

REQUEST FOR PROPOSALS PACKAGE



RETURN THIS PROPOSAL TO THE ISSUING OFFICE:

LEGISLATIVE AFFAIRS AGENCY Procurement and Supply Section

Issuing Office Mailing Address: State Capitol, 120 4th Street, Room 3, Juneau, AK 99801-1182

Issuing Office Hand Delivery Address: Terry Miller Legislative Office Building, 129 6th Street, Room 222, Juneau, Alaska

RFP NO. 660

TERRY MILLER BUILDING HVAC CONTROLS

SEALED PROPOSALS MUST BE RECEIVED AT THE ABOVE ADDRESS BY 11:30 A.M. ON TUESDAY, NOVEMBER 28, 2023. EMAILED AND FAXED PROPOSALS ARE NOT ALLOWED.

Offerors Are Not Required to Return this RFP with the Proposal

Under AS 36.30.020, the Alaska Legislative Council adopted procurement procedures that were based on competitive principles consistent with AS 36.30 and adapted to the special needs of the Legislative Branch. Therefore, the Legislative Branch follows its own procurement procedures and is not subject to the procurement procedures of the Executive Branch. Copies of the Alaska Legislative Procurement Procedures are available upon request or at <https://aws.state.ak.us/OnlinePublicNotices/Notices/Attachment.aspx?id=137335>

IMPORTANT NOTICE: YOU MUST REGISTER WITH THE PROCUREMENT MANAGER LISTED IN THIS DOCUMENT TO RECEIVE SUBSEQUENT AMENDMENTS, WHETHER YOU RECEIVED THIS REQUEST FOR PROPOSALS (RFP) FROM THE STATE OF ALASKA'S "ONLINE PUBLIC NOTICE" WEBSITE, VIA THE MAIL, OR FROM ANOTHER SOURCE. FAILURE TO CONTACT THE PROCUREMENT MANAGER MAY RESULT IN THE REJECTION OF YOUR PROPOSAL. OFFERORS SHALL THOROUGHLY REVIEW ALL THE REQUIREMENTS OF THE RFP WHEN SUBMITTING THEIR PROPOSALS. A PROPOSAL CHECKLIST HAS BEEN INCLUDED FOR OFFERORS TO USE. THE CHECKLIST IS INTENDED AS A REMINDER OF CERTAIN IMPORTANT ITEMS AND IS NOT INTENDED TO BE A COMPLETE LIST OF WHAT MUST BE INCLUDED IN THE PROPOSAL.

JC Kestel, Procurement Manager
PH: 907-465-6705
TDD: 907-465-4980
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ATTACHMENTS OF RFP 660 - THREE ATTACHMENTS

A-1 Terry Miller Building HVAC Controls Work and Product Specifications for RFP 660.....	33 pages
A-2 Terry Miller Building HVAC Controls Construction Drawings for RFP 660.....	13 pages
A-3 Laborers’ and Mechanics’ Minimum Rates of Pay Pamphlet.....	38 pages

SECTION ONE – Notice to Offerors

1.01 PURPOSE OF RFP

The Legislative Affairs Agency (Agency) is soliciting proposals from qualified Successful Offerors (hereafter Successful Offeror) to perform the Terry Miller Legislative Office Building (TMLOB) HVAC Controls Project (Work). This RFP and the included attachments are intended to encompass all labor, supervision, materials, tools, disposal, and equipment necessary to complete the Work.

1.02 PROCUREMENT MANAGER

The Procurement Manager for this project is the Agency's Procurement Officer. The Procurement Managers office is located in Juneau, Alaska. EMAIL: JC.Kestel@AKLeg.Gov, PH: 907-465-6705, TDD: 907-465-4980.

1.03 MANDATORY PRE-PROPOSAL MEETING AND SITE VISIT

All prospective Offerors are required to attend the pre-proposal meeting and site visit to be considered for award of the Contract resulting from this RFP. The mandatory pre-proposal meeting is scheduled for 10:00 am Thursday, October 26, 2023, at the Terry Miller Legislative Office Building, 129 6th Street, 1st floor Conference Room, Juneau, Alaska, with a site visit of the TMLOB to follow.

The purpose of the pre-proposal meeting and site visit is to discuss details of the RFP with the prospective Offerors and allow them to ask questions concerning the RFP. The Agency will distribute a copy of attachment A-2 (Terry Miller Building HVAC Controls Construction Drawings for RFP 662) to prospective Offerors that attend the mandatory meeting and register for the project with the Procurement Manager. Following the meeting, the Project Director will coordinate a site visit of the TMLOB project site for the purpose of planning and preparing the Offeror's Proposal for this RFP. The site visit will be limited to 30 minutes and all visitors attending will be required to follow current Legislative Building policies while on site.

The Agency will not provide any information on what information was given or details discussed during the meeting or site visit to potential Offerors that do not attend the meeting and site visit. Participants should read the RFP and attend the meeting and site visit in person and be prepared to discuss any concerns and ask questions.

Questions asked during the meeting and site visit will be answered in accordance with sec. 1.10 (Contacts / RFP Questions / Contact Person) of this RFP. The Procurement Manager may request potential Offerors to submit questions in writing for further clarification.

Offerors with a disability needing accommodation should contact the Procurement Manager prior to the date set for the pre-proposal meeting and site visit so that reasonable accommodation can be made.

1.04 SCHEDULE OF EVENTS

This schedule represents the Agency's best estimate. If one component is delayed, the remainder of the schedule will likely be shifted an equivalent number of days.

RFP Issue Date	October 16, 2023
Mandatory Pre-Proposal meeting and site visit	October 26, 2023
Deadline for Written Questions	November 17, 2023

Deadline for Receipt of Proposals – Proposals Opened	November 28, 2023
Notice of Intent to Award Contract Issued	December 15, 2023
State Signs Contract	January 2023

1.05 RIGHT OF REJECTION

A proposal may be rejected if the proposal contains a material alteration or erasure that is not initialed by the signer of the proposal.

The Procurement Manager may waive minor informalities that:

- a. do not affect responsiveness;
- b. are merely a matter of form or format;
- c. do not change the relative standing of or otherwise prejudice other offers;
- d. do not change the meaning or scope of the RFP;
- e. are trivial, negligible, or immaterial in nature;
- f. do not reflect a material change in the work, services, or products requested; or
- g. do not constitute a substantial reservation against a requirement or provision.

1.06 PHOTOCOPIES

Photocopied proposals may be submitted as long as one copy has an original signature on the enclosed Proposal and Price Offer Forms.

1.07 ALASKA BUSINESS LICENSE AND LEGAL ENTITY

The Offeror must have a current valid Alaska business license when the proposal is submitted. The Offeror must include the business license number in the cover letter or provide a copy of the business license with the Proposal. The Offeror must include in the cover letter the type of legal (e.g., corporate) entity of the Offeror and the current status of that entity. If the Offeror is a corporation or a limited liability company, the business entity must be in good standing with the state of Alaska Department of Commerce, Community, and Economic Development at the time of proposal submission. **For more information regarding an Alaska business license or legal entity's status, please contact the Division of Corporations, Business, and Professional Licensing in the Department of Commerce, Community, and Economic Development at (907) 465-2550 or visit: <https://www.commerce.alaska.gov/web/cbpl>.** If an Offeror fails to comply with this paragraph, Agency reserves the right to disregard the proposal.

1.08 U.S. FUNDS

Prices quoted shall be in U.S. funds.

1.09 TAXES

All proposals shall be submitted exclusive of federal, state, and municipal taxes.

1.10 CONTACTS / RFP QUESTIONS / CONTACT PERSON

OFFERORS OR THEIR AGENTS MAY NOT CONTACT ANY MEMBER OF THE PROPOSAL EVALUATION COMMITTEE (PEC) OR THEIR STAFF, OR ANY MEMBER OF THE LEGISLATURE OR THEIR STAFF REGARDING THIS RFP. All questions concerning this Request for Proposals must be directed to the Procurement Manager of the Legislative Affairs Agency.

There are generally two types of questions:

1. A question which can be answered by directing the Offeror to the specific section of the Request for Proposals where the information is found. Response to these questions may be given over the phone but are limited to directing the Offeror to a portion of the RFP which can then be read by the Offeror.
2. A question that would require the Procurement Manager to clarify or interpret part of the Request for Proposals or its intent. Response to this type of question will not be given except in writing via amendment to the Request for Proposals, and Offerors must put these questions in writing; these questions should be received by the Procurement Manager at least ten (10) days prior to the deadline for receipt of proposals.

1.11 REVIEW OF RFP

Offerors shall carefully review this RFP, without delay, for defects and questionable or objectionable material. Comments concerning defects and questionable or objectionable material must be made in writing and should be received by the Procurement Manager at least ten (10) days before the deadline for receipt of proposals. This will allow issuance of any necessary amendments. It will also help prevent the opening of a defective solicitation and exposure of an Offeror's proposal upon which award could not be made.

1.12 DESIGNS, DEVICES, MATERIALS, AND PROCESSES COVERED BY PATENTS, TRADEMARKS, OR COPYRIGHTS

If the Successful Offeror employs any design, device, material, or process covered by a patent, trademark, or copyright, the Successful Offeror shall provide for the use by suitable legal agreement with the owner. The Successful Offeror and the Surety shall indemnify and save harmless the Agency, any affected third party, and any affected political subdivision from any and all claims for infringement by reason of the use of the patented design, device, material, or process, or any trademark or copyright, and shall indemnify the Agency for any costs, expenses, and damages which it may be obliged to pay by reason of any infringement at any time during the prosecution or after the completion of the Work.

1.13 COMPLIANCE OF SPECIFICATIONS AND DRAWINGS

If the Successful Offeror observes that the Work Specifications and Construction Drawings supplied by the Agency are at variance with any Regulatory Requirements, the Successful Offeror shall give the Project Director named in paragraph 2.04 (Project Director) of the Scope of Work and Products of this RFP or the resulting contract, prompt written notice of the variance. Any necessary changes will be authorized by one of the methods indicated in paragraph 3.06.b. (Authorization of Changes within the General Scope) of the General Conditions and Requirements of this RFP, as supplemented by paragraph 2.06 (Change Order) of the Scope of Work and Products of this RFP, as determined appropriate by the Project Director. If the Successful Offeror performs any Work knowing or having reason to know that it is contrary to the Regulatory Requirements, and without giving the notice to the Project Director, the Successful Offeror shall bear all costs arising from the situation.

1.14 PROFESSIONAL REGISTRATION AND CERTIFICATION

All contractors, craft trades, architects, engineers, land surveyors, electrical administrators, mechanical administrators, and explosive handlers employed as subcontractors or employees under the contract shall specifically comply with applicable provisions of AS 08.18, AS 08.40, AS 08.48, and AS 08.52. The Successful Offeror shall provide copies of individual licenses within seven days following a request from the Project Director.

1.15 LOCAL BUILDING CODES

The Successful Offeror shall comply with AS 35.10.025, which requires construction in accordance with applicable local building codes including, but not limited to, the obtaining of required permits.

1.16 AIR QUALITY CONTROL

The Successful Offeror shall comply with all applicable provisions of AS 46.14 that pertain to Air Pollution Control.

1.17 COVENANT AGAINST CONTINGENT FEES

The Successful Offeror warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Successful Offeror for the purpose of securing business. For breach or violation of this warranty, the Agency shall have the right to cancel this contract without liability or, in its discretion, to deduct price of consideration from the contract or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

1.18 NOTICE OF INTENT TO AWARD

Upon selection of an apparent Successful Offeror, the Procurement Manager will issue a written Notice of Intent to Award (NIA) and send copies to all Offerors. The NIA will set out the names and addresses of all Offerors and identify the proposal selected for award.

1.19 PROTEST

If an Offeror wishes to protest a solicitation, the award of a contract, or the proposed award of a contract, the protest must be filed as required by secs. 230 and 240 of the Alaska Legislative Procurement Procedures.

1.20 PROPOSAL SUBMISSION, DELIVERY, AND ACCEPTANCE

Offerors must submit and deliver one original hard copy and a USB flash drive containing a print-ready electronic PDF version of their technical proposal and one original hard copy of their cost proposal along with a Bid Security (Bid Bond) to the Issuing Office mailing or hand delivery address listed on Page 1 no later than the date and time listed on Page 1 of this RFP as the deadline for receipt of proposals. Mailed or hand delivered packages must be marked on the outside to identify the RFP and the Offeror.

An Offeror must complete and submit original hard copies of the forms in sec. 6.01 (Offeror Questionnaire), sec. 6.02 (Cost Proposal Form), sec. 6.03 (Alaska Product Preference Claim Form), if applicable, sec 6.04 (Subcontractor List), and sec. 6.05 (Bid Bond).

One (1) original hard copy of the forms in sec. 6.02 (Cost Proposal Form), sec. 6.03 (Alaska Product Claim Form) if applicable and one (1) original Bid Bond in sec. 6.05 (Bid Bond) should be submitted in a separate sealed envelope marked Cost Proposal with the RFP number and identity of the Offeror on the outside of the envelope that the Proposal is sent in.

One (1) original hard copy and a USB flash drive, both containing the forms in sec. 6.01 (Offeror Questionnaire), sec. 6.04 (Subcontractor List), one (1) signed copy of any Agency issued Amendments to this RFP, and the remainder of the TECHNICAL PROPOSAL OF THE OFFER

should be submitted in a sealed envelope or container with the RFP number and identity of the Offeror on the outside of the sealed envelope or container.

Failure to follow the above instructions may result in the proposal being found non-responsive and rejected.

It is the responsibility of the Offeror to ensure that their proposal and any Agency-issued RFP forms, attachments, or amendments (signed by the Offeror) are in the issuing office of the Agency prior to the scheduled proposal closing time. A proposal will be rejected if the proposal and any signed forms, attachments, or amendments are not received prior to the closing date and time. Any forms, attachments, or amendments that are submitted by the Offeror should be included in the Offerors Technical Proposal packet.

1.21 AMERICANS WITH DISABILITIES ACT

The Alaska State Legislature complies with Title II of the Americans with Disabilities Act of 1990. Individuals with disabilities who may need auxiliary aids, services, or special modifications to submit a proposal should contact JC Kestel, Procurement Manager, Legislative Affairs Agency, (907) 465-6705 - Voice, (907) 465-4980 - TDD within a reasonable time, as determined by the Agency, before the proposals are due to make any necessary arrangements.

1.22 PREFERENCE FOR ALASKA OFFEROR

If an Offeror qualifies for the Alaska Bidder Preference, the Offeror will receive a preference of five (5) percent, applied in accordance with sec. 145 (Contract Award) of the Alaska Legislative Procurement Procedures. To qualify for the preference, the Offeror must: (a) hold a current Alaska business license; (b) submit an offer for the contract under the name that appears on the person's current Alaska business license; (c) have maintained a place of business in the State staffed by the Offeror or an employee of the Offeror for a period of six months immediately preceding the date of this offer; (d) be incorporated or qualified to do business under the laws of the State, be a sole proprietorship and the proprietor is a resident of the State, be a limited liability company organized under AS 10.50 and all members are residents of the State, or be a partnership under AS 32.06 or AS 32.11 and all partners are residents of the State; and, if a joint venture, be composed entirely of ventures that qualify under (a) - (d) of this paragraph.

To receive the Alaska Bidder Preference, the proposal must include a statement certifying that the Offeror is eligible to receive the Alaska Bidder Preference. If the Offeror is a limited liability company (LLC) or a partnership as identified in the previous paragraph, the statement must also identify each member or partner and certify that all members or partners are residents of the State. If the Offeror is a joint venture which includes an LLC or a partnership as identified in the previous paragraph, the statement must also identify each member or partner of each LLC or partnership that is included in the joint venture and certify that all of those members or partners are residents of the State.

1.23 USE OF LOCAL PRODUCTS

Section 142 of the Alaska Legislative Procurement Procedures states that in a contract involving the purchase of supplies, including a construction contract, only products manufactured, produced, or harvested in the state may be purchased if the supplies are competitively priced, available, and of like quality compared with products manufactured, produced, or harvested outside the state. AS 36.15.010 requires that in a project financed by State money in which the use of timber, lumber, and manufactured lumber products is required, only timber, lumber, and manufactured lumber products originating in this State from local forests shall be used wherever

practicable. Therefore, if construction, repair, renovation, redecoration, or other alteration is to be performed by the Successful Offeror to satisfy this Request for Proposals or to comply with a provision of the resulting contract, the Successful Offeror must use, wherever practical, timber, lumber, and manufactured lumber products originating in the State from local forests and only products manufactured, produced, or harvested in the state may be purchased if the supplies are competitively priced, available, and of like quality compared with products manufactured, produced, or harvested outside the state.

1.24 FUND OBLIGATIONS

The funds are available in an appropriation to pay for the Agency's monetary obligations under the contract through June 30, 2024. The availability of funds to pay for the Agency's monetary obligations under the contract is contingent upon appropriation of funds for the particular fiscal year involved. In addition to any other right of the Agency under this contract to terminate the contract, if, in the judgment of the Executive Director of the Agency, sufficient funds are not appropriated, the contract will be terminated by the Executive Director or amended, without liability of the Agency for the termination or amendment. To terminate under this section, the Project Director shall provide written notice of the termination to the Successful Offeror.

1.25 CANCELLATION; REJECTION OF ALL PROPOSALS; PREPARATION COSTS

This RFP does not obligate the Agency or the Alaska Legislative Council to award a contract or to pay any costs incurred in the preparation of the proposal if a contract is not awarded. This RFP may be cancelled, or all proposals rejected, as provided in sec. 120 of the Alaska Legislative Procurement Procedures. Among the reasons that justify cancellation is that all of the responsive proposals exceed the funds available for the Contract.

1.26 REJECTION OF INDIVIDUAL PROPOSALS

A proposal may be rejected in whole or in part when in the best interest of the Agency, as provided in sec. 130 of the Alaska Legislative Procurement Procedures.

1.27 PROCUREMENT PROCEDURES

This RFP is subject to the Alaska Legislative Procurement Procedures. The website link to the Procurement Procedures may be found on page one of this RFP.

1.28 CONTRACT NEGOTIATIONS

After issuing the NIA, the Agency may elect to initiate contract negotiations. The option of whether or not to initiate contract negotiations rests solely with the Agency. If the Agency elects to initiate contract negotiations, these negotiations cannot involve changes in the Agency's requirements or the Offeror's proposal that would, by their nature, affect the basis of the source selection and the competition previously conducted.

