH PLANS AND SPECIFICATIONS. Work performed and materials furnished shall conform to the Specifications and approved Mining Plan and be within specified tolerances. When tolerances are not specified, the Engineer will determine the limits allowed in each case.

All work or material not conforming to the Specifications and approved Mining Plan is considered unacceptable unless the Engineer finds that reasonably acceptable work has been produced. In this event, the Engineer may allow non-conforming work or material to remain in place, but at a reduced price. The Engineer will document the basis of acceptance and payment by Change Order.

The failure of the Department to strictly enforce the Contract in one or more instances does not waive its right to do so in other or future instances.

If the Contractor fails to promptly correct, remove, or replace unacceptable or unauthorized work as ordered by the Engineer, the Engineer may employ others to remedy or remove and replace the work and will deduct the cost from the Contract payment.

SECTION 106 CONTROL OF MATERIAL

106-1.02 MATERIAL SOURCES.

1. General. The Contractor shall:
 - a. produce a sufficient quantity of materials meeting the specifications to complete the project;
 - b. As a subsidiary cost: clear and grub, strip, drill and blast, excavate, crush, sort, blend, screen, wash, stockpile, haul, and rehandle material as needed to produce and deliver the specified product;
 - c. determine the type of equipment and methods to be used;
 - d. expect variations in material quality within the deposits, and procure material only from acceptable portions of the deposit, regardless of source ownership; and
 - e. prevent erosion, sedimentation, and pollution within a materials source.

The Contractor agrees that:

- a. the costs to explore and develop material sources, including all production effort, are subsidiary to the cost of providing the specified material;
 - b. the Engineer may order the Contractor to procure material only from certain portions of the source and may reject material from other portions of the source that does not conform to the specifications; and
 - c. all material required may not be procurable from any one source and the Contractor may need to change between sources. That contingency is to be factored into the unit bid price for the Contract Item.
2. Inspection and Acceptance. The Contractor shall perform sampling and testing during materials processing and placement in accordance with its Process Control Plan (Subsection 106-1.03-1) and shall obtain acceptable material samples from locations designated within the source.

The Department will sample and test materials to determine the quality of the source, at its expense, as part of its Acceptance Testing (Subsection 106-1.03.2). The Department will

reject materials when the samples do not meet specifications. The Department may reject a proposed materials site when samples do not meet specifications.

3. Awareness Training. The operator of the Contractor's sand and gravel surface mine or other similar materials source shall provide Site-Specific Hazard Awareness Training in compliance with 30 CFR 46.11 for all the Engineer's personnel before beginning operations. All other workers shall be given training in compliance with 30 CFR 46 before exposure to mine hazards. The training must be offered at each surface mine that will be used to supply processed aggregates. A qualified person must provide the training. The training shall be in accordance with the operator's written training plan approved by the Mine Safety and Health Administration, covering the following items:
 - a. Site-specific health and safety risks;
 - b. Recognition and avoidance of hazards;
 - c. Restricted areas;
 - d. Warning and evacuation signals;
 - e. Evacuation and emergency procedures;
 - f. Other special safety procedures; and
 - g. A site tour.

The Contractor shall require the Engineer's personnel to sign the Visitor's Log Book upon completion of the training to indicate that training was provided. Training is a subsidiary cost.

4. Type of Sources. The location(s) identified in Section 104-1.01 are to be the site of the finished stockpile only and do not specify the source or quality of the material to be produced. The Contractor shall supply the required material from one or more of the following types of sources:
 - a. Department Furnished Material Sites. The Contractor shall obtain approval from the Engineer prior to any construction activities. Existing stockpiles of material in State sites are not available to the Contractor without prior approval from the Engineer. All stockpiled aggregate including rejected material is property of the State and shall be handled or stockpiled as described in the Contractor's approved Mining Plan, unless directed otherwise by the Engineer. At no time does the Contractor have any ownership of material, including reject, produced under this Contract. The materials in this site are not available for any use other than required by this Contract, unless approved by the Engineer. The Contractor shall be responsible for paying any mineral royalty due, as indicated in Section 104-1.01. Geotechnical information may be available, but should not be considered to be authoritative. All work and development in a Department-Furnished material site shall be in line with the Department's existing site-specific Mining Plan.
 - b. Contractor-Furnished Sources. The Contractor is encouraged to use State furnished material sites or work within an approved Right of Way for both mining and for the final stockpile locations. The use of private sources for mining and stockpile storage will require the Contractor to make all necessary agreements (See Subsection 106-1.02.5). When the Contractor elects to use a material site not furnished by the

Department, including State-owned land not under the Department's control, the Contractor shall:

- 1) Acquire the necessary rights and permits to obtain material;
- 2) Pay as subsidiary costs all related costs to obtain and use material from the source, including, but not limited to, permit fees, mineral royalties and associated hauling costs;
- 3) Be solely responsible for the quality and quantity of material; and
- 4) Obtain all necessary rights, permits and plan approvals before clearing or disturbing the ground in the material source. The Contractor shall certify in writing to the Engineer that all permits and clearances relating to the use of the material source have been obtained prior to any work in the material source.

No price adjustment or other compensation will be made for any costs, including increased length of haul, if the Contractor:

- 1) Chooses to change material sources for any reason;
- 2) Is unable to produce a sufficient quality or quantity of materials from Contractor-Furnished sources; or
- 3) Encounters unexpected, unforeseen or unusual conditions within a Contractor-Furnished source.

5. Rights, Permits and Plan Approvals for Material Sources. Before disturbing the site of a material source, the Contractor shall acquire, pay for and provide to the Engineer all necessary rights, permits, and plan approvals indicated in this Subsection and elsewhere in this Contract. For each material site, the Contractor shall:

- a. Submit for the Engineer's comment and approval, no fewer than 30 days prior to mobilization, a mining and reclamation plan (MRP). During development of each MRP, the Contractor shall consider future activities in the material site and shall maintain access to usable material. The MRP shall include:

- (1) Approval from the landowner (if a Contractor-Furnished source, see Subsection 106-1.02-4-b-2);
- (2) A process control plan (see Subsection 106-1.03-1);
- (3) Plan and cross-sectional views of the site (this includes both the mining and disposal areas);
- (4) Applicable boundary lines, property lines and buffer zones;
- (5) Areas and Depths to be developed (note, development of Department-Furnished sources shall be in accordance with the Department's Mining Plan for that site);
- (6) Locations of access roads, stripping, sorting, waste piles, crushing and plant sites, stockpile sites (including reject material), buffer zones, drainage features, erosion and pollution control features;
- (7) Condition the Contractor will leave the site in after the materials extraction is completed, including reseeding if necessary;
- (8) A Construction General Permit-compliant Storm Water Pollution Prevention Plan, if required by Section 641; and

- (9) Other information as required by any and all attachments included with bid (ie BLM Mining Plan Review checklist, DOT MRP and/or any site-specific stipulations that may be included).
- b. If the material is to be stockpiled in a Contractor-Furnished site or otherwise on private property, the Contractor shall supply the following information in addition to the MRP:
 - (1) A notarized agreement with the property owner allowing the State full and unfettered access to the stockpile until 12/31/2021. The owner shall certify that they have the authority to sell mineral materials from the property, and shall acknowledge the Department's ownership of the stockpiled material;
 - (2) A property map of the material site identifying property boundaries, access routes and stockpile location.

106-1.03 TESTING AND ACCEPTANCE. Materials are subject to inspection and testing by the Department at any time before, during or after their incorporation into the stockpile. The Contractor shall remove and replace unacceptable material according to Subsection 105-1.03.

- 1. Quality Control. The Contractor is responsible for the quality of materials produced under this Contract. Quality Control is process control, and includes all activities needed to ensure that the product meets Contract specifications. Quality control work is subsidiary to the applicable pay items. The Contractor shall perform quality control as follows:
 - a. Develop and submit a Process Control plan as part of the MRP (Subsection 106-1.02-5), including testing and frequency, personnel qualifications, equipment descriptions and criteria for corrective actions.
 - b. Sample material during production and perform quality control testing, as needed, to ensure materials produced to Contract Specifications. Document all quality control testing and make the results available to the Engineer within three days of sampling.
 - c. Due to the nature of this work, it is recommended that the Contractor maintain an on-site materials lab and a WAQTC-certified technician to perform process control. If testing will be done off-site, material processing may need to be suspended pending receipt of results.
- 2. Acceptance Testing. The Department reserves the right to conduct its own testing of the acceptability of the materials. This testing will be performed at the Department's expense, and copies of the test results may be furnished to the Contractor upon request. The Engineer may elect, at his discretion, to retest materials that have failed the Department's acceptance testing.
- 3. Minimum Testing Requirements. Tests shall be performed at minimum according to Table 106-1 below. Failing test results not in substantial conformance may be the basis of the Engineer's rejection of the represented material, and no payment will be made for unacceptable material, as outlined in Subsection 105-1.03. The Contractor shall produce and test additional material until the Contract quantity has been fully accepted and completed. Failing test results shall not be a basis for any time extension or modification to Contract requirements.

TABLE 106-1

Item	Test	Test Number	Specifications	Frequency (min.)
Crushed/ Stockpiled Aggregate	Process Control Gradation & Fracture, by Contractor	AASHTO T27/T11	Refer to 703	1/Source, 1/1,000 C.Y.
	Acceptance, by Engineer	AASHTO T27/T11	Refer to 703	1/ Source, 1/10,000 C.Y.

SECTION 107

LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

107-1.07 ARCHAEOLOGICAL OR HISTORICAL DISCOVERIES. If the Contractor's operation encounters prehistoric artifacts, burials, remains of dwellings, paleontological remains, shell heaps, land or sea mammal bones, tusks or other items potentially of historical significance, the Contractor shall:

1. Immediately cease operations at the site of the find;
2. Immediately notify the Engineer of the find; and
3. Not disturb or remove the finds or perform any further operations at the site until directed by the Engineer.

The Engineer will issue an appropriate Change Order if operations are to be suspended, or extra work is needed to protect the find.

107-1.10 USE OF EXPLOSIVES. The Contractor shall obey all laws, regulations and permits applicable to using, handling, loading, transporting, or storing explosives. When using explosives, the Contractor shall take utmost care not to endanger life, property, new construction, or existing portions of the project and facilities that are to remain in place after the project is complete.

The Contractor shall provide notice to property owners, the traveling public, and utility companies in the vicinity before using explosives. The Contractor shall provide notice to the Federal Aviation Administration when required by law. The Contractor shall notify police and fire authorities in the vicinity before transporting or using explosives. The Contractor shall provide notice sufficiently in advance to enable all potentially affected parties to take whatever steps they may deem necessary to protect themselves and their property from injury or damage.

The Contractor is liable for all property damage, injury, or death resulting from the use of explosives on the project. The Contractor shall indemnify, hold harmless, and defend the State of Alaska from all claims related to the use of explosives on the project, including claims from government agencies alleging that explosives were handled, loaded, transported, used, or stored improperly.

107-1.11 PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE.

1. Restoring Areas. Areas used by the Contractor, including haul routes, shall be restored to their original condition after the Contractor's operations are completed. The original condition of an area shall be determined as follows: Prior to commencement of operations, the Engineer and the Contractor shall inspect each area and haul route that will be used by the Contractor and take photographs to document their condition. After construction operations are completed, the condition of each area and haul route will be compared to the earlier photographs. Prior to demobilization the Contractor shall repair damages attributed to its operations. The Contractor agrees that all costs associated with repairs shall be subsidiary to other items of work and will not be paid for directly.
2. Material Disposal Sites. Offsite disposal areas may be at locations of the Contractor's choice, provided the Contractor obtains written permission from the land owner for such disposal and a waiver of all claims against the State for any damage to such land which may result therefrom, together with all permits required by law for such disposal. A copy of such permission, waiver of claims, and permits shall be filed with the Engineer before commencing work on private property. The Contractor's selected disposal sites shall also be inspected and approved by the Engineer prior to use of the sites.
3. Property Marks. The Contractor shall:
 - a. Be responsible for and protect from disturbance all land monuments and property marks until the Engineer has approved the witnessing or otherwise referenced their locations; and
 - b. Not move such monuments or marks without the Engineer's approval.
4. Damage to property. The Contractor shall:
 - a. Be responsible for all damage to public or private property resulting from any act, omission, neglect, or misconduct in the manner or method of executing the work;
 - b. Be responsible for all damage to public or private property resulting from defective work or materials at any time, before, during, or after project completion; and
 - c. Restore all such damaged property to a condition similar or equal to that existing before the damage occurred, at no additional cost to the Department.
5. Protection of Natural Resources. The Contractor shall:
 - a. Conduct work in a manner that minimizes disturbance to and protects natural resources in compliance with all federal, state, and local laws and regulations;
 - b. When working near designated wetlands, as defined by the Corps of Engineers, place no fill, nor operate equipment outside the permitted area;
 - c. When working in or near designated anadromous fish streams, as defined by AS 41.14.840 and AS 41.14.870, place no fill or dredge material, nor operate equipment, within or on the banks of the stream (including fording) except as permitted by a Alaska Department of Fish and Game Fish Habitat Permit issued for the project;

- d. Upon completion, all disturbed slopes, cuts, and banked material shall be flattened to a slope no steeper than a 2:1 or as specified in the Material Sales Agreement governing use of the site. No vertical cuts or slopes shall remain;
 - e. Existing approaches to material sites and recreational trails shall not be disturbed or obstructed at any time.
6. Hazardous materials. Hazardous materials include but are not limited to petroleum products, oils, solvents, paints, lead based paints, asbestos, and chemicals that are toxic, corrosive, explosive, or flammable. Except as otherwise specified in this Contract, the Contractor shall:
- a. Not excavate, nor use for fill, any material at any site suspected of or found to contain hazardous materials or petroleum fuels;
 - b. Not raze and remove, or dispose of structures that contain asbestos or lead-based paints;
 - c. Not stockpile, nor dispose of, any material at any site suspected of or found to contain hazardous materials or petroleum;
 - d. Report immediately to the Engineer any known or suspected hazardous material discovered, exposed, or released into the air, ground, or water during construction of the project;
 - e. Report any containment, cleanup, or restoration activities anticipated or performed as a result of such release or discovery;
7. Protected areas. The Contractor shall not use land from any park, recreation area, wildlife or waterfowl refuge, or any historical site located inside or outside of the project limits for excess fill disposal, staging activities, equipment or material storage, or for any other purposes unless permitted by the Contract or unless all permits and clearances necessary for such work have been obtained by the Contractor.
8. Solid waste. The Contractor shall remove all debris, trash, and other solid waste from the project site as soon as possible and in accordance with the Alaska Department of Environmental Conservation Solid Waste Program.

