



PRECONSTRUCTION SERVICES CONTRACT FORM

Agreement No: IRIS Program No: Federal Project No:
--

Project Title: _____

To this Agreement between
 hereafter the Department, and
 hereafter the Contractor, effective on the last date executed by its parties, in consideration of the terms, conditions and promises of Articles 1 through 7 in this document, the parties hereby agree.

CONTRACTOR

Signature: _____ Name: _____ Title: _____ Date: _____	Signature: _____ Name: _____ Title: _____ Date: _____
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DEPARTMENT

<u>Contract Manager</u>	<u>Contracting Officer</u>
Signature: _____ Name: _____ Title: _____ Date: _____	Signature: _____ Name: _____ Title: _____ Date: _____

ARTICLE 1 - PURPOSE

1.1 _____

ARTICLE 2 - COMPENSATION

2.1 The maximum amount payable under this Agreement as set out in Appendix C, shall not exceed:
 and No/100 Dollars _____ (\$ _____)

ARTICLE 3 - PERIOD OF PERFORMANCE

3.1 Contractor shall commence services under this Agreement as authorized by written *Notice(s) to Proceed* and shall complete the services in accordance with any time schedule required by Appendices. This Agreement is of no force or effect until executed by the Contractor and the Department and no services shall be undertaken or performed until a Notice to Proceed is issued.

3.2 The Period of Performance under this Agreement shall end: _____

ARTICLE 4 - APPENDICES

4.1 The following Appendices are attached to this document and incorporated herein:

<u>Appendix</u>	<u>Title</u>	<u>Date Prepared</u>	<u>No. Pages</u>
A1	Standard Contract Terms, Form 25A262		5
A2	General Provisions for CMGC Preconstruction Services		42
B	Statement of Services		
C	Compensation, Form 25A280, plus Exhibits		
D	Indemnification & Insurance, Form 25A269, plus Certificates of Insurance (for the prime Contractor)		
E	Certification of Compliance		1
F	Supplementary Provisions	TBD	XX

ARTICLE 5 - DEPARTMENT DATA

Office Address

Street:
PO Box:
City, State, Zip:
Phone-Voice:
Phone-FAX:
Email:

Appeals Officer: Commissioner,
DOT&PF
Authorization: AS 36.30.005

Funding Source: **Activity Code:**

- State FHWA
 FAA Other: _____

(Check all that apply)

ARTICLE 6 - CONTRACTOR DATA

Manager:
Title:

Alaska Business License No.:
Federal Tax Identification No.:

Office Address

Street:
PO Box:
City, State, Zip:
Phone-Voice:
Phone-FAX:
Email:

Type of Firm

- Individual Partnership
 Corporation in state of:
 Other (specify):

ARTICLE 7 - SUBCONTRACTORS

7.1 Contractor shall perform all Preconstruction Services required under this Agreement except as may be performed by the Subcontractors listed below and allowed by the Contract.

Service or Engineering Discipline

Subcontractor

STANDARD CONTRACT TERMS APPENDIX A1

PSA No:
IRIS Program No:
Federal Project No:
Date Prepared:

INDEX

Article Number and Title

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A23	Not Used
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A27	Additional Provisions

ARTICLE A1 DEFINITIONS

(Note: See Appendix A2, General Provisions for CMGC Preconstruction Services, §1.2 for additional Definitions.)

A1.1	Not Used
A1.2	Not Used
A1.3	Not Used
A1.4	Not Used
A1.5	Not Used
A1.6	<u>CONTRACTING AGENCY</u> – The Department of Transportation & Public Facilities (DOT&PF).
A1.7	Not Used
A1.8	<u>CONTRACTOR</u> – The person or entity providing Preconstruction Services to the Contracting Agency concerning the Project.

A1.9 Contractor's Manager – The CONTRACTOR's representative in responsible charge of the project(s) and directly answerable for the required services.

A1.10 Contract Manager – CONTRACTING AGENCY's representative and the CONTRACTOR's primary point of contract with the CONTRACTING AGENCY.

A1.11 Contracts Officer – CONTRACTING AGENCY's representative within the Contracts/Professional Services section.