1.29 FAILURE TO NEGOTIATE

The Agency may terminate negotiations under paragraph 1.28 (Contract Negotiations) of these Notices to Offerors and negotiate with the next highest ranked Offeror if:

- a. the selected Offeror fails to provide the necessary information required to begin negotiations in a timely manner;
- b. the selected Offeror fails to negotiate in good faith;
- c. the selected Offeror indicates it cannot perform the contract within the budgeted funds available for the project; or
- d. the selected Offeror and the Agency, after a good faith effort, cannot come to terms.

1.30 FIRM OFFER

For the purpose of award, even if a notice of intent to award to another offeror is issued during the ninety (90) days or a contract is entered into with another offeror during the ninety (90) days, proposals made in accordance with this RFP shall be good and firm for a period of ninety (90) days from the deadline for receipt of proposals in response to the RFP.

1.31 AWARD CRITERIA

All Offerors should note that final award of a contract based on this RFP is not solely based on the price. See Section Five (Evaluation Criteria) of this RFP for details on how proposals will be evaluated and awarded points.

1.32 AWARD OF CONTRACT

Award of this RFP is subject to approval by the State of Alaska Legislative Council.

1.33 NOTICE OF INTENT TO AWARD

Upon selection of an apparent Successful Offeror, the Procurement Manager will issue a written NIA and send copies to all Offerors. The NIA will list the names and addresses of all Offerors and identify the proposal selected for award.

1.34 FORMAT OF CONTRACT

The Contract entered into as a result of this RFP will be in the contract format desired by the Agency and will include the provisions of the RFP that apply to the Contract.

1.35 ADDITIONAL TERMS AND CONDITIONS

The Agency reserves the right to include additional terms and conditions in the Contract. However, these terms and conditions must be within the scope of the RFP and may not amount to a material modification of this RFP.

1.36 CONTRACT TERM

The Successful Offeror shall begin the ordering of any materials required for the Work after the Contract has been signed. The Work can begin after the adjournment of the 33rd Legislature which is anticipated to occur in May 2024. The Successful Offeror shall propose a timeline that the Work can be completed in the Offeror's Technical Proposal. Time is of the essence, so the Work must proceed without delay until it is completed; however, if a Special Session occurs, the Agency may suspend the Work until the Special Session is over. If the Work is suspended due to a Special Session, the Work completion date of the Contract will be extended by the Agency. If material deliveries delay the Work, the Successful Offeror may request an extension of time in writing by submitting the time extension request on the Agency's Change Order Form.

1.37 PAYMENT UNDER CONTRACT

Payment under the contract resulting from this RFP, including payment of subcontractors by the Successful Offeror, is subject to AS 36.90.200 – 36.90.290.

1.38 CONTRACT AMENDMENTS

In addition to any other amendment the parties may be allowed to make under the Contract, the terms of the Contract entered into as a result of this RFP may be amended by mutual agreement of the parties if the Agency determines that the amendment is in the best interests of the Agency.

1.39 CONTRACT ASSIGNMENT / TRANSFER

Assignment or transfer of the Contract entered into as a result of this RFP is subject to sec. 160 of the Alaska Legislative Procurement Procedures.

1.40 BINDING ON SUCCESSORS

Subject to sec. 1.27 (Procurement Procedures) and sec. 1.39 (Contract Assignment / Transfer) of this RFP, the Contract issued as a result of this RFP and all the covenants, provisions, and conditions contained in the Contract shall inure to the benefit of and be binding upon the successors and assigns of the Successful Offeror and the Agency.

1.41 BREACH OF CONTRACT

In case of a breach of the Contract, for whatever reason, by the Successful Offeror, the Agency may procure the services from other sources and hold the Successful Offeror responsible for damages resulting from the breach.

1.42 TERMINATION OF CONTRACT

Upon delivery of written notice to the Successful Offeror, the Contract resulting from this RFP may be terminated by the Project Director with or without cause. To terminate, the Project Director shall provide notice by e-mail or delivery of a hard copy to the Successful Offeror, whichever method is selected, in the sole discretion of the Project Director. If the Contract is so terminated and the termination is not based on a breach by the Successful Offeror, the Agency shall compensate the Successful Offeror for services and/or products provided under the terms of the Contract up to the date the termination notice is delivered, provided the Successful Offeror provides the Agency with a statement in writing containing a description of the services and/or products provided prior to contract termination and a copy of all documents, reports, material, and other items required to be delivered to the Project Director by this RFP.

1.43 RECORDS: AUDIT

The requirements in this sec. 1.43 (Records; Audit) are in addition to any other records required by this RFP. Unless the resulting Contract will be only for products, the Successful Offeror shall accurately maintain detailed time records that state the date of the work, break down the time in quarters of an hour, describe in detail the work done during the quarter of an hour, and identify what individual did the work. For all types of contracts, the Successful Offeror shall also keep any other records that are required by the Project Director. The records required by this paragraph are subject to inspection by the Agency or the Project Director at all reasonable times.

1.44 OWNERSHIP AND REUSE OF DOCUMENTS

Unless an RFP only is soliciting for products, all documents, reports, material, and other items generated as a consequence of work done under this contract are the property of the Agency. To the extent the Successful Offeror has any interest in the copyright for these items under the copyright laws of the United States, the Successful Offeror transfers any and all interest the Successful Offeror has in the copyright for these items to the Agency, and the Agency will be the owner of the copyright for these items. Upon completion of the work or termination of the Contract, the items shall be delivered to the Project Director. The Successful Offeror acknowledges that all the items are Agency records and, as a result, are public records.

1.45 APPLICABLE LAWS

The Successful Offeror and its offer must comply with all applicable federal, state, and municipal labor, wage/hour, safety, and any other laws which have a bearing on the contract. The

Successful Offer must have all licenses, registrations, permits, and certifications required by the Agency and state and municipal law for performance of the Contract resulting from this RFP.

1.46 VENUE AND APPLICABLE LAW

In the event that the parties find it necessary to litigate the terms of the Contract resulting from this RFP, the venue shall be the State of Alaska, First Judicial District at Juneau, and the Contract shall be interpreted according to the laws of Alaska.

1.47 INDEMNIFICATION

The Successful Offeror shall indemnify, save harmless, and defend the Agency and the Agency's officers, agents, employees, and invitees from liability of any nature or kind, including, but not limited to, costs, attorney fees, and expenses, for or on account of any and all legal actions or claims of any character whatsoever resulting from injuries or damages sustained by any person or persons or property as a result of any error, omission, or negligence of the Successful Offeror that relates to the Successful Offeror's performance of its contract obligations.

1.48 INSURANCE

Without limiting Successful Offeror's indemnification responsibilities under sec. 1.47 (Indemnification) of this RFP, the Successful Offeror shall purchase, at its own expense, and maintain in force at all times during the contract the following insurance:

- A. Workers' compensation insurance as required by AS 23.30.045(d) for all employees engaged in work under the contract and as required by any other applicable law; the Successful Offeror will be responsible for worker's compensation insurance for any subcontractor who directly or indirectly provides services under the Contract resulting from this RFP; this coverage must include a waiver of subrogation against the State of Alaska;
- B. Comprehensive general liability insurance covering all business premises of, and operations by or on behalf of, the Successful Offeror in the performance of the Contract, including, but not limited to, blanket contractual coverage, products coverage, premises and operations coverage, independent contractor's coverage, broad form property damage endorsement, and personal injury endorsement; the policy must have minimum coverage limits of \$1,000,000 combined single limit per occurrence and annual aggregates where generally applicable; unless waived by the Agency, the insurance policy shall name the Agency as an additional insured;
- C. Commercial automobile liability insurance covering all vehicles used by the Successful Offeror or any subcontractor who directly or indirectly provides services under this contract in the performance of the contract, with minimum coverage limits of \$500,000 combined single limit per occurrence;

The Successful Offeror must have the policy for the insurance listed in A. – C. above in effect and proof must be furnished to the Procurement Manager before a contract is entered into. Each of the required insurance policies must provide for the Agency to receive a thirty (30) day prior notice of any cancellation. Where specific limits are shown above, it is understood that they are the minimum acceptable limits. If a policy contains higher limits, the Agency will be entitled to coverage to the extent of the higher limits. All insurance policies must comply with, and be issued by, insurers licensed to transact the business of insurance in Alaska or in another state.

All insurance shall be considered to be primary and non-contributory to any other insurance carried by the Agency through self-insurance or otherwise.

In addition to providing the above coverages, the Successful Offeror shall require that all indemnities obtained from any Subcontractors be extended to include the Agency as an additional named indemnitee. The Successful Offeror shall further require that the Agency be named as an additional insured on all liability insurance policies maintained by all Subcontractors under their contracts with the Successful Offeror, and that an appropriate waiver of subrogation in favor of the Agency be obtained with respect to all other insurance policies.

1.49 FORCE MAJEURE

The Successful Offeror is not liable for the consequences of any delay or 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 Successful Offeror. For the purposes of this section, "Force Majeure" means: 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; or strikes.

1.50 TIME

Time is of the essence.

1.51 COVERAGE UNDER ETHICS LAW

Certain provisions of the Legislative Ethics Act (AS 24.60) apply to legislative consultants, legislative independent contractors, and their employees. It is the responsibility of the Successful Offeror to review and comply with AS 24.60.

1.52 PREVAILING WAGE

The Contract resulting from this RFP may be subject to the minimum wage and other requirements of AS 36.05. It is the responsibility of the Successful Offeror to check with Department of Labor and Workforce Development to determine if this contract will require the prevailing wage. The current minimum wages for various classes of laborers, mechanics, and field surveyors (as these terms are defined in AS 36.95.010) are listed in the Laborers' and Mechanics' Minimum Rates of Pay Pamphlet No. 600, included with this RFP as Attachment A-3, and the rate of wages paid by the Successful Offeror during the Contract shall be adjusted to the wage rate under AS 36.05. The Successful Offeror and any subcontractor shall pay all employees unconditionally and not less than once a week. Wages may not be less than those required by AS 36.05 regardless of the contractual relationship between the Successful Offeror or subcontractors and laborers, mechanics, or field surveyors. The scale of wages to be paid shall be posted by the Successful Offeror in a prominent and easily accessible place at the site of the Work. The Agency may withhold so much of the accrued payments as is necessary to pay to laborers, mechanics, or field surveyors employed by the Successful Offeror or subcontractors the difference between (1) the rates of wages required by the contract to be paid laborers, mechanics, or field surveyors on the Work, and (2) the rates of wages in fact received by laborers, mechanics, or field surveyors. Before commencing work, the Successful Offeror is required to designate a primary contractor under AS 36.05.045, and the primary contractor is required to file a notice of work with the Department of Labor and Workforce Development, to pay certain filing fees, and to comply with certain other requirements involving the Department of Labor and Workforce Development after the Work is completed and before final payment can be made. Before final payment of the Contract is made, it is the responsibility of the

Successful Offeror to submit a Notice of Completion form signed off by the Department of Labor and Workforce Development, wage and hour section, to the Agency. The final payment of the Contract may be affected by the Successful Offeror's compliance with the requirements. The Successful Offeror is encouraged to contact the wage and hour section of the Department of Labor and Workforce Development for more information.

With regard to overtime work hours and compensation, pursuant to 40 U.S.C. 3701 – 3703 or AS 23.10.060, the Successful Offeror may not require or permit any laborer or mechanic in any work week in which the laborer or mechanic is employed on any Work under this Contract to work in excess of eight hours in any calendar day or in excess of forty hours in such work week on work subject to 40 U.S.C. 3701 – 3703 or AS 23.10.060 unless such laborer or mechanic receives compensation at a rate not less than one and one half times the basic rate of pay for all such hours worked in excess of eight hours in any calendar day or in excess of forty hours in such work week, whichever is the greater number of overtime hours. In the event of any violation of this provision, the Successful Offeror shall be liable to any affected employee for any amounts due, liquidated damages, and penalties and to the Agency for liquidated damages. Such liquidated damages to the Agency shall be computed with respect to each individual laborer or mechanic employed in violation of this provision in the sum of \$10.00 for each calendar day on which such employee was required or permitted to be employed on such Work in excess of eight hours or in excess of the standard work week of forty hours without payment of the overtime wages.

If it is found that a laborer, mechanic, or field surveyor employed by the Successful Offeror has been or is being paid a rate of wages less than the rate of wages required by law, the Agency may, by written notice to the Successful Offeror, terminate the Successful Offeror's right to proceed with the work or the part of the work for which there is a failure to pay the required wages and may proceed with the work to ensure its timely completion, by contract with a third party or otherwise. The Successful Offeror and the Successful Offeror's sureties are liable to the Agency for excess costs for completing the work under this paragraph.

1.53 BID SECURITY

All bids shall be accompanied by a bid security in the form of an acceptable Bid Bond, or a certified check, cashier's check, or money order made payable to the State of Alaska, Legislative Affairs Agency. The bid security is required in the amount of five (5) percent of the amount of the bid amount.

If the bidder fails to furnish an acceptable bid security with the bid, the bid will be rejected as non-responsive. An individual surety will not be accepted as a bid security. The bid securities of the two lowest bidders will be held by the Agency until the contract has been executed, after which such bid securities will be returned. All other bid securities will be returned as soon as practicable. If all bids are rejected, all bid securities will be returned as soon as practicable. **(Bid Bond attached in sec. 6.05 (BID BOND) for Offeror's use).**

1.54 PERFORMANCE AND PAYMENT BONDS

If the Contract resulting from the RFP exceeds \$100,000, the Successful Offeror must provide a performance bond and a payment bond that satisfy AS 36.25.010(a). If the Successful Offeror fails to furnish the required performance bond and payment bond within 14 calendar days of the issuance of the Agency's notice to proceed with the Work to the Successful Offeror, the Agency may determine the Successful Offeror to be a non-responsive Offeror and award the contract to the next ranked Offeror. The Performance Bond must be in an amount equal to 50% of the

proposal price and the Payment Bond must be an amount equal to 50% of the proposal price. **(Performance Bond and Payment Bond are attached in Section Six (RFP and Contract Forms) of this RFP for the Successful Offeror's use).**

1.55 DEFINITIONS

In this RFP:

- a. **Agency** means the Legislative Affairs Agency.
- b. **Calendar Day** means a day shown on the calendar, beginning and ending at midnight.
- c. **Change Order** means a written order by the Agency making changes to the contract within the scope of the contract.
- d. **Contract** means the written agreement between the Agency and the Successful Offeror stating the obligations of the Agency and the Successful Offeror and covering the Work to be performed.
- e. **Contract** means the Contract form; the clarifications, corrections, and changes issued graphically or in writing by the Agency after the advertisement but prior to the opening of proposals; the bidding requirements and Successful Offeror's proposal (including, but not limited to, all appropriate bid tender forms); the bonds; the conditions and requirements of the Contract, including, but not limited to, the Notices to Offerors; the accompanying written technical Work specifications included as attachment A-1 (Terry Miller Building HVAC Controls Work and Product Specifications for RFP 660), the accompanying construction drawings included as attachment A-2 (Terry Miller Building HVAC Control Construction Drawings for RFP 660), and all change orders and other documents approved by the Agency for inclusions, modifications, and supplements issued on or after the effective date of the contract.
- f. **Project** means the full removal and replacement of the Terry Miller Building HVAC Control systems.
- g. **Project Site** means the location and the immediate surrounding areas that the Work will be completed at.
- h. **Regulatory Requirements** means laws, regulations, ordinances, codes, and orders.
- i. **Specifications** means the written technical descriptions of materials, equipment, construction systems, standards, and workmanship that apply to the Work and the administrative and procedural details that apply to them.

- j. **Supplemental Agreement** means a written agreement between the Agency and the Successful Offeror covering work that is not within the general scope of the contract.

- k. **Work** is the act of, and the result of, performing services, furnishing labor, furnishing and incorporating materials and equipment into the Project and performing other duties and obligations, all as required by the Contract Documents, culminating in the entire Project, or the various separately identifiable parts of the Project.

SECTION TWO - Scope of Work and Products

2.01 SCOPE OF WORK

- a. The Work is to be done according to and as described in the Contract, including, but not limited to, the accompanying written technical specifications included as attachment A-1 (Terry Miller Building HVAC Controls Work and Product Specifications for RFP 662) and the accompanying construction drawings included as attachment A-2 (Terry Miller Building HVAC Controls Construction Drawings for RFP 662), which are incorporated into this Section Two (Scope of Work and Products). The Work is located at the Terry Miller Legislative Office Building (TMLOB), 129 6th Street, Juneau, Alaska.
- b. The Work can begin after the adjournment of the 33rd Legislature which is anticipated to be the end of May 2024. The Successful Offeror shall propose a timeline that the Work can be completed in the Offeror's Technical Proposal.
- c. Commencement of the Work shall be sequenced in coordination with the Project Director.

2.02 SUCCESSFUL OFFEROR'S RESPONSIBILITIES

- a. As required by paragraph 3.04.b. (Superintendence by Successful Offeror) of the General Conditions and Requirements of this RFP, the Successful Offeror is required to provide a competent resident project superintendent at the Project Site at all times during Work in progress. In addition to the requirements of paragraph 3.04.b. (Superintendence by Successful Offeror) of the General Conditions and Requirements of this RFP, the Successful Offeror must provide the project superintendent's name, local address, and telephone number on the Offeror Questionnaire included in sec. 6.01 (Offeror Questionnaire) of this RFP.
- b. In addition to the requirements of paragraphs under 3.04 (Successful Offeror's Responsibilities) of the General Conditions and Requirements of this RFP, the Successful Offeror shall take all precautions necessary to protect the building and all areas affected by the Work, which include, but are not limited to, corridors, elevators, stairs, exterior walkways, and parking lots.
- c. In addition to the requirements of paragraphs under 3.04 (Successful Offeror Responsibilities) of the General Conditions and Requirements of this RFP, the Successful Offeror shall maintain the building affected by the Work in a safe and operable condition, including, but not limited to protecting the building from weather, throughout the construction period and take all precautions necessary to protect the building during the Work.
- d. In addition to the requirements of paragraphs under 3.04 (Successful Offeror's Responsibilities) of the General Conditions and Requirements of this RFP, the Successful Offeror shall clean up any area affected by the Work or the Successful Offeror.
- e. As required by paragraph 3.04.o. (Use of Premises) of the General Conditions and Requirements of this RFP, the Successful Offeror shall assume full responsibility for any damage done to the Agency's property resulting from the performance of the Work.
- f. The Work shall be performed in a professional, skilled manner and must comply with the best practices of the trade.

2.03 PROJECT SITE

The TMLOB is located at 129 6th Street, Juneau, Alaska.