SECTION 108 PROSECUTION AND PROGRESS

108-1.03 PROSECUTION AND PROGRESS. The Contractor shall meet with the Engineer at either the district maintenance and operations station for which the Contract is for (see Subsection 101-1.03 Engineer) or schedule a teleconference with the Engineer 14 days before mobilization to the project site. The Contractor shall submit the following documents to the Engineer at least three working days before the referenced meeting:

- 1. A progress schedule in a format acceptable to the Engineer, showing the order in which the Contractor proposes to carry out the work and the contemplated dates on which the Contractor and the subcontractor will start and finish each of the salient features of the work, including any scheduled periods of shutdown. The schedule shall indicate the anticipated hours of operation and any anticipated periods of multiple-shift work;
- 2. A letter designating the Contractor's Project Superintendent, defining that person's responsibility and authority, and providing a specimen signature;
- 3. A Mining and Reclamation Plan, as outlined in Subsection 106-1.02-5;

4. A SWPPP, if one is required by Subsection 641, and designated field representatives; and
5. A Process Control Plan, as outlined in Subsection 106-1.03-1.

108-1.07 FAILURE TO COMPLETE ON TIME. For each calendar day that the work is not substantially complete after the completion date has passed, the Engineer shall deduct the full daily charge corresponding to the original Contract amount shown in Table 108-1 from the remaining value of the Contract.

If no money is due the Contractor, the Department may recover these sums from the Contractor, the Surety or both. These are Liquidated Damages, and not penalties. These charges shall reimburse the Department for additional expenses incurred due to the Contractor's failure to complete the work within the time specified.

**TABLE 108-1:
DAILY CHARGE FOR LIQUIDATED DAMAGES
FOR EACH CALENDAR DAY OF DELAY**

Original Contract Amount		Daily charge
From More Than:	Up to and Including:	
\$0	\$100,000	\$300
\$100,000	\$500,000	\$550
\$500,000	\$1,000,000	\$750
\$1,000,000	\$2,000,000	\$1,000
\$2,000,000	\$5,000,000	\$1,500
\$5,000,000	----	\$2,500

Permitting the Contractor to continue work after the completion date has passed does not waive the Department's right to collected Liquidated Damages under this section.

SECTION 305 STOCKPILED MATERIALS

305-1.01 DESCRIPTION. Produce and stockpile the specified material at the designated stockpile locations shown in Subsection 104-1.01.

305-2.01 MATERIALS. Meet the materials requirements of Subsection 703-2.03.

305-3.01 CONSTRUCTION REQUIREMENTS. Clear and grub the stockpile sites and dispose of all trees, stumps, brush and debris in accordance with the approved Mining and Reclamation Plan. Make the floor of each stockpile site flat and uniform in cross-section, compacted and well-drained. Construct the stockpiles to occupy the smallest feasible areas.

Avoid contamination and segregation of the various sizes of aggregate in each stockpile. Do not push up stockpiled material with a track-type dozer; only rubber-tired vehicles are allowed on the stockpile. Make the completed stockpiles neat and generally tent shaped in form with a single

ridge. Make the height or depth of the piles not less than 20 feet on average, with side slopes 1-1/2:1 or steeper.

The Contractor, in the presence of the Engineer, shall verify material site boundaries, archaeological sites, research areas, crushing location, waste areas and review of the reclamation plan prior to any work. All expenses required for above work to produce the materials specified in this Contract shall be subsidiary to other items of work.

305-4.01 METHOD OF MEASUREMENT. Stockpiled quantities shall be measured at the direction of the Engineer, by one of the following methods:

1. Average End Area, by the Engineer;
2. Three-Dimensional, by the Engineer;
3. The Engineer, at his sole discretion, may require the Contractor to conduct a final measurement under the supervision of a registered Professional Land Surveyor, at no additional cost to the Department. A stamped and signed volume report will be required, along with a description of the method used.

No allowance will be made for settlement, swell or shrinkage. If the Contractor chooses to demobilize off of the project site prior to final measurements being taken by the Department the Contractor is responsible for assuring that the quantity and quality of material produced meets those required by the Contract.

305-5.01 BASIS OF PAYMENT. All work involved in preparing the stockpile site is subsidiary.

Payment will be made under:

Pay Item	Location	Item Description	Quantity (CY)
1	Denali Highway, mile 99	Crushed Aggregate D-1, Modified	7,500
2	Denali Highway, mile 134	Crushed Aggregate D-1, Modified	7,500

SECTION 641

EROSION, SEDIMENT, AND POLLUTION CONTROL

No SWPPP, DOT material site

641-1.01 DESCRIPTION. This Project is not anticipated to require a SWPPP, as all work in the material site(s) should be planned so that no runoff may discharge to Waters of the U.S. Appropriate Best Management Practices (BMPs) should be employed to ensure that no discharge is possible. In the event that runoff discharges occur, the Contractor shall take immediate action to stop them, and shall notify the Engineer. In the event that runoff cannot be prevented from leaving the site, the Engineer may require the Contractor to design and implement a SWPPP under the Alaska Construction General Permit.

**SECTION 703
AGGREGATES**

703-2.03 AGGREGATE FOR BASE AND SURFACE COURSE. Crushed stone or crushed gravel, consisting of sound, tough, durable pebbles or rock fragments of uniform quality; free from clay balls, vegetable matter or other deleterious matters. Meet the following requirements:

TABLE 703-1

PROPERTY	THRESHOLD	TEST METHOD
L.A. Wear	45% max	AASHTO T96
Degradation Value	45 min	ATM 313
Fracture %	70% min	ATM 305
Liquid Limit	35 max	ATM 204
Plastic Index	10 max	ATM 205
Sodium Sulfate Loss	9 max (5 cycle)	AASHTO T104

Meet the following gradation(s), as determined by AASHTO T27/T11:

TABLE 703-2

Pay Item No.	1, 2
	Percent Passing by Weight
Sieve	CA E-1
1 in.	100
3/4 in.	70 – 100
3/8 in.	50 – 85
No. 4	35 – 65
No. 8	20 – 50
No. 50	15 – 30
No. 200	8 – 15

STATE OF ALASKA ITB # 2518N044
Crushed Aggregate, D-1 Modified, Denali Highway, Federally Funded

BID SCHEDULE

Item Number	Quantity	Unit Of Measure	Description	Completion Date	Unit Price	Extended Price
1	7,500	CUYD	D-1 Modified, Mile 99 "Ventures"		\$_____	\$_____
2	7,500	CUYD	D-1 Modified, Mile 134 "Drashner"		\$_____	\$_____
			Total Basic Bid		\$_____	

ATTACHMENTS

Material Site Inspection Report – MS-52-2-040-2 – Attachment A – 11 Pages
Material Site Inspection Report – MS-52-2-092-2 – Attachment B – 11 Pages
Negotiated Material Sales Contract – MS-52-2-092-2 – Attachment C – 11 Pages
Matanuska-Susitna Borough Approval – MS-2-092-2 – Attachment D – 7 Pages
Required Contract Provisions for Federal Aid Contracts – Attachment E – 7 pages

CONTRACTOR INFORMATION

ORDERING ADDRESS: _____

Contact: _____

Phone: _____

Fax: _____

Email: _____

STATEWIDE MATERIAL SITE INVENTORY

MATERIAL SITE **INSPECTION REPORT**

Federal Project No. STP-000S(823)
AKSAS Project No. 76149

DENALI HIGHWAY

MS 52-2-040-2
Drashner Pit

June 23, 2013

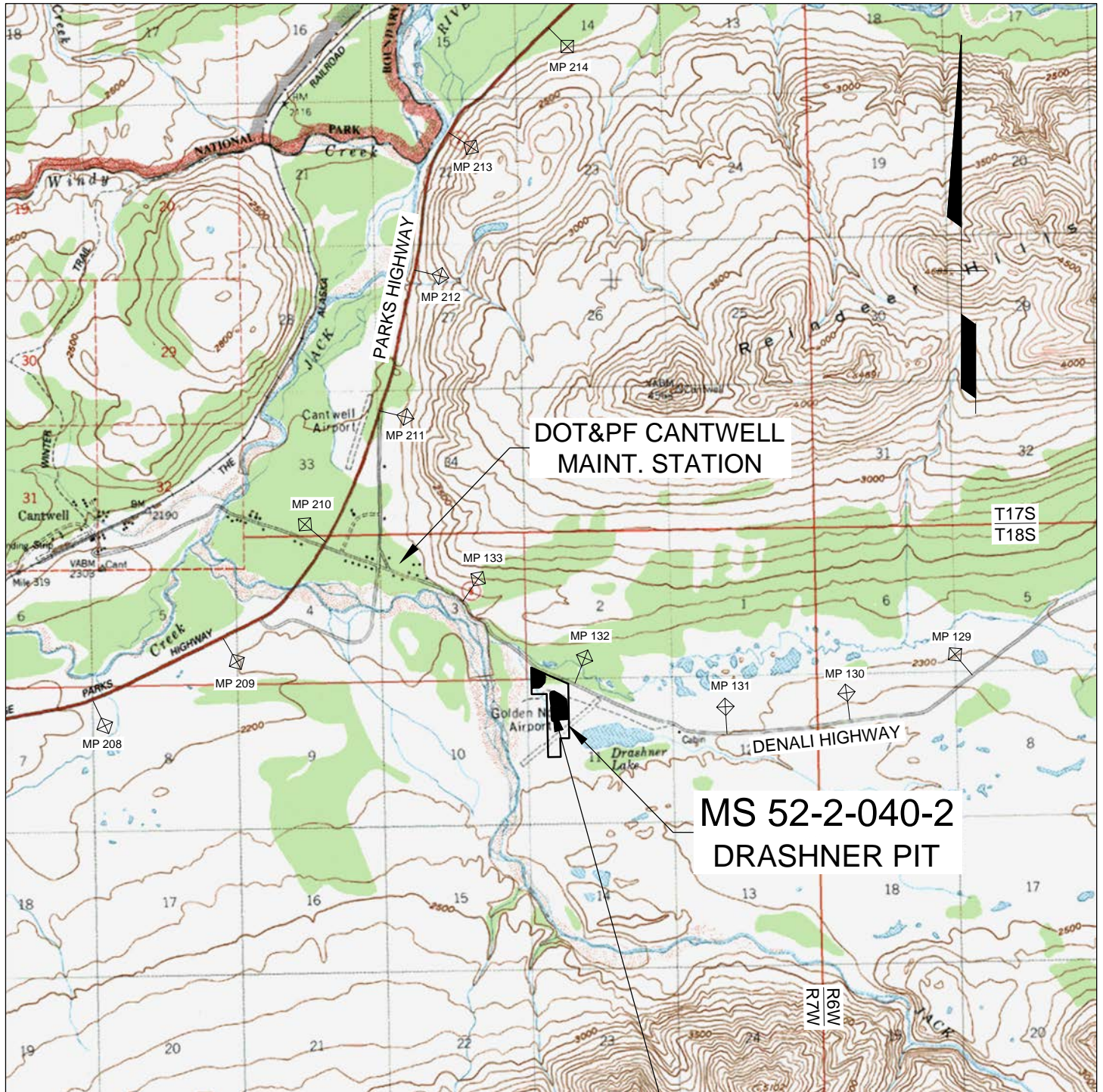
<u>CONTENTS</u>	<u>PAGE</u>
COVER SHEET.....	1
LOCATION MAP	2
SITE MAP	3A & 3B
INSPECTION FORM.....	4 thru 10

CATEGORY:

ACTIVE – OPEN

According to information found in the DOT&PF EDMS system in January 2009 as well as the BLM case file abstract and DOT&PF right-of-way maps, this site lies on lands owned by Ahtna Incorporated. An indefinite right-of-way grant (F-26125) was awarded to the State of Alaska by BLM in 1961. Lands underlying that part of the site in Sections 2 and 11 were conveyed by BLM to Ahtna, Inc in 1981 (IC 443) under separate letters. The land transfer was subject to the material site right-of-way (F-26125). BLM waived administration to Ahtna, Inc., for Section 2 in 1987 and Section 11 in 1984. The site is crossed by the Golden North Airport which apparently has no right-of-way or other land status, although it appears to have been there for a long time. It is a 2,095x40-foot private airport reportedly owned by Dale North. Its FAA identifier is 15AK. It was reportedly activated in 1971. The ability to mine gravel in the area adjacent to the runway is unknown. The southeast corner was removed from the site in 2006 (IC 1962 / 1963). The site appears to contain significant quantities of sand and gravel and should be retained by DOT&PF for future use.