A1.12 Not Used

A1.13 Not Used

A1.14 Statement of Services – Services and work products required of the CONTRACTOR by this Agreement.

A1.15 Not Used

ARTICLE A2 INFORMATION AND SERVICES FROM OTHERS

A2.1 The CONTRACTING AGENCY may, at its election or in response to a request from the CONTRACTOR, furnish information or services from other contractors. If, in the CONTRACTOR's opinion, such information or services is inadequate, the CONTRACTOR must notify the CONTRACTING AGENCY of the specific service or material deemed inadequate and the extent of the inadequacy prior to use in the performance of this Agreement. The CONTRACTING AGENCY will then evaluate and resolve the matter in writing. Unless so notified by the CONTRACTOR, the CONTRACTING AGENCY may assume the information or services provided are adequate.

ARTICLE A3 HOLD HARMLESS

A3.1 See Appendix D, "Indemnification and Insurance".

ARTICLE A4 INSURANCE

A4.1 See Appendix D, "Indemnification and Insurance".

ARTICLE A5 OCCUPATIONAL SAFETY AND HEALTH

A5.1 The CONTRACTOR and its Subcontractors shall observe and comply with the Federal Occupational Safety and Health act of 1970 and with all safety and health standards promulgated by the Secretary of Labor under authority thereof and with all State of Alaska Occupational Safety and Health Laws and regulations.

**ARTICLE A6
EQUAL EMPLOYMENT OPPORTUNITY**

A6.1 The CONTRACTOR shall comply with the following applicable laws and directives and regulations of the CONTRACTING AGENCY which effectuate them; all of which are incorporated herein by reference:

- Title VI of Federal Civil Rights Act of 1964;
- Federal Executive Order 11625 (Equal Employment Opportunity);
- Title 41, Code of Federal Regulations, Part 60 (Equal Employment Opportunity);
- Title 49 Code of Federal Regulations, Part 21 (Discrimination);
- Title 49, Code of Federal Regulations, Part 26 (Minority Business Enterprises);
- Office of Management and Budget (OMB) circular 102, Attachment O (Procurement Standards);
- Alaska Statute (AS) 18.80.200-300 (Discrimination).

A6.2 The CONTRACTOR may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, age, physical disability, sex, or marital status, change in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on such basis. The CONTRACTOR shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, age, physical disability, sex, or marital status. This action must include, but need not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The CONTRACTOR shall post in conspicuous places, available employees and applicants for employment, notices setting out the provisions of this paragraph.

A6.3 The CONTRACTOR shall state, in all solicitations or advertisements for employees to work in performance of this Agreement, that it is an equal opportunity employer and that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, age, physical disability, sex, or marital status.

A6.4 The CONTRACTOR shall send to each labor union or representative or workers with which the CONTRACTOR has a collective bargaining Agreement or other contract or understanding a notice advising the labor union or workers' representative of the CONTRACTOR's commitments under this article and

post copies of the notice in conspicuous places available to all employees and applicants for employment.

A6.5 In the event the CONTRACTOR subcontracts any part of the services to be performed under this Agreement, the CONTRACTOR agrees to make good faith efforts to utilize Disadvantaged Business Enterprises, to affirmatively solicit their interest, capability and prices and to furnish documentation of the results of all such direct contacts on forms provided by or acceptable to the CONTRACTING AGENCY.

A6.6 The CONTRACTOR shall make, keep and preserve such records necessary to determine compliance with equal employment opportunity obligations and shall furnish required information and reports. All records must be retained and made available in accordance with Article A9, Audits and Records.

A6.7 The CONTRACTOR shall include the provisions of this article in every contract, and shall require the inclusion of these provisions in every contract entered into by any of its Subcontractors, so that these provisions will be binding upon each Subcontractor.

**ARTICLE A7
PAYMENTS TO THE CONTRACTOR**

A7.1 Payments shall be based on approved CONTRACTOR's invoices submitted in accordance with this article and the provisions of Appendix C. The sum of payments shall not exceed allowable compensation stated in Notice(s) to Proceed and no payments shall be made in excess of the maximum allowable total for this Agreement.