2.04 PROJECT DIRECTOR

The Project Director for this project is the State Capitol Facilities Manager. The Project Director's office is located in Juneau, Alaska at the State Capitol, 120 4th Street, Room 12, telephone number (907) 465-3708.

2.05 BUILDING PERMIT

The Successful Offeror shall determine whether the City and Borough of Juneau requires any permits for the Work. The Successful Offeror shall advise the Project Director what permit or permits are required. If a permit is required for this project, the Successful Offeror shall obtain and pay for the permit without reimbursement from the Agency and shall provide evidence to the Agency that the permit has been obtained before commencement of Work at the TMLOB.

2.06 CHANGE ORDER

In addition to the requirements in accordance with paragraphs under 3.06 (Changes) of the General Conditions and Requirements of this RFP, the Successful Offeror must submit any change order requests to the Project Director on the Agency's Change Order Form. Change orders will be strictly reviewed and may require the Legislative Council Committee's approval. Change Order Forms may be obtained from the Project Director. A Change Order request is not considered granted until all required Agency-authorized signatures have been obtained by the Agency and a copy of the approved Change Order has been given to the Successful Offeror.

2.07 PROJECT MEETINGS

- a. Pre-Construction Conference: Prior to the commencement of Work at the site, a Pre-Construction Conference will be held at a mutually agreed upon time and place which shall be attended by the Procurement Manager, Project Director, the Successful Offeror, the Successful Offeror's subcontractors as the Successful Offeror considers appropriate, and any other attendees the Agency considers appropriate. Unless previously submitted to the Procurement Manager, the Successful Offeror shall bring to the Pre-Construction Conference four copies of each of the following:
 1. the plan of operation;
 2. the anticipated progress schedule;
 3. the procurement schedule for major equipment/materials or items requiring a long lead time;
 4. the shop drawing/sample/substitute or "Or Equal" submittal schedule; and
 5. the name, local address, and telephone number of Successful Offeror's on-site Project Superintendent.

The purpose of the Pre-Construction Conference is to designate responsible personnel and establish a working relationship. Matters requiring coordination will be discussed and procedures for handling such matters established. The Successful Offeror should be prepared to discuss all of the following items:

1. status of Successful Offeror's insurance and bonds;
2. Successful Offeror's initial progress schedule;
3. transmittal, review, and distribution of Successful Offeror's submittals;

4. processing applications for payment (the Successful Offeror may submit billings on a monthly basis; the Project Director must approve a billing before it may be paid.);
5. maintaining record documents;
6. critical Work sequencing;
7. field decisions and Change Orders;
8. use of the project site, office and storage areas, security, housekeeping, and Agency's needs;
9. major equipment deliveries and priorities; and
10. Successful Offeror's provisions for safety and first aid.

- b. **Progress Meetings During Site Construction:** During the project, it is the Successful Offeror's responsibility to schedule and hold weekly Work progress meetings at a mutually agreed upon time and place which shall be attended by the Project Director and the Successful Offeror, and the Successful Offeror's subcontractors as the Successful Offeror considers appropriate. Other Agency personnel may attend. The Successful Offeror may, at its discretion, request attendance by representatives of its suppliers, manufacturers, or other subcontractors.

The purpose of the weekly progress meetings will be to review the progress of the Work as compared to the Successful Offeror's current progress schedule, maintain coordination of effort, discuss changes in scheduling, and resolve other problems which may develop. During each meeting the Successful Offeror shall present any issues which may impact the scheduling or progress of the Work, with a view toward resolving these issues expeditiously.

2.08 LIQUIDATED DAMAGES

- a. Liquidated Damages shall be applicable to the Work because damages resulting from lost production time by the Agency and its employees and invitees, as well as other damages for late completion of the overall Work, will be difficult to estimate. The Liquidated Damages are established in the schedule as listed below.

Daily Charge for Liquidated Damages For each Calendar Day of Delay	
Original Contract Amount	Daily Charge
More Than - But Not More than	
\$0.00 - \$99,999.99	\$300.00
\$100,000.00 - \$499,999.99	\$550.00
\$500,000.00 - \$999,999.99	\$750.00
\$1,000,000.00 - \$1,999,999.99	\$1,000.00
\$2,000,000.00 - \$4,999,999.99	\$1,500.00
\$5,000,000.00 - \$9,999,999.99	\$2,500.00
\$10,000,000.00 – and up	\$3,000.00

- b. If an extension of time has not been granted in writing by the Agency, for each calendar day that the Work remains incomplete after the expiration of the contract time, the sum per day given in the above schedule shall be deducted from any monies due the Successful Offeror. If no money is due the Successful Offeror, the Agency shall have the right to recover said sum from the Successful Offeror, the Payment Bond surety, or both. Such amounts are liquidated damages and are not to be considered as penalties.

2.09 SPECIAL REQUIREMENTS

- a. During the project, limited parking may be available for the Successful Offeror as assigned by the Project Director.
- b. During the construction period, the Successful Offeror shall have coordinated access to the TMLOB premises as necessary to perform the Work.
- c. The Agency will supply electricity and water for the Work, and the Successful Offeror may use the restrooms on the ground floor of the TMLOB during the performance of the Work.
- d. The Agency may be able to accommodate some storage of materials and equipment on-site or at an off-site storage facility; however, it will be the responsibility of the Successful Offeror to make its own arrangements for most of its storage needs.
- e. The Agency is not responsible for loss or damage to the Successful Offeror's vehicles, equipment, tools, materials, or other property. The Agency advises the Successful Offeror to take reasonable precautions to prevent losses.
- f. The Agency will be responsible for coordinating the actual moving of any of the Agency's property that might be required.
- g. The Agency will be responsible for drilling, cutting, altering, and repairing all walls and surfaces that must be changed because of the Work, including but not limited to painting and patching drywall surfaces. The Successful Offeror must coordinate all penetrations into the building walls or surfaces or alterations made to the building with the Project Director and receive the Project Directors approval before commencement of the Work.

SECTION THREE - General Conditions and Requirements

3.01 AUTHORITIES AND LIMITATIONS:

- a. The Successful Offeror shall perform the Work in accordance with any written order (including, but not limited to, instruction, direction, interpretation, or determination) issued by an authorized representative of the Agency in accordance with the authorized representative's authority to act for the Project Director. The Successful Offeror assumes all the risk and consequences of performing the Work in accordance with any order (including, but not limited to, instruction, direction, interpretation, or determination) of anyone not authorized to issue such order, and of any order not in writing.

Should the Project Director or the Project Director's authorized representative designate a Consultant to act as an authorized representative for the Agency as provided for in the previous paragraph, the performance or nonperformance of the Consultant under such authority to act, shall not give rise to any contractual obligation or duty of the Consultant to the Successful Offeror, any subcontractor, any supplier, or any other organization performing any of the Work or any Surety representing them.

The Project Director will decide all questions which may arise as to;

- i. Quality and acceptability of materials furnished;
 - ii. Quality and acceptability of Work performed;
 - iii. Compliance with the schedule of progress;
 - iv. Interpretation of contract documents;
 - v. Acceptable fulfillment of the Contract on the part of the Successful Offeror.
- b. Means & Methods: The means, methods, techniques, sequences, or procedures of construction, or safety precautions and the program incident to these items, and the duty to perform or furnish the Work in accordance with the Contract are the sole responsibility of the Successful Offeror.
- c. Visits to Site/Place of Business: The Project Director will make visits to the site and approved remote storage sites at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract. The Project Director may, at reasonable times, inspect that part of the plant or place of business of the Successful Offeror or subcontractor that is related to the performance of the Contract. Observations, or the lack of observations, by the Agency does not relieve the Successful Offeror from the duty to perform the Work in accordance with the Contract.

3.02 PROPOSAL DOCUMENTS: INTENT, AMENDING, REUSE:

- a. Incomplete Proposal Documents: The submission of a proposal by an Offeror is considered a representation that the Offeror examined the RFP and attached documents to make certain that all sheets and pages were provided, and that the Offeror is satisfied as to the conditions to be encountered in performing the Work. The Agency expressly denies any responsibility or liability for an Offer submitted on the basis of an incomplete set of RFP documents.
- b. Copies of RFP and Documents: The Agency shall furnish to the Successful Offeror up to two (2) copies of the RFP and attached documents. Upon request, additional copies will be furnished to the Successful Offeror at the cost of reproduction.

- c. Scope of Work: The Contract resulting from this RFP will contain the entire agreement between the Agency and the Successful Offeror concerning the Work. The Contract will be construed in accordance with the applicable Regulatory Requirements. It is specifically agreed between the parties executing the Contract that the Contract does not create in the public or any member thereof a third-party benefit, or authorize anyone not a party to the Contract to maintain a suit pursuant to the terms or provisions of the Contract.
- d. Intent of Contract Documents: It is the intent of the Agency that the Contract describes a functionally complete Project. Any Work, materials, or equipment that may reasonably be inferred from the Contract as being required to produce the intended result will be supplied by the Successful Offeror without any adjustment in contract price or contract time, whether or not specifically called for.

Reference to standard specifications, manuals, or codes of any technical society, organization, or association, or to the Regulatory Requirements of any governmental authority, whether such reference be specific or by implication, shall mean the edition stated in the Contract or, if not stated, the latest standard specification, manual, code or Regulatory Requirements, in effect at the time of advertisement for the Project (or, on the effective date of the Contract if there was no advertisement). However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference into Contract) shall be effective to change the duties and responsibilities of the Agency or the Successful Offeror, or any of their consultants, agents or employees, from those set forth in the Contract, nor shall it be effective to assign to the Agency or any of the Agency's consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraphs under 3.01 (Authorities and Limitations) of these General Conditions and Requirements of this RFP.

- e. Discrepancy in Contract Documents: Before undertaking the Work, the Successful Offeror shall carefully study and compare the Contract and its attachments and check and verify pertinent figures, and dimensions shown thereon and all applicable field measurements. Work by the Successful Offeror shall imply verification of figures, dimensions, and field measurements. If, during the above study or during the performance of the Work, the Successful Offeror finds a conflict, error, discrepancy, or omission in the Contract and its attachments, or a discrepancy between the Contract and any standard specification, manual, code, or Regulatory Requirement which affects the Work, the Successful Offeror shall promptly report the discrepancy in writing to the Project Director. The Successful Offeror shall obtain a written interpretation or clarification from the Project Director before proceeding with any Work affected thereby. An adjustment made by the Successful Offeror without this written interpretation or clarification from the Project Director shall be at the Successful Offeror's own risk and expense. However, the Successful Offeror shall not be liable to the Agency for failure to report any conflict, error, or discrepancy in the Contract, its attachments, and the Regulatory Requirements unless the Successful Offeror should reasonably have known thereof.
- f. Discrepancy - Order of Precedence: When conflicts, errors, or discrepancies within the Contract or its attachments exist, the order of precedence from most governing to least governing will be as follows:

- i. Approved Change Order(s)
 - ii. Amendment(s) to Contract
 - iii. Contract
 - iv. Amendments issued by the Agency for the RFP
 - v. Notices to Offerors
 - vi. Scope of Work and Products
 - vii. General Conditions and Requirements
 - viii. Written Technical Work Specifications
 - ix. General Notes on Construction Drawings
 - x. Drawings (recorded dimensions will govern over scaled dimensions, large scale details over small scale, schedules over plans, architectural drawings over structural drawings over mechanical and electrical drawings)
- g. Clarifications and Interpretations: The Procurement Manager may issue, with reasonable promptness, written clarifications or interpretations of the requirements of the Contract to the Project Director if the Procurement Manager determines necessary. Written clarifications shall be consistent with or reasonably inferable from the overall intent of the Contract.
- h. Reuse of documents: Neither the Successful Offeror nor any subcontractor, nor a supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with the Agency, shall have or acquire any title to or ownership rights in any of the Contract (or copies of them) prepared by or for the Agency and they shall not reuse any of the Contract on extensions of the Project or any other project without written consent of the Procurement Manager. Documents prepared by the Successful Offeror in connection with the Work shall become the property of the Agency.

3.03 LANDS AND PHYSICAL CONDITIONS:

- a. Availability of Site: The Agency shall furnish, as indicated in the Contract, the site upon which the Work is to be performed.
- b. Visit to Site: The submission of a proposal by an Offeror is considered a representation that the Offeror has visited and carefully examined the site and is satisfied as to the conditions to be encountered in performing the Work and as to the requirements of the Contract.
- c. Explorations and Reports: If reference is made in the Supplementary Conditions to any reports of explorations and tests of subsurface conditions at the site that have been utilized by the Agency in preparation of the Contract, then the Successful Offeror may, for the Successful Offeror's purposes, rely on the accuracy of the factual data contained in the reports, but not on interpretations or opinions drawn from factual data contained in the reports or for the completeness or sufficiency of the reports. Except as indicated in the immediately preceding sentence and in paragraphs 3.03.d (Utilities) and 3.06.n. (Differing Site Conditions) of these General Conditions and Requirements of this RFP, the Successful Offeror shall have full responsibility related to surface and subsurface conditions at the site.
- d. Utilities: The horizontal and vertical locations of known underground utilities as shown or indicated in the Contract are approximate and are based on information and data furnished to the Agency by the owners of the underground utilities.

The Successful Offeror shall have full responsibility for:

- i. Reviewing and checking all information and data concerning utilities;
- ii. Locating all underground utilities shown or indicated in the Contract that may be affected by the Work;
- iii. Coordination of the Work with the owners of all utilities during construction;
- iv. Safety and protection of all utilities as provided in paragraph 3.04.r. (Safety and Protection) of these General Conditions and Requirements of this RFP; and
- v. Repair of any damage to utilities resulting from the Work in accordance with this paragraph 3.03.d. (Utilities) and paragraph 3.03.e. (Damaged Utilities) of these General Conditions and Requirements of this RFP.

If Work is to be performed by any utility owner, the Successful Offeror shall cooperate with the owners to facilitate the Work.

In the event of interruption to any utility service as a result of accidental breakage or as result of being the utility being exposed or unsupported, the Successful Offeror shall promptly notify the utility owner and the Project Director. If service is interrupted, the Successful Offeror shall be responsible for and effect continuous repair work until the service is restored, except that no Work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.

- e. Damaged Utilities: If utilities are damaged by the Successful Offeror, the utility owner shall have the choice of repairing the utility or having the Successful Offeror repair the utility. The Successful Offeror shall reimburse the utility owner for repair costs or provide at no cost to the utility owner or the Agency, all materials, equipment, and labor necessary to complete repair of the damage if:
 - i. the utility is shown or indicated in the Contract;
 - ii. the utility has been located by the utility owner;
 - iii. no locate was requested by the Successful Offeror for utilities shown or indicated in the Contract;
 - iv. the utilities are visible; or
 - v. the Successful Offeror could have otherwise reasonably been expected to be aware of the utility.
- f. Utilities Not Shown or Indicated: If, while directly performing the Work, an underground utility is uncovered or revealed at the site which was not shown or not indicated in the contract documents and which the Successful Offeror could not reasonably have been expected to be aware of, the Successful Offeror shall, promptly after becoming aware thereof and before performing any Work affected thereby (except in an emergency as permitted by paragraph 3.04.t. (Emergencies) of these General Conditions and Requirements of this RFP), identify the owner of the underground utility and give written notice to that owner and to the Project Director. The Project Director will promptly review the underground utility to determine the extent to which the Contract and the Work should be modified to reflect the impact of the discovered utility. The Contract will be amended or supplemented in accordance with the paragraph 3.06.b. (Authorization of Changes within the General Scope) of these General Conditions and Requirements of this RFP, and, if necessary, through the issuance of a change document by the Project Director. Until an uncovered utility is repaired or correctly -recovered, the Successful Offeror is responsible for the safety and protection of the underground utility as provided in the paragraph 3.04.r. (Safety and Protection) of these General Conditions and Requirements of this RFP. The Successful Offeror may be allowed

an increase in the contract price or an extension of the contract time, or both, to the extent that they are directly attributable to the existence of any underground utility that was not shown or indicated in the contract documents and which the Successful Offeror could not reasonably have been expected to be aware of.

- g. Survey Control: The Agency will identify sufficient horizontal and vertical control data to enable the Successful Offeror to survey and lay out the Work. All survey work shall be performed under the direct supervision of a registered land surveyor when required by paragraph 1.14 (Professional Registration and Certification) of the Notices to Offerors of this RFP. Copies of all survey notes will be provided the Agency on a weekly basis with variations between the Contract and actual field conditions identified. Survey notes are to be in a format acceptable to the Agency.

3.04 SUCCESSFUL OFFEROR'S RESPONSIBILITIES:

- a. Supervision of Work: The Successful Offeror shall supervise and direct the Work competently and efficiently, devoting the attention and applying the skills and expertise necessary to perform the Work in accordance with the requirements of the Contract. All Work under the Contract shall be performed in a skillful manner. The Successful Offeror shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- b. Superintendence by Successful Offeror: The Successful Offeror shall keep a competent resident project superintendent on the Project Site at all times during Work in progress. The Project Director shall be advised in writing of the project superintendent's name, local address, and telephone number. This written advice is to be kept current until final acceptance of the Work by the Agency. The project superintendent will be the Successful Offeror's representative at the site and shall have full authority to act and sign documents on behalf of the Successful Offeror. All communications given to the project superintendent shall be as binding as if given to the Successful Offeror. The Successful Offeror and project superintendent shall cooperate with the Project Director in every way possible.
- c. Character of Workers: The Successful Offeror shall provide a sufficient number of competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract. The Successful Offeror shall at all times maintain good discipline and order at the site. The Project Director may, in writing, require the Successful Offeror to remove from the Work any employee the Project Director deems incompetent, careless, or otherwise detrimental to the progress of the Work, but the Project Director shall have no duty to exercise this right.
- d. Successful Offeror to Furnish: The Successful Offeror shall provide and maintain neat and sanitary accommodations for the use of the Successful Offeror's employees and Agency representatives as necessary to comply with the requirements of the State and municipal agencies, or of other bodies or tribunals having jurisdiction over health and sanitation. The Successful Offeror shall furnish and assume full responsibility for all materials, equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities, and incidentals necessary for the furnishing, performance, testing, start-up, and completion of the Work.
- e. Materials and Equipment: All materials and equipment shall be of specified quality and new, except as otherwise provided in the Contract. If required by the Project Director, the

Successful Offeror shall furnish satisfactory evidence (including, but not limited to, reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the instructions of the applicable supplier.