LOCATION MAP



U.S.G.S. QUADRANGLE: HEALY (B-4) & (B-5)

GPS COORDINATES FROM GOOGLE EARTH

UTM (WGS84-METERS)
 ZONE 6: N7,028,969 E407,343
 AK STATE PLANE (NAD83-US SURVEY FT)
 ZONE 4: N3,428,254 E1,828,545

ACTIVE - OPEN



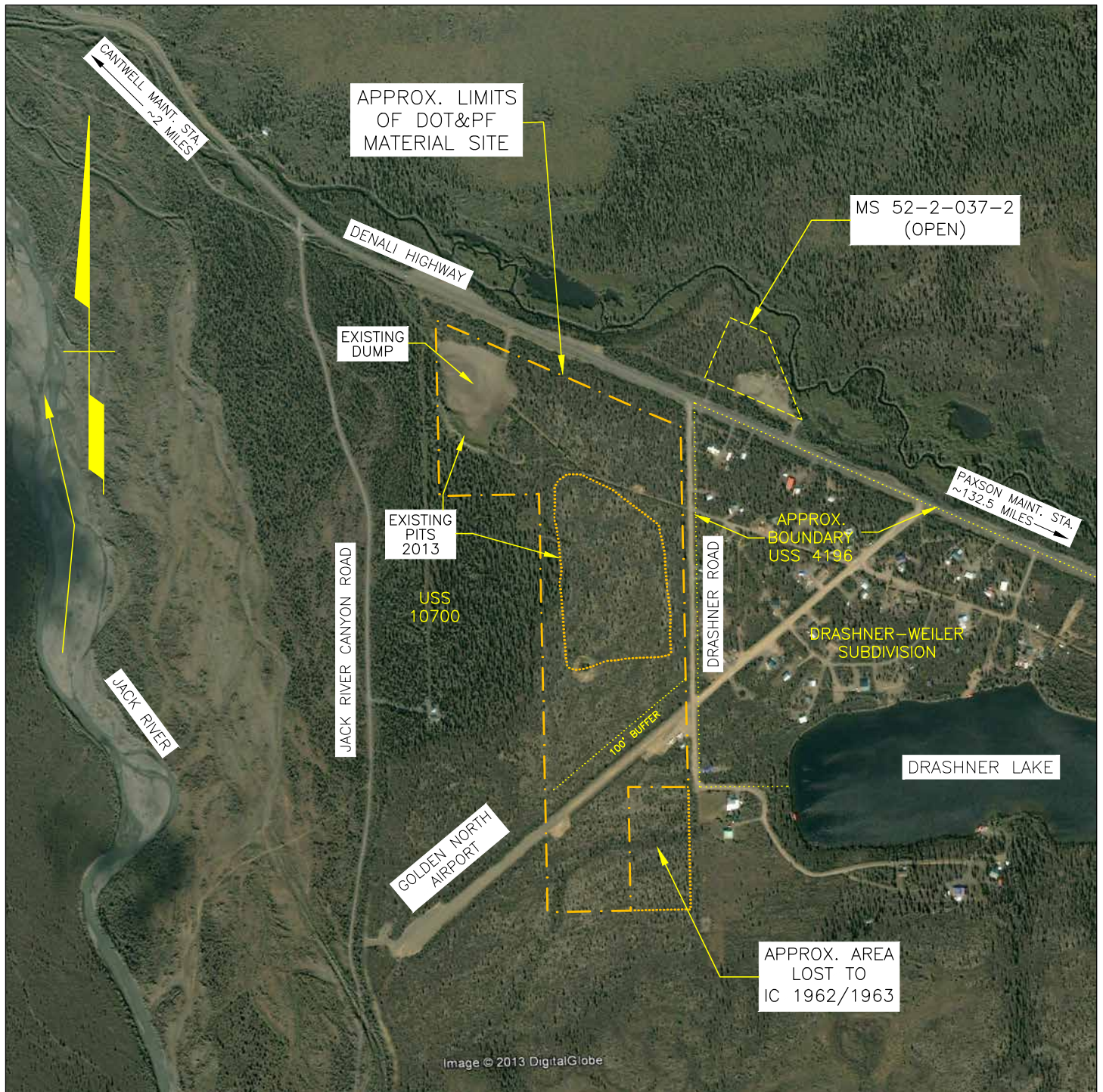
GRAPHIC SCALE IN MILES

BASE MAP CREATED WITH TERRAIN NAVIGATOR PRO

Prepared By:
 R&M CONSULTANTS, INC.

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES			
STATEWIDE MATERIAL SITE INVENTORY			
MS 52-2-040-2			
SCALE AS SHOWN	DESIGNED P.K.H. CHECKED C.H.R.	DRAWN P.K.H. DATE SEPT 2012	PAGE 2

SITE MAP



BASE MAP IS JULY 11, 2004 DIGITALGLOBE SATELLITE IMAGERY. THIS IS A PLANNING DOCUMENT ONLY. THE MATERIAL SITE BOUNDARIES SHOWN ON THIS DRAWING ARE APPROXIMATE. OWNERSHIP OF THE LANDS ADJACENT TO THIS SITE ARE UNKNOWN. THE ACCESS ROW SHOULD BE VERIFIED.

ACTIVE - OPEN



BASE MAP FROM GOOGLE EARTH PRO 6/20/13

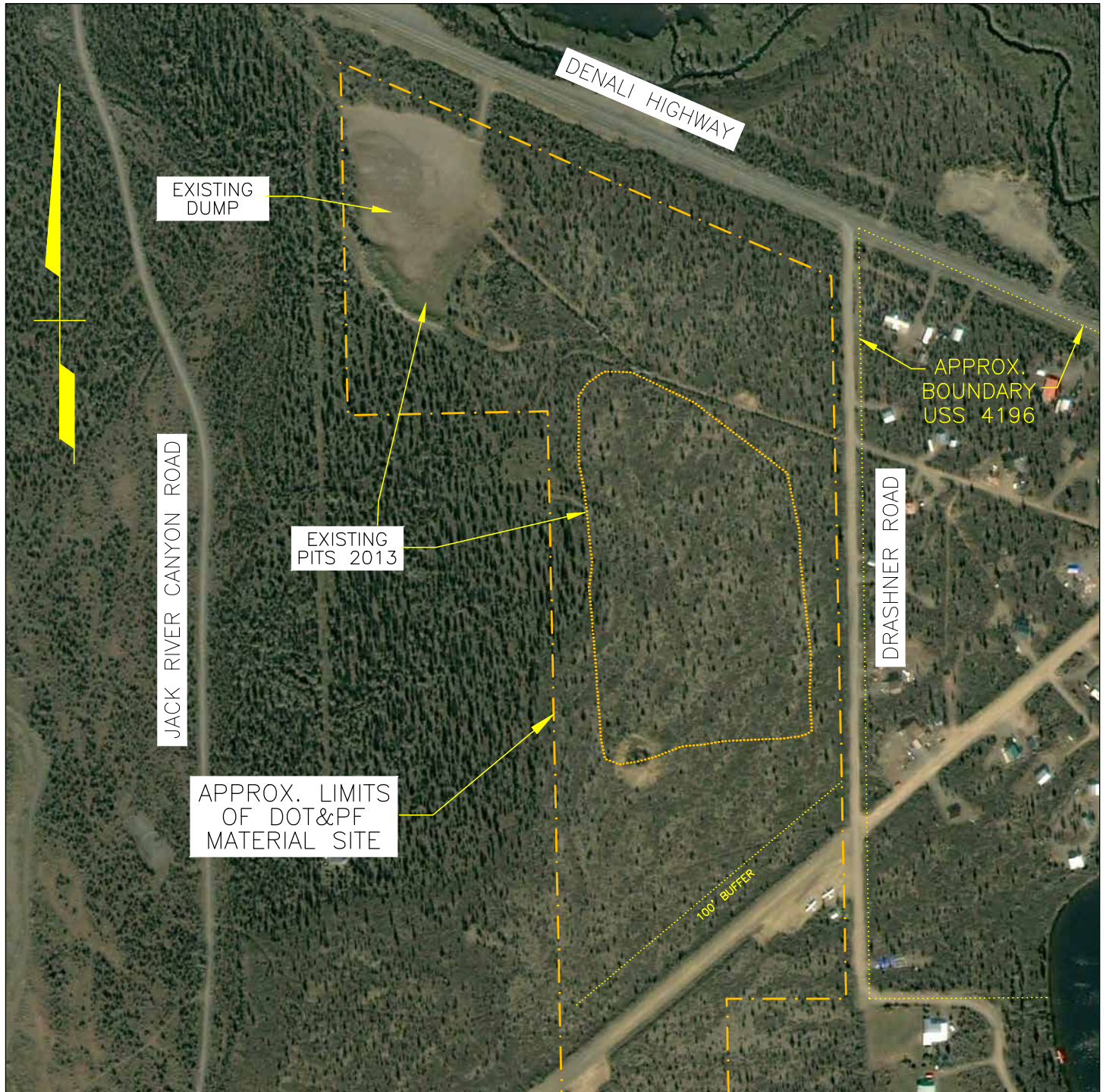
Prepared By:
R&M CONSULTANTS, INC.

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES			
STATEWIDE MATERIAL SITE INVENTORY			
MS 52-2-040-2			
SCALE AS SHOWN	DESIGNED P.K.H. CHECKED C.H.R.	DRAWN P.K.H. DATE JUNE 2013	PAGE 3A

Z:\project\1443.03\52_Denali_Highway\MS 52-2-040-2-A\acad\MS_Site_Map_52-1-040-2.dwg

Plotted 4/21/2014 11:25 AM by Patrick Hewlett

SITE MAP



BASE MAP IS JULY 11, 2004 DIGITALGLOBE SATELLITE IMAGERY.
THIS IS A PLANNING DOCUMENT ONLY. THE MATERIAL SITE BOUNDARIES SHOWN ON THIS
DRAWING ARE APPROXIMATE. OWNERSHIP OF THE LANDS ADJACENT TO THIS SITE ARE
UNKNOWN. THE ACCESS ROW SHOULD BE VERIFIED.

ACTIVE - OPEN



GRAPHIC SCALE IN FEET

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES			
STATEWIDE MATERIAL SITE INVENTORY			
MS 52-2-040-2			
SCALE AS SHOWN	DESIGNED P.K.H. CHECKED C.H.R.	DRAWN P.K.H. DATE JUNE 2013	PAGE 3B

**STATEWIDE MATERIAL SITE INVENTORY
MATERIAL SITE INSPECTION FORM**

THIS REPORT IS BASED ON A REVIEW OF EXISTING DATA AND BRIEF FIELD INSPECTIONS. THUS THE DATA CONTAINED HEREIN SHOULD BE CONSIDERED PRELIMINARY AND USED FOR PLANNING PURPOSES ONLY. USERS OF THIS DATA SHOULD VERIFY THE INFORMATION PRIOR TO USING IT FOR DESIGN OR CONSTRUCTION PURPOSES.

**IF OTHER IS SELECTED FOR A SECTION, EXPLAIN IT IN SECTION 44. NOTES.
IF AN ANSWER IS UNKNOWN SELECT "UNKNOWN" OR LEAVE BLANK**

1. **MS_ID** 52-2-040-2
Enter the full material site number e.g.. 31-3-045-2
2. **DATE_INSPECT** 8/16/2013
Date of field inspection
3. **FLD_INSPEC_ORG** ABE SCHMIDT / R&M CONSULTANTS
Name of inspector / Organization or Company

4. **REGION** NORTHERN
5. **LOCATION** DENALI HIGHWAY
Name of Highway Enter Name of Facility or Secondary Route Name (i.e. Kotzebue Airport, Nash Road, etc.)

6. **MILEPOST** 132
List the closest main highway milepost

7. **NAME** Drashner Pit
Enter commonly used name (s), e.g. Hess pit, Gobblers Knob, Midway. List all that apply separated by commas.

8. **MAINT_DIST/STAT** District DENALI Station CANTWELL
Highway Maintenance District and Station, for locations not on highways select other.

9. **QUAD** HEALY B-4
U.S.G.S. Quad. Map

10. **TOWNSHIP/RANGE** T#S R#E T18S R7W & Meridian FM
Section 2 & 11

11. **COOR_UTM** ZONE 6
NORTHING 7,028,969
EASTING 407,343
UTM WGS84 - Meters
12. **COOR_STATE_PLANE** ZONE 4
NORTHING 3,428,254
EASTING 1,828,545
Alaska State Plane NAD83 - Survey Feet

13. **BOROUGH/CITY** DENALI **TAX ID NO.** NA

14. **DNR_LAND_USE_PLAN** YUKON - TANANA AREA PLAN

15. **CATEGORY** (To be filled in the office)

- 15a. **CLASSIFICATION** ACTIVE

- 15b. **STATUS** OPEN

STATEWIDE MATERIAL SITE INVENTORY

MATERIAL SITE INSPECTION FORM

16. **POTENTIAL_STATUS** SIGNIFICANT

Estimated quantity of material in the site at the time of inspection.

NONE	There appeared to be no useable material in the site.
LIMITED	There appeared to be less than 25,000 c.y. available within the developed site.
SIGNIFICANT	There appeared to be greater than 25,000 c.y. available within the developed site.
EXPANDABLE	There was limited material within the developed site, but there appeared to be significant material outside existing site limits.
UNDEVELOPED	The pit has not been mined/explored (used only for proposed sites).
CLOSED	There may be useable material left in the pit but it is not available.
UNKNOWN	
OTHER	The site does not fit any of the categories above. Explain in Section 44, Notes.

17. **PRESENT_USERS**

17a. **PRESENT_USER_1** DOT&PF MAINTENANCE

17b. **PRESENT_USER_2** DOT&PF CONSTRUCTION

17c. **PRESENT_USER_3** OTHER USER

18. **PERMITTED_ACREAGE** 56.8

Area within site permit or R.O.W. boundaries, from permit application or property plat.

19. **DEVELOPED_ACREAGE** 18.2

Area within an existing pit, excluding spoil berms lying outside the pit, access roads etc. Explain below.

Includes existing pit and an area used as a dump in the past. Developed acreage does not include private airstrip that crosses through site.

20. **ACREAGE_COMP_METHOD** FROM MAP/PHOTO

Method used to determine developed acreage.

21. **EST_QUAN_AVAIL** 460,000 ROUGH ESTIMATE

Estimated quantity available (b.c.y.), may be based on acreage computed above plus expansion area.

Explain computation assumptions and calculations below.