A7.2 The CONTRACTING AGENCY will exert every effort to obtain required Funding Agency approvals and to issue authorizations in a timely manner. CONTRACTOR shall not perform any services without a Notice to Proceed therefore. Accordingly, the CONTRACTING AGENCY will not pay the CONTRACTOR for services or associated reimbursable costs performed outside those which are authorized by a Notice to Proceed.

A7.3 CONTRACTOR's invoices shall be submitted when services are completed or monthly, for months during which services are performed, as applicable, in a format provided by or acceptable to the CONTRACTING AGENCY.

A7.4 In the event items on an invoice are disputed, payment on those items will be held until the dispute is resolved. Undisputed items will not be held with the disputed items.

A7.5 The CONTRACTOR shall submit a final invoice and required documentation within 90 days after final acceptance of services by the CONTRACTING AGENCY. The CONTRACTING AGENCY will not be held liable for payment of invoices submitted after this time unless prior written approval has been given. Total payment of all

Subcontractors and satisfactory compliance with Article A22, Taxes, are conditions precedent to final payment.

A7.6 The CONTRACTOR on receiving final payment will execute a release, if required, in full of all Claims against the CONTRACTING AGENCY arising out of or by reason of the services and work products furnished and under this Agreement.

ARTICLE A8

Not Used

ARTICLE A9

Not Used

ARTICLE A10

CONTRACTING AGENCY INSPECTIONS

A10.1 The CONTRACTING AGENCY has the right to inspect, in the manner and at reasonable times it considers appropriate during the period of this Agreement, all facilities and activities of the CONTRACTOR as may be engaged in the performance of this Agreement.

ARTICLE A11

Not Used

ARTICLE A12

OFFICIALS NOT TO BENEFIT

A12.1 No member of or delegate to Congress, United States Commissioner or other officials of the Federal, State, Political subdivision or Local Government shall be admitted to any share or part of this Agreement or any benefit to arise therefrom.

ARTICLE A13

INDEPENDENT CONTRACTOR

A13.1 The CONTRACTOR and its agents and employees shall act in an independent capacity and not as officers or agents of the CONTRACTING AGENCY in the performance of this Agreement except that the CONTRACTOR may function as the CONTRACTING AGENCY's agent as may be specifically set forth in this Agreement.

A13.2 Any and all employees of the CONTRACTOR, while engaged in the performance of any work or services required by the CONTRACTOR under this Agreement, shall be considered employees of the CONTRACTOR only and not of the CONTRACTING AGENCY and any and all Claims that may or might arise under the Worker's Compensation Act on behalf of said employees, while so engaged and any and all Claims made by a third party as a consequence of any negligent act or omission on the part of the CONTRACTOR's employees, while so engaged on any of the services to be rendered herein, shall be the sole obligation and responsibility of the CONTRACTOR.

A13.3 This Agreement will be declared null and void should the CONTRACTING AGENCY determine that by

Internal Revenue Service definitions the CONTRACTOR is an employee of the CONTRACTING AGENCY.

**ARTICLE A14
PROSELYTIZING**

A14.1 The CONTRACTOR agrees that it will not engage on a full or part time basis, during the period of this Agreement, any person or persons who are or have been employed by the CONTRACTING AGENCY during the period of this Agreement or during the 90 days immediately preceding the date of this Agreement except those who have been regularly retired or approved in writing by the CONTRACTING AGENCY.

ARTICLE A15

COVENANT AGAINST CONTINGENT FEES

A15.1 The CONTRACTOR shall comply with the Copeland "Anti-Kickback" Act (18 USC 874) as supplemented in Federal Department of Labor regulations (29 CFR, part 3), which are incorporated by reference and made a part of this Agreement.

A15.2 The CONTRACTOR warrants that it has not employed or retained any organization or person, other than a bona fide employee, to solicit or secure this Agreement and that it has not paid or agreed to pay any organization or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the CONTRACTING AGENCY has the right to annul this Agreement without liability or, in its discretion, to deduct from the allowable compensation the full amount of such commission, percentage, brokerage or contingent fee.