- f. Anticipated Schedules: Within a reasonable time prior to the preconstruction conference, the Successful Offeror shall submit to the Project Director for review an anticipated progress schedule indicating the starting and completion dates of the various stages of the Work.
- g. Schedule Submission: Within fifteen (15) days after the date of the Notice to Proceed, the Successful Offeror shall submit to the Project Director for review:
 - i. the Anticipated schedule of Shop Drawing submissions; and
 - ii. the Anticipated Schedule of Prices for all the Work, including, but not limited to, quantities and prices of items aggregating to the contract price and a subdivision the Work into component parts in sufficient detail to serve as the basis for progress payments during construction; the prices will include, but not be limited to, an appropriate amount of overhead and profit applicable to each item of Work, which will be confirmed in writing by the Successful Offeror at the time of submission.
- h. Finalizing Schedules: Prior to processing the first Application for Payment, the Project Director and the Successful Offeror will finalize the schedules required by paragraph 3.04.f. (Anticipated Schedules) and 3.04.g. (Schedule Submission) of these General Conditions and Requirements of this RFP. The finalized progress schedule shall be acceptable to the Agency and shall as provide all necessary information related to the orderly progression of the Work to completion within the contract time. Acceptance by the Agency of the schedules will neither impose on the Agency nor relieve the Successful Offeror from full responsibility for the progress or scheduling of the Work. If accepted by the Agency, the finalized schedule of Shop Drawing and other required submissions are acceptable to the Agency. If accepted by the Agency, the finalized Schedule of Values is acceptable to the Agency as an approximation of anticipated value of Work to be accomplished over the anticipated contract time. However, receipt or acceptance of a schedule submitted by the Successful Offeror shall not be construed to assign responsibility for performance or contingencies to the Agency or relieve the Successful Offeror of its responsibility to adjust its forces, equipment, and work schedules as necessary to insure completion of the Work within prescribed contract time. Should the performance of the Work be discontinued for any reason, the Successful Offeror shall notify the Project Director at least 24 hours in advance of resuming operations.
- i. Adjusting Schedules: Upon substantial changes to the schedule, or on request of the Project Director, the Successful Offeror shall submit to the Project Director for acceptance (to the extent indicated in paragraph 3.04.h. (Finalizing Schedules) of these General Conditions and Requirements of this RFP) adjustments in the schedules to reflect the actual and anticipated progress of the Work.
- j. Substitutes or "Or-Equal" Items: Whenever materials or equipment are specified or described in the Contract by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function, and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other suppliers may be accepted by the Project Director only if sufficient

information is submitted by the Successful Offeror that clearly demonstrates to the Project Director that the material or equipment proposed is equivalent or equal in all aspects to that named. The procedure for review by the Project Director is subject to the following provisions, as supplemented in these General Conditions and Requirements:

- i. Requests for review of substitute materials or equipment will not be accepted by the Project Director from anyone other than the Successful Offeror.
- ii. If the Successful Offeror wishes to furnish or use a substitute material or equipment, the Successful Offeror shall submit a written application to the Project Director for acceptance of the substitute material or equipment. The application shall
 - a. contain a certification by the Successful Offeror that the proposed substitute will adequately perform the functions and achieve the results called for by the general design, be similar and of equal substance to that specified, be suited to the same use as the original material or equipment, and that evaluation and acceptance of the proposed substitute will not delay the Successful Offeror's achievement of Substantial Completion on time;
 - b. state whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract (or in the provisions of any other direct contract with the Agency for Work on the Project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty;
 - c. identify all variations of the proposed substitute from that specified, and indicate the available maintenance, repair, and replacement services for the substitute;
 - d. contain an itemized estimate of all costs that will result directly or indirectly from acceptance of the substitute, including, but not limited to, costs of redesign and claims of other Successful Offerors affected by the resulting change, all of which shall be considered by the Agency in evaluating the proposed substitute.
- iii. The Agency may require the Successful Offeror to furnish, at the Offeror's expense, additional data about the proposed substitute.
- iv. The Project Director may reject any substitution request which the Project Director determines is not in the best interest of the Agency.
- k. Substitute Means and Methods: If a specific means, method, technique, sequence, or procedure of construction is indicated in or required by the Contract, the Successful Offeror may furnish or utilize a substitute means, method, sequence, technique, or procedure of construction acceptable to the Project Director, if the Successful Offeror submits sufficient information to allow the Project Director to determine that the substitute proposed is equivalent to that indicated or required by the Contract. The procedure for review by the Project Director will be similar to that provided in paragraph 3.04.j. (Substitutes or "Or-

Equal” Items) of these General Conditions and Requirements of this RFP as applied by the Project Director and as may be supplemented in the General Conditions and Requirements.

- l. Evaluation of Substitution: The Project Director will be allowed a reasonable time within which to evaluate each proposed substitute. The Project Director will be the sole judge of acceptability, and no substitute will be ordered, installed, or used without the Project Director’s prior written acceptance. Written acceptance by the Project Directors shall be evidenced by either a Change Order or a Shop Drawing approved in accordance with paragraph 3.04.u. (Shop Drawings and Samples) and paragraph 3.04.v. (Shop Drawing and Sample Review) of these General Conditions and Requirements of this RFP. The Project Director may require the Successful Offeror to furnish, at the Successful Offeror's expense, a special performance guarantee or other Surety for any substitute.
- m. Dividing the Work: The divisions and sections of the specifications and the identifications of any Drawings do not control the Successful Offeror in dividing the Work among subcontractors or suppliers or delineating the Work to be performed by any specific trade.
- n. Subcontractors: The Successful Offeror may utilize the services of licensed specialty subcontractors on those parts of the Work which, under normal contracting practices, are performed by licensed specialty subcontractors, in accordance with the following conditions:
 - i. The Successful Offeror shall not award any Work to a subcontractor without prior written approval of the Project Director. This approval will not be given until the Successful Offeror submits to the Project Director a written statement concerning the proposed award to the subcontractor. The written statement shall contain any required Equal Employment Opportunity documents, evidence of workers’ compensation and other insurance whose limits are acceptable to the Successful Offeror, and an executed copy of the subcontract. All subcontracts of Successful Offerors submitted for approval must contain provisions for payment for Work done by the subcontractor that comply with AS 36.90.210. The approval by the Project Director of a subcontractor does not constitute a waiver of any right of the Agency to reject defective Work.
 - ii. The Successful Offeror shall be fully responsible to the Agency for all acts and omissions of the subcontractors, suppliers, and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with Successful Offeror, just as the Successful Offeror is responsible for the Successful Offeror's own acts and omissions.
 - iii. All Work performed for the Successful Offeror by a subcontractor shall be subject to an appropriate written agreement between Successful Offeror and the subcontractor. The written agreement must specifically bind the subcontractor to the applicable terms and conditions of the Contract for the benefit of the Agency and contain waiver provisions as required by paragraph 3.10.r. (Waiver of Claims by Successful Offeror) and termination provisions in accordance with paragraphs under 3.11 (Suspension of Work, Default and Termination) of these General Conditions and Requirements of this RFP.
 - iv. Nothing in the Contract is intended to create a contractual relationship between the Agency and a subcontractor, supplier, or other person or organization; or create any

obligation on the part of the Agency to pay or to see to the payment of any monies due any such subcontractor, supplier, or other person or organization, except as may otherwise be required by Regulatory Requirements. The Agency will not undertake to settle any differences between or among the Successful Offeror, subcontractors, or suppliers.

- v. The Successful Offeror and subcontractors shall coordinate their work and cooperate with other trades so as to facilitate general progress of the Work. Each trade shall afford other trades every reasonable opportunity for installation of their work and storage of materials. If cooperative work of one trade must be altered due to lack of proper supervision or failure to make proper provisions in time by another trade, the condition shall be remedied by the Successful Offeror with no change in contract price or contract time.
- vi. The Successful Offeror shall include on its own payroll any person or persons working on the Contract who are not covered by written subcontract and shall ensure that all subcontractors include on their payrolls all persons performing work under the direction of the subcontractors.
- o. Use of Premises: The Successful Offeror shall confine construction equipment, the storage of materials and equipment, the operations of workers, approved remote storage sites and lands and areas identified in and permitted by Regulatory Requirements, rights-of-way, permits, and easements, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. The Successful Offeror shall assume full responsibility for any damage to any land or area, or to the owner or occupant of a land or area or of any contiguous land or areas, resulting from the performance of the Work. Should any claim be made against the Agency by any an owner or occupant because of the performance of the Work, the Successful Offeror shall hold the Agency harmless.
- p. Structural Loading: The Successful Offeror shall not load or permit any part of any structure to be loaded in any manner that will endanger the structure; nor shall the Successful Offeror subject any part of the Work or adjacent property to stresses or pressures that will endanger it.
- q. Record Documents: The Successful Offeror shall maintain in a safe place at the site one record copy of all Drawings, Specifications, Amendments, Directives, Change Orders, Supplemental Agreements, and written interpretations and clarifications (issued pursuant to paragraph 3.02.g. (Clarifications and Interpretations)) of these General Conditions and Requirements of this RFP, in good order and annotated to show all changes made during construction. These documents, together with all approved samples and a counterpart of all approved Shop Drawings, shall be available to the Project Director for reference or copying. Upon completion of the Work, the Successful Offeror shall deliver to the Project Director the annotated documents, samples, and Shop Drawings. The documents shall accurately record variations in the Work from the requirements shown or indicated in the Contract.
- r. Safety and Protection: In addition to the other safety requirements of the Contract, the Successful Offeror must comply with AS 18.60.075 (Safe Employment) and all pertinent provisions of 8 AAC 61 (Occupational Safety and Health). The Successful Offeror alone shall be responsible for initiating, maintaining, and supervising all safety precautions and programs

in connection with the Work. The Successful Offeror shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

- i. All employees on the Work and other persons and organizations who may be affected by the Work;
- ii. All the Work, and the materials and equipment to be incorporated in the Work, whether in storage on or off the site; and
- iii. Other property at the site or adjacent to the site, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

The Successful Offeror shall comply with all applicable Regulatory Requirements of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss; and shall erect and maintain all necessary safeguards for safety and protection of persons and property. The Successful Offeror shall notify owners of adjacent property and utility owners when performance of the Work may affect them and shall cooperate with the owners in the protection, removal, relocation, and replacement of their property. All damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the Successful Offeror, any subcontractor, supplier, or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by the Successful Offeror. No change in contract price or contract time will be allowed except as stated in paragraph 3.03.f. (Utilities Not Shown or Indicated) of these General Conditions and Requirements of this RFP, except damage or loss attributable to unforeseeable causes beyond the control of and without the fault or negligence of the Successful Offeror, including but not limited to, acts of God, the public enemy, or governmental authorities. The Successful Offeror's duties and responsibilities for the safety and protection of the Work shall continue until final acceptance (except as otherwise expressly provided in connection with substantial completion).

- s. Safety Representative: The Successful Offeror shall designate a responsible safety representative at the site. This person shall be the Successful Offeror's project superintendent unless otherwise agreed in writing by the Successful Offeror and the Project Director.
- t. Emergencies: In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent to the site, the Successful Offeror, without special instruction or authorization from the Agency, is obligated to act to prevent threatened damage, injury, or loss. The Successful Offeror shall give the Project Director prompt written notice if the Successful Offeror believes that any significant changes in the Work or variations from the Contract has been caused. If the Agency determines that a change in the Contract is required because of the action taken in response to an emergency, a change will be authorized by one of the methods indicated in paragraph 3.06.b. (Authorization of Changes within the General Scope) of these General Conditions and Requirements of this RFP, as determined appropriate by the Project Director.
- u. Shop Drawings and Samples: After checking and verifying all field measurements and after complying with applicable procedures specified in these General Conditions and Requirements, the Successful Offeror shall submit to the Project Director for review and

approval in accordance with the accepted schedule of Shop Drawing submissions the required number of all Shop Drawings, that will bear a stamp or specific written indication that the Successful Offeror has satisfied the Successful Offeror's responsibilities under the Contract to the review the submission. All submissions will be identified as the Project Director requires. The Successful Offeror is responsible for ensuring that data shown on the Shop Drawings is complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data sufficient to enable the Project Director to review the information.

The Successful Offeror shall also submit to the Project Director for review and approval with promptness as to cause no delay in Work, all samples required by the Contract. The Successful Offeror is responsible for ensuring that all samples have been checked and shall provide a specific written indication that the Successful Offeror has satisfied its responsibilities under the Contract to the review of the submission. The Successful Offeror shall ensure that all samples are clearly identified as to material, supplier, pertinent data (such as catalog numbers), and the use that the sample was intended for.

Before submission of each Shop Drawing or sample, the Successful Offeror shall verify that all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar data with respect to the Shop Drawing or sample are correct and coordinate each Shop Drawing or sample with other Shop Drawings and samples and with the requirements of the Work and the Contract.

At the time of each submission, the Successful Offeror shall give the Project Director specific written notice of each variation that the Shop Drawings or samples may have from the requirements of the Contract, and, in addition, shall make a notation of each variation on each Shop Drawing submitted to the Project Director for review and approval. The Successful Offeror shall identify all variations of the proposed shop drawing in the submission and shall indicate all available maintenance, repair, and replacement services. The Successful Offeror shall also provide in the submittal an itemized estimate of all costs that resulting directly or indirectly from acceptance of the variation, including costs of redesign and claims of other Successful Offerors affected by the resulting change, all of which shall be considered by the Agency in evaluating the proposed variation. If the variation may result in a change of contract time or price, or contract responsibility, and is not minor in nature, the Successful Offeror must submit a written request for Change Order with the variation to notify the Agency of the Successful Offeror's intent. The Agency may require the Successful Offeror to furnish at the Successful Offeror's expense additional data about the proposed variation. The Project Director may reject any variation request that the Project Director determines is not in the best interest of the Agency.

- v. Shop Drawing and Sample Review: The Project Director will review with reasonable promptness Shop Drawings and samples, but the Project Director's review will be only for conformance with the design concept of the Project and for compliance with the information given in the Contract and shall not extend to means, methods, techniques, sequences, or procedures of construction (except where a specific means, method, technique, sequence, or procedure of construction is indicated in or required by the Contract) or to safety precautions or programs incident to the Shop Drawings or samples. The review of a separate item as such will not indicate acceptance of the assembly in which the item functions. The Successful Offeror shall make corrections required by the Project Director and shall return the required number of corrected copies of Shop Drawings and submit as required new samples for review.

The Successful Offeror shall direct specific attention in writing to revisions other than the corrections called for by the Project Director on previous submittals.

The Project Director's review of Shop Drawings or samples shall not relieve the Successful Offeror from responsibility for any variation from the requirements of the Contract unless the Successful Offeror has in writing advised the Project Director of the variation at the time of submission, as required by the paragraphs under 3.04.u. (Shop Drawings and Samples) of these General Conditions and Requirements of this RFP. The Project Director, in the Project Director's sole discretion, may give written approval of each such variation by Change Order, except that, if the variation is minor and no Change Order has been requested, a specific written notation incorporated in or accompanying the Shop Drawing or sample review comments shall suffice as a modification. No approval by the Project Director will relieve the Successful Offeror from responsibility for errors or omissions in the Shop Drawings or from responsibility for having complied with the provisions of paragraphs under 3.04.u. (Shop Drawings and Samples) of these General Conditions and Requirements of this RFP.

Where a Shop Drawing or sample is required by the specifications, any related Work performed prior to the Project Director's review of the pertinent submission will be the sole expense and responsibility of the Successful Offeror.

- w. Maintenance During Construction: The Successful Offeror shall maintain the Work during construction and until Substantial Completion, at which time the responsibility for maintenance shall be established in accordance with paragraphs under 3.10.j. (Substantial Completion) of these General Conditions and Requirements of this RFP.
- x. Continuing the Work: The Successful Offeror shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with the Agency. The Successful Offeror shall not delay or postpone Work pending the resolution of any disputes, disagreements, or claims, unless the Successful Offeror and the Project Director otherwise agree in writing.
- y. Consent to Assignment: The Successful Offeror shall obtain the prior written consent of the Project Director to any proposed assignment of any interest in, or part of the Contract. The consent to any assignment or transfer shall not operate to relieve the Successful Offeror or the Successful Offeror's Sureties of any obligations under the contract or the Performance and Payment Bonds. Nothing shall be construed to hinder, prevent, or affect an assignment of monies due, or to become due, made for the benefit of the Successful Offeror's creditors pursuant to law.
- z. Use of Explosives: If the use of explosives is necessary for the performance of the Work, the Successful Offeror shall exercise the utmost care not to endanger life or property, including, but not limited to, the Work, and shall follow all Regulatory Requirements applicable to the use of explosives. The Successful Offeror shall be responsible for all damage resulting from the use of explosives.

All explosives shall be stored in a secure manner in compliance with all Regulatory Requirements, and all such storage places shall be clearly marked. Where no Regulatory Requirements apply, safe storage shall be provided no closer than 1,000 feet from any building, camping area, or place of human occupancy.

The Successful Offeror shall notify each public utility owner having structures in proximity to the site of his intention to use explosives. The Successful Offeror shall also notify all property owners in the immediate vicinity. The notice shall be given sufficiently in advance to enable utility owners to take the steps they may deem necessary to protect their property from injury. However, the Successful Offeror shall be responsible for all damage resulting from the use of the explosives, whether or not utility owners act to protect their property.

- aa. Successful Offeror Records: Records of the Successful Offeror and subcontractors relating to personnel, payrolls, invoices of materials, and any and all other data relevant to the performance of the Contract, must be kept on a generally recognized accounting system. The records must be available during normal work hours to the Project Director, and Agency personnel, for any purpose, including for the purpose of investigation to ascertain whether Work is complying with Regulatory Requirements or with the Contract.

Payroll records must contain the name and address of each employee, each employee's correct classification, rate of pay, daily and weekly number of hours of work, deductions made, and actual wages paid. The Successful Offeror and subcontractors shall make employment records available for inspection by the Project Director, Agency Personnel, and representatives of the Department of Labor and Workforce Development and shall permit such representatives to interview employees during working hours on the Project.

Records of all written communications, including, not limited to, emails between the Agency and the Successful Offeror and other parties, if the communications affect the performance of the Contract, must be kept by the Successful Offeror and maintained for a period of three years from Final Acceptance. The Agency or its assigned representative may perform an audit of the records during normal work hours after written notice to the Successful Offeror.

3.05 OTHER WORK:

- a. Related Work at Site: The Agency reserves the right to, at any time, contract for or perform other or additional work on or near the Work covered by the Contract.