Area	Developed Area	Undeveloped Area	Dump
Acres	<u>12.4</u>	<u>26.5</u>	<u>5.8</u>
Est. Depth (ft.)	<u>5</u>	<u>15</u>	<u>0</u>
Factor (b.c.y. / acre-foot)	<u>1,000</u>	<u>1,000</u>	<u>1,000</u>
Est. Quant. (c.y.)	<u>62,000</u>	<u>398,000</u>	<u>0</u>

Estimated quantity assumes that the developed pit can be worked an additional 5 ft. in depth. It also assumes that the undeveloped portion of the site has an average working depth of 16 ft., including an average overburden depth of 1 ft. Estimated quantity removes the area used as a dump from all calculations. The portion of the site to the south of the airstrip including a 100 ft. buffer to the airstrip was removed from the estimated quantity calculation.

**STATEWIDE MATERIAL SITE INVENTORY
MATERIAL SITE INSPECTION FORM**

22. **ACCESS_TYPE**

EXISTING ROAD / OPEN

NONE

No access road has been built.

EXISTING ROAD / OPEN

Drivable. May have gate.

EXISTING ROAD / REVEG

Can be reopened with little effort.

EXISTING ROAD / CLOSED W/BERMS

Can be reopened with little effort.

EXISTING ACCESS / REMOVED

Can be reopened with much effort.

SNOW ROAD

Can only be accessed during winter.

ICE ROAD

Requires crossing river or lake ice in the winter.

BARGE

Material can only be moved by barge.

OTHER

The site does not fit any of the categories above. Describe in Section 44, Notes.

23. **ACCESS_LENGTH**

200

Approx. length from edge of pit to highway/secondary route (ft.)

24. **VEGETATION**

Spruce trees to 12 in. diameter on 5 to 30-foot centers. Majority of the site contains dwarf birch and willow brush up to 5 ft. in height.

25. **TYPE_1**

BORROW PIT

26. **TYPE_2**

Dominant type

Subordinate type

General Types of Materials Available

Enter data in Type_2 only if two types of material site available

QUARRY

Bedrock sources requiring blasting

BORROW PIT

Soils or soft bedrock (rippable), above water table

BAILING

Requires production below the water table

RIVER BAR

Sand/gravel bars in active channels

27. **OB_CLASS_1**

<3 FT.

28. **OB_CLASS_2**

<3 FT.

New Site or expansion Area

Existing Pit (Spoil)

A site may have both. Data should be based on actual subsurface exploration, otherwise unknown.

Estimated average depth over the area.

NONE

3 TO 6 FT.

UNKNOWN

<3 FT.

>6 FT.

OTHER

29. **OB_TYPE_1**

SILT

30. **OB_TYPE_2**

SPOIL

New Site or expansion Area

Existing Pit (Spoil)

A site may have both.

SILT

PEAT

SOLID WASTE

OTHER

COLLUVIUM

SPOIL

UNKNOWN

**STATEWIDE MATERIAL SITE INVENTORY
MATERIAL SITE INSPECTION FORM**

31. MAT_TYPE_1 Dominant type	FLUVIAL	32. MAT_TYPE_2 Subordinate type
BEDROCK WEATHER. BEDROCK FLUVIAL GLACIAL COLLUVIAL EOLIAN SILT	Bedrock sources requiring blasting Bedrock sources requiring ripping Water deposited sand and gravel, includes glaciofluvial Glacial till Talus slopes, etc. Sand Dunes, etc. Silt deposits, loess, fluvial, etc.	

33. PERMAFROST_1 New Site or Expansion Area	OTHER
---	--------------

34. PERMAFROST_2 Existing Site	DETECTED IN NO TEST HOLES OR PITS
--	--

35. GROUNDWATER

Ground water was not encountered in any past test holes.

STATEWIDE MATERIAL SITE INVENTORY

MATERIAL SITE INSPECTION FORM

36. LITHOLOGY_1

FLUVIAL

37. LITHOLOGY_2

Dominant type

Subordinate type

IGNEOUS ROCK

Undifferentiated Igneous Rocks

GRANITIC

Granite/Monzonite/Granodiorite

DIORITE/GABBRO

Diorite/Gabbro

BASALT

Dark colored fine-grained Igneous Rocks

GREENSTONE

Altered Volcanic Rocks w/green tint

METAMORPHIC ROCK

Undifferentiated Metamorphic Rocks

SCHIST/PHYLLITE

Includes rocks ranging from slate to schist

GNEISS

Includes hard schistose rocks

MARBLE

CATACLASTIC

Incl. Valdez Formation Rocks, Kenai Penn.

MÉLANGE

Incl. McHugh Formation Rocks, Kenai Penn.

SEDIMENTARY ROCK

Undifferentiated Sedimentary Rocks

CONGLOMERATE

SANDSTONE

Includes greywacke, etc.

SHALE/MUDSTONE

LIMESTONE

FLUVIAL

River and stream deposits (floodplain), includes outwash.

ALLUVIAL

Alluvial / Debris Fan deposits

GLACIOFLUVIAL

Eskers, kames, etc.

GLACIAL

Till

COLLUVIAL

Talus, etc.

EOLIAN

Sand Dunes, etc.

SILT

Loess, fluvial silts, etc.

OTHER

Explain in Section 44.

38. MATERIAL_CLASSIFICATION

ASTM Classification, generally they should range from coarse to fine.

38a. GW
38b. GP

38c. GW-GM
38d. GP-GM

38e. SP-SM
38f. _____

38g. _____
38h. _____

STATEWIDE MATERIAL SITE INVENTORY

MATERIAL SITE INSPECTION FORM

39. COBBLES_AND_BOULDERS

Test Boring Callout / ASTM Classification, either a. or b. and c. not both (Can use ranges i.e. 0 to 20)

39a.	CONTAINS		
39b.	Est. % by VOL.	10 to 30	(Est. From Visual Observations)
39c.	MAX. SIZE (in.)	24	(Observed Size)

40. AGG_TEST_RESULTS

Year of test or report- Test result / Year of test or report- Test Results

40a. SG APP COARSE	1990- 2.67, 2.66, 2.68
40b. SG APP FINE	1990- 2.66, 2.66, 2.66, 2.60
40c. ABSORPTION CRSE	
40d. ABSORPTION FINE	
40e. NORDIC ABRASION	
40f. L.A. ABRASION	1988- 18, 17, 17 / 1990- 18, 19, 18, 18 19, 17, 15, 17, 18 / 1998- 20
40g. DEGRADATION (T-13)	1988- 26, 35, 20 / 1990- 11, 24, 25, 17, 15, 42, 18, 15, 21 / 1994- 15 / 1998- 20
40h. NASO4 LOSS COARSE	1990- 3, 4, 10 / 1998- 6.3
40i. NASO4 LOSS FINE	1990- 3, 4, 4 / 1998- 6.5

41. POTENTIAL_USABILITY

CRUSHED PRODUCTS PRODUCED

Best known potential use of the material, based on records, exploration and laboratory data.

CONCRETE AGGREGATE PRODUCED	The site has produced concrete aggregate
PAVING AGGREGATE PRODUCED	The site has produced paving aggregate
CRUSHED PRODUCTS PRODUCED	Base, Surface Coarse, Subbase, etc. has been produced.
TYPE A AND B MATERIAL AVAILABLE	0 to 10 percent passing 200
TYPE C AVAILABLE	Compactable material
TYPE C NOT AVAILABLE	Uncompactable material (Lower Kuskokwim and Yukon River, etc.)
UNKNOWN	
OTHER	Explain in Section 44.

42. SPECIAL_PROBLEMS

Special problems encountered or anticipated with use of the material, based on records, exploration and laboratory data.

ORGANIC CONTENT	The material is very difficult to compact.
HIGHLY WEATHERED GRAVEL	The gravel is highly weathered and may break down when handled.
BREAKS DOWN UNDER USE	Material breaks down on grade.
SENSITIVE TO WATER CONTENT	Material is sensitive to water content, i.e.. some glacial tills, soft bedrock.
VARIABLE MATERIAL	Deposit contains mixture of suitable and unsuitable material.
POSSIBLE CONTAMINATION	Site may be contaminated by petroleum products or hazardous materials.
CONTAINS ASBESTOS	Site contains naturally occurring asbestos.
POTENTIAL ASBESTOS	Site in area where naturally occurring asbestos is mapped.
ACID ROCK DRAINAGE	Site contains rock susceptible to producing acid rock drainage.
OTHER	Explain in Section 44, Notes.

**STATEWIDE MATERIAL SITE INVENTORY
MATERIAL SITE INSPECTION FORM**

43. RIPRAP

NOT POSSIBLE

Class II or larger. Does not include production for erosion control riprap for ditches or culverts.

PREVIOUS PRODUCTION

There is a record of production.

POSSIBLE FURTHER INVESTIGATION NEEDED

The site is a bedrock quarry containing hard rock

NOT POSSIBLE

The site has soft rock or soil.

UNKNOWN

OTHER

Explain in Section 44, Notes.

44. NOTES

Note number of item being discussed.

STATEWIDE MATERIAL SITE INVENTORY

MATERIAL SITE **INSPECTION REPORT**

Federal Project No. STP-000S(823)
AKSAS Project No. 76149

DENALI HIGHWAY

MS 52-2-092-2

July 5, 2013

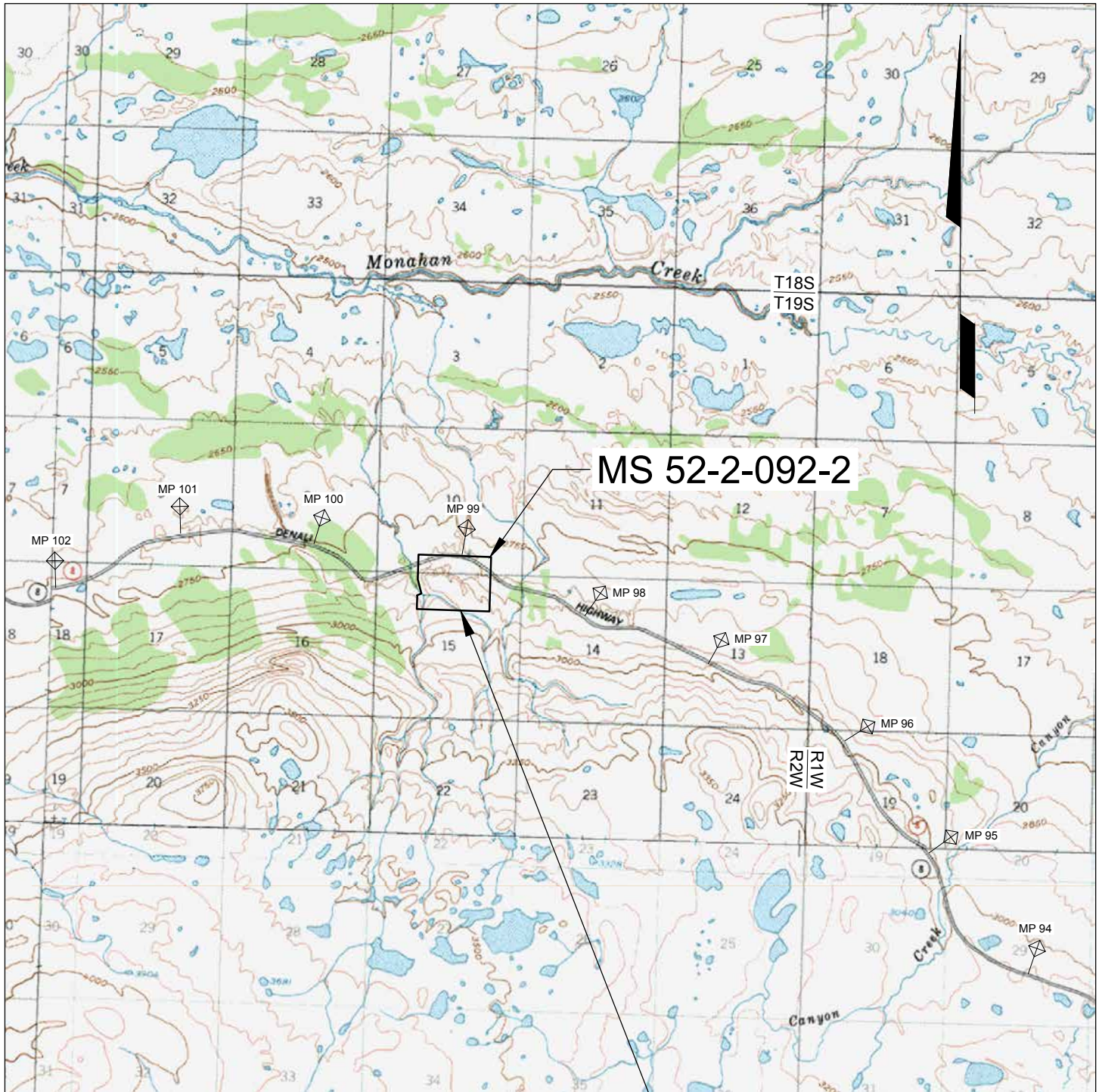
<u>CONTENTS</u>	<u>PAGE</u>
COVER SHEET.....	1
LOCATION MAP	2
SITE MAP	3A & 3B
INSPECTION FORM.....	4 thru 10

CATEGORY:

ACTIVE – POTENTIAL

According to information found in the DOT&PF EDMS system in January 2009 and BLM and DNR case file abstracts, this site lies on State of Alaska lands managed by DNR within the Matanuska Susitna Borough (MSB). The site was originally applied for to BLM in 1986 but the application apparently did not proceed. The lands were tentatively approved (TA 1992-0047) to the State of Alaska in 1992 (AA-60305 / GS 5203). DNR issued a permit for a geotechnical exploration program in 1998 (LAS 22259). DOT&PF has again applied (ADL 230954) for the site from DNR in May of 2012. The site limits shown on the site maps allow for a 100-foot buffer around USS 8523, a private parcel (PA 50-86-0142). The site had been proposed as a DMLW Southcentral Region Office (SCRO) Designated Master Material Site (ADL 231377) under AS 38.05.550(b) for the use and operation for the long-term sale and extraction of materials until closed by DNR. However, it was not on the November 29, 2012 list of sites selected for the DNR program. The proposed site overlies the Denali Highway right-of-way. The site is undeveloped and there is no access road to the site. The site appears to contain significant quantities of sand and gravel and should be obtained by DOT&PF for future use. A MSB conditional land use permit may be required prior to mining the site.

