

**INVITATION TO BID
Alaska Court System**

ISSUING OFFICE

Alaska Court System, Facilities Department
820 West 4th Avenue
Anchorage, Alaska 99501

ISSUE DATE: May 2, 2024

Project No. KEN-C-24-0008

**All questions shall be directed to the Facilities Project Manager: Eddie Hebert
at (907) 264-8284 or via email at ehebert@akcourts.gov**

PROJECT

Kenai Courthouse Paint

Project site: Kenai Courthouse, 125 Trading Bay Rd., Kenai, AK 99611

Description and sequence of Work:

The project generally consists of the partial replacement of interior finishes only in rooms 101, 103 and 112. Alcoves off of rooms 101, 103, and 112 are included in the scope of work.

Work includes demolition of existing acoustic wall panels; demolition and replacement of column base tiles and column base ledge; demolition and replacement of column accent trim; preparation for new paint to the existing wood paneling.

NOTICE to BIDDERS:

Required Performance Period and Notice to Proceed:

In order to receive a Notice to Proceed with Work on this Contract, the successful Bidder must completely fill out and submit the documents as indicated in Section 00 1000 and 3000.

Notice to Proceed with Work On-site will be given after the Progress Schedule has been approved, and, when Contractor has all materials on-hand, or, has materials scheduled for arrival to coordinate with the approved Progress Schedule.

On-site Work required to commence no later than 10/01/2024.

Substantial Completion required within 6 months of commencement of Work-on site.

Contractor required to invoice the ACS prior to 04/01/2025 for all services rendered.

This Invitation to Bid is conducted under the provisions of the Alaska Court System Procurement Guidelines, adopted by the Administrative Director of the Alaska Court System effective September 25, 2013.

BID SUBMITTAL DEADLINE

DATE: May 30, 2024

PREVAILING TIME: 2:00PM

HAND DELIVER or MAIL SEALED BID TO:

Alaska Court System
Attn: Eddie Hebert
Project Manager
820 West 4th Avenue
Anchorage, Alaska 99501

Sealed Bids cannot be faxed or emailed. Bid modifications only may be faxed or emailed and will be accepted up to the time of bid. Faxed or emailed modifications must modify a sealed bid received by the Facilities Manager by the bid deadline. FAX number 907-264-8296 email address is ehebert@akcourts.gov. Bids will be opened shortly after bid deadline.

PRE-BID MEETING – NOT MANDATORY

Pre-bid Meeting and Site Inspection will be on Thursday, May 16, 2024 at 1:30pm

The pre-bid meeting will be conducted after which the project areas made available for inspection by bidders. All questions, concerns, or clarifications must be emailed to Eddie Hebert at ehebert@akcourts.gov


The cut-off date for contractor questions is 7 calendar days before the bid Date.

See Section 001000 Information Available to Bidders for additional information.

INDEX OF ATTACHMENTS TO THIS ITB

- Kenai Courthouse Paint Bid Document Set- Drawings
- Section 001000 Instructions to Bidders
- Section 003000 Bid Schedule
- Section 010100 Summary of Work
- Section 007001 Index to General Conditions
- Section 007000 General Conditions
- Background Check Form

**SECTION 00 1000
INSTRUCTIONS TO BIDDERS**

1. **DEFINITIONS:** Throughout this Invitation to Bid (ITB) the term "bidder" and "bid" are utilized. For purposes of this ITB "bidder" is defined as the respondent to the ITB and "bid" is the response submitted by a respondent. Where the wording "day" is utilized in this Invitation to Bid, it is defined as a calendar day. Where "N/A" is used it is defined as Not Applicable to this project.
2. **THIS PROCUREMENT IS GOVERNED:** This Invitation to Bid is governed by the Alaska Court System Procurement Guidelines, adopted by the administrative director of the Alaska Court System effective September 25, 2013. Copies of the Procurement Guidelines are available without charge from the Anchorage Court System, Procurement Office, 820 4th Ave, Anchorage, Alaska 99501, telephone 907-264-8238.
3. **AVAILABILITY OF CONTRACT DOCUMENTS:** Contract Documents are available in electronic format from the State of Alaska, Online Public Notice website or from Eddie Hebert, Project Manager at ehebert@akcourts.gov.
4. **CANCELLATION OF INVITATION:** An ITB may be canceled before opening in whole or in part when the Project Manager determines in writing that such action is in the best interest of the court system.
5. **COMPLETENESS OF CONTRACT DOCUMENTS:** The submission of a bid is considered a representation that the Bidder has examined the Contract Documents to make certain that all sheets and pages were provided, that the Bidder has examined the Project site, and that the Bidder is satisfied as to the conditions to be encountered in performing the Work. The Alaska Court System expressly denies any responsibility or liability for a bid submitted on the basis of an incomplete set of Contract Documents.
6. **INCLUSION IN PLANHOLDER'S LIST:** It is the responsibility of the bidder to ensure that the bidder's firm is placed on the Plan Holder's List by submitting accurate contact information to Eddie Hebert, Project Manager at ehebert@akcourts.gov. Addenda, notices, and other information regarding the bidding of this project will **only** be sent to the State of Alaska Online Public Notices site and to those firms on the Plan Holder's List as updated by  Brian Roberts for this project.
7. **TIMELINESS OF SUBMITTAL:** It is the responsibility of the bidder to ensure that the bid is received by the Facilities Department before scheduled bid opening time. **Late bids, including bids mis-delivered to other Alaska Court System divisions, will not be accepted.**

Sealed Bids cannot be faxed or emailed. Emailed or Faxed bid **modifications only** will be accepted providing that the fax or email is received by the Project Manager by the bid deadline and that the modification amends a bid which was received before the bid deadline. The Fax number is 264-8296 and the email address of the Project Manager is: ehebert@akcourts.gov.
8. **RESPONSIVENESS OF BIDS:** Minor informalities are matters of form rather than substance, or insignificant mistakes that can be waived or corrected without prejudice to other bidders; that is, the effect on price, quantity, quality, delivery, or contractual conditions is negligible. The fiscal office shall waive in writing these informalities or allow a bidder to correct them depending on which is in the best interest of the Alaska Court System.
9. **REJECTION OF BIDS:** The Alaska Court System may reject any and all bids. A bid may be rejected if it does not conform in all material respects to the requirements of the invitation, if it is incomplete, if it contains a material alteration from the invitation, or if the bidder changes or qualifies the terms or conditions of the invitation in a material manner which gives the bidder a competitive advantage over other bidders.
10. **DOCUMENTS REQUIRED FOR BID:** Bidders must submit the following documents, properly completed and executed, within a sealed bid envelope, no later than the time of the bid opening. Bid documents must be submitted to the location listed in the RFP in a sealed envelope with the project name, project number and bid opening date and time marked on the front of the envelope. **Bids not including all of the items noted below in A, B, C (if applicable), D, and E will be rejected.**
 - A. The Bid Schedule and acknowledgment of any addenda that may be issued. (Bids may be submitted on photocopied forms.) **Bid Schedule must be fully completed, including bid amounts for Basic Bid, all Alternate Bids listed, and other required information.**

- B. Current Alaska Business License Number and date of expiration as noted on Bid Schedule. Business license must be listed as current on the state website at the time the bid is submitted, or bidder must include a photocopy of valid Alaska Business License Application under AS.43.70.
- C. Preferences: **To claim one or more of the preferences listed in Paragraph 11 below, a Contractor must provide documentation for proof and for calculation of the preferences. Reference "Bidder Preference Checklist" at the end of this section.** Preferences include Alaska Bidders, Alaskans with Disability, Employment Program, Alaska Veteran, Alaska Products, and Recycled Products or Paper.
- D. Bid Security: The Alaska Court System requires bid security in the form of a bid bond or a deposit for all bids which have a total amount, including Base Bids and all Alternate Bids, of \$100,000 or more. The bid security must be in the amount of 5% of the total bid amount and must accompany the bid. A bid bond must have this amount stated as the penal sum of the bond. A bid bond must be issued by a surety company licensed to do business in the State of Alaska. A deposit must be in the form of a certified check or similar instrument made payable to the State of Alaska - Alaska Court System. The bid security will be held until a firm contract is executed. If the successful bidder fails to enter into a contract, its bid security shall be forfeited to the Alaska Court System. After final award of contract, all bid security will be returned to the unsuccessful bidders. By submission of a bid security and signature on the bid form, the successful bidder and its surety acknowledge and agree to the conditions of this Invitation to Bid in its entirety.
- E. Photocopy of Bidder's Contractor Registration under AS.08.18

11. **PREFERENCES:** Check the box on the Bid Schedule that indicates whether the bidder is eligible for any of the following Preferences. The ACS will calculate the application of preferences.

- A. **ALASKA PREFERENCE:** A bid shall be awarded to an Alaska bidder whose bid is not more than five percent (5%) higher than the lowest non-resident's bid in accordance with Alaska Statute 36.30.170(b)(1) - (5). An Alaska bidder is defined as one who:
 - 1) Holds a current Alaska business license (business license number must be shown in space provided on the bid schedule);
 - 2) Submits a bid for goods or services under the name appearing on the current Alaska business license;
 - 3) Has maintained a place of business in the State **staffed by the bidder or an employee of the bidder** for a period of six months immediately preceding the date of the bid;
 - 4) Is incorporated or qualified to do business under the laws of the State, is a sole proprietorship and the proprietor is a resident of the State, or is a partnership and all partners are residents of the State; and
 - 5) If a joint venture, is comprised entirely of ventures that qualify under paragraphs 1 through 4 of the subsection.

NOTE: A bidder may receive the preferences below, provided the bidder supplies documentation showing entitlement to the preferences. Only one of the following preferences B or C, below, may be used and the individual or business claiming the preference **must be listed with the Division of Vocational Rehabilitation as qualified under Alaska Statute 36.30.170 at the time the bid is opened and must provide ACS with a copy of its Certification Letter.** The Department of Labor & Workforce Development, Division of Vocational Rehabilitation maintains a listing of vendors who qualify for the three disability related preferences. For disability preference certification, please contact Department of Labor & Workforce Development, Division of Vocational Rehabilitation, 801 West 10th Street, Suite A, Juneau, Alaska 99801-1894. Phone: (907) 465-2814. Fax: (907) 465-2856. <http://www.labor.state.ak.us/dvr/home.htm>. A bidder claiming a preference under B, C, or D, below must add value by actually performing, controlling, managing, and supervising the services provided.

- B. **ALASKANS WITH DISABILITIES PREFERENCE:** A bid shall be awarded to an Alaska bidder whose bid is not more than ten percent (10%) higher than the lowest bid, if the bidder is a qualifying entity under 36.30.170(e).