When separate contracts occur within the limits of the Project, the Successful Offeror shall conduct the Work so as not to interfere with or hinder the work being performed by other contractors or Agency employees. The Successful Offeror, when working on the same Project with other contractors, shall cooperate with the other contractors. The Successful Offeror shall join the Successful Offerors Work with that of the others in an acceptable manner and shall perform it in proper sequence to that of others.

If the fact that other work is to be performed is identified or shown in the Contract, the Successful Offeror shall assume all liability, financial or otherwise, in connection with the Contract and indemnify and save harmless the Agency from any and all damages or claims that may arise because of inconvenience, delay, or loss experienced by the Successful Offeror because of the presence and operations of other Successful Offerors.

If the fact that other work is to be performed was not identified or shown in the Contract, written notice of the other work will be given to the Successful Offeror prior to starting the other work. If the Successful Offeror believes that the performance of other work, not previously identified in the Contract, will require an increase in contract price or contract time, the Successful Offeror shall notify the Project Director of the required increase within

fifteen (15) calendar days following receipt of the Project Director's notice. Should the Project Director find the increase(s) to be justified, a Change Order will be executed.

- b. Utility Access, Cutting, and Patching: The Successful Offeror shall give each utility owner and any other contractor of the Agency (or the Agency, if the Agency is performing the additional work with the Agency's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of their work, and shall properly connect and coordinate the Work with the work of others. The Successful Offeror shall do all cutting, fitting, and patching of the Work that may be required to make its several parts come together properly and integrate with other work. The Successful Offeror shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only alter the work of others with the written consent of the Project Director. The duties and responsibilities of the Successful Offeror under this paragraph are for the benefit of other Successful Offerors and apply only if there are comparable provisions for the benefit of the Successful Offeror in the contracts between the Agency and the other Successful Offerors.
- c. Defective Work by Others: If any part of the Successful Offeror's Work depends on the proper execution or completion of work by another Successful Offeror, utility owner, or the Agency, the Successful Offeror shall inspect and promptly report to the Project Director in writing any delays, defects, or deficiencies in the work of the other Successful Offeror that render it unavailable or unsuitable to the Successful Offeror. The Successful Offeror's failure to so report other work will constitute an acceptance of the other work as fit and proper for integration with Successful Offeror's Work, except for latent or nonapparent defects and deficiencies in the other work.
- d. Coordination: If the Agency contracts with others for the performance of other work at the site, the Project Director will be responsible for coordinating of the activities among the various Successful Offerors.

3.06 CHANGES:

- a. Agency's Right to Change: The Agency may, at any time, order additions, deletions, or revisions in the Work within the general scope of the Contract, including but not limited to, changes:
 - i. In the contract documents;
 - ii. In the method or manner of performance of the Work;
 - iii. In State-furnished facilities, equipment, materials, services, or site;
 - iv. Directing acceleration in the performance of the Work.
- b. Authorization of Changes within the General Scope: Additions, deletions, or revisions in the Work within the general scope of the Contract, as specified in paragraph 3.06.a. (Agency's Right to Change) of these General Conditions and Requirements of this RFP, shall be authorized by one or more of following ways:
 - i. Directive (pursuant to paragraph 3.06.c. (Directive) of these General Conditions and Requirements of this RFP);

- ii. Change Order (pursuant to paragraph 3.06.i. (Change Order) of these General Conditions and Requirements of this RFP);
 - iii. Agency's acceptance of Shop Drawing variations from the Contract, as specifically identified by the Successful Offeror as required by paragraph 3.04.u. (Shop Drawings and Samples) of these General Conditions and Requirements of this RFP.
- c. Directive: The Project Director shall provide written clarification or interpretation of the Contract(pursuant to paragraph 3.02.g. (Clarifications and Interpretations) of these General Conditions and Requirements of this RFP).
 - d. The Project Director may authorize minor variations in the Work from the requirements of the Contract that do not involve an adjustment in the contract price or the contract time and are consistent with the overall intent of the Contract.
 - e. The Project Director may order the Successful Offeror to correct defective Work or change methods that do not conform to the Contract.
 - f. The Project Director may direct the commencement or suspension of Work or emergency related Work (as provided in paragraph 3.04.t. (Emergencies) of these General Conditions and Requirements of this RFP).
 - g. Upon the issuance of a Directive to the Successful Offeror by the Project Director, the Successful Offeror shall proceed with the performance of the Work as prescribed by the Directive.
 - h. If the Successful Offeror believes that the changes noted in a Directive cause an increase in the contract price or an extension of contract time, the Successful Offeror shall immediately provide written notice to the Project Director detailing the expected increases before proceeding with the Directive, except in the case of an emergency. If the Project Director finds the increase in contract price or the extension of contract time is justified, a Change Order will be issued. If however, the Project Director does not find that a Change Order is justified, the Project Director may direct the Successful Offeror to proceed with the Work. The Successful Offeror shall cooperate with the Project Director to keep complete daily records of the cost of such Work. If a Change Order is ultimately determined to be justified, in the absence of agreed prices and unit prices, payment for such Work will be made on a cost of the work basis as provided in paragraph 3.07.d. (Cost of the Work) of these General Conditions and Requirements of this RFP.
 - i. Change Order: A change in contract time, contract price, or responsibility may be made within the scope of the Work only by Change Order. Upon receipt of an executed Change Order, the Successful Offeror shall promptly proceed with the work involved and perform the work under the applicable conditions of the Contract, unless otherwise specifically provided. Changes in contract price and contract time shall be made in accordance with paragraphs under 3.06 (Changes), 3.07 (Contract Price: Computation and Change), and 3.08 (Contract Time: Computation and Change) of these General Conditions and Requirements of this RFP.
 - j. Shop Drawing Variations: Variations by Shop Drawings shall only be eligible for consideration under the above paragraph 3.06.i. (Change Order) of these General Conditions

and Requirements of this RFP, when the conditions affecting the price, time, or responsibility are identified by the Successful Offeror in writing and a request for a Change Order is submitted as described in paragraph 3.04.u. (Shop Drawings and Samples) of these General Conditions and Requirements of this RFP.

- k. Changes Outside the General Scope; Supplemental Agreement: Any change that is outside the general scope of the Contract, as determined by the Project Director, must be authorized by a Supplemental Agreement signed by the authorized representatives of the Agency and the Successful Offeror.
- l. Unauthorized Work: The Successful Offeror is not entitled to an increase in the contract price or an extension of the contract time with for any work performed that is not required by the Contract as amended, modified, and supplemented as provided in paragraphs under 3.06 (Changes), except in the case of an emergency as provided in paragraph 3.04.t. (Emergencies) of these General Conditions and Requirements of this RFP, and except in the case of uncovering Work as provided in 3.09.d. (Uncovering Work) of these General Conditions and Requirements of this RFP.
- m. Notification of Surety: If notice of any change affecting the general scope of the Work or the provisions of the Contract (including, but not limited to, contract price or contract time) is required by the provisions of any Bond given to a Surety, it is the Successful Offeror's responsibility to give the notice Successful Offeror, and the amount of each applicable Bond shall be adjusted accordingly.
- n. Differing Site Conditions: The Successful Offeror shall promptly, and before conditions are disturbed (except in an emergency as permitted by paragraph 3.04.t. (Emergencies)) of these General Conditions and Requirements of this RFP, notify the Project Director in writing of:
 - i. Subsurface or latent physical conditions at the site differing materially from those indicated in the Contract, and that could not have been discovered by a careful examination of the site; or
 - ii. Unknown physical conditions at the site of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract. The Project Director shall promptly investigate the conditions, and if the Project Director finds that such conditions do materially so differ and cause an increase or decrease in the Successful Offeror's cost of, or time required for, performance of the Contract, an equitable adjustment shall be made and the Contract modified in writing, at the agreement of both the Successful Offeror and the Agency, accordingly.
- o. Any claim for additional compensation by the Successful Offeror under paragraph 3.06 (Changes) of these General Conditions and Requirements of this RFP, shall be made in accordance with paragraph 3.12 (Claims and Disputes) of these General Conditions and Requirements of this RFP, and is not allowed unless the Successful Offeror has first given the notice required by the Contract. If the Project Director and the Successful Offeror are unable to reach an agreement concerning an alleged differing site condition, the Successful Offeror will be required to keep an accurate and detailed record that indicates the actual cost of the work done under the alleged differing site condition. Failure to keep such a record shall bar any recovery by the Successful Offeror for the reason of the alleged differing site

conditions. The Successful Offeror shall the give the Project Director the opportunity to supervise and check the keeping of the records described in this paragraph 3.06.o. of these General Conditions and Requirements of this RFP.

3.07 CONTRACT PRICE, COMPUTATION AND CHANGE:

- a. Contract Price: The contract price constitutes the total compensation (subject to authorized adjustments) payable to the Successful Offeror for performing the Work. All duties, responsibilities, and obligations assigned to or undertaken by the Successful Offeror shall be at the Successful Offeror's expense without change in the contract price. The contract price may only be changed by a Change Order or Supplemental Agreement.
- b. Claim for Price Change: Any claim for an increase or decrease in the contract price shall be submitted in accordance with the terms in paragraphs under 3.12 (Claims and Disputes) of these General Conditions and Requirements of this RFP and shall not be allowed unless notice requirements of the Contract have been met.
- c. Change Order Price Determination: The value of any work covered by a change order for an increase or decrease in the contract price shall be determined in one of the following ways:
 - i. Where the Work involved is covered by unit prices contained in the Contract, the value shall be determined by application of unit prices to the quantities of the items involved (subject to the provisions of paragraphs under 3.07.h. (Unit Price Work) of these General Conditions and Requirements of this RFP).
 - ii. By mutual acceptance of a lump sum price which includes overhead and profit.
 - iii. When i. and ii. are inapplicable, on the basis of the "Cost of the Work" (determined as provided in paragraphs under 3.07.d. (Cost of the Work) and 3.07.e. (Excluded Costs) of these General Conditions and Requirements of this RFP), plus a Successful Offeror's fee for overhead and profit (determined as provided in paragraphs under 3.07.f. (Successful Offeror's Fee) of these General Conditions and Requirements of this RFP).

Before a Change Order or Supplemental Agreement is approved, the Successful Offeror shall submit pricing data for the changed or extra Work. The Successful Offeror shall certify that the data submitted is, to the Successful Offeror's best knowledge and belief, accurate, complete, and current as of a mutually determined specified date and that the data will continue to be accurate and complete during the performance of the changed or extra Work.

- d. Cost of the Work: The term "Cost of the Work" means the sum of all costs necessarily incurred and paid by the Successful Offeror in the proper performance of the Work. Except as otherwise agreed to in writing by the Agency, the costs shall not exceed the costs prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in the paragraph 3.07.e. (Excluded Costs) of these General Conditions and Requirements of this RFP:
 - i. Payroll costs for employees in the direct employ of the Successful Offeror in the performance of the Work under schedules of job classifications agreed upon by the Agency and the Successful Offeror. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work.

Payroll costs shall include salaries and wages plus the cost of fringe benefits that include, but are not limited to, social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation, and Holiday pay applicable to the employees. Employees shall include, but are not limited to, project superintendents and foremen at the site. The expenses of performing Work after regular working hours, on Saturday, Sunday or legal holidays, shall be included in the payroll costs, only if authorized by the Agency.

- ii. Cost of all materials and equipment furnished and incorporated in the Work, including, but not limited to, costs of transportation and storage of materials and equipment, and suppliers' field services required in connection with the materials and equipment. All cash discounts accrue to the Successful Offeror unless the Agency deposits funds with the Successful Offeror with which to make payments, in which case the cash discounts shall accrue to the Agency. All trade discounts, rebates, and refunds and all returns from sale of surplus materials and equipment shall accrue to the Agency, and the Successful Offeror shall return them to the Agency promptly.
- iii. Payments made by the Successful Offeror to subcontractors for Work performed by subcontractors. If required by the Agency, the Successful Offeror shall obtain competitive quotes from subcontractors or suppliers acceptable to the Successful Offeror and shall deliver the quotes to the Agency; the Agency will then determine which quotes will be accepted and notify the Successful Offeror. If a subcontract provides that the subcontractor is to be paid on the basis of "cost of the work" plus a fee, the subcontractor's "cost of the work" shall be determined in the same manner as the Successful Offeror's "cost of the work" as described in paragraphs 3.07.d. (Cost of the Work) and 3.07.e. (Excluded Costs) of these General Conditions and Requirements of this RFP, and the subcontractor's fee shall be established as provided for in paragraphs under 3.07.f. (Successful Offeror's Fee) of these General Conditions and Requirements of this RFP. All subcontracts shall be subject to the other applicable provisions of the Contract.
- iv. Costs of special consultants (including, but not limited to engineers, architects, testing laboratories, and surveyors) employed for services necessary for the completion of the Work.
- v. Supplemental costs including, but not limited to, the following:
 - 1. The proportion of necessary transportation, travel, and subsistence expenses of the Successful Offeror's employees incurred in discharge of duties connected with the Work.
 - 2. Cost, including, but not limited to, transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the site and hand tools not owned by the workers, which are used in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of the Successful Offeror.
 - 3. Rentals of all construction equipment and machinery and the parts of the equipment or machinery whether rented from the Successful Offeror or others in

accordance with rental agreements approved by the Agency, and the costs of transportation, loading, unloading, installation, dismantling, and removal of the equipment, machinery, or parts in accordance with terms of the rental agreements. The rental of equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

4. Sales, consumer, use, or similar taxes related to the Work, and for which the Successful Offeror is liable, imposed by Regulatory Requirements.
5. Deposits lost for causes other than negligence of the Successful Offeror, negligence of a subcontractor, or negligence of anyone directly or indirectly employed by the Successful Offeror or a subcontractor, or negligence of anyone whose acts the Successful Offeror or a subcontractor may be liable; royalty payments; and fees for permits and licenses.
6. Losses and damages and related expenses, not compensated by insurance or otherwise, related to the Work or and sustained by the Successful Offeror in connection with the performance and furnishing of the Work, only of the losses or damages have resulted from causes other than the negligence of the Successful Offeror, a subcontractor, or anyone directly or indirectly employed by the Successful Offeror or subcontractor, or for anyone whose acts the Successful Offeror or a subcontractor may be liable. Losses may include settlements made with the written consent and approval of the Agency. No losses, damages, or expenses may be included in the "cost of the work" for the purpose of determining the Successful Offeror's fee. If, however, any loss or damage requires reconstruction and the Successful Offeror is placed in charge of the reconstruction, the Agency shall pay the Successful Offeror for the reconstruction Successful Offeror with a fee proportionate to that stated in paragraphs under 3.07.f. (Successful Offeror's Fee) of these General Conditions and Requirements of this RFP.
7. The cost of utilities, fuel, and sanitary facilities at the site.
8. Minor expenses including as long-distance telephone calls, telephone service at the site, courier costs, and similar petty cash items in connection with the Work.
9. Cost of premiums for additional bonds and insurance required because of changes in the Work and premiums for property insurance coverage within the limit of the amount established by the Agency in accordance with paragraph 1.48 (Insurance) of the Scope of Work and Products of this RFP.

e. Excluded Costs: The term "cost of the work" does not include any of the following:

- i. Payroll costs and other compensation of Successful Offeror's officers, executives, principals of partnerships and sole proprietorships, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Successful Offeror whether at the site or in Successful Offeror's principal or a branch office for general administration of the Work and not specifically included in the agreed upon

schedule of job classifications referred to in paragraphs covered under 3.07.d. (Cost of the Work) of these General Conditions and Requirements of this RFP, all of which are to be considered administrative costs covered by the Successful Offeror's fee.

- ii. Expenses of Successful Offeror's principal and branch offices, except that the Successful Offeror's office at the Site may be included in the "cost of work."
 - iii. Any part of Successful Offeror's capital expenses including, but not limited to, interest on the Successful Offeror's capital employed for the Work and charges against Successful Offeror for delinquent payments.
 - iv. Cost of premiums for all bonds and for all insurance whether the Successful Offeror is required by the Contract to purchase and maintain the bonds or insurance ,except that the cost of premiums covered by above paragraphs under 3.07.d. (Cost of the Work) of these General Conditions and Requirements of this RFP may be included in the "cost of work."
 - v. Costs due to the negligence of Successful Offeror, a subcontractor, or anyone directly or indirectly employed by the Successful Offeror or a subcontractor, or for anyone whose acts the Successful Offeror or a subcontractor may be liable, including, but not limited to, the correction of defective Work, the disposal of materials or equipment wrongly supplied, or the making good of any damage to property.
 - vi. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraphs under 3.07.d. (Cost of the Work) of these General Conditions and Requirements of this RFP.
- f. Successful Offeror's Fee: The Successful Offeror's fee Successful Offeror for overhead and profit shall be determined as follows:

A mutually acceptable fixed fee; or if a fixed fee cannot be agreed upon, a fee based on the following percentages of the "Cost of the Work":

- i. For costs incurred under i. and ii. of paragraph 3.07.d. (Cost of the Work) of these General Conditions and Requirements of this RFP, the Successful Offeror's fee is twenty percent (20%);
- ii. For costs incurred under iii. of paragraph 3.07.d. (Cost of the Work) of these General Conditions and Requirements of this RFP, the Successful Offeror's fee is ten percent (10%); if a subcontract is on the basis of paragraph 3.07.d. (Cost of the Work) of these General Conditions and Requirements of this RFP plus a fee, the maximum allowable percentage to Successful Offeror on account of overhead and profit of all subcontractors is fifteen percent (15%);
- iii. No fee shall be payable on the basis of costs itemized under iv. and v. of paragraph 3.07.d. (Cost of the Work) of these General Conditions and Requirements of this RFP; no fee shall be payable under any provision of paragraph 3.07.e. (Excluded Costs) of these General Conditions and Requirements of this RFP;

- iv. The amount of credit allowed by the Successful Offeror to the Agency for a change that results in a net decrease in cost will be the amount of the actual net decrease plus a deduction in Successful Offeror's fee by an amount equal to ten percent (10%) of the net decrease; and
- v. When both additions and credits are involved in any one change, the adjustment in Successful Offeror's fee is be computed on the basis of the net change in accordance with the provision under paragraph 3.07.f. (Successful Offeror's Fee) of these General Conditions and Requirements of this RFP.
- g. Cost Breakdown: Whenever the cost of any Work is determined pursuant to paragraphs 3.07.d. (Cost of the Work) and 3.07.e. (Excluded Costs) of these General Conditions and Requirements of this RFP, the Successful Offeror will submit, in a form acceptable to the Agency, an itemized cost breakdown together with supporting data.
- h. Unit Price Work: Where the Contract provides that all or part of the Work is unit price Work, initially the contract price will be deemed to include, for all unit price Work, an amount equal to the sum of the established unit prices for each separately identified item of unit price Work multiplied by the estimated quantity of each item indicated in the Contract. The estimated quantities of items of unit price Work are not guaranteed and are solely for the purpose of comparison of proposals and determining an initial contract price. Determinations of the actual quantities and classifications of unit price Work performed by the Successful Offeror will be made by the Agency in accordance with paragraph 3.07.i. (Determinations for Unit Prices) of these General Conditions and Requirements of this RFP.