LOCATION MAP



U.S.G.S. QUADRANGLE: HEALY (A-2), (B-2) & (B-3)

GPS COORDINATES FROM GOOGLE EARTH

UTM (WGS84-METERS)
 ZONE 6: N7,016,767 E454,077
 AK STATE PLANE (NAD83-US SURVEY FT)
 ZONE 3: N3,394,555 E1,325,079

ACTIVE - POTENTIAL



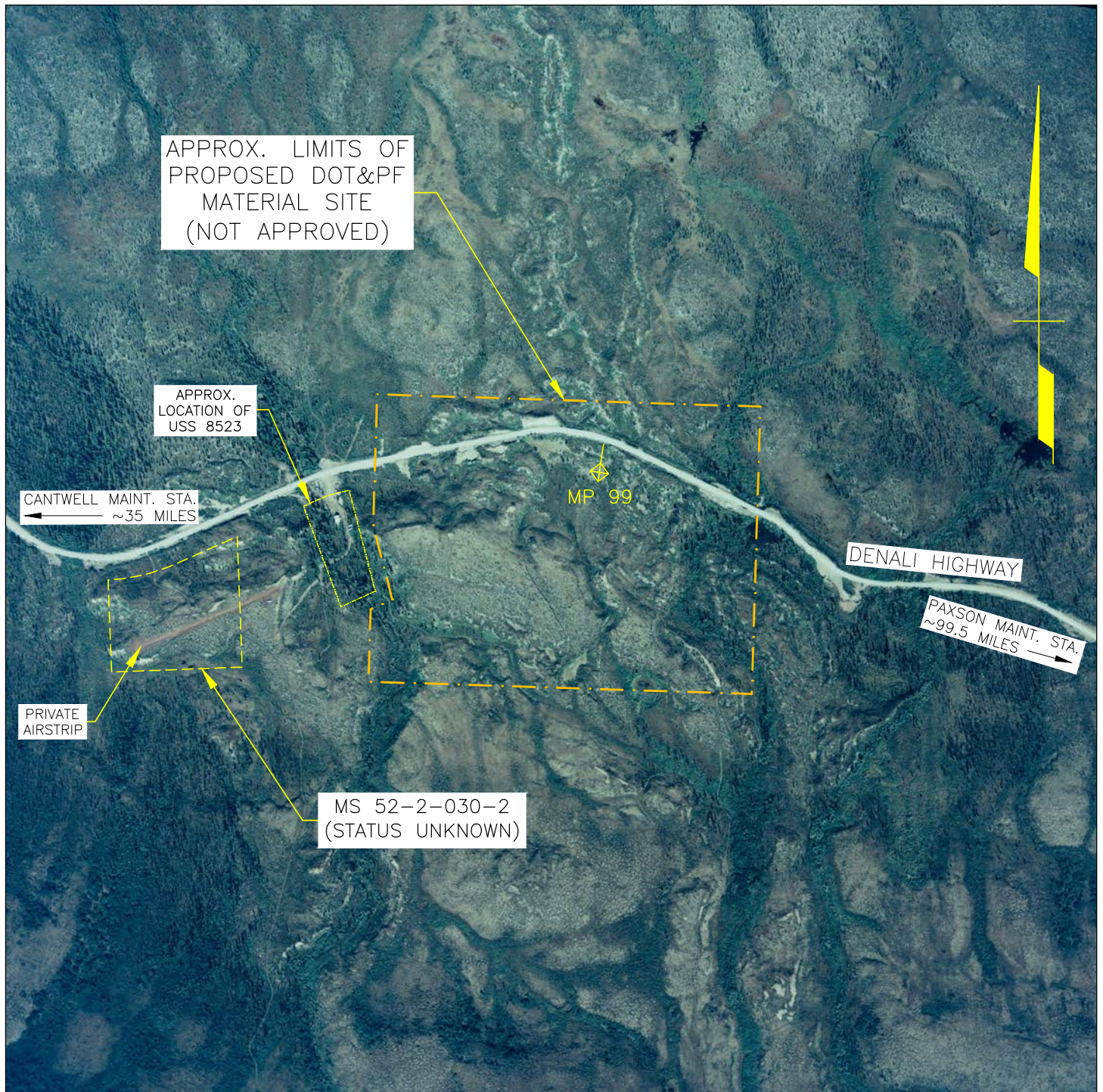
GRAPHIC SCALE IN MILES

BASE MAP CREATED WITH TERRAIN NAVIGATOR PRO

Prepared By:
 R&M CONSULTANTS, INC.

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES			
STATEWIDE MATERIAL SITE INVENTORY			
MS 52-2-092-2			
SCALE AS SHOWN	DESIGNED P.K.H. CHECKED C.H.R.	DRAWN P.K.H. DATE SEPT 2013	PAGE 2

SITE MAP



BASE MAP IS AUGUST 23, 1980 AERIAL PHOTOGRAPHY. THIS IS A PLANNING DOCUMENT ONLY. THE MATERIAL SITE BOUNDARIES SHOWN ON THIS DRAWING ARE APPROXIMATE. OWNERSHIP OF THE LANDS ADJACENT TO THIS SITE ARE UNKNOWN. THE ACCESS ROW SHOULD BE VERIFIED.

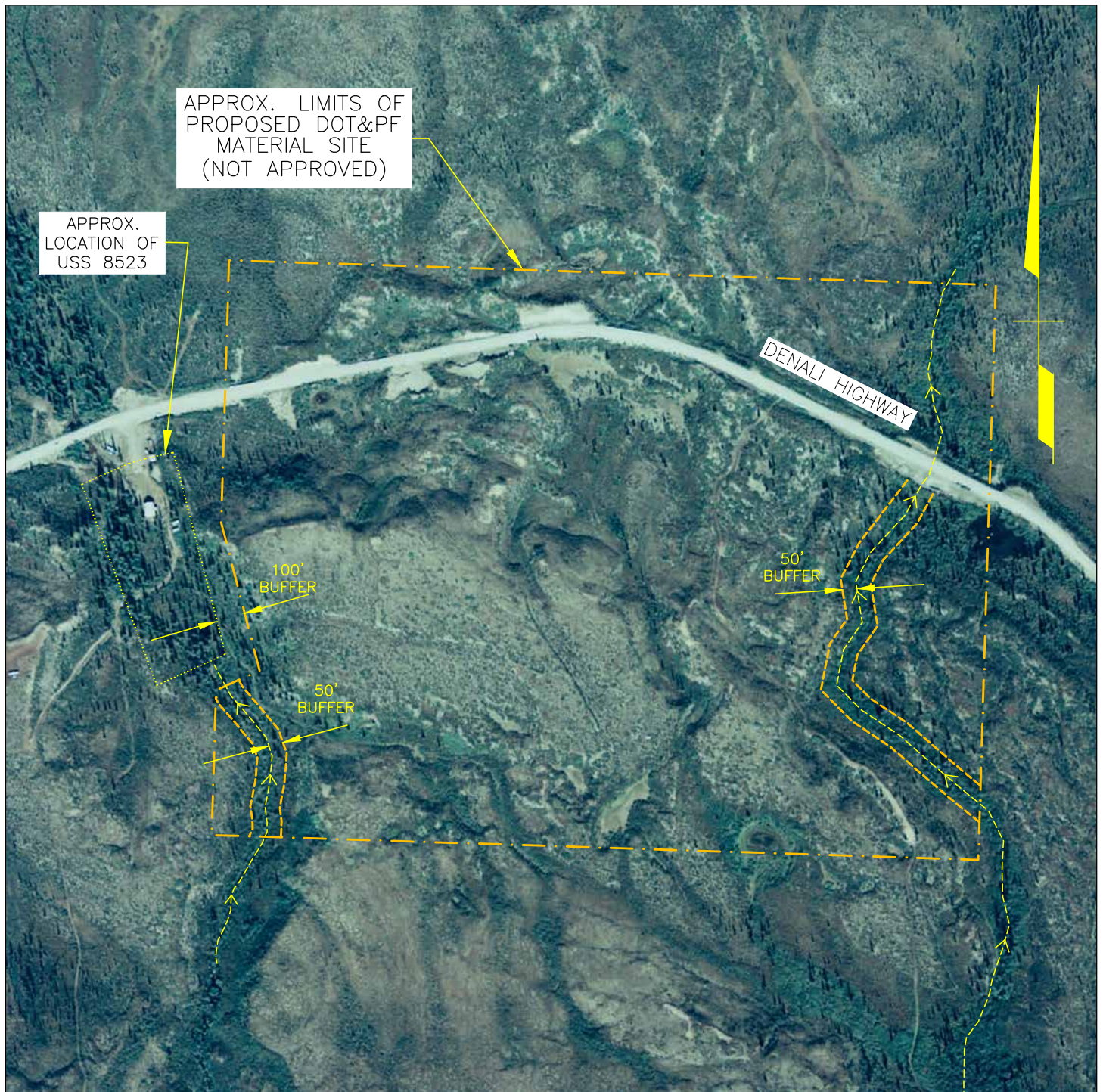
ACTIVE - POTENTIAL



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STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES			
STATEWIDE MATERIAL SITE INVENTORY			
MS 52-2-092-2			
SCALE AS SHOWN	DESIGNED P.K.H. CHECKED C.H.R.	DRAWN P.K.H. DATE JUNE 2013	PAGE 3A

SITE MAP



BASE MAP IS AUGUST 23, 1980 AERIAL PHOTOGRAPHY.
THIS IS A PLANNING DOCUMENT ONLY. THE MATERIAL SITE BOUNDARIES SHOWN ON THIS
DRAWING ARE APPROXIMATE. OWNERSHIP OF THE LANDS ADJACENT TO THIS SITE ARE
UNKNOWN. THE ACCESS ROW SHOULD BE VERIFIED.

ACTIVE - POTENTIAL



Prepared By:
R&M CONSULTANTS, INC.

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES			
STATEWIDE MATERIAL SITE INVENTORY			
MS 52-2-092-2			
SCALE AS SHOWN	DESIGNED P.K.H. CHECKED C.H.R.	DRAWN P.K.H. DATE JUNE 2013	PAGE 3B

**STATEWIDE MATERIAL SITE INVENTORY
MATERIAL SITE INSPECTION FORM**

THIS REPORT IS BASED ON A REVIEW OF EXISTING DATA AND BRIEF FIELD INSPECTIONS. THUS THE DATA CONTAINED HEREIN SHOULD BE CONSIDERED PRELIMINARY AND USED FOR PLANNING PURPOSES ONLY. USERS OF THIS DATA SHOULD VERIFY THE INFORMATION PRIOR TO USING IT FOR DESIGN OR CONSTRUCTION PURPOSES.

**IF OTHER IS SELECTED FOR A SECTION, EXPLAIN IT IN SECTION 44. NOTES.
IF AN ANSWER IS UNKNOWN SELECT "UNKNOWN" OR LEAVE BLANK**

1. **MS_ID** 52-2-092-2
Enter the full material site number e.g.. 31-3-045-2
2. **DATE_INSPECT** 8/6/2013
Date of field inspection
3. **FLD_INSPEC_ORG** ABE SCHMIDT / R&M CONSULTANTS
Name of inspector / Organization or Company

4. **REGION** NORTHERN
5. **LOCATION** DENALI HIGHWAY
Name of Highway Enter Name of Facility or Secondary Route Name (i.e. Kotzebue Airport, Nash Road, etc.)
6. **MILEPOST** 99
List the closest main highway milepost
7. **NAME**
Enter commonly used name (s), e.g. Hess pit, Gobblers Knob, Midway. List all that apply separated by commas.
8. **MAINT_DIST/STAT** District DENALI Station CANTWELL
Highway Maintenance District and Station, for locations not on highways select other.
9. **QUAD** HEALY B-2
U.S.G.S. Quad. Map
10. **TOWNSHIP/RANGE** T#S R#E T19S R2W & Meridian FM
Section 10 & 15
11. **COOR_UTM** ZONE 6
NORTHING 7,016,767
EASTING 454,077
UTM WGS84 - Meters
12. **COOR_STATE_PLANE** ZONE 3
NORTHING 3,394,555
EASTING 1,325,079
Alaska State Plane NAD83 - Survey Feet
13. **BOROUGH/CITY** MAT-SU BOROUGH **TAX ID NO.** NA
14. **DNR_LAND_USE_PLAN** SUSITNA AREA PLAN

15. **CATEGORY** (To be filled in the office)
- 15a. **CLASSIFICATION** ACTIVE
- 15b. **STATUS** POTENTIAL

STATEWIDE MATERIAL SITE INVENTORY

MATERIAL SITE INSPECTION FORM

16. **POTENTIAL_STATUS** SIGNIFICANT

Estimated quantity of material in the site at the time of inspection.

NONE	There appeared to be no useable material in the site.
LIMITED	There appeared to be less than 25,000 c.y. available within the developed site.
SIGNIFICANT	There appeared to be greater than 25,000 c.y. available within the developed site.
EXPANDABLE	There was limited material within the developed site, but there appeared to be significant material outside existing site limits.
UNDEVELOPED	The pit has not been mined/explored (used only for proposed sites).
CLOSED	There may be useable material left in the pit but it is not available.
UNKNOWN	
OTHER	The site does not fit any of the categories above. Explain in Section 44, Notes.

17. **PRESENT_USERS**

17a. **PRESENT_USER_1** NONE

17b. **PRESENT_USER_2** _____

17c. **PRESENT_USER_3** _____

18. **PERMITTED_ACREAGE** 119

Area within site permit or R.O.W. boundaries, from permit application or property plat.