- C. **EMPLOYMENT PROGRAM PREFERENCE:** A bid shall be awarded to an Alaskan bidder whose bid is not more than fifteen percent (15%) higher than the lowest bid, if the bidder is offering services through an employment program in accordance with Alaska Statute 36.30.170(c).
- D. **ALASKA VETERAN PREFERENCE.** A bid shall be awarded to a bidder whose bid is not more than five percent (5%) (not to exceed \$5,000) higher than the lowest bid if the bidder qualifies as an Alaska Veteran in accordance with Alaska Statute 36.30.321(f).
- E. **ALASKA PRODUCTS PREFERENCE:** For bid comparison purposes, ACS will decrease the bid by the percentage of the value of the designated Alaska products under AS 36.30.332 through AS 36-30-338. The bidder must execute the Alaska Products Preference Worksheet and submit the worksheet with the bid in order to receive this preference. A list of qualified Alaskan products may be obtained from the State of Alaska Department of Commerce and Economic Development, Division of Community and Business Developments or may be on line at the website located at <https://www.commerce.alaska.gov/web/dcra/AlaskaProductPreferenceProgram.aspx> An Alaska Products Preference Worksheet can be obtained from the Facilities Project Office by calling 264-8282 or 264-8283.
- F. **RECYCLED PRODUCTS PREFERENCE:** Not Applicable.
12. **BID PREPARATION:** Except as provided in Procurement Guideline 4-401.03.8, the Alaska Court System shall not be liable for any costs incurred by the bidders in bid preparation.
13. **BID OFFERS:**
- A. Offers made in response to this Invitation to Bid shall be good and firm for a period of sixty (60) days from the date of bid opening.
- B. All offers and acceptance resulting from this Invitation to Bid shall be expressly limited to the terms and conditions contained in this document and its attachments.
14. **BID OPENING:** Received bids will be opened and ready by the Alaska Court System. After evaluation of offers; all bidders will be notified and the successful bidder will be sent a Notice of Intent to Award.
15. **BID AWARD:** The bid award will be made to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set out in this Invitation to Bid. The sum of the Basic Bid plus any Alternates Bids awarded governs for purpose of determining low bidder.
- A. If Bid Alternates are included in the Bid Documents, the Alaska Court System reserves the right to award some, none, or all of the alternates. Alternates may be awarded in any order in the best interest of the Alaska Court System. Bid amounts for alternates not awarded with this contract shall be held for 60 days from date of contract and may be awarded within that time as a fixed price Change Order.
- B. Notice of Intent to Award will be issued to the lowest responsible and responsive Bidder generally within 2 working days after Bid Opening.
- C. Notice of Award will be issued to the Bidder identified in the Notice of Intent to Award. If the Award amount is over \$200,000.00, the Notice of Award will not be issued until at least ten calendar days after issuance of Notice of Intent to Award. Notice of Award will be made subject to availability of funds and its issuance may be delayed or canceled as determined by the Project Manager in accordance with Alaska Court System Procurement Guidelines.
17. **RESPONSIBILITY REQUIREMENT:** A bid will be awarded only to a responsible bidder, who demonstrates the capability in all respects to perform fully the contract requirements and has the integrity and reliability which will assure good faith performance. In accordance with section 2-211 of the Alaska Court System Procurement Guidelines a bidder may be declared non-responsible and the bid will then be rejected when:
- A. The bidder is in arrears on taxes due the State.

- B. The bidder has failed to perform satisfactorily on a previous contract with the Alaska Court System, another state agency, or is not in a position to perform this contract;

See ACS Procurement Guidelines Section 2-213 for responsibility criteria. A determination by the Facilities Manager that a bidder is not responsible may be protested.

16. **BID PROTESTS:** Bidders are requested to carefully review this entire Invitation To Bid as soon as it is received for defects and questionable or objectionable content. A person desiring to protest the provisions of this RFP or the award must comply with the applicable provisions of ACS Procurement Guideline 4-401. If a protest is sustained in whole or in part, the protestor's sole remedy is the successful protestor's documented reasonable bid or proposal preparation costs.
19. **EEO AND FEDERAL CIVIL RIGHTS COMPLIANCE:** By signature on the Bid Schedule, Section 00300 the bidder certifies compliance with the applicable portions of the Federal Civil Rights Act of 1964 and the Equal Employment Opportunity Act and the regulations issued there under by the State and Federal Government. If any bidder fails to comply with the Act or Regulations issued there under, the Alaska Court System reserves the right to terminate the contract.
20. **TAXES:** All bids shall exclude federal, state and local sales taxes. However, if the bidder believes that certain taxes are properly payable by the Alaska Court System; such taxes may be listed separately, directly below the bid price for the affected item. The Alaska Court System is exempt from federal excise tax under Registration No. 92-6001185.
21. **SUBCONTRACTORS:** Within 3 working days after the issuance of the Notice of Intent to Award, the apparent low bidder shall submit a list of the subcontractors the bidder proposes to use in the performance of the Contract. The list must include the name and location of the place of business for each subcontractor and evidence of the subcontractor's valid Alaska business license. A bidder for a construction contract shall submit evidence of each subcontractor's registrations under AS 08.08. Replacement of a subcontractor may be made with prior approval of the Contracting Officer, for reasons specified in the Alaska Court System Procurement Guidelines.
22. **ALASKA DAVIS BACON ACT:** Prospective Bidders are advised that construction or remodeling in connection with the contract is subject to AS 36. The Contractor must comply with the requirements noted within the most recent Department of Labor pamphlet entitled, "Laborer's and Mechanic's Minimum Rates of Pay," found at: <http://www.labor.state.ak.us/lss/pamp600.htm> The rate of wages shall be adjusted to the wage rate under AS 36.05.010.
23. **ACCEPTANCE OF CONTRACT, PERFORMANCE BOND, PAYMENT BOND, and PROOF OF INSURANCE:** If the ACS delivers or mails written notice of Intent to Award the contract to the Bidder within sixty (60) days after the date set for the opening of this bid, or at any other time thereafter before it is withdrawn, and the amount of the contract to be awarded exceeds \$100,000, the Bidder will accept, execute and deliver the Contract to the ACS in accordance with the bid, and will also furnish and deliver to the ACS the performance bond, payment bond, and proof of insurance coverage, all within three working days after personal delivery or after deposit in the mails of the notification of acceptance of this bid. The performance bond and payment bond must be substantially in the forms provided with this RFP.

BIDDER PREFERENCE CHECKLIST

Following is a list of items a bidder must submit in order to qualify for the preferences listed in Paragraph 11, above:

- A. Alaska Bidder Preference:
- For each business entity other than a sole proprietorship, provide documentation showing that the bidder has maintained a place of business in the State staffed by the bidder or an employee of the bidder for a period of six months immediately preceding the date of the bid.
- B. Alaskans with Disabilities Preference:

- In addition to the requirements for Alaska Bidder Preference, provide documentation showing that the bidder is listed as an approved “Qualifying Entity” on the most recent Procurement Preference Approved List issued by the Alaska Division of Vocational Rehabilitation.

C. Employment Program Preference:

- In addition to the requirements for Alaska Bidder Preference, provide documentation showing that the bidder is listed as an approved “Employment Program” on the most recent Procurement Preference Approved List issued by the Alaska Division of Vocational Rehabilitation.

D. Alaska Veteran Preference:

- Provide completed Alaska Veteran’s Preference Affidavit.

E. Alaska Products Preference:

- Provide completed Alaska Products Preference Worksheet
- Provide documentation showing that the Alaska Products proposed are listed as qualified Alaska products.

F. Alaska Recycled Products Preference: Not Applicable.

END OF SECTION 00 1000

SECTION 00 3000

BID SCHEDULE

1. TO ALASKA COURT SYSTEM:

In compliance with the Invitation for Bid and the proposed Contract Documents issued May 2, 2024, the Undersigned proposes to enter into an agreement with ALASKA COURT SYSTEM in the form included in the Contract Documents to furnish and deliver all the materials and do all the Work and Labor required in the construction of:

**Kenai Courthouse Paint
Project #KEN-C-24-0008**

Project Location: Kenai Courthouse, 125 Trading Bay Rd., Kenai, AK 99611

The Undersigned, having become thoroughly familiar with the terms and conditions of the proposed Contract Documents and with local conditions affecting the performance and costs of the Work at the place where the Work is to be completed, and having fully inspected the site, hereby proposes and agrees to perform the Work within the time stated and in strict accordance with the proposed Contract Documents, including furnishing all labor and materials to do all the work required to construct and complete said Work in accordance with the Contract Documents.

- 2. If discrepancies are found between the amount written numerically and the amount written in words, the amount written in words shall govern.
- 3. Contract award shall be made on the basis of the total Base Bid plus additive alternates as selected by the Alaska Court System. If Bid Alternates are included in the Bid Documents, the Alaska Court System reserves the right to award some, none, or all of the alternates. Alternates may be awarded in any order in the best interest of the Alaska Court System.
- 4. Addenda may be mailed, faxed, e-mailed or otherwise delivered. All Addenda issued during the time of bidding shall form part of the Contract Documents, shall be covered in the Bid, and shall become part of the Contract. Receipt of each Addendum shall be acknowledged in the Bid Form; failure to do so may subject the Bidder to disqualification. It shall be the Bidders responsibility to ensure that it has received all Addenda prior to bid. The Owner shall not be responsible for non-receipt or untimely receipt of Addenda due to acts or omissions of the delivering agency or any other source.
- 5. The Bidder acknowledges receipt of the following addenda to the DRAWINGS and/or SPECIFICATIONS (give number and date of each) and that associated costs are included in this bid.

Addenda #, Date Issued

Addenda #, Date Issued

Addenda #, Date Issued

_____	_____	_____
_____	_____	_____
_____	_____	_____

No other alternates or substitutions allowed on this Bid Form.

6. Bidder has included bid security and agrees to abide by Instructions to Bidders for disposition of bid security.
7. The Bidder understands that the OWNER reserves the right to reject this bid, but that this bid shall remain open and not be withdrawn for a period of sixty (60) days from the date prescribed for its opening.
8. If written Notice of Intent to Award the contract to the Bidder is mailed or delivered to the Bidder within sixty (60) days after the date set for the opening of this bid, or at any other time thereafter before it is withdrawn, the Bidder will accept, execute and deliver the Contract to the OWNER in accordance with this bid, and will also furnish and deliver to the OWNER the Performance Bond, Labor and Material Payment Bond, and proof of insurance coverage, all within fifteen (15) days after personal delivery or after deposit in the mails of the Notice of Award of this bid. In addition, the Bidder will furnish all other documentation according to the schedule.
9. Notice of Award, or request for additional information, may be addressed to the Bidder at the address set forth below.
10. Bidder Identification: The legal name of the bid entity and names of all persons interested in the foregoing bid as principals are:

(IMPORTANT NOTICE: If the bidder is a corporation, give legal name of corporation, state where incorporated, and names of president and secretary; if a partnership, give name of firm and names of all individual co-partners composing the firm; if bidder is an individual, give first and last names in full.)