Each unit price will be deemed to include an amount considered by the Successful Offeror to be adequate to cover the Successful Offeror's overhead and profit for each separately identified item. If the Contract relating to any unit price in the Cost Proposal Form require that the unit price cover and be considered compensation for certain work or material essential to the item, this same work or material will not also be measured or paid for under any other pay item which may appear elsewhere in the Contract.

Payment to the Successful Offeror shall be made only for the actual quantities of Work performed and accepted, or materials furnished, in conformance with the Contract. When the accepted quantities of Work or materials vary from the quantities stated in the Cost Proposal Form or change documents, the Successful Offeror shall accept as payment in full, payment at the stated unit prices for the accepted quantities of Work and materials furnished, completed, and accepted; except as provided below:

- i. When the quantity of Work to be done or material to be furnished under any item, for which the total cost of the item exceeds 10 percent (10%) of the total contract price, is increased by more than 25 percent (25%) of the quantity stated in the Cost Proposal Form, or change documents, either party to the Contract, upon demand, shall be entitled to an equitable unit price adjustment on that portion of the Work above 125 percent (125%) of the quantity stated in the Cost Proposal Form.
- ii. When the quantity of Work to be done or material to be furnished under any major item, for which the total cost of the item exceeds 10 percent (10%) of the total contract price, is decreased by more than 25 percent (25%) of the quantity stated in the Cost Proposal Form, or change documents either party to the Contract, upon demand, shall

be entitled to an equitable price adjustment for the quantity of Work performed or material furnished, limited to a total payment of not more than 75 percent (75%) of the amount originally proposal for the item.

- iii. Determinations for Unit Prices: The Project Director shall determine the actual quantities and classifications of Unit price Work performed by the Successful Offeror. The Project Director will provide the Successful Offeror with a copy of the Project Director's preliminary determinations before finalizing the costs and quantities on the Schedule of Values; while the Successful Offeror may provide feedback on the preliminary determinations, the Project Director is not required to accept the feedback. The Project Director's final determinations will be final and binding on the Successful Offeror unless, within ten (10) days after the date of any such decisions, the Successful Offeror delivers to the Project Director written notice of intention to appeal the determinations. The Agency's Executive Director will make final determination of an appeal by the Successful Offeror.

3.08 CONTRACT TIME, COMPUTATION AND CHANGE:

- a. Commencement of Contract Time; Notice to Proceed: The contract time will begin on the day indicated in the Notice to Proceed.
- b. Starting the Work: The Successful Offeror shall not begin work on contract items before the effective date of the Notice to Proceed. The Successful Offeror shall notify the Project Director at least 24 hours in advance of the time actual construction operations will begin. The Successful Offeror may request a limited Notice to Proceed after the Award has been made, to permit the Successful Offeror to order long lead materials which could cause delays in project completion. However, granting the request is within the sole discretion of the Project Director, and refusal or failure to grant a limited Notice to Proceed shall not be a basis for claiming for delay, extension of time, or alteration of price.
- c. Computation of Contract Time: When the contract time is specified on a calendar days basis, all Work under the Contract shall be completed within the number of calendar days specified. The count of contract time begins on the day following receipt of the Notice to Proceed by the Successful Offeror, if no starting day is stipulated therein.

Calendar days shall continue to be counted against contract time until and including the day of final completion of the Work.

When the contract completion time is specified as a fixed calendar date, it shall be the date of final completion.

- d. Time Change: The contract time may only be changed by a Change Order or Supplemental Agreement.
- e. Extension Due to Delays: The right of the Successful Offeror to proceed shall not be terminated nor shall the Successful Offeror be charged with liquidated or actual damages because of any delays to the completion of the Work due to unforeseeable causes beyond the control and without the fault or negligence of the Successful Offeror, including, but not limited to the following: acts of God or of the public enemy, Successful Offeror, floods, fires, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, and delays of subcontractors or suppliers due to these causes. Any delay in receipt of materials

on the site caused by a reason other than one of the unforeseeable causes specifically mentioned in the previous sentence does not of itself justify a time extension. The Successful Offeror shall, within twenty-four (24) hours from the beginning of any such delay (unless the Project Director grants a further period of the time prior to the date of final settlement of the Contract), notify the Project Director in writing of the cause of delay. The Project Director shall determine the facts and the extent of the delay and extend the time for completing the Work if the findings of fact justify an extension.

- f. Essence of Contract: All time limits stated in the Contract are of the essence.
- g. Reasonable Completion time: It is expressly understood and agreed by the Successful Offeror and the Agency that the date of beginning and the time for final completion of the Work described are reasonable times for the completion of the Work.
- h. Delay Damages: Whether or not the Successful Offeror's right to proceed with the Work is terminated, the Successful Offeror and the Successful Offeror's Sureties shall be liable for damages resulting from the refusal or failure to complete the Work within the specified time.

Liquidated and actual damages for delay shall be paid by the Successful Offeror or the Successful Offeror's Surety to the Agency in the amount as specified in the Scope of Work and Products for each calendar day the completion of the Work or any part of the Work is delayed beyond the time required by the Contract, or any extension of the Contract. If a listing of incidents resulting from a delay and expected to give rise to actual or liquidated damages is not established by the Contract, then the Successful Offeror and its Surety shall be liable to the Agency for any actual damages caused by the delay. The Successful Offeror acknowledges that the liquidated damages established herein are not a penalty but rather constitute an estimate of damages that the Agency will sustain by reason of delayed completion. These liquidated and actual damages are intended as compensation for losses anticipated to arise, and include those items enumerated in the Scope of Work and Products.

The liquidated damages will continue to run both before and after termination in the event of default termination. The liquidated damages do not cover excess costs of completion or Agency costs, fees, and charges related to re-procurement. If a default termination occurs, the Successful Offeror or its Surety shall pay in addition to these damages, all excess costs and expenses related to completion as provided by paragraph 3.11.b. (Delay, Neglect, or Default of Contract) of these General Conditions and Requirements of this RFP.

3.09 QUALITY ASSURANCE:

- a. Warranty and Guaranty: The Successful Offeror warrants and guarantees to the Agency that all Work will be in accordance with the Contract and will not be defective. The Successful Offeror shall give the Project Director prompt notice of all defects in writing. All defective Work, whether or not in place, may be rejected, corrected, or accepted as provided for under paragraph 3.09 (Quality Assurance).
- b. Access to Work: The Agency and the Agency's representatives, testing agencies, and governmental agencies with jurisdiction over the Work will have access to the Work at reasonable times for their observation, inspecting, and testing. The Successful Offeror shall provide proper and safe conditions for such access.

- c. Tests and Inspections: The Successful Offeror shall give the Project Director timely notice of readiness of the Work for all required inspections, tests, and approvals.

If the Regulatory Requirements of a public body having jurisdiction over the Work require any Work (or a part of the Work) to be inspected, tested, or approved, the Successful Offeror shall assume full responsibility for the testing, inspection, or approval and shall pay all costs in connection therewith, unless otherwise stated, and furnish the Project Director the required certificates of inspection, testing, or approval. The Successful Offeror shall also be responsible for and shall pay all costs in connection with any inspection or testing required in connection with Agency's acceptance of a supplier of materials or equipment proposed to be incorporated in the Work, or of materials or equipment submitted for approval prior to the Successful Offeror's purchase thereof for incorporation in the Work. The cost of all inspections, tests, and approvals in addition to the above which are required by the Contract shall be paid by the Successful Offeror. The Agency may perform additional tests and inspections that it deems necessary to ensure quality control. All such failed tests or inspections shall be at the Successful Offeror's expense.

If any Work, including the work of others that is to be inspected, tested, or approved is covered without written agreement of the Project Director, it must, if requested by the Project Director, be uncovered for observation. The uncovering shall be at the Successful Offeror's expense unless the Successful Offeror gave the Project Director timely notice of Successful Offeror's intention to cover the Work and the Project Director did not act with reasonable promptness in respond to the notice.

No observation, inspection, test, or approval, including, but not limited to, a quality assurance test or inspection by the Agency or others, shall relieve the Successful Offeror from the Successful Offeror's obligations to perform the Work in accordance with the Contract.

- d. Uncovering Work: If any Work is covered contrary to the written request of the Project Director, it must, if requested by the Project Director, be uncovered for the Project Director's observation and replaced at the Successful Offeror's expense.

If the Project Director considers it necessary or advisable that covered Work be observed, inspected, or tested, the Successful Offeror shall, at the Project Director's request, uncover, expose, or otherwise make available for observation, inspection, or testing, the Work in question, furnishing all necessary labor, material, and equipment to do so. If the uncovered work Work is defective, the Successful Offeror shall bear all direct, indirect, and consequential costs of such uncovering, exposure, observation, inspection, and testing and of satisfactory reconstruction (including but not limited to, fees and charges of engineers, architects, attorneys, and other professionals), and the Agency shall be entitled to an appropriate decrease in the contract price. If, however, such Work is not found to be defective, the Successful Offeror shall be allowed an increase in the contract price or an extension of the contract time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, and reconstruction.

- e. Agency May Stop the Work: The Project Director may order the Successful Offeror to stop the Work, or any portion thereof, until the cause for such order has been eliminated or perform the Work in such a way that the completed Work will conform to the contract documents; however, this right of the Project Director to stop the Work shall not give rise to

any duty on the part of the Project Director to exercise this right for the benefit of the Successful Offeror or any other party.

- f. Correction or Removal of Defective Work: If required by the Project Director, the Successful Offeror shall promptly, as directed, either correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by the Project Director, remove it from the site and replace it with Work that conforms to the requirements of the Contract. The Successful Offeror shall bear all direct, indirect, and consequential costs of the correction or removal (including but not limited to, fees and charges of engineers, architects, attorneys, and other professionals) made necessary by the correction or removal of the defective Work.
- g. One Year Correction Period: If within one (1) year after the date of final completion, or a longer period if prescribed by Regulatory Requirements, by the terms of any applicable special guarantee required by the Contract, or by any specific provision of the Contract, any Work is found to be defective, the Successful Offeror shall promptly, without cost to the Agency and in accordance with the Project Director's written instructions, either correct the defective Work, or, if it has been rejected by the Project Director, remove it from the site and replace it with conforming Work. If the Successful Offeror does not promptly comply with the Project Director's instructions, or in an emergency where delay would cause serious risk of loss or damage, the Agency may have the defective Work corrected or the rejected Work removed and replaced, and all direct, indirect, and consequential costs of the removal and/or replacement (including but not limited to fees and charges of engineers, architects, attorneys, and other professionals) will be paid by the Successful Offeror. In special circumstances where a particular item of equipment is placed in continuous service for the benefit of the Agency before substantial completion of all the Work, the correction period for that item may begin on an earlier date if so provided in the Specifications or by Change Order. The provisions of this paragraph are not intended to shorten the statute of limitations for bringing an action.
- h. Acceptance of Defective Work: Instead of requiring correction or removal and replacement of defective Work, the Project Director may accept defective Work. The Successful Offeror shall bear all direct, indirect, and consequential costs attributable to the Project Director's evaluation of and determination to accept the defective Work (costs to include, but not be limited to, fees and charges of engineers, architects, attorneys, and other professionals). If the Project Director accepts defective work prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Contract with respect to the Work; and the Agency shall be entitled to an appropriate decrease in the contract price. If the Agency has already made final payment to the Successful Offeror, the appropriate amount shall be paid by the Successful Offeror or its Surety to the Agency.
- i. Agency May Correct Defective Work: If the Successful Offeror fails to, within a reasonable time after written notice from the Project Director, proceed to correct defective Work or to remove and replace rejected Work as required by the Project Director in accordance with paragraph 3.09.f (Correction or Removal of Defective Work) of these General Conditions and Requirements of this RFP, if the Successful Offeror fails to perform the Work in accordance with the Contract, or if the Successful Offeror fails to comply with any other provision of the Contract, the Agency may, after seven (7) days' written notice to the Successful Offeror, correct and remedy the defective or rejected Work. To the extent necessary to complete corrective and remedial action, the Project Director may exclude the

Successful Offeror from all or part of the site, take possession of all or part of the Work, suspend the Successful Offeror's services related to the Work, take possession of the Successful Offeror's tools, appliances, construction equipment, and machinery at the site, and incorporate into the Work all materials and equipment stored at the site or approved remote storage sites for which the Agency has paid. The Successful Offeror shall allow the Project Director or the Project Director's authorized representatives, access to the site necessary to enable the Project Director to exercise the rights and remedies under this paragraph. All direct, indirect, and consequential costs of the Agency in exercising the rights and remedies of this paragraph will be charged against the Successful Offeror, and a Change Order will be issued incorporating the necessary revisions in the Contract with respect to the Work, and the Agency shall be entitled to an appropriate decrease in the contract price. Such direct, indirect, and consequential costs include, but may not be limited to, fees and charges of engineers, architects, attorneys, and other professionals, all court and other proceeding costs, and all costs of repair and replacement of work of others destroyed or damaged by correction, removal, or replacement of the Successful Offeror's defective Work. The Successful Offeror shall not be allowed an extension of the contract time because of any delay in performance of the Work attributable to the exercise by the Project Director of the Agency's rights and remedies under 3.09 (Quality Assurance) of these General Conditions and Requirements of this RFP.

3.10 PAYMENTS TO SUCCESSFUL OFFEROR AND COMPLETION:

- a. Schedule of Values: The Schedule of Values established, as provided in paragraph 3.04.f. (Anticipated Schedules) of these General Conditions and Requirements of this RFP, will serve as the basis for progress payments and will be incorporated into a form of application for payment acceptable to the Project Director. Progress payments on account of unit price Work will be based on the number of units completed.
- b. Preliminary Payments: Upon approval of the Schedule of Values, the Successful Offeror may be paid for direct costs substantiated by paid invoices and other prerequisite documents required by these General Conditions and Requirements. Direct costs include the cost of bonds, insurance, approved materials stored on the site or at approved remote storage sites, deposits required by a supplier prior to fabricating materials, and other approved direct mobilization costs. These payments shall be included as a part of the total contract price as stated in the Contract.
- c. Application for Progress Payment: The Successful Offeror shall submit to the Project Director for review an application for payment filled out and signed by the Successful Offeror covering the Work completed as of the date of the application for payment and accompanied by the supporting documentation required by the Contract. Progress payments will be made as the Work progresses on a monthly basis, or twice a month if requested by the Successful Offeror, but only when the approved invoice exceeds \$10,000.00.
- d. Review of Applications for Progress Payment: After receipt of an application for payment, the Project Director will either recommend, in writing, payment or return the application for payment to the Successful Offeror and indicate, in writing, the Project Director's reasons for refusing to recommend payment. In the latter case, the Successful Offeror may make the necessary corrections and resubmit the application for payment.
- e. Stored Materials and Equipment: If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at

another location agreed to in writing, an application for payment shall be accompanied by a bill of sale, paid invoice, or other documentation satisfactory to the Project Director warranting (1) that the Agency has received the materials and equipment free and clear of all charges, security interests, and encumbrances; and (2) that the materials and equipment are covered by appropriate property insurance and other arrangements to protect the Agency's interest. No payment will be made for perishable materials that could be rendered useless because of long storage periods. No progress payment will be made for living plant materials until planted.

- f. Successful Offeror's Warranty of Title: The Successful Offeror warrants and guarantees that title to all Work, materials, and equipment covered by a application for payment, whether incorporated in the Project or not, will pass to the Agency no later than the time of payment, free and clear of any claims, liens, security interests, and further obligations.
- g. Withholding of Payments: The Agency may withhold or refuse payment for any of the reasons listed below, provided it gives written notice of its intent to withhold the payment and of the basis for withholding the payment:
 - i. The Work is defective, Work has been damaged and requires correction or replacement, Work has been installed without approval of Shop Drawings or by an unapproved subcontractor, or materials and equipment have been unsuitably stored.
 - ii. The contract price has been reduced by Change Order.
 - iii. The Agency was required to correct defective Work or complete Work in accordance with paragraph 3.09.i. (Agency May Correct Defective Work) of these General Conditions and Requirements of this RFP.
 - iv. The Agency has actual knowledge of an occurrence of an event enumerated in paragraph 3.11.b. (Delay, Neglect, or Default of Contract) of these General Conditions and Requirements of this RFP.
 - v. Claims have been made against the Agency or against the funds held by the Agency on account of the Successful Offeror's actions or inaction related to performance of the Contract, or there are other items or events entitling the Agency to a set off.
 - vi. Subsequently discovered evidence or the results of subsequent inspections or tests nullify a previous payment for reasons stated in paragraphs under i. through v. and vii of this paragraph.
 - vii. The Successful Offeror has failed to fulfill or is in violation of its obligations under any provision of the Contract.
- h. Retainage: If, at any time, the Agency finds that satisfactory progress is not being made, it may, in addition to the amounts withheld under paragraph 3.10.g. (Withholding of Payments) of these General Conditions and Requirements of this RFP, retain an amount, not to exceed 10 percent (10%), of the total amount earned on all subsequent progress payments. This retainage may be released once the Project Director finds that satisfactory progress is being made.