19. **DEVELOPED_ACREAGE** 1.4

Area within an existing pit, excluding spoil berms lying outside the pit, access roads etc. Explain below.

Includes several existing pits within the Denali Highway R.O.W. The remainder of the site appears to be undeveloped.

20. **ACREAGE_COMP_METHOD** FROM MAP/PHOTO

Method used to determine developed acreage.

21. **EST_QUAN_AVAIL** 1,500,000 ROUGH ESTIMATE

Estimated quantity available (b.c.y.), may be based on acreage computed above plus expansion area.

Explain computation assumptions and calculations below.

Area	Undeveloped Area	Developed Area	Other Area
Acres	<u>78.0</u>	<u>1.4</u>	<u>0.0</u>
Est. Depth (ft.)	<u>20</u>	<u>0</u>	<u></u>
Factor (b.c.y. / acre-foot)	<u>1,000</u>	<u>1,000</u>	<u>1,000</u>
Est. Quant. (c.y.)	<u>1,560,000</u>	<u>0</u>	<u>0</u>

Estimated quantity assumes that the undeveloped area has an averaged working depth of 22 ft., including an average overburden depth of 2 ft. The quantity only takes into account the area south of the Denali highway. There are also 50 ft. buffers applied to creeks and wetlands within the site.

**STATEWIDE MATERIAL SITE INVENTORY
MATERIAL SITE INSPECTION FORM**

22. **ACCESS_TYPE** _____

OTHER _____

NONE

EXISTING ROAD / OPEN

EXISTING ROAD / REVEG

EXISTING ROAD / CLOSED W/BERMS

EXISTING ACCESS / REMOVED

SNOW ROAD

ICE ROAD

BARGE

OTHER

No access road has been built.

Drivable. May have gate.

Can be reopened with little effort.

Can be reopened with little effort.

Can be reopened with much effort.

Can only be accessed during winter.

Requires crossing river or lake ice in the winter.

Material can only be moved by barge.

The site does not fit any of the categories above. Describe in Section 44, Notes.

23. **ACCESS_LENGTH** _____

90

Approx. length from edge of pit to highway/secondary route (ft.)

24. **VEGETATION**

Occasional 3 to 5 ft. tall dwarf birch bushes, alder bushes to 6 ft. tall, and spruce trees up to 8 in. in diameter vegetate the site. Groundcover is grass, lichen, and blueberry bushes. Overburden consists of a 6 to 12 in. thick organic mat.

25. **TYPE_1** _____

BORROW PIT _____

26. **TYPE_2** _____

Dominant type

Subordinate type

General Types of Materials Available

Enter data in Type_2 only if two types of material site available

QUARRY

Bedrock sources requiring blasting

BORROW PIT

Soils or soft bedrock (rippable), above water table

BAILING

Requires production below the water table

RIVER BAR

Sand/gravel bars in active channels

27. **OB_CLASS_1** _____

<3 FT.

28. **OB_CLASS_2** _____

New Site or expansion Area

Existing Pit (Spoil)

A site may have both. Data should be based on actual subsurface exploration, otherwise unknown.

Estimated average depth over the area.

NONE

3 TO 6 FT.

UNKNOWN

<3 FT.

>6 FT.

OTHER

29. **OB_TYPE_1** _____

SILT _____

30. **OB_TYPE_2** _____

New Site or expansion Area

Existing Pit (Spoil)

A site may have both.

SILT

PEAT

SOLID WASTE

OTHER

COLLUVIUM

SPOIL

UNKNOWN

**STATEWIDE MATERIAL SITE INVENTORY
MATERIAL SITE INSPECTION FORM**

31. MAT_TYPE_1 Dominant type	FLUVIAL	32. MAT_TYPE_2 Subordinate type
BEDROCK WEATHER. BEDROCK FLUVIAL GLACIAL COLLUVIAL EOLIAN SILT	Bedrock sources requiring blasting Bedrock sources requiring ripping Water deposited sand and gravel, includes glaciofluvial Glacial till Talus slopes, etc. Sand Dunes, etc. Silt deposits, loess, fluvial, etc.	

33. PERMAFROST_1 New Site or Expansion Area	DETECTED IN MOST TEST HOLES OR PITS
---	--

34. PERMAFROST_2 Existing Site	DETECTED IN MOST TEST HOLES DETECTED IN SOME TEST HOLES DETECTED IN IMMEDIATE VICINITY DETECTED IN NO TEST HOLES DATA OUTDATED UNKNOWN OTHER
--	--

35. GROUNDWATER	<div style="border: 1px solid black; padding: 10px; min-height: 100px;"> <p>Groundwater was noted between 6 and 12 feet in test hole logs during August, 1989 and September, 1990 investigations. Water table was often seen perched 1 to 2 ft. above frozen soils and observed 'sandwiched' between layers of frozen soil.</p> </div>
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STATEWIDE MATERIAL SITE INVENTORY

MATERIAL SITE INSPECTION FORM

36. LITHOLOGY_1

GLACIOFLUVIAL

37. LITHOLOGY_2

ALLUVIAL

Dominant type

Subordinate type

IGNEOUS ROCK

Undifferentiated Igneous Rocks

GRANITIC

Granite/Monzonite/Granodiorite

DIORITE/GABBRO

Diorite/Gabbro

BASALT

Dark colored fine-grained Igneous Rocks

GREENSTONE

Altered Volcanic Rocks w/green tint

METAMORPHIC ROCK

Undifferentiated Metamorphic Rocks

SCHIST/PHYLLITE

Includes rocks ranging from slate to schist

GNEISS

Includes hard schistose rocks

MARBLE

CATACLASTIC

Incl. Valdez Formation Rocks, Kenai Penn.

MÉLANGE

Incl. McHugh Formation Rocks, Kenai Penn.

SEDIMENTARY ROCK

Undifferentiated Sedimentary Rocks

CONGLOMERATE

SANDSTONE

Includes greywacke, etc.

SHALE/MUDSTONE

LIMESTONE

FLUVIAL

River and stream deposits (floodplain), includes outwash.

ALLUVIAL

Alluvial / Debris Fan deposits

GLACIOFLUVIAL

Eskers, kames, etc.

GLACIAL

Till

COLLUVIAL

Talus, etc.

EOLIAN

Sand Dunes, etc.

SILT

Loess, fluvial silts, etc.

OTHER

Explain in Section 44.

38. MATERIAL_CLASSIFICATION

ASTM Classification, generally they should range from coarse to fine.

38a. GW

38c. GP-GM

38e. SM

38g. _____

38b. GP

38d. GM

38f. _____

38h. _____

STATEWIDE MATERIAL SITE INVENTORY

MATERIAL SITE INSPECTION FORM

39. COBBLES_AND_BOULDERS

Test Boring Callout / ASTM Classification, either a. or b. and c. not both (Can use ranges i.e. 0 to 20)

39a.	CONTAINS	CONTAINS COBBLES AND BOULDERS	
39b.	Est. % by VOL.		(Est. From Visual Observations)
39c.	MAX. SIZE (in.)		(Observed Size)

40. AGG_TEST_RESULTS

Year of test or report- Test result / Year of test or report- Test Results

40a. SG APP COARSE	1989- 2.72, 2.84, 2.86
40b. SG APP FINE	1989- 2.72, 2.75, 2.73 / 1990- 2.66, 2.76, 2.76, 2.76, 2.77, 2.75, 2.77
40c. ABSORPTION CRSE	
40d. ABSORPTION FINE	
40e. NORDIC ABRASION	
40f. L.A. ABRASION	1988- 21, 22 / 1989- 22, 22, 24, 24, 22
40g. DEGRADATION (T-13)	1988- 34, 38 / 1989- 73, 33, 13, 35, 36, 30
40h. NASO4 LOSS COARSE	1989- 1.4
40i. NASO4 LOSS FINE	1989- 4.0

41. POTENTIAL_USABILITY

TYPES A AND B MATERIAL AVAILABLE

Best known potential use of the material, based on records, exploration and laboratory data.

CONCRETE AGGREGATE PRODUCED	The site has produced concrete aggregate
PAVING AGGREGATE PRODUCED	The site has produced paving aggregate
CRUSHED PRODUCTS PRODUCED	Base, Surface Coarse, Subbase, etc. has been produced.
TYPE A AND B MATERIAL AVAILABLE	0 to 10 percent passing 200
TYPE C AVAILABLE	Compactable material
TYPE C NOT AVAILABLE	Uncompactable material (Lower Kuskokwim and Yukon River, etc.)
UNKNOWN	
OTHER	Explain in Section 44.

42. SPECIAL_PROBLEMS

Special problems encountered or anticipated with use of the material, based on records, exploration and laboratory data.

ORGANIC CONTENT	The material is very difficult to compact.
HIGHLY WEATHERED GRAVEL	The gravel is highly weathered and may break down when handled.
BREAKS DOWN UNDER USE	Material breaks down on grade.
SENSITIVE TO WATER CONTENT	Material is sensitive to water content, i.e.. some glacial tills, soft bedrock.
VARIABLE MATERIAL	Deposit contains mixture of suitable and unsuitable material.
POSSIBLE CONTAMINATION	Site may be contaminated by petroleum products or hazardous materials.
CONTAINS ASBESTOS	Site contains naturally occurring asbestos.
POTENTIAL ASBESTOS	Site in area where naturally occurring asbestos is mapped.
ACID ROCK DRAINAGE	Site contains rock susceptible to producing acid rock drainage.
OTHER	Explain in Section 44, Notes.

**STATEWIDE MATERIAL SITE INVENTORY
MATERIAL SITE INSPECTION FORM**

43. RIPRAP

NOT POSSIBLE

Class II or larger. Does not include production for erosion control riprap for ditches or culverts.

PREVIOUS PRODUCTION

There is a record of production.

POSSIBLE FURTHER INVESTIGATION NEEDED

The site is a bedrock quarry containing hard rock

NOT POSSIBLE

The site has soft rock or soil.

UNKNOWN

OTHER

Explain in Section 44, Notes.

44. NOTES

Note number of item being discussed.

22. Site lies across the Denali Highway. There is no existing access road, though there is an ATV trail that crosses through the majority of the site.

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND & WATER
Southcentral Region
550 W. 7th, Suite 900C
Anchorage, Alaska 99501-3577

NEGOTIATED MATERIAL SALE CONTRACT
ADOT Material Sale ADL 230954 MS 52-2-092-2
MP 99 Denali Highway
Expires May 31, 2024

Under AS 38.05.550-38.05.565 (Disposal of Materials) AS 38.05.125 and AS 38.05.810(a) and the regulations implementing these statutes, the State of Alaska, Department of Natural Resources, the seller, whose address is 550 W. 7th Avenue, Suite 900C, Anchorage, AK 99501-3577, agrees to sell, and the State of Alaska, Department of Transportation and Public Facilities (DOT&PF), the buyer, whose address is 2301 Peger Road Fairbanks Alaska 99709, agrees to buy, the material designated in this contract, subject to the provisions which follow:

1. Description: Location, Material, Quantity, and Price.

(a) The material sale area covered by this contract contains approximately 80 acres within Township 19 South Range 2 West, Section 10: that portion of the SE1/4 lying south of the Denali Highway and Section 15: that portion of the N1/2NE1/4 lying south of the Denali Highway, Fairbanks Meridian. (**MATERIAL SITE ADL 231377**)for the removal of gravel . The area is further designated by the boundaries shown on the attached sale area map, which is made part of this contract, or as designated on the ground by the seller.

(b) The material to be removed and the price are:

Kind of Material	No. Of Units	Unit Price	Total Price
Gravel	up to 500,000 cy	\$.50/cubic yard	See 2(a) below

2. Payments and Deposits. No part of the materials sold under this contract may be extracted from the sale area by the buyer except in accordance with the following terms:

(a) In accordance with Director's Policy File 93-06, Fee Schedule Section (17), Material Sales for Public Projects, Sale of materials to be used in constructing, reconstructing or maintaining a public project:

(1) for the first 5,000 cubic yards of material to be removed there will be no charge; for maintenance on an ongoing basis, a project is considered to last one year.

(2) for each cubic yard of material beyond 5,000 cubic yards, the base fee listed in the annual base price schedule under 11 AAC 71.090 will be charged. For the fiscal years 2013, the base price has been set at \$0.50 per cubic yard.

(b) Payment becomes due and payable on December 31 of each subsequent year this contract is in effect, without prior notice to the buyer, for the value of material extracted as of that date. The payment must be based on records required in paragraph 3 of this contract and must be submitted to the seller no later than the fifth working day following the date the installment is due.

(c) A final accounting and payment for material removed must be made no later than 30 days, following contract completion or termination of the contract by the seller or by operation of law. The Director of the Division of Mining, Land and Water will decide whether completion is satisfactory within 30 days after receiving the final accounting report.

(d) If the buyer fails to make a payment provided for in this contract, the seller may, under paragraph 8(b) of this contract, order all material extraction suspended immediately. Materials extracted by the buyer during any period of suspension are considered taken in trespass and are to be charged to and paid for by the buyer at triple the unit contract price. Resumption of the lawful taking of material may be authorized, in writing, by the Division of Mining, Land and Water only after the payments in arrears plus the penalty provided for in paragraph 2(f) have been made.

(e) A late-payment penalty equal to one and one-half percent of the amount due will be assessed for each month, or portion thereof, of any period a payment is delinquent.

(f) All payments and deposits must be remitted to the Division of Mining, Land and Water, Southcentral Region Office, 550 W. 7th Avenue, Suite 900c, Anchorage, AK 99501-3577 and must be made payable to the Alaska Department of Revenue.

(g) Special Provisions. The following special provisions also apply to payments and deposits under this contract: **N/A.**

3. Method of Volume Determination.

(a) Use records will be due to the Division of Mining, Land and Water, Southcentral Region Office, 550 W. 7th Avenue, Suite 900C, Anchorage, AK 99501-3577, with the final use records due 30 days following contract completion.