11. Non-Collusion Affidavit: The undersigned Bidder declares, under penalty of perjury under the laws of the United States, that neither he nor the firm, association, or corporation of which he is a member, has, either directly or indirectly, entered into any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this bid.
12. HUMAN TRAFFICKING: By signature on this bid, the bidder certifies that the bidder is not established and headquartered or incorporated and headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report. The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: <https://www.state.gov/trafficking-in-persons-report/> Failure to comply with this requirement will cause the state to reject the bid as non-responsive, or cancel the contract.
13. Bidder acknowledges that this Bid is being submitted with Bidder's facsimile signature. Bidder agrees that the Alaska Court System is relying upon this facsimile signature as if it were an original signature, and by submitting this Bid, Bidder waives any right to disclaim this Bid based upon the fact that the signature is not original.

BASE BID:

Furnish all labor, materials, equipment, etc., necessary to complete all work shown and specified:

Base Bid \$ _____

(figures)

Dollars

(words)

Ad. Alt #1 _____

(figures)

Dollars

(words)

ALASKA BIDDERS' PREFERENCE:

Check Preference or Preferences if applicable – Reference Section 00100 Instructions to Bidders and attach required proof and documentation:

- Alaska Bidder Preference
- Alaskan Bidder with Disabilities
- Disabled Alaskan Employment Program
- Alaska Veteran's Preference
- Alaska Products

The undersigned has read the foregoing Bid Schedule and hereby agrees to the conditions stated therein by affixing his signature below:

SIGN HERE:

Authorized Signature of Bidder Date

Bidder Typed or Printed Name of Signer & Title

Bidding Firm

(NOTE: If bidder is a corporation, set forth the legal name of the corporation together with the signature of the officer and officers authorized to sign contracts on behalf of the corporation. If bidder is a partnership, set forth the name of the firm together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership.)

Business Address: _____

(Seal, if by Corporation) _____

Telephone Number: _____

Fax Number: _____

E-Mail Address: _____

_____ Expires: _____
Alaska Contractor's Registration Number

_____ Expires: _____
Alaska Business License Number

Federal Identification Number

END OF SECTION 00 3000

**SECTION 00 7000
ALASKA COURT SYSTEM
GENERAL CONDITIONS OF THE CONTRACT
FOR CONSTRUCTION**

ARTICLE 1 - DEFINITIONS

Wherever in the Contract Documents the following terms, or pronouns in place of them, are used, the intent and meaning, unless a different intent or meaning is clearly indicated, shall be interpreted as set forth below.

The titles and headings of the Sections, Subsections and Articles herein are intended for convenience of reference and shall not be considered as having bearing on their interpretation.

Whenever used in the Specifications or other Contract Documents the following terms have the meaning indicated and are applicable to both the singular and plural thereof. Working titles that have a masculine gender are intended to refer to persons of either sex.

Terms not defined below shall have their ordinary accepted meanings within the context that they are used. "Webster's Third New International Dictionary of the English Language, Unabridged, Copyright 1961", or subsequent revision thereof, shall provide ordinarily accepted meanings. Words that have a well-known technical or trade meaning when used to describe work, materials or equipment shall be interpreted in accordance with such meaning. Words defined in Article 1 are capitalized throughout these General Conditions.

Addenda - All clarifications, corrections, or changes issued graphically or in writing by the OWNER after the Advertisement but prior to the opening of Proposals.

Advertisement - The public announcement, as required by law, inviting bids for Work to be performed or materials to be Furnished.

Approved or Approval - Means written approval by the Contracting Officer or his authorized representative as defined in Article 2.1.

ARCHITECT OR ARCHITECT/ENGINEER - Person or entity representing the OWNER within specified limits of authority. Any reference to the ARCHITECT/ENGINEER shall mean Project Manager.

AS - Initials which stand for Alaska Statute.

Award - The acceptance, by the OWNER, of the successful bid.

Bid Bond - A type of Proposal Guaranty.

Bidder - Any individual, firm, corporation or any acceptable combination thereof, or joint venture submitting a bid for the advertised Work.

Calendar Day - Every day shown on the calendar, beginning and ending at midnight.

Change Order - A written order by the OWNER authorizing changes to the Contract Documents, within their general scope.

Conditions of the Contract - Those portions of the Contract Documents that define the rights and responsibilities of the contracting parties and of others involved in the Work. The Conditions of the Contract include General Conditions, Supplementary Conditions and other conditions.

Consultant - The person, firm, or corporation retained directly by the OWNER to prepare Contract Documents, perform construction administration services or other Project related services.

Contract - The written agreement between the OWNER and the CONTRACTOR setting forth the obligations of the parties and covering the Work to be performed, all as required by the Contract Documents.

Contract Documents - The Contract form, Addenda, the bidding requirements and CONTRACTOR's bid (including all appropriate bid tender forms), the bonds, the Conditions of the Contract and all other Contract requirements, the Specifications, and the Drawings Furnished by the OWNER to the CONTRACTOR, together with all Change Orders and documents approved by the Contracting Officer for inclusion, modifications and supplements issued on or after the Effective Date of the Contract.

Contracting Officer - The person authorized by the OWNER to enter into and administer the Contract on behalf of the OWNER. He has authority to make findings, determinations and decisions with respect to the Contract and, when necessary, to modify or terminate the Contract. The Contracting Officer is identified on the Contract.

CONTRACTOR - The individual, firm, corporation or any acceptable combination thereof, contracting with the OWNER for performance of the Work.

Contract Price - The total moneys payable by the OWNER to the CONTRACTOR under the term of the Contract Documents.

Contract Time - The number of Calendar Days or the date specified in the construction Contract and authorized time extensions that identify how much time the CONTRACTOR is allowed to achieve Final Completion.

Day - Calendar Day, unless otherwise noted.

Defective - An adjective that refers to Work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to the OWNER's approval of final payment.

Directive - A written communication to the CONTRACTOR from the Contracting Officer interpreting or enforcing a Contract requirement or ordering commencement of an item of Work.

Drawings - The drawings that show the character and scope of the Work to be performed and which have been furnished by the OWNER or the OWNER's Consultant and are by reference made a part of the Contract Documents.

Effective Date - The date on which the Contract or Change Order effective. The Effective date may be specified in the Contract or Change Order. If no Effective Date is specified in the Contract or Change Order, the Effective Date is the date that the Contract or Change Order is fully executed by both CONTRACTOR and the OWNER.

Final Acceptance - The OWNER's written acceptance of the Work following Final completion and the performance of all Contract requirements by the CONTRACTOR.

Final Completion - The Work (or specified part thereof) has progressed to the point that all Work is complete as determined by the Contracting Officer

Furnish - Supply and deliver to the Project including the cost to supply and deliver.

General Requirements - Sections of Division 1 of the Specifications that contain administrative and procedural requirements as well as requirements for temporary facilities that apply to Specification Divisions 2 through 16.

Holidays - In the State of Alaska, legal Holidays occur on:

1. New Year's Day - January 1
2. Martin Luther King Jr.'s Birthday - Third Monday in January
3. President's Day - Third Monday in February
4. Seward's Day - Last Monday in March
5. Memorial Day - Last Monday in May
6. Independence Day - July 4
7. Labor Day - First Monday in September
8. Alaska Day - October 18
9. Veteran's Day - November 11
10. Thanksgiving Day - Fourth Thursday in November
11. Christmas Day - December 25
12. Every Sunday
13. Every Day designated by public proclamation by the President of the United States or the Governor of the State as a legal Holiday.

If any Holiday listed above falls on a Saturday, Saturday and the preceding Friday are both legal Holidays. If the Holiday should fall on a Sunday, except (12) above, Sunday and the following Monday are both legal Holidays. See Title 44, Alaska Statutes.

Install - Means to build into the Work, ready to be used in complete and operable condition and in compliance with Contract Documents.

Invitation for Bids - A portion of the bidding documents soliciting bids for the Work to be performed.

Notice of Award - The written notice by OWNER to all Bidders that all conditions required for award are met and identifying the successful contractor.

Notice of Intent to Award - The written notice by the OWNER to all Bidders identifying the apparent successful Bidder and establishing the OWNER's intent to execute the Contract.

Notice to Proceed - A written notice to the CONTRACTOR to begin the Work and establishing the date on which the Contract Time begins.

OWNER - The Alaska Court System.

SECTION 00 7000
GENERAL CONDITIONS

Payment Bond - The security Furnished by the CONTRACTOR and its Surety to guarantee payment of the debts covered by the bond.

Performance Bond - The security Furnished by the CONTRACTOR and its Surety to guarantee performance and completion of the Work in accordance with the Contract.

Project - The total construction, of which the Work performed under the Contract Documents is the whole or a part, where such total construction may be performed by more than one CONTRACTOR.

Project Manager - The authorized representative of the Contracting Officer who is responsible for administration of the Contract.

Proposal - The offer of a Bidder, on the prescribed form to perform the Work at the prices quoted.

Proposal Guaranty - The security Furnished with a Proposal to guarantee that the bidder will enter into a Contract if its Proposal is accepted by the OWNER.

Provide - Furnish and Install for a complete, finished, and operable system.

Regulatory Requirements - All applicable state, Federal, and local laws, rules, regulations, ordinances, codes and/or orders.

Request for Payment - The form provided by the OWNER that is to be used by the CONTRACTOR in requesting progress or final payments and is to include such supporting documentation as is required by the Contract Documents.

Schedule of Values - The OWNER's document, submitted by the CONTRACTOR and reviewed by the Contracting Officer, which shall serve as the basis for computing payment and for establishing the value of separate items of Work that comprise the Contract Price.

Shop Drawings - All Drawings, diagrams, illustrations, schedules and other data that are specifically prepared by or for the CONTRACTOR to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a Supplier and submitted by the CONTRACTOR to illustrate material, equipment, fabrication, or erection for some portion of the Work.

Site - Areas furnished by the OWNER upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by the OWNER which are designated for the use of the CONTRACTOR.

Specifications - Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative and procedural details applicable thereto.

Subcontractor - An individual, firm, or corporation to whom the CONTRACTOR or any other Subcontractor sublets part of the Contract.