A15.3 The CONTRACTING AGENCY warrants that the CONTRACTOR or the CONTRACTOR's representative has not been required, directly or indirectly as an express or implied condition in obtaining or carrying out this Agreement, to employ or retain, or agree to employ or retain, any organization or person or to make a contribution, donation or consideration of any kind.

ARTICLE A16

PRECEDENCE OF DOCUMENTS

A16.1 The components of this Agreement are complementary and shall be read in harmony with one another. However, in the event of conflict, their respective provisions shall stand and prevail in the following order: Preconstruction Services Contract Form over Standard Contract Terms; Standard Contract Terms over General Provisions for CMGC Preconstruction Services; General Provisions for CMGC Preconstruction Services over Statement of Services; Statement of Services over Basis of Compensation; Basis of Compensation over any appendices beyond Appendix C.

A16.2 If a "Request for Proposal" (RFP) and/or a proposal are appended to this Agreement, the

components described in paragraph A16.1 shall stand and prevail over the proposal and the proposal over the RFP.

ARTICLE A17

Not Used

ARTICLE A18

Not Used

ARTICLE A19

Not Used

ARTICLE A20

Not Used

ARTICLE A21

EXTENT OF AGREEMENT

Not Used

ARTICLE A22

TAXES

A22.1 As a condition of performance of this Agreement, the CONTRACTOR shall pay all Federal, State and Local taxes incurred by the CONTRACTOR and shall require their payment by any Subcontractor or any other persons in the performance of this Agreement.

ARTICLE A23

Not Used

ARTICLE A24

FEDERAL AID CERTIFICATION (HIGHWAYS)

(For Agreements exceeding \$100,000)

A24.1 The CONTRACTOR certifies, by executing this Agreement, to the best of his or her knowledge and belief, that:

A24.1.1 No federal appropriated funds have been paid or will be paid, by or on behalf of the CONTRACTOR, to any person for influencing or attempting to influence an officer or employees 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 at the extension, continuation, renewal, Amendment, or modification of any Federal contract, grant, loan, or cooperative Agreement.

A24.1.2 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 in connection with this Federal contract, grant, loan, or cooperative Agreement, the undersigned shall complete and submit Standard Form LLL, Disclosure of Lobbying Activities, in accordance with its instructions. Any person who fails to file the required disclosure shall be subject to

a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

A24.2 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 Section 1352, Title 31, U.S. Code.

A24.3 The CONTRACTOR also agrees by executing this Agreement that the CONTRACTOR shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

ARTICLE A25

TRADE RESTRICTIONS

The CONTRACTOR or Subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. Has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. Has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the CONTRACTOR knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the CONTRACTOR agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The CONTRACTOR may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The CONTRACTOR shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the CONTRACTOR or

subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

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 provision. The knowledge and information of a contractor is not required to exceed that which is normally posed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

**ARTICLE A26
SUSPENSION AND DEBARMENT**

The bidder/offeror certifies, by submission of this proposal or acceptance of this contract, 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. It further agrees by submitting this proposal that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the bidder/offeror/contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this solicitation/ proposal.

**ARTICLE A27
ADDITIONAL PROVISIONS**

(Any deletion or modification of Articles A1 through A26 shall be approved "as to form" by the CONTRACTING AGENCY's legal section, acknowledged in writing, and attached as an Exhibit to this Appendix.)

DRAFT

COMPENSATION

APPENDIX C

IRIS Program No:
Federal Project No:
Date Prepared:

C1. Payments will be made on approved invoices submitted for months during which costs are incurred. Except for Fixed Price(s) and Fixed Fees, compensation shall be cost-based on actual costs to the Contractor for providing services. Provisions for Audit are contained in Appendix A.