- i. Request for Release of Funds: If the Successful Offeror believes the basis for withholding of a payment is invalid or no longer exists, the Successful Offeror shall immediately give written notice of the facts and Contract provisions on which the Successful Offeror relies to the Agency, together with a request for release of funds and adequate documentary evidence proving that the problem has been cured. In the case of withholding that has occurred at the request of the Department of Labor and Workforce Development, the Successful Offeror shall provide a letter from the Department of Labor and Workforce Development stating that the withholding is no longer requested. Following submittal of the letter by the Successful Offeror, the Agency shall have a reasonable time to investigate and verify the facts and seek additional assurances before determining whether release of withheld payment is justified.
- j. Substantial Completion: When the Successful Offeror considers the Work ready for its intended use, the Successful Offeror shall notify the Project Director in writing that the Work or a portion of Work which has been specifically identified in the Contract is substantially complete (except for items specifically listed by the Successful Offeror as incomplete) and request that the Agency issue a certificate of substantial completion. Within a reasonable time thereafter, the Project Director, the Successful Offeror, and appropriate Consultant(s) shall inspect the Work to determine the status of completion. If the Project Director does not consider the Work substantially complete, the Project Director will notify the Successful Offeror in writing and give the reasons therefore. If the Project Director considers the Work substantially complete, the Project Director will, within 14 days of the completion of the inspection, execute and deliver to the Successful Offeror a certificate of substantial completion with a tentative list of items to be completed or corrected. At the time of delivery of the certificate of substantial completion, the Project Director will also deliver to the Successful Offeror a written division of responsibilities pending final completion, including security, operation, safety, maintenance, heat, utilities, insurance, and warranty responsibilities that are consistent with the terms of the Contract. The Successful Offeror shall be responsible for all Agency costs resulting from the initial inspection and the first re-inspection, and the Successful Offeror shall pay all costs incurred by the Agency resulting from subsequent re-inspections.
- k. Access Following Substantial Completion: The Agency shall have the right to exclude the Successful Offeror from the Work after the date of substantial completion, except that the Agency shall allow Successful Offeror reasonable access to complete or correct items on the tentative list described in paragraph 3.10.j. (Substantial Completion) of these General Conditions and Requirements of this RFP.
- l. Final Inspection: Upon written notice from the Successful Offeror that the entire Work or an agreed portion thereof is complete, the Project Director will make a final inspection with the Successful Offeror and appropriate Consultants and will notify the Successful Offeror in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. The Successful Offeror shall immediately take the measures necessary to remedy the deficiencies identified by the Project Director. The Successful Offeror shall pay for all costs incurred by the Agency resulting from re-inspections.
- m. Final Completion and Application for Payment: After the Successful Offeror has completed all corrections and measures to the satisfaction of the Project Director; delivered all maintenance and operating instructions, schedules, guarantees, bonds, certificates of payment to all laborers, subcontractors and suppliers, certificates of inspection, marked-up record documents, and other documents (as required by the Contract); and after the Project

Director has indicated in writing that the Work has met the requirements for final completion, subject to the provisions of paragraph 3.10.r. (Waiver of Claims by Successful Offeror) of these General Conditions and Requirements of this RFP, the Successful Offeror may make application for final payment following the procedure for progress payments. The Successful Offeror shall include with the final application for payment all certificates, warranties, guarantees, releases, affidavits, and other documentation required by the Contract.

- n. Final Payment: If, on the basis of the Project Director's observation of the Work during construction and final inspection and the Project Director's review of the final application for payment and accompanying documentation, as required by the Contract, the Project Director is satisfied that the Work has been completed and the Successful Offeror's other obligations under the Contract have been fulfilled, the Agency will process the final application for payment. Otherwise, the Project Director will return the application for payment to the Successful Offeror accompanied by an description, in writing, of the reasons for refusing to approve final payment. After receiving a refusal to approval final payment the Successful Offeror shall make the necessary corrections and resubmit the final application for payment.
- o. If, through no fault of the Successful Offeror, final completion of the Work is significantly delayed, the Project Director shall, upon receipt of the Successful Offeror's final application for payment, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by the Agency for Work not fully completed or corrected is less than 3.10.h. (Retainage) of these General Conditions and Requirements of this RFP, and if bonds have been furnished as required in paragraph 1.54 (Performance and Payment Bonds) in the Notices to Offerors section of this RFP, the written consent of the Surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Successful Offeror to the Agency with the application the such payment. The payment shall be made under the terms and conditions governing final payment, except that payment shall not constitute a waiver of claims.
- p. Final Acceptance: Following certification of payment of payroll and revenue taxes, and final payment to the Successful Offeror, the Agency will issue a letter of final acceptance, releasing the Successful Offeror from further obligations under the contract, except that the obligations described in paragraph 3.10.q. (Successful Offeror's Continuing Obligation) of these General Conditions and Requirements of this RFP are not released.
- q. Successful Offeror's Continuing Obligation: The Successful Offeror's obligation to perform and complete the Work and pay all laborers, subcontractors, and material suppliers in accordance with the Contract is absolute. The: (1) progress or final payment by the Agency (2) issuance of a certificate of substantial completion; (3) use or occupancy of the Work or any part of the Work by the Agency; (4) act of acceptance by the Agency or any failure to do so; (5) review and approval of a Shop Drawing or sample submission; or (6) correction of defective Work by the Agency, will not constitute an acceptance of Work not in accordance with the Contract or a release of the Successful Offeror's obligation to perform the Work in accordance with the Contract.
- r. Waiver of Claims by Successful Offeror: The making of final payment will constitute a waiver of all claims by the Successful Offeror against the Agency other than those previously made in writing and still unsettled before the final payment.

- s. No Waiver of Legal Rights: The Successful Offeror shall not preclude or stop the Agency by any payment, measurement, estimate, or certificate made either before or after the completion and acceptance of and payment for the Work, from showing the true amount and character of the Work performed and materials furnished by the Successful Offeror, nor from showing that any payment, measurement, estimate, or certificate is untrue or is incorrectly made, or that the Work or materials are defective. The Agency shall not be precluded or be stopped, notwithstanding any such measurement, estimate, or certificate and payment in accordance therewith, from recovering from the Successful Offeror or the Successful Offeror's Sureties, or both, damages it sustained by reason of the failure to comply with the requirements of the Contract. Neither the acceptance by the Agency, or any representative of the Agency, nor any payment for or acceptance of the whole or any part of the Work, nor any extension of the contract time, nor any possession taken by the Agency, shall operate as a waiver of any portion of the Contract or of any power reserved, or of any right to damages. A waiver by the Agency of any breach of the Contract shall not be held to be a waiver of any other subsequent breach.

3.11 SUSPENSION OF WORK, DEFAULT AND TERMINATION:

- a. Agency May Suspend Work: The Agency may, at any time, suspend the Work or any portion of the Work by providing written notice to the Successful Offeror. If the Work is suspended without cause, the Successful Offeror shall be allowed an increase in the contract price or an extension of the contract time, or both, in an amount, or for a length of time, directly attributable to any suspension if the Successful Offeror makes an approved claim as provided in 3.12 (Claims and Disputes) of these General Conditions and Requirements of this RFP. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that suspension is due to the fault or negligence of the Successful Offeror, or that suspension is necessary for contract compliance, or that performance would have been suspended, delayed, or interrupted by any other cause, including, but not limited to, the fault or negligence of the Successful Offeror.

In case of suspension of Work, the Successful Offeror shall be responsible for preventing damage to or loss of any of the Work already performed and of all materials whether stored on or off the site or approved remote storage sites.

- b. Delay, Neglect, or Default of Contract: The Project Director may give notice in writing to the Successful Offeror and its Surety of delay, neglect, or default, if the Successful Offeror:
- i. Fails to begin the Work under the Contract within the time specified in the Contract;
 - ii. Fails to perform the Work in accordance with the Contract (including, but not limited to, failing to supply sufficiently skilled workers, suitable materials or equipment, or failing to adhere to the progress schedule established under paragraph 3.04.f. (Anticipated Schedules) of these General Conditions and Requirements of this RFP);
 - iii. Performs the Work unsuitably or neglects or refuses to remove materials or to correct defective Work;
 - iv. Discontinues the prosecution of the Work;
 - v. Fails to resume Work which has been discontinued within a reasonable time after notice to do so;

- vi. Becomes insolvent, except that, if the Successful Offeror declares bankruptcy, termination shall be in accordance with 11 U.S.C. 362 and/or 11 U.S.C. 365; in the event the Successful Offeror declares bankruptcy, the Successful Offeror will work with the bankruptcy trustee to assume or reject the Contract in a timely manner so that the Contract will be completed by the date specified in the Contract;
- vii. Allows any final judgment to stand against the Successful Offeror unsatisfied for period of 60 days;
- viii. Makes an assignment for the benefit of creditors without the consent of the Project Director;
- ix. Disregards the Regulatory Requirements of a public body that has jurisdiction over the Work;
- x. Violates in any substantial way any provision of the Contract; or
- xi. For any cause whatsoever, fails to carry on the Work in an acceptable manner.

If the Successful Offeror, within the time specified in the above notice of default, does not proceed in accordance therewith, the Agency may, upon written notification from the Project Director of the fact of such delay, neglect, or default and the Successful Offeror's failure to comply with such notice, have full power and authority without violating the Contract, to take the Work out of the hands of the Successful Offeror. The Agency may terminate the services of the Successful Offeror, exclude the Successful Offeror from the site, and take possession of the Work and of all the Successful Offeror's tools, appliances, construction equipment and machinery at the site and use the same to the full extent they could be used by the Successful Offeror (without liability to the Successful Offeror for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which the Agency has paid the Successful Offeror but which are stored elsewhere, and finish the Work as the Agency deems expedient. The Agency may enter into an agreement for the completion of the Work according to the terms and provisions of the Contract or use other methods that, in the opinion of the Project Director, are required for the completion of the contract in an acceptable manner.

The Project Director may, by written notice to the Successful Offeror or the Successful Offeror's representative, and to the Successful Offeror's Surety, transfer the employment of the Work from the Successful Offeror to the Surety, or, if the Successful Offeror abandons the Work undertaken under the contract, the Project Director may at the Project Director's option, with written notice to the Surety and without any written notice to the Successful Offeror, transfer the employment for said Work directly to the Surety. The Surety shall submit its plan for completion of the Work, including any contracts or agreements with third parties for such completion, to the Agency for approval prior to beginning completion of the Work. Approval of such contracts shall be in accordance with all applicable requirements and procedures for approval of subcontracts as stated in the Contract.

Upon receipt of the notice terminating the services of the Successful Offeror, the Surety shall enter upon the premises and take possession of all materials, tools, and appliances for the purpose of completing the Work included under the Contract and employ by contract or

otherwise any person or persons to finish the Work and provide the materials, without termination of the continuing full force and effect of the Contract. In case of such transfer of employment to the Surety, the Surety shall be paid in for Work subsequently performed under the Contract. The Successful Offeror has no right to make a claim against the Agency for actions taken under this paragraph 3.11.b. (Delay, Neglect, or Default of Contract) of these General Conditions and Requirements of the RFP.

If the Contract is terminated for default, the Successful Offeror and the Surety shall be jointly and severally liable for damages for delay as provided by paragraph 3.08.h. (Delay Damages) of these General Conditions and Requirements of the RFP, for the excess cost of completion, and for all costs and expenses incurred by the Agency in completing the Work or arranging for completion of the Work, including, but not limited to, costs of assessing the Work to be done; costs associated with advertising, soliciting, or negotiating for proposals or proposals for completion' and other re-procurement costs. Following the termination, the Successful Offeror is not entitled to receive any further balance of the amount to be paid under the Contract until the Work is fully finished and accepted, at which time, if the unpaid balance exceeds the amount due the Agency and any amounts due to persons for whose benefit the Agency has withheld funds, the excess shall be paid by the Agency to the Successful Offeror. If the damages, costs, and expenses due the Agency exceed the unpaid balance, the Successful Offeror and the Successful Offeror's Surety shall pay the difference.

If, after notice of termination of the Successful Offeror's right to proceed under the provisions of this clause, it is determined that the Successful Offeror was not in default, that the delay was excusable, or that termination was wrongful, the rights and obligations of the parties shall be determined in accordance paragraph 3.11.d. (Convenience Termination) of these General Conditions and Requirements of the RFP.

- c. Rights or Remedies: After the Successful Offeror's services have been terminated by the Agency, the termination will not affect any rights or remedies of the Agency against the Successful Offeror then existing or that thereafter accrue. Any retention or payment of money due to the Successful Offeror by the Agency will not release the Successful Offeror from liability.
- d. Convenience Termination: The performance of the Work may be terminated by the Agency in whole or in part , if for any reason the Project Director determines that the termination is in the best interest of the Agency. The Agency will terminate the Work by delivering to the Successful Offeror of a "Notice of Termination" . The Notice of Termination will state that the termination is for the convenience of the Agency, the extent to which performance of Work is terminated, and the date on the termination becomes effective. Immediately upon receipt of a Notice of Termination, and except as otherwise directed by the Project Director, the Successful Offeror shall:
 - i. Stop Work on the date and to the extent specified in the Notice of Termination;
 - ii. Place no further orders or subcontracts for materials, services, or facilities except as necessary for completion of the portion of the Work not terminated;
 - iii. Terminate all orders and subcontracts related to the performance of Work terminated by the Notice of Termination;

- iv. With the written approval of the Project Director, to the extent required by the Project Director, settle all outstanding liabilities and all claims arising out of the termination of orders and subcontracts;
- v. Submit to the Project Director a list, certified as to quantity and quality, of any or all items of termination inventory exclusive of items the disposition of which had been directed or authorized by the Project Director;
- vi. Transfer to the Project Director the completed or partially completed record drawings, shop drawings, information, and other property which, if the Contract had been completed, would be required to be furnished to the Agency;
- vii. Take actions necessary, or as directed by the Project Director, for the protection and preservation of the property related to the Contract that is in the possession of the Successful Offeror and in that the Agency has or may acquire an interest in.

If the Agency orders termination of the Work effective on a certain date, the Agency will pay the Successful Offeror for all Work in place as of the date of the termination, as provided under 3.10 (Payments to Successful Offeror and Completion) of these General Conditions and Requirements of this RFP. The Agency shall pay the Successful Offeror for materials required for completion and on hand but not incorporated in the Work at invoice cost plus 15 percent (15%), with materials becoming the property of the Agency. Alternately, the Successful Offeror may retain title to the materials on hand and be paid an agreed on lump sum by the Agency. The Successful Offeror shall cancel materials on order, and the Agency shall pay reasonable factory cancellation charges with the option of taking delivery of the materials in lieu of payment of cancellation charges. The Successful Offeror shall be paid 10 percent (10%) of the cost of materials cancelled, freight not included, except that the Agency shall pay direct expenses only for chartered freight transport which cannot be cancelled without charges, to the extent that the Successful Offeror can establish them. The extra costs due to cancellation of bonds and insurance, and that part of job start-up and phase-out costs not amortized by the amount of Work accomplished, shall be paid by the Agency. Charges for loss of profit or consequential damages are not recoverable by the Successful Offeror except.

A termination claim shall be submitted promptly, but in no event later than 90 days from the effective date of termination, unless one or more extensions in writing are granted by the Project Director upon request of the Successful Offeror made in writing within the 90-day period. Upon failure of the Successful Offeror to submit a termination claim within the time allowed, the Project Director may determine, on the basis of information available to the Project Director, the amount, if any, due to the Successful Offeror by reason of the termination and shall pay to the Successful Offeror the amount determined.

The Successful Offeror and the Project Director may agree on the whole or any part of the amount or amounts to be paid to the Successful Offeror by reason of the total or partial termination of Work pursuant paragraph 3.11 (Suspension of Work, Default and Termination). The Contract shall be amended accordingly, and the Successful Offeror shall be paid the agreed amount. In the event of the failure of the Successful Offeror and the Project Director to agree in whole or in part, as to the amounts with respect to costs to be paid to the Successful Offeror in connection with the termination of the Work, the Project Director shall determine, on the basis of information available to the Project Director, the amount, if any,

due to the Successful Offeror by reason of the termination and shall pay to the Successful Offeror the amount determined as follows:

- i. All costs and expenses reimbursable in accordance with the Contract not previously paid to the Successful Offeror for the performance of Work prior to the effective date of the Notice of Termination;
- ii. So far as not included under i. above, the cost of settling and paying claims arising out of the termination of the Work under subcontracts or orders that are properly charged by the Successful Offeror in accordance with the terminated portions of the Contract;
- iii. The reasonable costs of settlement for terminated portions of the Contract, to the extent that the costs had not been covered under other payment provisions of the Contract.

In arriving at the amount due to the Successful Offeror under this paragraph, the Project director shall deduct:

- i. Previous payments made to the Successful Offeror for the performance of Work under the Contract prior to termination;
- ii. Any claims the Agency may have against the Successful Offeror;
- iii. The agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Successful Offeror or sold pursuant to the provisions of this paragraph and not otherwise recovered by or credited to the Agency; and
- iv. All progress payments made to the Successful Offeror under the Contract.

Where the Work has been terminated by the Agency the termination shall not affect or terminate any of the rights of the Agency against the Successful Offeror or the Successful Offeror's Surety existing or accruing after the termination. A retention or payment of money by the Agency due to the Successful Offeror under the terms of the Contract shall not release the Successful Offeror or its Surety from liability. Unless otherwise provided for in the Contract or by applicable statute, the Successful Offeror, from the effective date or termination and for a period of three years after final settlement under the Contract, shall preserve and make available to the Agency at all reasonable times at the office of the Successful Offeror, all its books, records, documents, and other evidence bearing on the cost and expenses of the Successful Offeror under the contract and relating to the Work terminated hereunder.

3.12 CLAIMS AND DISPUTES:

- a. The Successful Offeror shall notify the Project Director as soon as the Successful Offeror becomes aware of any act or occurrence that may be the basis of a claim for additional compensation, an extension of contract time, or any dispute regarding the Contract.

If the claim or dispute is not resolved by agreement within seven (7) days after the date the Project Director is notified by the Successful Offeror, the Successful Offeror shall within the

next fourteen (14) days submit an Intent to Claim in writing to the Project Director if the Successful Offeror chooses to pursue the claim.

If the Successful Offeror believes additional compensation or an extension of time is warranted, the Successful Offeror shall immediately begin keeping complete, accurate, and specific daily records concerning every detail of the potential claim, including, but not limited to, actual costs incurred, and shall give the Project Director access to any such records and furnish the Project Director copies, if requested. Equipment costs must be based on the Successful Offeror's internal rates for ownership, depreciation, and operating expenses and not on published rental rates.

If the Successful Offeror has submitted an Intent to Claim and wants to pursue the claim further, the Successful Offeror shall submit a written Full Claim to the Project Director within ninety (90) days after the date the Successful Offeror became aware of the basis of the claim or should have known of the basis of the claim, whichever is earlier. The Project Director will issue written acknowledgement of the receipt of the Full Claim.

The Successful Offeror waives any right to a claim if the Project Director was not notified properly or afforded the opportunity to inspect conditions or monitor actual costs, or if an Intent to Claim or a Full Claim was not filed on the date required.