Substantial Completion - Although not fully completed, the Work (or a specified part thereof) has progressed to the point where, in the opinion of OWNER as evidenced by the OWNER's written notice, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended. The terms "Substantially Complete" and "Substantially Completed" as applied to any Work refer to Substantial Completion thereof.

Supplemental Agreement - A written agreement between the CONTRACTOR and the OWNER covering work that is not within the general scope of the Contract.

Supplementary Conditions - The part of the Contract Documents that amends or supplements these General Conditions.

Supplier - A manufacturer, fabricator, distributor, materialman or vendor of materials or equipment.

Surety - The corporation, partnership, or individual, other than the CONTRACTOR, executing a bond Furnished by the CONTRACTOR.

Using Agency - The entity that will occupy or use the completed Work.

Work - Work is the act of, and the result of, performing services, Furnishing labor, Furnishing and incorporating materials and equipment into the Project and performing other duties and obligations, all as required by the Contract Documents. Such Work, however incremental, will culminate in the entire completed Project, or the various separately identifiable parts thereof.

Working Day - Monday through Friday, inclusive, with the exception of Holidays.

ARTICLE 2 - AUTHORITIES AND LIMITATIONS

2.1 Authorities and Limitations

2.1.1 The Contracting Officer alone, shall have the power to bind the OWNER and to exercise the rights, responsibilities, authorities and functions vested in the

Contracting Officer by the Contract Documents, except that the Contracting Officer shall have the right to designate in writing authorized representatives to act for him. Wherever any provision of the Contract Documents specifies an individual or organization, whether governmental or private, to perform any act on behalf of or in the interests of the OWNER that individual or organization shall be deemed to be the Contracting Officer's authorized representative under this Contract but only to the extent so specified. The Contracting Officer may, at any time during the performance of this Contract, vest in any such authorized representatives additional power and authority to act for the Contracting Officer or designate additional representatives, specifying the extent of their authority to act for the Contracting Officer; a copy of each document vesting additional authority in or removing that authority from an authorized representative or designating an additional authorized representative shall be furnished to the CONTRACTOR. The OWNER reserves the right to appoint a new Contracting Officer without affecting any of the CONTRACTOR's obligations to the OWNER under this Contract.

2.1.2 The CONTRACTOR shall perform the Work in accordance with the Contract Documents and any Directive or other written order (including but not limited to instruction, direction, interpretation or determination) issued by an authorized representative in accordance with the authorized representative's authority to act for the Contracting Officer. The CONTRACTOR assumes all the risk and consequences of performing the Work in accordance with any order (including but not limited to instruction, direction, interpretation or determination) of anyone not authorized to issue such order, and of any order not in writing.

2.1.3 Should the Contracting Officer or his authorized representative designate Consultant(s) to act for the OWNER as provided for in Paragraph 2.1.1, the performance or nonperformance of the Consultant under such authority to act, shall not give rise to any contractual obligation or duty of the Consultant to the CONTRACTOR, any Subcontractor, any Supplier, or any other organization performing any of the Work or any Surety representing them.

2.1.4 The term "Contracting Officer" when used in the text of these General Conditions or other Contract Documents following this section shall also mean any duly authorized representative of the Contracting Officer when authorized in accordance with Paragraph 2.1.1.

2.2 Evaluations by Contracting Officer:

2.2.1 The Contracting Officer will decide all questions that may arise as to:

- a. Quality and acceptability of materials Furnished;
- b. Quality and acceptability of Work performed;
- c. Compliance with the schedule of progress.
- d. Interpretation of Contract Documents;
- e. Acceptable fulfillment of the Contract on the part of the CONTRACTOR.

2.2.2 In order to avoid cumbersome terms and confusing repetition of expressions in the Contract Documents the terms "as ordered", "as directed", "as required", "as approved" or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory" or adjectives of like effect or import are used it shall be understood as if the expression were followed by the words "by the Contracting Officer," or "to the Contracting Officer."

When such terms are used to describe a requirement, direction, review or judgment of the Contracting Officer as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise).

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- 2.2.3 The use of any such term or adjective shall not be effective to assign to the OWNER any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraphs 2.3 or 2.4.
- 2.3 Means and Methods:
The means, methods, techniques, sequences or procedures of construction, or safety precautions and the program incident thereto, and the failure to perform or Furnish the Work in accordance with the Contract Documents are the sole responsibility of the CONTRACTOR.
- 2.4 Visits to Site/Place of Business:
The Contracting Officer will make visits to the site and approved remote storage sites at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. The Contracting Officer may, at reasonable times, inspect that part of the plant or place of business of the CONTRACTOR or Subcontractor that is related to the performance of the Contract. Such observations or the lack of such observations shall in no way relieve the CONTRACTOR from its duty to perform the Work in accordance with the Contract Documents.
- ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE
- 3.1 Incomplete Contract Documents
The submission of a bid is considered a representation that the Bidder has examined the Contract Documents to make certain that all sheets and pages were provided, that the Bidder has examined the Project site, and that the Bidder is satisfied as to the conditions to be encountered in performing the Work. The OWNER expressly denies any responsibility or liability for a bid submitted on the basis of an incomplete set of Contract Documents.
- 3.2 Copies of Contract Documents:
The OWNER shall furnish to the CONTRACTOR up to five copies of the Contract Documents. Additional copies will be furnished, upon request, at the cost of reproduction.
- 3.3 Scope of Work:
The Contract Documents comprise the entire Contract between the OWNER and the CONTRACTOR concerning the Work. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the Regulatory Requirements of the place of the Project.
It is specifically agreed between the parties executing this Contract that it is not intended by any of the provisions of the Contract to create in the public or any member thereof a third party benefit, or to authorize anyone not a party to this Contract to maintain a suit pursuant to any terms or provision of the Contract.
- 3.4 Intent of Contract Documents:
3.4.1 It is the intent of the Contract Documents to describe a functionally complete Project to be constructed in accordance with the Contract Documents. Any Work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied, without any adjustment in Contract Price or Contract Time, whether or not specifically called for.
3.4.2 Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the Regulatory Requirements of any governmental authority, whether such reference be specific or by implication, shall mean the edition stated in the Contract Documents or if not stated the latest standard specification, manual, the code of Regulatory Requirements in effect at the time of Advertisement for the Project (or, on the Effective Date of the Contract if there was no Advertisement). However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of the OWNER and the CONTRACTOR, or any of their consultants, agents or employees from those set forth in the Contract Documents, nor shall it be effective to assign to the OWNER or any of the OWNER's Consultants, agents or employees, any duty or authority to supervise or direct the Furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraphs 2.3 or 2.4.
- 3.5 Discrepancy in Contract Documents:
3.5.1 Before undertaking the Work, the CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures, and dimensions shown thereon and all applicable field measurements and conditions. Work in the area by the CONTRACTOR shall imply verification of figures, dimensions and field measurements. If, during the above study or during the performance of the Work, the CONTRACTOR finds a conflict, error, discrepancy or omission in the Contract Documents, or a discrepancy between the Contract Documents and any standard specification, manual, code, or Regulatory Requirement that affects the Work, the CONTRACTOR shall promptly report such discrepancy in writing to the Contracting Officer. The CONTRACTOR shall obtain a written interpretation or clarification from the Contracting Officer before proceeding with any Work affected thereby. Any adjustment made by the CONTRACTOR without this determination shall be at its own risk and expense. However, the CONTRACTOR shall not be liable to the OWNER for failure to report any conflict, error or discrepancy in the Contract Documents unless the CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.
3.5.2 Discrepancy - Order of Precedence:
When conflicts, errors, or discrepancies within the Contract Documents exist, the order of precedence from most governing to least governing will be as follows:
1. The Signed Contract;
2. Contents of Addenda;
3. Instructions to Bidders;
4. Supplementary Conditions;
5. General Conditions;
6. General Requirements;
7. Manufacturer's Instructions;
8. Technical Specifications;
9. 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)
- 3.6 Clarifications and Interpretations:
The Contracting Officer will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents as the Contracting Officer may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents.
- 3.7 Reuse of Documents:
Neither the CONTRACTOR nor any Subcontractor, or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with the OWNER shall have or acquire any title to or ownership rights in any of the Contract Documents (or copies thereof) prepared by or for the OWNER and they shall not reuse any of the Contract Documents on extensions of the Project or any other project without written consent of the Contracting Officer.
Contract Documents prepared by the CONTRACTOR in connection with the Work shall become the property of the OWNER.
- ARTICLE 4 - NOT USED IN THIS CONTRACT
- ARTICLE 5 - BONDS INSURANCE, AND INDEMNIFICATION
- 5.1 Insurance Requirements:
5.1.1 The CONTRACTOR shall provide evidence of insurance with a carrier or carriers satisfactory to the OWNER covering injury to persons and/or property suffered by the State of Alaska or a third party, as a result of operations which arise both out of and during the course of this Contract by the CONTRACTOR or by any Subcontractor. This coverage will also provide protection against injuries to all employees of the CONTRACTOR and the employees of any

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Subcontractor engaged in Work under this Contract. The policy of insurance shall be endorsed to provide for delivery to the OWNER of a written 30-Day notice is required before cancellation of any coverage or reduction in any limits of liability. Insurance carriers shall have an acceptable financial rating.

\$1,000,000 Aggregate for
Products- Completed
Operations

\$1,000,000 General
Aggregate

5.1.2

The CONTRACTOR shall maintain in force at all times during the performance of Work under this agreement the following policies of insurance. Failure to maintain insurance may, at the option of the Contracting Officer, be deemed Defective Work and remedied in accordance with the Contract. Where specific limits and coverages are shown, it is understood that they shall be the minimum acceptable. The requirements of this paragraph shall not limit the CONTRACTOR's responsibility to indemnify under paragraph 5.2. Additional insurance requirements specific to this Contract are contained in the Supplementary Conditions, when applicable.

The OWNER shall be named as an "Additional Insured" under all liability coverages listed above.

c. Automobile Liability Insurance:

Such insurance shall cover all owned, hired and non-owned vehicles and provide coverage not less than that of the Business Automobile Policy in limits not less than the following:

\$1,000,000 Each
Occurrence (Combined
Single Limit for bodily
injury and property
damage.)

a. Workers' Compensation Insurance: The CONTRACTOR shall provide and maintain, for all employees of the CONTRACTOR engaged in Work under this Contract, Workers' Compensation Insurance as required by AS 23.30.045.

d. Builder's Risk Insurance:

Coverage shall be on an "All Risk" completed value basis including "quake and flood" and protect the interests of the OWNER, the CONTRACTOR and its Subcontractors. Coverage shall include all materials, supplies and equipment that are intended for specific installation in the project while such materials, supplies and equipment are located at the project site and in transit from port of arrival to job site and while temporarily located away from the project site.