C2. EXCEPT WHEN PAYMENT IS BY FIXED PRICE, PRIME CONTRACTOR'S LABOR AND ASSOCIATED INDIRECT COST SHALL BE INVOICED TO THE CONTRACTING AGENCY WITHIN 45 DAYS OF PERFORMANCE. SUBCONTRACTORS' LABOR AND ASSOCIATED INDIRECT COST SHALL BE INVOICED TO THE CONTRACTING AGENCY WITHIN 60 DAYS OF PERFORMANCE. ALL OF THE CONTRACTOR'S AND SUBCONTRACTORS' OTHER DIRECT COSTS (EXPENSES) SHALL BE INVOICED TO THE CONTRACTING AGENCY WITHIN 90 DAYS OF BEING INCURRED. **CHARGES SUBMITTED AFTER THE ABOVE STATED TIMES WILL, AT THE CONTRACTING AGENCY'S DISCRETION, NOT BE PAID.**

C3. Price proposals and Notices-to-Proceed (NTPs) for this Agreement must conform to the Labor Rates, Indirect Cost Rate(s), Unit Prices, Fee/Profit Arrangements, Estimated Costs, and Price Caps contained in the Exhibits attached to this Appendix C.

C4. Payments are limited to the amount(s) cited in each Notice-to-Proceed (NTP) issued for this Agreement. The Contractor expressly has no right to any payment in excess of each NTP amount.

C5. Final payment to the Contractor may be withheld until a Release from Agreement, on a form prescribed by the Contracting Agency, is executed by the Contractor.

C6. Payments for this Agreement and any Amendment, including Costs and Fee, will be adjusted to exclude any significant sums by which the Contracting Agency finds that payments are increased because the cost or pricing data furnished by the Contractor or prospective Contractor is inaccurate, incomplete, or not current on the date of the Agreement or subsequent submittal date of pricing data (AS 36.30.400).

C7. The following terminology and explanations are applicable to this Agreement; any inconsistencies appearing in this Agreement must be resolved in accordance with the terminology in paragraphs C7.1-C7.6 and C8.

C7.1 Direct Costs of Direct Labor – Base salary and/or wages paid to employees charged directly to this Agreement exclusive of Fringe Benefits or other Indirect Costs and Fees (including profit).

C7.2 Other Direct Costs ("Expenses") – **PRE-APPROVED** unit priced items, actual costs for specific subcontracts identified in this Agreement, and actual costs for the following:

Transportation (economy rate/air-coach);
Food and lodging (Generally, not to exceed agency per diem rates);
Incidental travel expenses; and
- If not recovered in the Indirect Cost Rate - the following:
Equipment and computer use at **PRE-APPROVED** rates;
Specific materials and supplies; and
Other **PRE-APPROVED** direct expenses.

Each Expense is limited to reasonable costs which do not exceed that which would be incurred by an ordinarily prudent person in the conduct of competent business.

C7.3 Indirect Costs – Allowable expenses that, because of their incurrence for common or joint cost objectives, must be allocated to this Agreement using a specified Indirect Cost Rate. A cost objective is a function, organizational subdivision, contract, project or work unit for which cost data is accumulated under the Contractor's accounting system. Generally, the Contracting Agency requires Indirect Costs to be segregated into the following categories: Fringe Benefits, Overhead (General & Administrative Expenses – including Indirect Labor), and Allocated Home Office Overhead (if applicable).

C7.3.1 Fringe Benefits – Costs for items such as:

Vacation time, holidays and authorized leave;
Group and Worker's Compensation Insurance;
Deferred Compensation/Retirement plans;
Social Security and Unemployment Taxes; and
Group Medical plan and Life Insurance Premiums.

C7.3.2 Overhead – Costs for items such as the following, if they are not included in Direct Costs:

Indirect Labor (Supervisory, Administrative, etc., base salary or wages)
Recruiting expenses, travel, food and lodging;
Rent, heat, power, light and janitorial services;
Office supplies, reproduction costs, communications;
Upkeep and depreciation of equipment and computers;
Rentals of equipment and computers; and,
Business Insurance premiums not billed to clients;

C7.3.3 Allocated Home Office Overhead (if applicable) – Costs for management, supervisory, and administrative functions which benefit separate unit operations.

C7.3.4 Indirect Cost Rate – An established percentage of incurred expenses for Direct Costs of Direct Labor

which is used as a basis of compensation for Indirect Costs. Fees or Profit are not included in the Indirect Cost Rate.