(b) The buyer shall keep accurate and up-to-date records of all materials extracted. These records are subject to verification by check measure and inspection of the buyer's books by the seller at any time without notice.

(c) Special Provisions. The following special provisions also apply to volume determinations under this contract: **N/A.**

4. Operating Requirements.

(a) Boundary Lines and Survey Monuments. No boundary mark of the sale area nor any survey line or witness tree for any survey corner or monument, may be severed or removed, nor may any survey corner or monument be damaged or destroyed. Any violation of this clause requires the buyer to bear the expense of re-establishing the line, corner, or monument by a registered surveyor in a manner approved by the seller.

(b) Standard of Operations. The buyer shall properly locate himself and his improvements within the sale area, and may not commit waste, whether ameliorated or otherwise. In addition to complying with all laws, regulations, ordinances, and orders, the buyer shall maintain the land in a reasonably neat and clean condition, and shall take all prudent precautions to prevent or suppress grass, brush, or forest fires, and to prevent erosion or destruction of the land.

(c) Erosion Control and Protection of Waters. Road construction or operations in connection with this contract must be conducted so as to avoid damage to streams, lakes, or other water areas and land adjacent to them. Vegetation and materials may not be deposited into any stream or other water area. Locations and improvements necessary for stream crossings for haul roads must be approved in advance by the seller. All roads to be abandoned must be treated with measures necessary to prevent erosion in a manner acceptable to the seller. Any damage resulting from failure to perform these requirements must be repaired by the buyer to the satisfaction of the seller. This includes waters defined in 5 AAC 95.010 - 5 AAC 95.050, Protection of Fish and Game Habitat.

(d) Fire Protection. The buyer shall take all necessary precautions for the prevention of wild fires and is responsible for the suppression, and must bear the suppression costs, of all destructive or uncontrolled fires occurring in or outside the sale area resulting from any of the buyer's operations under this contract. The buyer shall comply with all laws, regulations, and ordinances promulgated by all governmental agencies responsible for fire protection in the area.

(e) Roads. Before constructing any mainhaul, secondary, or spur road across state land, the buyer shall obtain written approval of the proposed location and construction standards of the road from the seller.

(f) Supervision. The buyer shall maintain adequate supervision at all times when operations are in progress to insure that the provisions of this contract and all applicable federal, state, and local laws, regulations, and operations are in progress, the buyer or a person authorized by him to assume the responsibilities imposed by this contract, shall be present on the sale area.

(g) Agents. The provisions of this contract apply with equal force upon an agent, employee, or contractor designated by the buyer to perform any of the operations relating to extraction of the materials sold under this contract. The buyer is liable for noncompliance caused by any such agent, employee, or contractor.

(h) Location. The buyer is responsible for the accurate location of operations under this contract, including any survey that may be necessary for accurate location unless otherwise specified in this contract.

(i) Access. The seller makes no representations that it will construct or maintain access to the land. Access over any route not under the seller's control is the responsibility of the buyer. The buyer agrees that any permanent access or right-of-way obtained over privately owned property will provide a permanent easement to the seller.

5. Indemnity of Seller and Bonding. N/A

(a) The buyer shall indemnify and hold the seller harmless from:

1. all claims and demands for loss or damage, including property damage, personal injury, wrongful death, and wage or employment claims, arising out of or in connection with the use or occupancy of the land or operations by the buyer or his successors, or at his invitation; and
2. any accident or fire on the land; and
3. any nuisance on the land; and
4. any failure of the buyer to keep the land in a safe and lawful condition consistent with applicable laws, regulations, ordinances, or orders; and
5. any assignment, sublease, or conveyance, attempted or successful, by the buyer which is contrary to the provisions of this contract.

The buyer will keep all goods, materials, furniture, fixtures, equipment, machinery, and other property on the land at his sole risk, and will hold the seller harmless from any claim of loss or damage to them by any cause.

(b) The buyer will be required to file a bond to insure the buyer's performance and to help protect the seller against any liability that may arise as a result of the activities of the buyer. The bond will also be applicable to the development/reclamation plan submitted to the state. A bond acceptable to the seller in the amount of \$ N/A must be filed with the seller at the time of execution of this contract to insure the buyer's performance and financial responsibility.

6. Improvements and Occupancy.

(a) Any improvements or facilities including crushers, mixing plants, buildings, bridges, roads, etc., constructed by the buyer in connection with this sale and within the sale area must be in accordance with plans approved by the seller.

(b) The buyer must, within 60 days after contract completion or termination of the contract by the seller or by operation of law, remove his equipment and other personal property from the sale area. After removal, the buyer must leave the land in a safe and clean condition, which is acceptable to the seller. If the buyer can demonstrate undue hardship, the time for removal of the improvements under this paragraph may be extended at the seller's discretion.

(c) If any of the buyer's property having an appraised value in excess of \$10,000, as determined by the seller, is not removed within the time allowed, that property may, upon 30 days notice to the buyer, be sold at public auction under the direction of the seller. The proceeds of the sale will inure to the buyer after satisfaction of the expense of the sale and deduction of all amounts then owed to the seller. If there are no other bidders at the sale, the seller may bid on the property, and the seller will acquire all rights, both legal and equitable, which any other purchaser could acquire through a sale and purchase.

(d) If any of the buyer's property having an appraised value of \$10,000 or less, as determined by the seller, is not removed within the time allowed, title to that property automatically vests in the seller.

(e) Special Provisions. The following special provisions also apply to improvements and occupancy under this contract: **N/A**

7. Inspection.

(a) The seller must be accorded access, at all times, to the sale area and to the books and records of the buyer, his contractors, and any subcontractors relating to operations under this contract for purposes of inspection to assure the faithful performance of the provisions of this contract and other lawful requirements.

(b) At all times when construction or operations are in progress, the buyer shall have a representative readily available to the area of operations who is authorized to receive, on behalf of the buyer, any notices and instructions given by the seller in regard to performance under this contract, and to take appropriate action as is required by this contract.

8. Termination and Suspension.

(a) The seller may terminate the buyer's rights under this contract if the buyer breaches the contract and fails to correct this breach within 30 days after written notice of the breach is served upon the buyer.

(b) If the buyer fails to comply with any of the provisions of this contract, the seller may shut down the buyer's operations upon issuance of written notice, until corrective action, as specified by the seller in its notice, is taken. If this corrective action is not taken within 30 days after written notice is served upon the buyer, the seller may terminate the contract under paragraph 8(a) of this contract. The buyer's failure to take immediate corrective action when ordered to remedy dangerous conditions or unwarranted damage to natural resources may be corrected by the seller to prevent danger or additional damage. Any cost incurred by the seller as a result of this corrective action, or by the buyer's failure to take corrective action, must be paid by the buyer.

(c) This contract may also be terminated by mutual agreement of both parties on terms agreed to in writing by both parties.

9. Reservations. The seller reserves the right to permit other compatible uses, including the sale of materials, on the land in the sale area if the seller determines that those uses will not unduly impair the buyer's operations under this contract. Under AS 38.05.125 the seller further expressly reserves to itself, and its successors, forever,

(a) All oil, gas, coal, ores, minerals, fissionable materials, geothermal resources, and fossils of every kind, which may be in or upon the land described above, or any part of it; and

(b) The right to explore the land for oil, gas, coal, ores, minerals, fissionable materials, geothermal resources, and fossils; and

(c) The right to enter by itself or its agents, attorneys, and servants on the land, or any part of it, at any time for the purpose of opening, developing, drilling, and working mines or wells on this or other land and taking out and removing from it all oil, gas, coal, ores, minerals, fissionable materials, geothermal resources, and fossils; and

(d) The right by itself or its agents, attorneys, and servants at any time

- (1) to construct, maintain, and use all buildings, machinery, roads, pipelines, power lines, and railroads;
- (2) to sink shafts, drill wells, and remove soil; and
- (3) to occupy as much of the land as may be necessary or convenient for these purposes; and

(e) Generally all rights to and control of the land, which are reasonably necessary or convenient to make beneficial and efficient the complete enjoyment of the property and rights, which are expressly reserved.

10. Inclusion of Application Laws and Regulations. The buyer shall comply with all laws and regulations applicable to operations under this contract, including the Alaska Fire Control Act, the provisions of AS 38.05.110 - 38.05.120, material sale regulations 11 AAC Chapter 71, state fish and game regulations pertaining to the protection of wildlife and wildlife habitat, and state regulations pertaining to safety, sanitation, and the use of explosives. These laws and regulations are, by this reference, made a part of this contract, and a violation of them is cause for termination or suspension of this contract in addition to any penalties prescribed by law. These laws and regulations control if the terms of this contract are in conflict with them in any regard.

11. Assignment. This contract may not be assigned by the buyer without the seller's prior written consent to the assignment.

12. Permits. Any permits necessary for operations under this contract must be obtained by the buyer before commencing those operations.

13. Passage of Title. All right, title and interest in or to any material included in the contract shall remain in the State until it has been paid for; provided however that the right, title and interest in or to any material which has been paid for but not removed from the sale area by the buyer within the period of the contract or any extension thereof as provided for in this contract shall vest in the seller.

14. Expiration and Extension. This contract expires **May 31, 2024** unless an extension is granted by the seller in accordance with 11 AAC 71.210 (Material Sale Regulations).

15. Warranties. This sale is made without any warranties, express or implied, as to quantity, quality, merchantability, profitability, or fitness for a particular use, of the material to be extracted from the area under contract.

16. Valid Existing Rights. This contract is entered into and made subject to all valid existing rights, including easements, rights-of-way, reservations, or other interests in land, in existence on the date the contract is entered into.

17. Notices. All notices and other writings required or authorized under this contract must be made by certified mail, postage prepaid, to the parties at the following address:

To the Seller: Alaska Department of Natural Resources
Southcentral Region, Division of Mining, Land and Water
550 W. 7th Avenue, Suite 900C
Anchorage, Alaska 99501-3577

To the Buyer: Alaska Department of Transportation and Public Facilities
 2301 Peger Road
 Fairbanks AK 99709

18. Integration and Modification. This contract, including all laws and documents which by reference are incorporated in it or made a part of it, contains the entire agreement between the parties.

This contract may not be modified or amended except by a document signed by both parties to this contract. Any amendment or modification which is not in writing, signed by both parties, and notarized is of no legal effect.

19. Severability of Clauses of Sale Contract. If any provision of this contract is adjudged to be invalid, that judgment does not affect the validity of any other provision of this contract, nor does it constitute any cause of action in favor of either party as against the other.

20. Construction. Words in the singular number include the plural, and words in the plural number include the singular.

21. Headings. The headings of the numbered paragraphs in this contract shall not be considered in construing any provision of this contract.

22. "Extracted", "Extraction". In this contract, use of the terms "extracted" and "extraction" encompasses the severance or removal, as well as extraction, by the buyer of any materials covered by this contract.

23. Waiver. No agent, representative or employee of the seller has authority to waive any provision of this contract unless expressly authorized to do so in writing by the director of the Division of Mining, Land and Water.

**ADL 230954 ADOT&PF Contract Special Stipulations
Attachment "B"**

The Material Sale Contract will be subject to the following Special Stipulations:

1. **Extraction Area.** This contract authorizes removal of material only from the area defined in Section 1(a) of this contract. The buyer is responsible for properly locating the material site area and the working limits within that area.
2. **Use of Material.** This contract authorizes the excavation and use of up to **500,000 cy** of material for the express purpose of ***providing material for reconstruction and maintenance of Denali Highway.*** The buyer is required to provide DNR with records of material usage.
3. **Site Operations.** The buyer is responsible for all aspects of material extraction and transport. Any survey stakes or markers that are removed must be replaced at the buyer's expense. The work area will be maintained in a neat, clean condition, free of any solid waste, debris or litter. The disposal of hazardous substances or hydrocarbons is prohibited. After completion, expiration, or termination of the contract, the site will be left in a condition that is acceptable to the seller, and reclaimed in accordance with the approved reclamation plan.
4. **Screening:** Material sites along the Denali Highway should be screened from roads, residential areas, recreational areas and other areas of significant human use. Material Site ADL 231377 shall have the following screenings: a 100 foot- treed buffer shall be maintained along the Denali Highway right-of-way and along the section line on the east boundary. A 50 foot wide undisturbed buffer will be maintained around the remaining perimeter of the site. A 100 foot wide undisturbed buffer will be maintained along the identified creeks or water bodies.
5. **Compliance.** All operations of the buyer, including completion, must comply with the contract and with the approved Mining and Reclamation Plan for this material site. The Special Stipulations of the contract take precedence over the approved Mining and Reclamation plan should a contradiction exist. The buyer shall inform and ensure compliance with the provisions of this contract by its agents, employees and contractors, including subcontractors, at any level.
6. **Reclamation.** Upon completion, expiration, or termination of the contract, the site will be left in a condition that is acceptable to the Division of Mining, Land and Water and reclaimed in accordance with the approved Mining and Reclamation plan. Reclamation shall be to the standards of the Division and shall include repair of access roads to and within the site, disposal of remaining stockpiles, other procedures that will be used to stabilize and reclaim the area and any other site specific measures that may be necessary. During the term of the contract, mining activities shall occur as described in the buyer's DNR-approved Mining and Reclamation plan.
7. **Fill.** No construction material, fill, waste asphalt, damaged culverts, pavement planning or any other debris shall be stockpiled, stored or disposed of within pit boundaries. Stockpiled material shall not be placed in wetlands.
8. **Alaska Historic Preservation Act.** The buyer will consult the Alaska Heritage Resources Survey (907) 269-8721 so that known historic, archaeological and paleontological sites may be avoided. The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury or destruction of any state-owned historic, prehistoric (paleontological) or archaeological site without a permit from the commissioner. Should any sites be discovered during the course of field operations, activities that may damage the site will cease and the Office of History and Archaeology in the Division of Parks and Outdoor Recreation (907) 269-8721 and will be notified immediately. Alaska Statute also prohibits the removal or disturbing of human remains or burial artifacts (AS

11.46.482(3)(B)). If human remains are discovered, immediately contact the Alaska State Troopers and the Office of History and Archaeology.