The CONTRACTOR shall be responsible for Workers' Compensation insurance for any Subcontractor who Provides services under this Contract, to include:

In addition to providing the above coverages the CONTRACTOR shall ensure that Subcontractors provide insurance coverages as noted in clauses a., b., and c. of this subparagraph.

1. Employer's Liability Protection in the amount of \$100,000 per person/\$100,000 per occurrence;

e. Other Coverages: As specified in the Supplementary Conditions.

b. Comprehensive or Commercial General Liability Insurance: shall cover all operations by or on behalf of the CONTRACTOR and shall provide insurance for bodily injury and property damage liability including coverage for premises and operations; products and completed operations; contractual liability insuring obligations assumed under paragraph 5.2, indemnification; broad form property damage; and personal injury liability. The minimum limits of liability shall be:

5.1.3

Evidence, consisting of a certificate of insurance or the policy declaration page with required endorsements attached thereto -- all of which have been executed by the insurer's representative and issued to the OWNER, shall denote the type, amount, class of operations covered, effective (and retroactive) dates, and dates of expiration of policies.

Evidence pertaining to Worker's Compensation, General Liability, Automobile Liability and all other coverages shall be evidenced prior to commencement of Work and execution of the Contract. Acceptance by the OWNER of deficient evidence does not constitute a waiver of Contract requirements as provided for by the Conditions of the Contract.

If a certificate is submitted as evidence it shall contain the following statement:

"This is to certify that the policies described herein comply with all aspects of the insurance requirements of [Contract Name and Number, and Project Number]."

1. If the CONTRACTOR carries Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage and Personal Injury Liability of:

\$ 500,000 each
occurrence
\$1,000,000 aggregate

5.2 Indemnification:

The CONTRACTOR shall indemnify, hold harmless, protect and defend the OWNER and its agents, including its employees from and against any and all claims, demands, and causes of action for injuries or damages sustained by any person or property arising out of, or in any way connected with the Work or the CONTRACTOR's performance of or obligations under this Contract. The CONTRACTOR is not obligated to indemnify the OWNER for its sole negligence.

2. If the CONTRACTOR carries Commercial General Liability policy the limits of liability shall not be less than:

\$ 500,000 Each
Occurrence (Combined
Single Limit for bodily
injury and property
damage.)

5.3 Payment and Performance Bonds

Payment and Performance bonds must be in a sum equal to at the total amount payable by the terms of the Contract. Use forms shown in Section 00610 and 00620 or a facsimile copy, or a form provided by a corporate surety that provides substantially the same information.

\$500,000 for Personal
Injury Liability

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ARTICLE 6 -CONTRACTOR'S RESPONSIBILITIES

6.1 Prosecution of the Work

The CONTRACTOR shall diligently, and in skillful, workmanlike manner, provide all labor, materials, equipment, and facilities necessary to perform the Work in accordance with the Contract Documents and in a manner to complete the Work within the specified contract time.

6.2 Supervision of Work:

The CONTRACTOR shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. The CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures of construction.

6.3 Superintendence by CONTRACTOR:

The CONTRACTOR shall provide on the Site at all times during the prosecution of the Work a competent, resident superintendent. The Contracting Officer shall be advised in writing of the superintendent's name, local address, and telephone number. This written advice is to be kept current until Final Acceptance by the OWNER. The superintendent will be the CONTRACTOR's representative at the site and shall have full authority to act and sign documents on behalf of the CONTRACTOR.

All communications given to the superintendent shall be as binding as if given to the CONTRACTOR. The CONTRACTOR shall cooperate with the Contracting Officer in every way possible.

6.4 Character of Workers:

The CONTRACTOR shall provide a sufficient number of competent, suitably qualified personnel to plan, manage, and Provide the Work as required by the Contract Documents. The CONTRACTOR shall at all times maintain good discipline and order at the site. The Contracting Officer may, in writing, require the CONTRACTOR to remove from the Work any employee the Contracting Officer deems incompetent, careless, or otherwise detrimental to the progress of the Work, but the Contracting Officer shall have no duty to exercise this right.

6.5 CONTRACTOR to Provide:

Unless otherwise specified in the General Requirements, the CONTRACTOR shall Provide and assume full responsibility for all materials, equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the Furnishing, performance, testing, start-up and completion of the Work.

6.6 Materials and Equipment:

All materials and equipment shall be of specified quality and new, except as otherwise provided in the Contract Documents. The CONTRACTOR shall Provide all facilities and labor required to protect materials and other components of the Work from damage or deterioration due to environmental exposure, handling, or other factors. If required by the Contracting Officer, the CONTRACTOR shall Furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment provided. All materials and equipment shall be applied, Installed, connected, erected, used, cleaned, and conditioned in accordance with the instructions of the applicable Supplier except as otherwise provided in the Contract Documents; but no provision of any such instructions will be effective to assign to the OWNER or any of the OWNER's Consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraphs 2.2, 2.3 or 2.4.

6.7 Anticipated Schedules:

Unless otherwise specified in the General Requirements, within reasonable time prior to the preconstruction conference the CONTRACTOR shall submit to the Contracting Officer for review an anticipated progress schedule indicating the starting and completion dates of the various stages of the Work.

6.8 Adjusting Schedules:

Upon substantial changes to the schedule or upon request, the CONTRACTOR shall submit to the Contracting Officer for acceptance adjustments in the schedules to reflect the actual present and anticipated progress of the Work.

6.9 Substitutes:

Notwithstanding any other provisions of the Contract, the CONTRACTOR bears the risk of delay or failure associated with any substitution requested or proposed by the CONTRACTOR, regardless of whether the substitution has been approved by the OWNER.

6.9.1

Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other Suppliers may be accepted by the Contracting Officer, but only if sufficient information is submitted by the CONTRACTOR that clearly demonstrates to the Contracting Officer that the material or equipment proposed is equivalent or equal in all aspects to that named. The procedure for review by the Contracting Officer will include the following as supplemented in the General Requirements:

a. Requests for review of substitute items of material and equipment will not be accepted by the Contracting Officer from anyone other than the CONTRACTOR.

b. If the CONTRACTOR wishes to furnish or use a substitute item of material or equipment, the CONTRACTOR shall make written application to the Contracting Officer for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application will certify that the evaluation and acceptance of the proposed substitute will not delay the CONTRACTOR's achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with the OWNER 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. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which shall be considered by the OWNER in evaluating the proposed substitute. The OWNER may require the CONTRACTOR to Furnish at the CONTRACTOR's expense additional data about the proposed substitute.

6.9.2

The Contracting Officer may reject any substitution request that the Contracting Officer determines is not in the best interest of the OWNER.

6.9.3

Substitute Means and Methods:

If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, the CONTRACTOR may Furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to the Contracting Officer, if the CONTRACTOR submits sufficient information to allow the Contracting Officer to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedure for review by the Contracting Officer will be similar to that provided in paragraph 6.10 as applied by the Contracting Officer and as may be supplemented in the General Requirements.

6.10

Evaluation of Substitution:

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- The Contracting Officer will be allowed a reasonable time within which to evaluate each proposed substitute. The Contracting Officer will be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without the Contracting Officer's prior written acceptance which will be evidenced by either a Change Order or Approval in accordance with paragraph 6.9. The Contracting Officer may require the CONTRACTOR to Furnish at the CONTRACTOR's expense a special performance guarantee or other Surety with respect to any substitute.
- 6.11 Dividing the Work:
- The divisions and sections of the Specifications and the identifications of any Drawings shall not control the CONTRACTOR in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- 6.12 Subcontractors:
- The CONTRACTOR 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.
- 6.12.1 The CONTRACTOR shall be fully responsible to the OWNER for all acts and omissions of the Subcontractors, Suppliers and other persons and organizations performing or Furnishing any of the Work under a direct or indirect contract with CONTRACTOR just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions.
- 6.12.2 Nothing in the Contract Documents shall create any contractual relationship between the OWNER and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of the OWNER to pay or to see to the payment of any moneys due any such Subcontractor, Supplier or other person or organization except as may otherwise be required by Regulatory Requirements. The OWNER will not undertake to settle any differences between or among the CONTRACTOR, Subcontractors, or Suppliers.
- 6.12.3 The CONTRACTOR shall include on its own payrolls any person or persons working on this Contract who are not covered by written subcontract, and shall ensure that all Subcontractors include on their payrolls all persons performing Work under the direction of the Subcontractor.
- 6.12.4 No claim of CONTRACTOR shall include any element of a claim of a Subcontractor unless the CONTRACTOR first warrants that the claim is valid.
- 6.12.5 The CONTRACTOR shall be responsible for ensuring that all personnel on the Project are covered by Unemployment Insurance as required by Regulatory Requirements.
- 6.13 Use of Premises:
- The CONTRACTOR is responsible for the site, the Work, and persons and materials thereon. The CONTRACTOR shall confine construction equipment, the storage of material and equipment and the operations of workers to the Project limits and approved remote storage sites.
- 6.14 Structural Loading:
- The CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall the CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.
- 6.15 Record Documents:
- The CONTRACTOR shall maintain in a safe place at the site one record copy of all Drawings, Specifications, Addenda, Directives, Change Orders, Supplemental Agreements, and written interpretations and clarifications (issued pursuant to paragraph 3.6) in good order and annotated to show all changes made during construction. The CONTRACTOR shall update the record documents weekly to reflect all changes through the date of the update. These record documents together with all Approved samples and a counterpart of all Approved Shop Drawings will be available to the Contracting Officer for reference and copying. Upon completion of the Work, the annotated record documents, samples and Shop Drawings will be delivered to the Contracting Officer. Record documents shall accurately record variations in the Work that vary from requirements shown or indicated in the Contract Documents.
- 6.16 Safety and Protection:
- The CONTRACTOR alone shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
- 6.16.1 All employees on the Work and other persons and organizations who may be affected thereby;
- 6.16.2 All the Work and materials and equipment to be incorporated therein, whether in storage on or off the site; and
- 6.16.3 Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation or replacement in the course of construction.
- The CONTRACTOR shall comply with all applicable Regulatory Requirements of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. The CONTRACTOR shall notify owners of adjacent property and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property. All damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the CONTRACTOR, any Subcontractor, Supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by the CONTRACTOR with no change in Contract Price or Contract Time, except damage or loss attributable to unforeseeable causes beyond the control of and without the fault or negligence of the CONTRACTOR, including but not restricted to the acts of God, the public enemy, or governmental authorities. The CONTRACTOR's duties and responsibilities for the safety and protection of the Work shall continue until Final Acceptance (except as otherwise expressly provided in connection with Substantial Completion).
- 6.16.4 All employees, persons, property and landscaping at the property, including plantings, pavements, roadways, structures, lighting, utilities, and vehicles, from the weight and activity of cranes and other heavy hoisting equipment.
- 6.17 Safety Representative:
- The CONTRACTOR shall designate a responsible safety representative at the site. This person shall be the CONTRACTOR's superintendent unless otherwise designated in writing by the CONTRACTOR to the Contracting Officer.
- 6.18 Emergencies:
- In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the OWNER, is obligated to act to prevent threatened damage, injury or loss. The CONTRACTOR shall give the Contracting Officer prompt written notice if the CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If the OWNER determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a change will be authorized by one of the methods indicated in Paragraph 9.2, as determined appropriate by the Contracting Officer.
- 6.19 Maintenance During Construction:
- The CONTRACTOR shall maintain the Work during construction and until Substantial Completion, at which time the responsibility for maintenance shall be established in accordance with paragraph 13.7.
- 6.20 Continuing the Work:
- The CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with the OWNER. No Work shall be delayed or postponed pending resolution of any disputes, disagreements, or claims except as the CONTRACTOR and the Contracting Officer may otherwise agree in writing.