C7.4.1 If this Agreement wholly or partially allocates Indirect Costs on other than a Direct Labor dollar basis, a description of the Indirect Cost pools or service centers used, and the Indirect Cost Rates(s) and base(s), shall be attached in an Exhibit to this Appendix C; otherwise, such an allocation shall not be allowed for this contract.

C7.4.2 Indirect Cost Rates may be fixed or provisional and will be established for the duration of the Agreement, fiscal year, or other time period.

C7.4.3 Provisional Indirect Cost Rates or "Fixed/Provisional" Rates require a Contracting Agency approved audit of accounting records after each of the Contractor's or Subcontractor's fiscal years during which they perform work under the Agreement.

C7.5 Non-allowable Costs – Payments for the following items and certain other costs defined in 48 CFR Part 31 and related regulations are not allowable. Such costs shall not be included as billable Direct or Indirect Costs or in the calculation of the Indirect Cost Rate.

- Interest and other financial costs
- Contributions and donations
- Federal income taxes & tax return preparation fees
- Deferred state income taxes
- Bad debts
- Fines and penalties
- Entertainment, social club memberships, etc.
- Goodwill
- Provisions for contingencies
- Losses on other contracts and related legal fees
- Legal fees, etc., related to contract claims

C7.6 Fee – Profit plus any costs not allocable to this contract. The amount of Fee may be fixed or variable, depending on the method of payment used. Non-allocable costs shall not be considered by the Contracting Agency when negotiating Fee.

C8. Markup of any costs as compensation for administration, management or handling, etc., is prohibited. Costs of such efforts are included within the elements of Direct Labor and/or Indirect Labor. Compensation for any risk associated with incurring costs is included within Fee (Profit).

C9. The following Exhibits complete this Appendix C (Components of Appendix C – Compensation, shall stand and prevail in the following order: DOT&PF Form 25A280, Exhibit C-1, Exhibit C-2, et al, in the order of their number):

Edit the following choices to delete the inappropriate choice and then delete this instruction.

Choice #1, for a Fixed Price Contract of any amount or a Cost Reimbursement Contract ≤\$250k, exhibits shall include the following:

- Exhibit C-1 Method(s) of Payment
- Exhibit C-2 NTP & Invoice Summary

OR

Choice #2, for a Cost Reimbursement Contract >\$250k, exhibits shall include the following:

- Exhibit C-1 Method(s) of Payment
- Exhibit C-2 Cost Reimbursement Price Estimate
- Exhibit C-3 Cost Reimbursement NTP & Billing Summary
- Exhibit C-4 Cost Reimbursement Billing Detail Form

INDEMNIFICATION AND INSURANCE

Appendix D in Preconstruction Services Contract

IRIS Program No:
Federal Project No:
Date Prepared:

CONTRACTOR shall include the provisions of this form in all subcontracts that exceed \$25,000 and shall ensure Subcontractor's compliance with such provisions.

ARTICLE D1 INDEMNIFICATION

D1.1 The CONTRACTOR shall indemnify, hold harmless, and defend the CONTRACTING AGENCY from and against any claim of, or liability for negligent acts, errors or omissions 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 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.

D1.2 The CONTRACTOR shall exercise reasonable care in performing Preconstruction Services in connection with this Agreement.

D1.3 The CONTRACTOR shall correct, through re-performance at its expense, any services which are deficient or defective because of the CONTRACTOR's failure to perform said services in accordance with professional standards, provided the CONTRACTING AGENCY has notified the CONTRACTOR in writing within a reasonable time, not to exceed 60 days, of the discovery of any such deficiency during the performance of the services and within 12 months of the date of final payment under this Agreement.

ARTICLE D2 INSURANCE

D2.1 Without limiting the CONTRACTOR's indemnification, it is agreed that CONTRACTOR shall

purchase at its own expense and maintain in force at all times for the duration of 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 CONTRACTING AGENCY shall be entitled to coverage to the extent of such higher limits. Certificates of insurance must be furnished to the CONTRACTING AGENCY and incorporated into this Agreement with copies attached to this document. Certificates must provide for the CONTRACTING AGENCY to receive notice of any policy cancellation or reduction per AS 21.36 Sections 210-310. Failure to furnish certificates of insurance or lapse of the policy is a material breach and grounds for termination of the CONTRACTOR's services and may preclude other Agreements between the CONTRACTOR and the CONTRACTING AGENCY.