1. The written Full Claim must include all of the following:
 - a. The act, event, or condition giving rise to the claim;
 - b. The Contract provisions that apply to the claim, including the Contract provisions that provide the requested relief;
 - c. The Work or portions of Work affected and how they were affected;
 - d. The specific relief requested, including, but not limited to, contract time if applicable, and the basis on which the relief was calculated;
 - e. Revised progress schedules; and
 - f. A certification signed by the Successful Offeror that the claim is made in good faith, that the supporting cost and pricing data are accurate and complete to the best of the Successful Offeror's knowledge and belief, and that the amount requested accurately reflects the Contract adjustment that the Successful Offeror believes is due.
2. To be considered, the written Full Claim must demonstrate that:
 - a. the Successful Offeror suffered damages or delay;
 - b. the damages or delay were caused by the act, event, or condition listed in the claim; and
 - c. The Contract entitles the Successful Offeror to relief due to the act, event, or condition specified in the Full Claim.

The Agency may request the Successful Offeror to provide additional information relating to the Full Claim at any time before issuing a decision. The Successful Offeror shall provide the Agency with the requested additional information within thirty (30) days of receiving a request. Failure to furnish the additional information may be regarded as a waiver of the claim.

The Project Director will issue a decision within ninety (90) days after receipt of all information relating to the claim. The Project Director's decision is final and conclusive. After the Project Director's decision is final, the Successful Offeror may file a claim under sec. 350 of the Legislative Procurement Procedures.

SECTION FOUR - Proposal Format and Content

4.01 GENERAL INSTRUCTIONS:

The Agency discourages overly lengthy and costly proposals; however, in order for the Agency to evaluate proposals fairly and completely, Offerors should follow the format set out in this Section Five (Proposal Format and Content) and provide all of the information requested.

Offerors must submit one (1) original hard copy and a USB flash drive containing a print-ready electronic PDF version of their technical proposal and one original hard copy of their cost proposal along with a Bid Security (Bid Bond) to the Issuing Office by mail or hand delivery to the address listed on Page 1 and in accordance with the instructions in paragraph 1.20 (Proposal Submission, Delivery, and Acceptance) of this RFP.

The proposal must be split into two parts: 1) a technical proposal and 2) a cost proposal.

4.02 TECHNICAL PROPOSAL FORMAT:

All proposals shall include the following items in the order as shown. Please be as concise and clear as possible below.

Cover Letter:

Provide a cover letter on the Offeror's letterhead signed by a person with the authority, including, but not limited to, fiscal authority and authority contractually to bind the Offeror, certifying the accuracy of all information in the proposal.

Evaluation Criteria:

A proposal must address the evaluation criteria under Section Five (Evaluation Criteria) of this RFP in paragraphs 5.02 (Project Scheduling, Understanding and Methodology), 5.03 (Project Management Plan), and 5.04 (Experience and Qualifications).

Offeror Questionnaire and Subcontractor List:

A proposal must include, fully complete, the Offeror's Questionnaire provided in sec. 6.01 (Offeror Questionnaire) and if applicable, the Subcontractor List provided in sec. 6.04 (Subcontractor List).

4.03 COST PROPOSAL REQUIREMENTS:

The cost proposal must include, fully complete, one (1) original hard copy of the COST PROPOSAL FORM in sec. 6.02 (Cost Proposal Form), an original copy of the BID BOND that meets the requirements shown in sec. 6.05 (Bid Bond), and if applicable, one hard copy of the Alaska Preference Claim Form in sec. 6.03 (Alaska Product Preference Claim Form). The cost proposal must be submitted in a **separate** sealed envelope marked COST PROPOSAL with the Offeror's name and RFP number on the outside of the envelope, per the instructions in sec. 1.20 (Proposal Delivery and Acceptance) of this RFP.

SECTION FIVE - Evaluation Criteria

5.01 EVALUATION PROCESS

It is the Agency's intent to conduct a comprehensive, fair, and impartial evaluation of all proposals. All proposals will first be reviewed by the Agency to determine if they are responsive. The responsive proposals will then be evaluated using the methods and criteria described in this Section Five (Evaluation Criteria). Unresponsive proposals will be set aside.

EVALUATION OF PROPOSALS:

Proposal Evaluation Committee (PEC) members may or may not have specialized knowledge or technical expertise regarding all of the information submitted for evaluation. It is the Offeror's responsibility to fully explain in layman's terms the advantages, attributes, benefits, and technical aspects of all information they feel is pertinent to the Agency's decision-making process in awarding points. Proposals that merely propose to meet or exceed the requirements with no further explanation will not garner additional evaluation points.

PEC members will individually read and rate each Offeror's proposal and will exercise independent judgment and base their evaluation on the evaluation criteria set out in this RFP. In exercising independent judgment, PEC members may take into consideration their personal knowledge and experiences.

After completion of individual ratings, the PEC will meet to discuss proposals. PEC members may then alter their ratings; however, any changes shall be based solely on the criteria set out in this Section Five (Evaluation Criteria).

If any scores are tied, the Offeror submitting the lowest Total Price Offer on the Cost Proposal Form after application of the 5% Bidders Preference, will prevail. If proposals are tied in scoring and in Total Price Offer, the Procurement Manager will conduct a coin flip to break the tie.

Offerors shall not contact any member of the PEC but may contact the Procurement Manager.

METHOD OF AWARD:

Proposals that are determined to be responsive by the Agency are evaluated by the PEC. Proposals are evaluated based on the criteria set forth in Section Five (Evaluation Criteria). The evaluation results in a numerical score for each proposal. Each criterion in Section Five (Evaluation Criteria) has an assigned number of points for this RFP to demonstrate its relative importance. The total of all points is 1000.

Upon completion of the evaluation scoring by the PEC, the Agency will calculate the pricing and scoring of all responsive proposals. The Agency will then prepare a summary of the points awarded to each proposal. The highest ranked Offeror will be considered the presumptive Successful Offeror.

EVALUATION CATEGORIES AND POINTS ASSIGNED:

5.02 PROJECT SCHEDULING, UNDERSTANDING AND METHODOLOGY

(Maximum Point Value for this Section – 300 Points [1000 Points x 30% = 300 Points])

Scale Rating 1 - 300 where 1=lowest and 300=highest

Responses must include the proposed schedule of the work, demonstrate comprehension of the project, and state methodologies the Offeror will use to accomplish the project. Responses must include the following:

1. The proposed commencement dates of the work and the overall schedule of completing the work throughout the various stages of the project.
2. An identification of long lead times for materials and equipment that may affect the schedule.
3. The ways and means in which the work will be carried out.
4. The specific work that will be performed by subcontractors and/or specialty contractors.
5. A description of the safety precaution measures to be used to protect employees, subcontractors, and the public.
6. A description of the logistics plan, including, but not limited to, areas to be used for staging materials and equipment at the project site and where refuse containers/dumpsters will be located.
7. Where the proposed ingress and egress path will be for the construction crew.

5.03 PROJECT MANAGEMENT PLAN

(Maximum Point Value for this Section – 150 Points [1000 Points x 15% = 150 Points])

Scale Rating 1 - 150 where 1=lowest and 150=highest

The response must describe the daily operational and administrative project management including, but not limited to, the following details:

1. Who will have the overall responsibility of being physically on site during all work activity to manage the employees and subcontractors and ensure work is performed in accordance with the Contract specifications and work schedule.
2. A description of the methods to be used for quality control and to measure daily performance, a description of the roles of supervision, and a description of the lines of communication with subcontractor and employees.
3. Who will have the overall responsibility for management of the administrative functions of the Contract, including preparing schedule of values, invoicing, certifying payroll, providing proofs of insurance and licensing, etc..
4. A list of a minimum of three contact persons who can be reached 24 hours a day during the duration of the Contract (list in the order of preference) and the contact information for those persons.
5. A description of the administrative processes and documents to be used for the project scheduling and copies of example daily and inspection reports.

6. Identification of any work that the Offeror believes may require special coordination or disruption (such as utility disruptions, etc.).
7. A narrative description and schedule that demonstrates how the Offeror plans to complete the work on time, including allowances for unforeseen delays in shipping and or weather delays.

5.04 EXPERIENCE AND QUALIFICATIONS

(Maximum Point Value for this Section – 150 Points [1000 Points x 15% = 150 Points])
Scale Rating 1 - 150 where 1=lowest and 150=highest

The response must provide and describe in relevant detail the direct qualifications and experience of the Offeror and subcontractor, and the primary key employee(s) of the Offeror and subcontractor companies who will be directly performing the following scopes of work:

Scopes of work:

1. Commercial building controls installation, calibration, activation, and maintenance.
2. Mechanical and Electrical Subcontractors.

The response must also provide, for each contractor, subcontractor, or key employee, as applicable, performing work:

1. The full name of each key employee, contractor, or subcontractor.
2. The employer of each key employee and the employer's address.
3. The title of each key employee, or description of their specific trade or skill within their organization.
4. The education, certifications, licenses, and years of work experience of each key employee, contractor, or subcontractor, that demonstrates that the person can perform work at highest level of proficiency and quality.
5. A description of any substantive experience with similar type work to this project that the key employee, contractor, or subcontractor has that demonstrates they have a high level of proficiency and can complete the quality of work necessary for the project. Please expand to include any previous projects and locations, providing sufficient information so that the key employee, contractor, or subcontractor's references may be checked.
6. A list of at least three references, with contact persons and telephone numbers, for each key employee, contractor, or subcontractor.

5.05 COST PROPOSAL

(Maximum Point Value for this Section – 400 Points [1000 Points x 40% = 400 Points])

Converting Cost to Points: The lowest cost proposal will receive the maximum number of points allocated to cost. The point allocations for cost on the other proposals will be determined through the formula listed below. If the legislative procurement procedures are applicable, all Alaskan

Offerors will receive a five (5) percent bidder's preference. This preference will be given before converting the cost to points. The Agency's Procurement Manager will be calculating this section of the evaluation criteria after Technical Proposal points have been determined and calculated by the PEC.

Formula for Converting Cost to Points

$$([\text{Price of Lowest Cost Proposal}] \times [\text{Maximum point for Cost}]) \text{ divided by } (\text{Cost of Each Higher Priced Proposal})$$

6.01 OFFEROR QUESTIONNAIRE

Project (ITB) Number: _____

A. FINANCIAL

- ☐
- Yes

☐ No

If yes, explain: _____

-
-
-
-

[illegible]

6.01 OFFEROR QUESTIONNAIRE (continued)

2. What percent of the total value of this contract do you intend to subcontract? _____

3. Do you propose to purchase any equipment for use on this project? Yes ☒ No ☐

If yes, describe type, quantity, and approximate cost: _____

4. Do you propose to rent any equipment for this work? Yes ☒ No ☐

If yes, describe type and quantity: _____

5. Is your bid based on firm offers for all materials necessary for this project?

☐ Yes

☐ No

If No, please explain: _____

C. ON-SITE WORK SUPERINTENDENT

1. Please provide the name, local address, and contact telephone number of the on-site work superintendent.

Name: _____

Local Address: _____

Contact Phone: _____

I hereby certify that the above statements are true and complete

Name of Contractor

Signature

Date

Name and Title of Person Signing

6.02 COST PROPOSAL FORM

RFP Number: 660

RFP Title and Description: Terry Miller Legislative Office Building HVAC Controls

OFFEROR

Company Submitting Proposal: _____

Address: _____

City, State, Zip Code: _____

Telephone No.: _____ Email address: _____

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

Indicate if you qualify as an Alaska Offeror. ☐ Yes ☐ No (See RFP for criteria to qualify.)

COST PROPOSAL

The Offeror hereby provides the total price offer listed below in accordance with the RFP as the Total Proposed Contract Price for the Work outlined in RFP 660.

Total Proposed Contract Price to provide the Work necessary to complete the Terry Miller Building HVAC Controls project:

\$ _____

By signature on this Proposal Form, Offerors certify that they comply with the following: (a) the laws of the State of Alaska; (b) the applicable portion of the Federal Civil Rights Act of 1964; (c) the Equal Employment Opportunity Act and the regulations issued thereunder by the federal government; (d) the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the federal government; (e) all terms and conditions set out in this RFP; (f) a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; (g) that the offers will remain open and valid for at least 90 days from date of submission of offer to Agency; and (h) that programs, services, and activities provided to the general public under the resulting contract will conform to the Americans with Disabilities Act of 1990, and the regulations issued thereunder by the federal government. If an Offeror fails to comply with (a) through (h) of this paragraph, the Agency reserves the right to disregard the proposal.

NAME OF OFFEROR: _____

AUTHORIZED SIGNATURE: _____

PRINTED NAME: _____

DATE: _____

6.03 ALASKA PRODUCT PREFERENCE CLAIM FORM

ALASKA PRODUCT PREFERENCE CLAIM FORM

Product Category (from the current product preference lists published by the Department of Commerce, Community, and Economic Development):

Brand and Trade Name(s):

1. Alaska Product Preference Product:

I certify that the product offered has been listed by the Department of Commerce and Economic Development as an Alaska Product and is entitled to a CLASS I at 3% [], CLASS II at 5% [], or CLASS III at 7% [] Alaska Product Preference in accordance with AS 36.30.332.

Offeror Company Name

Authorized Person and Title (Print)

Authorized Signature

Date

6.04 SUBCONTRACTOR LIST

STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY
SUBCONTRACTOR LIST
(First tier subcontractors only)

The apparent low bidder shall complete this form and submit it so as to be received by the Contracting Officer prior to the close of business on the fifth working day after receipt of a written notice from the Agency.

Failure to submit this form with all required information by the due date may result in the bidder being declared nonresponsive and may result in the forfeiture of the Bid Security.

Scope of work must be clearly defined. If an item of work is to be performed by more than one subcontractor, indicate the portion or percent of work to be done by each.

Check as applicable:



All work on the below-referenced project will be accomplished without subcontracts greater than 1/2 of 1% of the contract amount.

or



Subcontractor List is as follows:

FIRM NAME, ADDRESS, PHONE No.	AK BUSINESS LICENSE No. & CONTRACTOR'S REGISTRATION No.	SCOPE OF WORK TO BE PERFORMED

CONTINUE SUBCONTRACTOR INFORMATION ON ADDITIONAL SHEETS AS NECESSARY

I hereby certify that the above listed licenses and registrations were valid at the time bids or proposals were received for this project.

(authorized signature)

DATE

CONTRACTOR

PROJECT NAME

PROJECT NUMBER

6.05 BID BOND

**STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY**

BID BOND

(See Instructions on following page)

DATE BOND EXECUTED

PRINCIPAL (Legal name and business address)

TYPE OF ORGANIZATION

- ☐ SOLE PROPRIETORSHIP ☐ PARTNERSHIP
☐ CORPORATION ☐ LIMITED PARTNERSHIP
☐ LIMITED LIABILITY CO. ☐ JOINT VENTURE
☐ LIMITED LIABILITY PARTNERSHIP
☐ OTHER _____

STATE OF INCORPORATION OR ORGANIZATION

SURETIES (Name and business address)

A.	B.	C.
----	----	----

PENAL SUM OF BOND

DATE OF BID

We, the PRINCIPAL and SURETY above named, are held and firmly bound to the Agency (Legislative Affairs Agency), in the penal sum stated above, for the payment of the penal sum, we bind ourselves and our legal representatives and successors, jointly and severally, by this instrument.

THE CONDITION OF THE PRECEDING OBLIGATION is that the Principal has submitted the accompanying bid in writing, date as shown above, on Project _____

in accordance with contract documents filed in the office of the Agency's Contracting Officer, and under the Invitation for Bids for the project, and is required to furnish a bond in the amount stated above.

If the Principal's bid is accepted and the Principal is offered the proposed contract for award, and if Principal fails to enter into the contract, then the obligation to the Agency created by this bond shall be in full force and effect.

If the Principal enters into the contract, then the foregoing obligation is null and void.

PRINCIPAL

Signature(s)	1.	2.	3.	Seal
	Name(s) & Titles (Typed)	1.	2.	

SURETIES

Surety A	Name		State of Organization	Liability Limit \$
	Signature(s)	1.	2.	Seal
	Titles (Typed)	1.	2.	

BID BOND (continued)

SURETIES (Continued)				
Surety B	Name		State of Organization	Liability Limit \$
	Signature(s)	1.	2.	Seal
	Titles (Typed)	1.	2.	
Surety C	Name		State of Organization	Liability Limit \$
	Signature(s)	1.	2.	Seal
	Titles (Typed)	1.	2.	

INSTRUCTIONS

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

6.06 PERFORMANCE BOND

STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY

PERFORMANCE BOND

For

Bond No. _____

Project Name and Number:

KNOW ALL WHO SHALL SEE THESE PRESENTS:

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

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

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

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

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

Principal: _____

Address: _____

By: _____

Contact Name: _____

Phone: () _____

Surety: _____

Address: _____

By: _____

Contact Name: _____

Phone: () _____

See Instructions on following page

PERFORMANCE BOND (continued)

INSTRUCTIONS

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

6.07 PAYMENT BOND

STATE OF ALASKA
LEGISLATIVE AFFAIRS AGENCY

PAYMENT BOND

Bond No. _____

For

PROJECT NAME AND NUMBER

KNOW ALL WHO SHALL SEE THESE PRESENTS:

That _____
of _____ as Principal,
and _____
of _____ as Surety,

firmly bound and held unto the State of Alaska, Legislative Affairs Agency, in the penal sum of _____ Dollars

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

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

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

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

Principal: _____

Address: _____

By: _____

Contact Name: _____

Phone: () _____

Surety: _____

Address: _____

By: _____

Contact Name: _____

Phone: () _____

See Instructions on following page

INSTRUCTIONS

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

6.08 PROPOSAL CHECKLIST

Offerors may use boxes at left to check off items when completed.

If an Offeror fails to submit the following items in its proposal, the Agency may consider the proposal non-responsive.

This checklist is intended as a reminder of certain important items and is not intended to be a complete list of what must be included in the proposal.



TO INCLUDE:

- ☐ Successful Offeror Questionnaire (sec 6.01)
- ☐ Cost Proposal Form (sec 6.02)
- ☐ Alaska Product Preference Claim Form (sec 6.03), if applicable
- ☐ Bid Bond Form (sec 6.04)
- ☐ Subcontractor List Form (sec 6.05)
- ☐ A copy signed by the Offeror of each amendment issued by the Agency
- ☐ Technical Proposal with signed Cover Letter
- ☐ Alaska Business License information included within Technical Proposal Cover Letter
- ☐ Three Letters of Reference and Management or Supervisors' resumes included with Technical Proposal
- ☐ Submission of Technical and Cost Proposals in separately sealed envelopes