9. **Vehicle Maintenance.** Vehicle maintenance will be performed only over an effective impermeable barrier.

10. **Fuel and Hazardous Substances.** Secondary containment shall be provided for fuel or hazardous substances.

- a. **Container marking.** All independent fuel and hazardous substance containers shall be marked with the contents and the permittee's or contractor's name using paint or a permanent label.
- b. **Fuel or hazardous substance transfers.** Secondary containment or a surface liner must be placed under all container or vehicle fuel tank inlet and outlet points, hose connections, and hose ends during fuel or hazardous substance transfers. Appropriate spill response equipment must be on hand during any transfer or handling of fuel or hazardous substances to respond to a spill of up to five gallons. Trained personnel shall attend transfer operations at all times. Vehicle refueling shall not occur within the annual floodplain or tidelands.
- c. **Storing containers within 100 feet of waterbodies.** Containers with a total capacity larger than 55 gallons, which contain fuel or hazardous substances, shall **NOT** be stored within 100 feet of a waterbody.
- d. **Exceptions.** The Authorized Officer may under unique or special circumstances grant exceptions to this stipulation on a case-by-case basis. Requests for exceptions should be made to the Authorized Officer.
- e. **Definitions.**

"Containers" means any item that is used to hold fuel or hazardous substances. This includes tanks, drums, double-walled tanks, portable testing facilities, fuel tanks on small equipment such as light plants and generators, flow test holding tanks, slop oil tanks, bladders, and bags. Manifolded tanks or any tanks in a series must be considered as single independent containers. Vehicles, including mobile seismic tanks, are not intended to be included under this definition.

"Hazardous substances" are defined under AS 46.03.826(5) as (a) an element or compound which, when it enters the atmosphere, water, or land, presents an imminent and substantial danger to the public health or welfare, including fish, animals, or vegetation; (b) oil; or (c) a substance defined as a hazardous substance under 42 U.S.C. 9601(14).

"Secondary containment" means an impermeable diked area or portable impermeable containment structure capable of containing 110 percent of the volume of the largest independent container. Double-walled tanks do not qualify as secondary containment unless an exception is granted for a particular tank.

"Surface liner" means any safe, non-permeable container (e.g., drips pans, fold-a-tanks, etc.) designed to catch and hold fluids for the purpose of preventing spills. Surface liners should be of adequate size and volume based on worst-case spill risk.

11. **Spill Notification.** The permittee shall notify the Department of Natural Resources of all spills that must be reported under 18 AAC 75.300 under timelines of 18.AAC 75.300. These requirements can be found at the following website: <http://www.dec.state.ak.us/spar/spillreport.htm#requirements>.

All fires and explosions must be reported to DNR immediately. The DNR 24 hour spill report number is (907) 451-2678; the fax number is (907) 451-2751. The DEC oil spill report number is (800) 478-9300. DNR and DEC shall be supplied with all follow-up incident reports.

12. **Destruction of Markers.** All survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and un-surveyed lease corner posts shall be protected against damage, destruction and obliteration. The permittee shall notify the Authorized Officer of any damaged, destroyed or obliterated markers and shall reestablish the markers at the permittee's expense in accordance with accepted survey practices of the Division of Mining, Land and Water.
13. **Water Quality.** The buyer shall comply with the State of Alaska water quality standards pursuant to 18 AAC 70, including discharge standards when conducting material washing operations.
14. **Potential Processing Activities and Other Authorizations.** The issuance of this authorization does not alleviate the necessity of the purchaser to obtain authorizations required by other agencies for this activity. Any asphalt processing or related activities and associated structures will not be allowed without prior approval from DNR, the Department of Environmental Conservation and other agencies that require authorizations from the buyer.
15. **Survey.** If a survey is requested by the SCRO manger, the contract holder shall submit a material site boundary survey acceptable to the standards of the Division of Mining, Land and Water. This survey shall depict the dimensions of each side of the material site, and the acreage of the modified material site boundaries.
16. **Failure to Report.** An annual report is due by January 31st of each year, without prior notice to the buyer that details the volume of material removed during the calendar year of January 1 through December 31. This report shall be filed regardless of whether material was removed during the reporting period. Failure to submit the required report may subject the permitted site to a final inspection. The contract holder shall be assessed a fee for this inspection per 11 AAC 05.010(a)(7)(M).

BY SIGNING THIS CONTRACT, the State of Alaska, as seller, and the buyer, agree to be bound by its provisions as set out above.

[Signature]
for Kevin L. Smith Date: 5-9-2014 [Signature] Date: 5/9/14

BUYER: STATE OF ALASKA
Right of Way
Northern Region

SELLER: STATE OF ALASKA
Regional Manager
Southcentral Region

STATE OF ALASKA)
Fourth)ss.
~~Third~~ Judicial District)

This is to certify that on May 9th, 20 14, before me appeared Martin Shurr
known by me to be the person named in and who executed this Negotiated Material Sale Contract and
acknowledged voluntarily signing it as **buyer**.

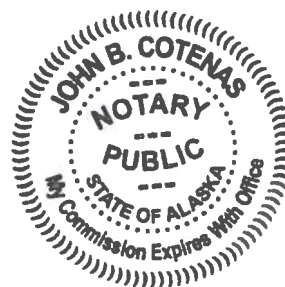
[Signature]
Notary Public in and for the State of Alaska
My commission expires: with office



STATE OF ALASKA)
)ss.
Third Judicial District)

This is to certify that on May 9, 20 14, before me appeared Sandra Singer known
by me to be the Acting Regional Manager Southcentral Regional Office, Division of Mining, Land
and Water, Department of Natural Resources, and who executed this Negotiated Material Sale Contract
voluntarily signing it on behalf of the State of Alaska as **seller**.

[Signature]
Notary Public in and for the State of Alaska
My commission expires: with office





MATANUSKA-SUSITNA BOROUGH

Planning and Land Use Department

Development Services Division

350 East Dahlia Avenue • Palmer, AK 99645

Phone (907) 861-7822 • Fax (907) 861-7876

E-mail: permitcenter@matsugov.us

September 29, 2016

Henry Cole

Department of Transportation & Public Facilities

Attn: M & O Engineering

2301 Peger Road

Fairbanks, AK 99709

SUBJECT: Denali Highway Interim Materials District

LOCATION: Township 19 South, Range 2 West, Sections 10 & 15, Fairbanks Meridian

Dear Mr. Cole:

On September 20, 2016 the Borough Assembly approved the Interim Materials District (IMD) on the above referenced property. The Assembly based this decision set forth in Ordinance Serial No. 16-113. A copy of this ordinance is enclosed for your reference.

Should you have any questions or require additional information please contact me at the above address, phone# 861-7862, or 3-mail: slee@matsugov.us.

Sincerely,

Susan Lee

Planner II

Pc: Kahlil Wilson, DOT&PF

CODE ORDINANCE

Sponsored by: Borough Manager
Introduced: 09/06/16
Public Hearing: 09/20/16
Adopted: 09/20/16

**MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 16-113**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.28.090(A), ADDING AN INTERIM MATERIALS DISTRICT KNOWN AS DENALI HIGHWAY MILE 99, LOCATED WITHIN TOWNSHIP 19 SOUTH, RANGE 2 WEST, SECTIONS 10 AND 15, FAIRBANKS MERIDIAN.

WHEREAS, the rationale and intent of this ordinance are found in IM No. 16-166 which accompanies this ordinance, and Planning Commission Resolution No. 16-28; and

WHEREAS, an application for an interim materials district (IMD) was submitted by the Alaska State Department of Transportation and Public Facilities to remove material from 69.91 acres located within Township 19 South, Range 2 West, Sections 10 and 15, Fairbanks Meridian; and

WHEREAS, it is the intent of the Borough to recognize the value and importance of promoting the utilization of natural resources within its boundaries; and

WHEREAS, the purpose of MSB 17.28 is to establish an IMD within the Borough to allow resource extraction activities as an interim use of land while promoting the public health, safety, order, prosperity, and general welfare of the Borough through regulation of land use to reduce the adverse impacts of land uses and development between and among properties; and

WHEREAS, it is the further purpose of MSB 17.28 to promote compatible and orderly development; and

WHEREAS, the Planning Commission has reviewed this application, associated materials, and the staff report, with respect to standards set forth in MSB 17.28; and

WHEREAS, the Planning Commission conducted a public hearing on August 15, 2016, regarding this IMD request; and

WHEREAS, the Planning Commission found that the proposed IMD is compatible with the goals and policies of the Boroughwide Comprehensive Plan (2005 Update); and

WHEREAS, the Planning Commission found that the proposed IMD has met the site development standards of MSB 17.28 including compliance with all required local, state, and federal laws; and

WHEREAS, on August 15, 2016, the Planning Commission adopted Resolution No. 16-28 recommending approval of the IMD.

BE IT ENACTED:

Section 1. Classification. Sections 1, 3, and 4 are non-code, Section 2 of this ordinance is of a general and permanent nature and shall become part of the Borough code.

Section 2. Amendment of section. MSB 17.28.090(A) is hereby amended as follows:

(13) Denali Highway Mile 99, Township 19 South
Range 2 West, Section 10: That portion of the southeast
1/4 lying south of the Denali Highway and Section 15:

That portion of the north 1/2 northeast 1/4 lying south
of the Denali Highway, Fairbanks Meridian.

Section 3. Special Conditions. The approved IMD shall be subject to the following conditions:

1. The owner and/or operator shall comply with all other applicable federal, state, and local regulations.
2. All aspects of the operation shall comply with the description detailed in the application material and an amendment to the IMD shall be required prior to any alteration or expansions of the material extraction operation.
3. Material extraction shall be limited to the areas identified in the site plans received by the Borough June 8, 2016.
4. Vehicles and equipment shall be staged at a designated location and all equipment shall be inspected by the operator for leaks at the end of each day.
5. On-site maintenance of vehicles shall be done in an area where all leaks can be contained with drip pans or other discharge prevention devices.
6. All hazardous materials, drips, leaks, or spills shall be promptly attended to and properly treated.

7. If a project is planned for the site that requires a Storm Water Pollution Prevention Plan (SWPPP), a copy of the approved SWPPP shall be provided to the Planning Department prior to operating.
8. All construction exits shall comply with standard Alaska pollutant discharge elimination system requirements to minimize off-site vehicle tracking of sediments and discharges to storm water.
9. A four-foot vertical separation shall be maintained between all excavation and the seasonal high water table.
10. The operation shall comply with the maximum permissible sound level limits allowed in code, per the requirements of MSB 17.28.060(A)(5)(a), Site Development Standards; and MSB 8.52, Noise, Amplified Sound, and Vibration.
11. If illumination devices are required, they shall not be greater than 20-feet in height, shall utilize downward directional shielding devices, and shall meet the requirements of MSB 17.28.060(A)(6), Lighting Standards.
12. If cultural remains are found during material extraction activities, the Planning Department


shall be contacted immediately so the remains can be documented.

13. Borough staff shall be permitted to enter onto any portion of the property to monitor compliance with permit requirements. Such access will at a minimum be allowed on demand when activity is occurring and, with prior verbal or written notice, and at other times as necessary to monitor compliance. Denial of access to Borough staff shall be a violation of the IMD.
14. The applicant and/or operator shall comply with the reclamation standards of MSB 17.28.067.
15. Visual screening shall be achieved and maintained by using a combination of the esker ridges near the Denali Highway right-of-way and along the section line easement on the east boundary. A 50-foot wide undisturbed buffer will be maintained around the remaining perimeter of the site.
16. If mining activities take place within 300-feet of the property boundaries, visual buffers a minimum of 10-feet in height, including vegetative buffers and/or earthen berms shall be employed.

17. All activity shall be conducted in compliance with state or federal regulations governing the items listed in MSB 17.28.040(B)(1), 17.28.040(B)(2), and 17.28.040(B)(3).

Section 4. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this 20 day of September, 2016.



VERN HALTER, Borough Mayor

ATTEST:



LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

PASSED UNANIMOUSLY: Sykes, Beck, McKee, Colligan, Mayfield, Doty, and Kowalke



STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

REQUIRED CONTRACT PROVISIONS for FEDERAL-AID CONTRACTS

	Page
I. General	1
II. Nondiscrimination	1
III. Nonsegregated Facilities	3
IV. Not Used	4
V. Not Used	4
VI. Not Used	4
VII. Not Used	4
VIII. Safety: Accident Prevention	4
IX. False Statements Concerning Highway Projects	4
X. Implementation of Clean Air Act and Federal Water Pollution Control Act	4
XI. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion	5
XII. Certification Regarding Use of Contract Funds for Lobbying	6

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 the 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 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 State of Alaska, Department of Transportation and Public Facilities (DOT&PF) 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, preapprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the DOT&PF 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 have 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 DOT&PF 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 DOT&PF.

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 23, 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 DOT&PF 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 DOT&PF 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 DOT&PF 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 contracts and to all related subcontracts of \$10,000 or more.)

a. 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.

b. 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).

- c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to 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. NOT USED

V. NOT USED

VI. NOT USED

VII. NOT USED

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 (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the DOT&PF 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, which the contractor enters 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 CONCERNING HIGHWAY PROJECTS

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 highway 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.

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 persons concerned with the project:

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

18 U.S.C. 1020, reads as follows:

“Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

“Whoever knowingly makes any false statement, false representation, false report, or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

“Whoever knowingly makes any false statement or false representation as to a material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916 (39 Stat. 355), as amended and supplemented;

“Shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both.”

* * * * *

X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

(Applicable to all Federal-aid 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 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 DOT&PF 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 whom 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 judgement 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.

2. 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.

* * * * *

3. 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 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 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.

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XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING (Applicable to all Federal-aid 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.