D2.1.1 Worker's Compensation Insurance: The CONTRACTOR shall provide and maintain, for all employees engaged in work under this Agreement, coverage as required by AS 23.30.045, and; where applicable, any other statutory obligations including but not limited to Federal USL&H and Jones Act requirements. The policy(s) must waive subrogation against the State of Alaska.

D2.1.2 Commercial General Liability Insurance: Such policy shall have **minimum** coverage limits of \$300,000 combined single limit per occurrence, covering all business premises and operations used by the Contractor in the performance of services under this agreement. The policy shall be written on an "occurrence" form and shall not be written as a "claims-made" form unless specifically reviewed and agreed to by the CONTRACTING AGENCY.

D2.1.3 Comprehensive Automobile Liability Insurance: Such policy shall have **minimum** coverage of \$300,000 combined single limit per occurrence covering all vehicles used by the Contractor in the performance of services under this agreement.

D2.1.4 Not Used

**ARTICLE D3
MODIFICATION OF INSURANCE REQUIREMENTS**

(Article D3 is completed only when some of the standard insurance coverages are not applicable.)

CONTRACTOR RELATED MODIFICATIONS

- D3.1 **Workers Compensation Insurance** is not required because the CONTRACTOR is an Independent Contractor, Sole Proprietor or Self-Employed Person having no employees in any sense of AS 23.30.045.
- D3.2 **Comprehensive or Commercial General Liability Insurance** is not required because the general public and clients do not have any business access to a place of business or home office maintained by the CONTRACTOR.
- D3.3 **Comprehensive Automobile Liability Insurance** is not required because only public transportation, or a rented passenger vehicle with business use insurance, will be used to accomplish requirements of this Agreement.
- D3.4 Not Used
- D3.5 Not Used

OTHER BASIS FOR MODIFICATIONS

(Requires written concurrence from Division of Risk Management)

- D3.6 Attached Exhibit D-1 identifies and provides justification for insurance modifications.

Above *checked* modifications of the insurance requirements specified in Article D2 are hereby approved:

CONTRACTING OFFICER Signature: _____ Date: _____
Name: _____
Title: _____

CERTIFICATION OF COMPLIANCE

APPENDIX E

IRIS Program No: Federal Project No: Date Prepared:

Contractor and all Subcontractors shall comply with the following applicable requirements:

1. For Procurements over the Small Procurement Limits, **Alaska Business License** (Form 08-070 issued under AS 43.70) at the time designated for award as required by AS 36.30.210(e) for Contractor and all Subcontractors.
2. Not Used
3. **Certificate of Incorporation (Alaska firms) or Certificate of Authorization** for Foreign Firm ("Out-of-State" firms). All corporations, regardless of type of services provided, must have one of the certificates (AS 10.06.218 and other sections of Title 10.06 - Alaska Corporations Code).
4. Not Used
5. **Corporations, limited liability companies, and limited liability partnerships** shall have a valid Certificate of Authorization under 08.48.241 prior to award.
6. Not Used
7. **Joint Ventures**, regardless of type of services provided, must be licensed/registered in the legal name of the Joint Venture as used in this proposal (AS 43.70.020 and 43.70.110(4)).
8. The Contractor certifies that firms or individuals **debarred or suspended by the Department, State or Federal agencies** are not employed or subcontracted under this Professional Services Agreement.

The Contractor will ensure that it and all Subcontractors have insurance coverage to effectuate the requirements of Appendix D, "Indemnification and Insurance", DOT&PF Form 25A269, as prepared for this Agreement.

I certify that I am a duly authorized representative of the Contractor and that the above requirements will be complied with in full. This certification is a material representation of fact upon which reliance will be placed if the proposed contract is awarded.

Signature _____ Date _____
Name..... :
Title..... :

For information about licensing, Offerors may contact the Alaska Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing at P.O. Box 110806, Juneau, AK 99811-0806, or at Telephone (907) 465-2550, or at Internet address: <http://www.commerce.alaska.gov/web/cbpl/home.aspx>.