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6.21	Consent to Assignment: The CONTRACTOR shall obtain the prior written consent of the Contracting Officer to any proposed assignment of any interest in, or part of this Contract. The consent to any assignment or transfer shall not operate to relieve the CONTRACTOR or its Sureties of any obligations under this Contract or the Performance Bonds. Nothing herein contained shall be construed to hinder, prevent, or affect an assignment of monies due, or to become due hereunder, made for the benefit of the CONTRACTOR's creditors pursuant to law.		CONTRACTOR on the articles or supplies herein contracted for, then the Contract shall be increased or decreased accordingly by a Change Order.
6.22	CONTRACTOR's Records:	7.3	Patented Devices, Materials and Processes If the CONTRACTOR employs any design, device, material, or process covered by letters of patent, trademark or copyright, the CONTRACTOR shall provide for such use by suitable legal agreement with the patentee or owner. The CONTRACTOR and the Surety shall indemnify and save harmless the OWNER, any affected third party, or political subdivision from any and all claims for infringement by reason of the use of any such patented design, device material or process, or any trademark or copyright, and shall indemnify the OWNER for any costs, expenses, and damage that it may be obliged to pay by reason of any infringement, at any time during the prosecution or after the completion of the Work.
6.22.1	Records of the CONTRACTOR and Subcontractors relating to personnel, payrolls, invoices of materials, and any and all other data relevant to the performance of this Contract, must be kept on a generally recognized accounting system. Such records must be available during normal work hours to the Contracting Officer for purposes of investigation to ascertain compliance with Regulatory Requirements and provisions of the Contract Documents.	7.4	Compliance of Specifications and Drawings: If the CONTRACTOR observes that the Specifications and Drawings supplied by the OWNER are at variance with any Regulatory Requirements, CONTRACTOR shall give the Contracting Officer prompt written notice thereof, and any necessary changes will be authorized by one of the methods indicated in paragraph 9.2. as determined by the Contracting Officer. If the CONTRACTOR performs any Work knowing or having reason to know that it is contrary to such Regulatory Requirements, and without such notice to the Contracting Officer, the CONTRACTOR shall bear all costs arising therefrom; however, it shall not be the CONTRACTOR's primary responsibility to make certain that the Specifications and Drawings supplied by the OWNER are in accordance with such Regulatory Requirements.
6.22.2	Payroll records must contain the name and address of each employee, his correct classification, rate of pay, daily and weekly number of hours of work, deductions made, and actual wages paid. The CONTRACTOR and Subcontractors shall make employment records available for inspection by the Contracting Officer and representatives of the U.S. and/or State Department of Labor and will permit such representatives to interview employees during working hours on the Project.	7.5	Accident Prevention: The CONTRACTOR shall comply with AS 18.60.075 and all pertinent provisions of the Construction Code Occupational Safety and Health Standards issued by the Alaska Department of Labor.
6.22.3	Records of all communications between the OWNER and the CONTRACTOR and other parties, where such communications affected performance of this Contract, must be kept by the CONTRACTOR and maintained for a period of three years from Final Acceptance. The OWNER or its assigned representative may perform an audit of these records during normal work hours after written notice to the CONTRACTOR.	7.6	Sanitary Provisions: The CONTRACTOR shall Furnish and maintain in a neat and sanitary condition such accommodations for the use of its employees and OWNER representatives as may be necessary to comply with the Regulatory Requirements of the State and local Boards of Health, or of other bodies or tribunals having jurisdiction.
ARTICLE 7 - LAWS AND REGULATIONS			
7.1	Regulatory Requirements The CONTRACTOR shall keep fully informed of all federal and state Regulatory Requirements and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the Work, or which in any way affect the conduct of the Work. The CONTRACTOR shall at all times observe and comply with all such Regulatory Requirements orders and decrees; and shall protect and indemnify the OWNER and its representatives against all claims, demands, and liabilities arising out of or in any way connected with an actual or alleged violation of any such Regulatory Requirement, order, or decree whether by the CONTRACTOR, Subcontractor, or any employee of either. Except where otherwise expressly required by applicable Regulatory Requirements, the OWNER shall not be responsible for monitoring CONTRACTOR's compliance with any Regulatory Requirements.	7.7	Business Registration: Comply with AS 08.18.011, as follows: "A person may not submit a bid or work as a contractor until that person has been issued a certificate of registration as a contractor by the department. A partnership or joint venture shall be considered registered if one of the general partners or venturers whose name appears in the name under which the partnership or venture does business is registered as a contractor."
7.2	Permits, Licenses, and Taxes	7.8	Professional Registration and Certification All craft trades, architects, engineers and land surveyors, electrical administrators, and explosive handlers employed under the Contract shall specifically comply with applicable provisions of AS 08.18, 08.48, 08.40, and 08.52. CONTRACTOR shall provide copies of individual licenses within seven days following a request from the Contracting Officer.
7.2.1	The CONTRACTOR shall procure all permits and licenses, pay all charges, fees and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the Work. As a condition of performance of this Contract, the CONTRACTOR shall pay all Federal, State and local taxes incurred by the CONTRACTOR, in the performance of this Contract. Proof of payment of these taxes may be a condition precedent to final payment by the OWNER under this Contract. The OWNER shall pay for all plan review and building permit fees required by the State Fire Marshal and/or the City of Kotzebue. The CONTRACTOR shall pay for all building and trade permits and licenses.	7.9	Local Building Codes: The CONTRACTOR shall comply with AS 35.10.025, which requires construction in accordance with applicable local building codes including the obtaining of required permits.
7.2.2	The CONTRACTOR's certification that taxes have been paid (as contained in the Release of Contract) will be verified with the Department of Revenue and Department of Labor, prior to final payment.	7.10	Air Quality Control: The CONTRACTOR shall comply with all applicable provisions of AS 46.03.04 as pertains to Air Pollution Control.
7.2.3	If any Federal, State or local sales or excise tax is imposed, charged, or repealed after the date of bid opening and is made applicable to and paid by the	7.11	Hazardous Materials: Spills, Reporting & Communication Plan The CONTRACTOR shall comply with all applicable provisions of Alaska Administrative Code Title 18, Section 75.300 regarding reporting of hazardous materials and oil spills. For all toxic or hazardous materials used in this Project the CONTRACTOR shall have available on site Material Safety Data Sheets and have in place a hazard communication program and comply with other requirements of Alaska Administrative Code Title 18 Section 15.010.
		7.12	Preferential Employment:

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The CONTRACTOR shall comply with all applicable and valid laws and regulations regarding the hiring of Alaska residents now in effect or that might subsequently take effect during the term of this Contract. In order to ensure that the CONTRACTOR's Subcontractors will comply with all applicable laws and regulations regarding the hiring of Alaska residents now in effect or that might subsequently take effect, the CONTRACTOR shall include in its Contracts with Subcontractors under this Contract language that is substantially the same as the first sentence of this provision.

7.13

Wages and Hours of Labor:

7.13.1 One certified copy of all payrolls shall be submitted weekly to the State Department of Labor to assure compliance with AS 36.05.040, Filing Schedule of Employees' Wages Paid and Other Information. An additional copy of all certified payrolls shall be submitted to the OWNER concurrently with the submittal to the State Department of Labor. The CONTRACTOR shall be responsible for the submission of certified copies of payrolls of all Subcontractors. The certification shall affirm that the payrolls are current and complete, that the wage rates contained therein are not less than the applicable rates referenced in these Contract Documents, and that the classification set forth for each laborer or mechanic conforms with the Work he performed. The CONTRACTOR and its Subcontractors shall attend all hearings and conferences and produce such books, papers, and documents all as requested by the Department of Labor. Should Federal funds be involved, the appropriate Federal Agency shall also receive a copy of the CONTRACTOR's certified payrolls.

7.13.2 The following Labor provisions shall also apply to this Contract:

- a. wages may not be less than those stated in the advertised Specifications, regardless of the contractual relationship between the CONTRACTOR or Subcontractors and laborers, mechanics, or field surveyors;
- b. the scale of wages to be paid shall be posted by the CONTRACTOR in a prominent and easily accessible place at the site of the Work;
- c. the OWNER shall withhold so much of the accrued payments as is necessary to pay to laborers, mechanics, or field surveyors employed by the CONTRACTOR or Subcontractors the difference between
 1. the rates of wages required by the Contract to be paid laborers, mechanics, or field surveyors on the Work, and
 2. the rates of wages in fact received by laborers, mechanics, or field surveyors.

7.14

Overtime Work Hours and Compensation:

Pursuant to AS 23.10.060, the CONTRACTOR shall not require nor permit any laborer or mechanic in any workweek in which he is employed on any Work under this Contract to work in excess of eight hours in any Calendar Day or in excess of forty hours in such workweek on Work subject to the provisions of the Contract Work Hours and Safety Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one half times his basic rate of pay for all such hours worked in excess of eight hours in any Calendar Day or in excess of forty hours in such workweek whichever is the greater number of overtime hours. In the event of any violation of this provision, the CONTRACTOR shall be liable to the affected employee for any amounts due and penalties and to the OWNER for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of this provision in the sum of \$10.00 for each Calendar Day on which such employee was required or permitted to be employed on such Work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by this paragraph.

7.15

Covenant Against Contingent Fees:

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

7.16

Officials Not to Benefit:

No member of or delegate to the State Legislature or other State official shall be admitted to any share or part of this Contract, nor to any benefit that may arise therefrom. However, this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

7.17

Personal Liability of Public Officials:

In carrying out any of the provisions thereof, or in exercising any power or authority granted to the Contracting Officer by the Contract, there will be no liability upon the Contracting Officer nor upon State employees authorized as his representatives, either personally or as officials of the State of Alaska, it being always understood that in such matters they act as agents and representatives of the OWNER/

ARTICLE 8 - OTHER WORK

8.1

Assignment of Component Contract by the Owner

The OWNER may at any time enter into separate contracts with other contractors to perform work or supply materials or services for the Project. The OWNER may, at its sole discretion, assign its interests, rights, and responsibilities in one or more of the component contracts to the CONTRACTOR anytime after execution of such contract. The assignment shall be executed using a Form of Agreement provided by the OWNER. The Contract Documents will describe the scope of Work, estimated, or actual contract amounts, and scheduling requirements for these assigned contracts.

If an assigned subcontract is indicated in the General Requirements, the Contractor shall include in its bid an amount as compensation for all supervision, overhead, bonds, profit, and all other expenses associated with the assumption of the OWNER's interests, rights, and responsibilities in the assigned subcontracts.

8.2

Related Work at Site;

8.2.1

The OWNER reserves the right at any time to contract for and perform other or additional work on or near the Work covered by the Contract.

8.2.2

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

8.2.3

If the fact that other such Work which is to be performed is identified or shown in the Contract Documents, the CONTRACTOR shall assume all liability, financial or otherwise, in connection with this Contract and indemnify and save harmless the OWNER from any and all damages or claims that may arise because of inconvenience, delay, or loss experienced by the CONTRACTOR because of the presence and operations of other contractors.

8.2.4

If the fact that such other work is to be performed is not identified or shown in the Contract Documents, written notice thereof will be given to the CONTRACTOR prior to starting any such other work. If the CONTRACTOR believes that such performance will require an increase in Contract Price or Contract Time, the CONTRACTOR shall notify the Contracting Officer of such required increase within 15 Calendar Days following receipt of the Contracting Officer's notice. Should the Contracting Officer find

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- such increase(s) to be justified, a Change Order will be executed.
- 8.3 Access, Cutting, and Patching:
- The CONTRACTOR shall afford each utility owner and any other contractor who is a party to a direct contract with the OWNER (or the OWNER, if the OWNER is performing the additional work with the OWNER's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work, and shall properly connect and coordinate the Work with the work of others. The CONTRACTOR shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. The CONTRACTOR shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter such other work with the written consent of the Contracting Officer. The duties and responsibilities of the CONTRACTOR under this paragraph are for the benefit of other contractors to the extent that these are comparable provisions for the benefit of the CONTRACTOR in said direct contracts between the OWNER and other contractors.
- 8.4 Defective Work by Others:
- If any part of the CONTRACTOR's Work depends for proper execution or results upon the work of any such other contractor, utility owner or the OWNER, the CONTRACTOR shall inspect and promptly report to the Contracting Officer in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. The CONTRACTOR's failure to so report will constitute an acceptance of the other work as fit and proper for integration with CONTRACTOR's Work except for latent or nonapparent defects and deficiencies in the other work.
- 8.5 Coordination:
- If the OWNER contracts with others for the performance of other work at the site, Contracting Officer will have authority to coordinate the activities among the various prime contractors.
- ARTICLE 9 - CHANGES & DIRECTIVES
- 9.1 OWNER's Right to Change
- The OWNER reserves the right to make, at any time during the progress of the Work, without notice to Sureties and within the general scope of the Contract, such changes, deviations, additions to or deletions from the Contract Documents, including the right to alter the quantity of any item or portion of the Work as may be deemed by the OWNER to be necessary or desirable and to require such extra Work, including direction to accelerate the Work, as may be determined by the OWNER to be required for the proper completion or construction of the whole Work contemplated. Such changes shall be set forth in writing as a Change Order and shall neither invalidate the Contract nor release the Surety. CONTRACTOR agrees to perform the Work, as changed, the same as if it had been a part of the original Contract.
- 9.2 Authorization of Changes within the General Scope
- Additions, deletions, or revisions in the Work within the general scope of the Contract as specified in 9.1 shall be authorized only by Change Order.
- 9.3 Directive
- 9.3.1 The Contracting Officer shall provide written clarification or interpretation of the Contract Documents (pursuant to paragraph 3.6).
- 9.3.2 The Contracting Officer may authorize minor variations in the Work from the requirements of the Contract Documents that do not involve an adjustment in the Contract Price or the Contract Time and are consistent with the overall intent of the Contract Documents.
- 9.3.3 The Contracting Officer may order the CONTRACTOR to correct Defective Work or methods that are not in conformance with the Contract Documents.
- 9.3.4 The Contracting Officer may direct the commencement of Work, the commencement of Work under dispute, the suspension of Work or emergency related Work (as provided in paragraph 6.19).
- 9.3.5 Upon the issuance of a Directive to the CONTRACTOR by the Contracting Officer, the CONTRACTOR shall proceed with the performance of the Work as prescribed by such Directive.
- 9.3.6 If the CONTRACTOR believes that the changes noted in a Directive may cause an increase in the Contract Price or an extension of Contract Time, the CONTRACTOR shall, within 3 Working Days, provide written notice to the Contracting Officer depicting such increases before proceeding with the Directive, except in the case of an emergency. If the Contracting Officer finds the increase in Contract Price or the extension of Contract Time justified, a Change Order will be issued. If however, the Contracting Officer does not find that a Change Order is justified, the Contracting Officer may direct the CONTRACTOR to proceed with the Work. The CONTRACTOR shall cooperate with the Contracting Officer in keeping complete daily records of the cost of such Work. If a Change Order is ultimately determined to be justified, in the absence of agreed prices and unit prices, payment for such Work will be made on a cost of the Work basis.
- 9.4 Change Order
- A change in Contract Time, Contract Price, or responsibility may be made for changes within the scope of the Work only by Change Order. Upon receipt of an executed Change Order, the CONTRACTOR shall promptly proceed with the Work involved, which will be performed under the applicable Conditions of the Contract except as otherwise specifically provided. Changes in Contract Price and Contract Time shall be made in accordance with Articles 10 and 11.
- 9.5 Extra Work
- Any change that is outside the general scope of the Contract, as determined by the Contracting Officer, must be authorized by a Supplemental Agreement signed by the appropriate representatives of the OWNER and the CONTRACTOR. Extra Work performed without a signed Supplemental Agreement or Change Order shall be treated as unauthorized work.
- 9.6 Unauthorized Work:
- The CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Time with respect to any work performed that is not required by the Contract Documents as amended, modified and supplemented as provided in this Article 9, except in the case of an emergency as provided in paragraph 6.18 and except in the case of uncovering Work.
- 9.7 Differing Site Conditions:
- 9.7.1 The CONTRACTOR shall promptly, and before such conditions are disturbed (except in an emergency as permitted by paragraph 6.18), notify the Contracting Officer in writing of: (1) subsurface or latent physical conditions at the site differing materially from those indicated in the Contract, and which could not have been discovered by a careful examination of the site, or (2) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract. The Contracting Officer shall promptly investigate the condition, and if the Contracting Officer finds that such conditions do materially so differ and cause an increase or decrease in the CONTRACTOR's cost of, or time required for, performance of this Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly.
- 9.7.2 Any claim for additional compensation by the CONTRACTOR under this clause shall be made in accordance with Article 15 and shall not be allowed unless the CONTRACTOR has first given the notice required by this Contract. In the event that the Contracting Officer and the CONTRACTOR are unable to reach an agreement concerning alleged differing site conditions, the CONTRACTOR will be required to keep an accurate and detailed record that will indicate the actual cost of the Work done under the alleged differing site condition. Failure to keep such a record shall be a bar to any recovery by reason of such alleged differing site conditions. The Contracting Officer shall be given the opportunity to supervise and check the keeping of such records.
- ARTICLE 10 – CONTRACT PRICE; COMPUTATION AND CHANGE
- 10.1 Contract Price:
- The Contract Price constitutes the total compensation (subject to

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- authorized adjustments) payable to the CONTRACTOR for performing the Work. All duties, responsibilities, and obligations assigned to or undertaken by the CONTRACTOR shall be at the CONTRACTOR's expense without change in the Contract Price. The Contract Price may only be changed by a Change Order or a Supplemental Agreement.
- overhead and profit amounts allowed will be added to the net difference of items of direct labor, material, construction equipment, small tools, and upper tier Subcontractor Proposals.
- b. If other unrelated additive changed items are included in the same change Proposal, the appropriate overhead and profit allowed is to be applied to these individual changed items.
- 10.2 Changes:
- The OWNER reserves the right to make changes to the Work or Contract Documents in accordance with Article 9 of these General Conditions. CONTRACTOR agrees to perform the Work, as changed, as if it had been a part of the original Contract. If the directed changes justify changes in Contract Price the Contract Price change shall be determined as specified in this Article 10.
- 10.3 Compensation for Altered Quantities of Unit Priced Items.
- Payment to the CONTRACTOR for unit price items shall be made only for the actual accepted quantities of Work performed or materials furnished, in conformance with the Contract. When the accepted quantities of Work or materials vary from the quantities stated in the bid schedule, CONTRACTOR shall accept as payment in full, payment at the original Contract unit prices for the quantities of Work and materials Furnished, completed, and accepted, except as provided below:
- 10.3.1 Under the provisions of Section 10.3, a "Major Contract Item" is any Contract item for which the product of the bid quantity and the unit bid price exceeds \$50,000.
- 10.3.2 Where the final quantity of a Major Contract Item is greater than 125% of the bid quantity, an adjustment shall be made for those units of Work completed and accepted that are in excess of 125% of the bid quantity.
- 10.3.3 Where the final quantity of a Major Contract Item is less than 75% of the bid quantity, payment shall be made as determined under Paragraph 10.3.4 for those units of Work completed and accepted, except that the total payment for the item shall not exceed 75% of the total amount bid for the item.
- 10.3.4 For Major Contract Item Work completed and accepted and materials furnished in excess of 125% of the bid quantity and, subject to the limitation in Paragraph 10.3.3, for Major Contract Item Work performed and accepted and materials furnished whose final quantity is less than 75% of the bid quantity, payment shall be made either on a unit basis at agreed prices or, if no agreement is reached as to unit prices, the Contract item shall be deleted from the Contract, and payment for Work performed and accepted and materials furnished shall be calculated as an Additive or Deductive Change under Paragraph 10.4.
- 10.4 Changes in Contract Items not Covered by a Unit Price.
- 10.4.1 Additive Changes
- Payment to the CONTRACTOR for changes in the Contract not covered by unit prices shall be determined utilizing one of the following methods:
- a. Mutually acceptable lump sum price including overhead and profit. The CONTRACTOR shall provide an estimated cost breakdown in accordance with, 10.4.5 and 10.4.6. – or-
- b. If no agreement can be reached regarding an acceptable lump sum price, or if the CONTRACTOR is directed by the OWNER to proceed with the changed Work, actual documented cost for time and materials spent on the work. CONTRACTOR shall provide an itemization of actual costs in accordance with 10.4.7.
- 10.4.2 Deductive Changes
- The CONTRACTOR shall itemize deductive changes identical to 10.4.6, except that the markup rates stated are mandatory.
- 10.4.3 Additive Changes and Deductive Changes Together
- a. If a change in the Work involves both additive and deductive changes for the same type of Work, the appropriate
- 10.4.4 Changes Under \$700
- If the description of the change in the Work is, in the opinion of the OWNER, definitive enough for the OWNER to determine fair value, and the total of the change does not exceed \$700, no cost breakdown is required.
- 10.4.5 Changes \$700 and Over and Less than \$2,500
- If the description of the change in the Work is, in the opinion of the OWNER, definitive enough to determine fair value, the CONTRACTOR shall provide an estimated cost breakdown in accordance with the following categories:
- a. Lump sum labor
- b. Lump sum material
- c. Lump sum equipment usage
- c. Appropriate superintendence, small tools, overhead and profit as defined in Article 10.4.6
- 10.4.6 Changes \$2,500 and Greater
- If the cost of a change is \$2,500 or greater or if, in the opinion of the OWNER, the description of the change in the Work is not definitive enough to determine fair value, the CONTRACTOR shall provide a breakdown of the estimated cost of a change in accordance with the following cost categories:
- a. Direct Labor Costs:
- Direct labor costs are estimated labor costs developed by estimating the number of hours necessary to perform the change multiplied by the hourly cost for the particular trade or professional involved or industry standard hourly labor costs. The hourly costs shall be based on the following:
1. Basic Wages/Fringe Benefits: Hourly rates and fringe benefits including, but not limited to, health and medical insurance, shall be as stated on the Department of Labor approved Labor and Mechanics Minimum Rates of Pay in force on the Contract date.
 2. Worker's Insurance: Direct contributions to the State of Alaska such as industrial insurance, medical aid, and supplemental pension, by the class and rates established by the State of Alaska, Department of Labor.
 3. Federal Insurance: Direct contributions required by the Federal Insurance Compensation Act (FICA), Federal Unemployment Tax Act (FUTA), and the State Unemployment Compensation Act (SUCA).
 4. Travel Allowance: Travel allowance and/or subsistence, if applicable, shall not exceed those

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- established by regional labor union agreements, itemized and identified separately.
5. On Site Supervision: Direct on-site supervision shall not exceed 15% of the cost of direct labor, and if a working supervisor's hours are covered, other supervision shall not be allowed. On-site supervision is defined as the combined total of CONTRACTOR's Project superintendents, foremen and lead crew personnel. All other supervision costs shall be included in CONTRACTOR's overhead and profit allowance as defined by Article 10.4.6.g below.
- b. Direct Material Costs:
- Direct material costs are an itemization of the estimated quantity and cost of materials necessary to perform the proposed change. Material pricing shall be developed from actual known costs, Supplier quotations, or standard industry pricing guides. Material costs shall consider all offered or available discounts and/or rebates. Freight costs, storage, express charges, or special delivery charges shall be itemized.
- c. Construction Equipment Costs:
- Construction equipment costs are an itemization of the type of equipment and the estimated length of time the construction equipment will be used on the proposed change. Costs will be allowed for construction equipment only if used solely for the changed Work, or additional rental costs are actually incurred by the Contractor. Equipment costs shall be developed from one of the following sources:
1. The current rental rates established by the National Electrical Contractor's Association (NECA) for equipment used on electrical work.
 2. The current rental rates established by the Mechanical Contractor's Association for equipment used on mechanical work.
 3. If equipment is required for which a rental rate is not established in any of the above, an agreed rental rate shall be established for the equipment using the Data Quest Rental Rate (Blue Book) as a basis for verifying rates. Such rates and the use of the equipment on the Work must be Approved by the OWNER prior to performing the Work.
- d. Small Tools, Expendables & Consumable Supplies:
- Small tools consist of tools that cost \$250 or less and are normally Furnished by the performing contractor.
1. The maximum rate for small tools shall not exceed the following:
 - a) For the CONTRACTOR, 3% of direct labor costs
 - b) For specialty CONTRACTORs, 5% of direct labor costs
2. Expendables and consumable supplies, including utilities, directly associated with the change in Work must be itemized.
- e. All Applicable Taxes
- f. Subcontractor Proposals:
- Subcontractor Proposals are to be itemized as specified in Articles a., b., c. and d. above.
- g. Overhead and Profit by the CONTRACTOR, a Subcontractor, or Supplier Actually Performing the Work:
- Allowances not to exceed 15% for overhead and profit for the party performing the Work will be based upon the value of labor, material, and use of construction equipment as defined in Articles 10.4.6.a., b., c. and d. above. This allowance is to compensate the CONTRACTOR for all personnel not included in Article 10.4.6.a. above, temporary construction facilities, field engineering, schedule updating, as-built Drawings, home office cost, project management, office engineering, estimating costs, additional home office overhead because of extended time, and any other indirect cost incidental to the performance of the change in work.
- h. Overhead and Profit by the CONTRACTOR on Subcontractors actually performing the Work or Supplier dealing directly with the CONTRACTOR:
1. Overhead and Profit on subcontract change amount below \$1000: The CONTRACTOR shall be allowed a \$50 lump sum markup.
 2. Overhead and Profit on Subcontract change amount above \$1000: The CONTRACTOR shall be allowed a 5% markup.
 3. Markups are allowed on the first lower tier subcontractor only. No other markup on other lower tiered subcontractors or suppliers shall be allowed.
 4. No direct labor by the CONTRACTOR will be allowed to be added to a Subcontractor's proposal.
- Costs incurred by the CONTRACTOR, which are additional to the fee allowed in this article, must be detailed in accordance with Article 10.4.6.a. Direct Labor Costs; Article 10.4.6.b. Direct Material Costs; Article 10.4.6.c. Construction Equipment Costs; Article 10.4.6.d. Small Tools, Expendables and Consumable Supplies; and Article 10.4.6.e. All Applicable Taxes.

10.4.7 Time and Materials (T&M) Work

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When the CONTRACTOR has been directed to proceed utilizing the Time and Materials method of accounting for costs the CONTRACTOR shall categorize the costs of the Work in accordance with Articles 10.4.6 a., b., c., d., e., f., g., and h. with the modification that the costs tabulated shall be actual costs rather than estimated costs and with the following additional requirements:

- a. Labor must be clearly identified and segregated from other work performed on workers' daily time sheets.
- b. Time sheets must be submitted within two working days for OWNER's review and approval.
 - 1. If supervisor's hours are included, then supervision markup will not be allowed.
 - 2. CONTRACTOR's Daily Field Report must clearly identify action performed on Time and Material items of Work.
- d. Material, freight, expendable, consumables and other incidental charges must be supported by invoices.
- e. The CONTRACTOR shall not exceed any cost limit(s) without prior written approval by the OWNER.

10.4.8

Disagreements

In the event the CONTRACTOR does not agree upon the adjustment in Contract Price, scope of Work, or Contract Time, the following provisions shall apply:

- a. Adjustments:
 - 1. During the cost review process, the OWNER may discover discrepancies or arithmetic errors. If the discrepancy exceeds \$50, a correction will be made and the Change Order process shall continue with the new value. This process will avoid delay in the processing of Change Orders.
 - 2. Upon completion of the Change Order, the CONTRACTOR shall either accept the Change Order value as adjusted, or within two weeks of the Change Order receipt, notify the OWNER in writing of any disagreements.
- b. Written Challenges: When the CONTRACTOR disagrees with either a Contract interpretation or a processed Change Order, a letter shall be submitted to the OWNER as described below:
 - 1. Explain the nature of the disagreement
 - 2. Identify the appropriate sections of the Contract Documents
 - 3. State the CONTRACTOR's position in detail
 - 4. Provide a detailed scope of Work
 - 5. Request the issuance of a Change Order proposal
 - 6. Provide a detailed cost breakdown of compensation requested

7. Provide support documentation and construction schedule for any request for Contract Time extensions

- c. Prosecution of the Disputed Work: The OWNER may direct the CONTRACTOR to proceed with the Work by issuing a written authorization pending resolution of disputed items. If so directed the CONTRACTOR shall immediately and diligently proceed to complete the Work.
- d. Negotiation: The OWNER and the CONTRACTOR shall review and negotiate the items in disagreement in an effort to clarify and resolve the dispute. All resolutions shall be incorporated into a Contract Change Order.

10.4.9 OWNER's Right to Audit

The CONTRACTOR shall maintain, and the OWNER shall have immediate and unrestricted access to, and the right to examine, any directly pertinent estimates, documents, papers, and records of the transactions relating to this Contract, and to make excerpts, copies, and transcriptions for the purpose of verifying CONTRACTOR's claims for extra costs and delays. This provision shall be in force for a period of time to end six (6) years after the Final Acceptance date of this Contract.

10.4.10 No Claim after Final Acceptance

No claim by the CONTRACTOR for a change in the Contract Price shall be allowed unless claimed before Final Acceptance of this Contract.

ARTICLE 11 - CONTRACT TIME; COMPUTATION AND CHANGE

11.1 Commencement of Contract Time; Notice to Proceed:

The Contract Time will commence to run on the Day indicated in the Notice to Proceed. Contract completion time is specified as a fixed calendar date, in lieu of "contract time".

11.2 Starting the Work:

No Work on Contract items shall be performed before the effective date of the Notice to Proceed. The CONTRACTOR shall notify the Contracting Officer at least 10 days in advance of the time actual construction operations will begin. The CONTRACTOR may request a limited Notice to Proceed after Award has been made, to permit it to order long lead materials that could cause delays in Project completion. However, granting of a limited Notice to Proceed is within the sole discretion of the Contracting Officer, and refusal or failure to grant a limited Notice to Proceed shall not be a basis for claiming for delay, extension of Contract Time, or alteration of Contract Price.

11.3 Computation of Contract Time:

11.3.1 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 CONTRACTOR, if no starting Day is stipulated therein.

Calendar Days shall continue to be counted against Contract Time until and including the date of Substantial Completion of the Work.

11.3.2 When the Contract completion time is specified as a fixed calendar date, it shall be the date of Substantial Completion. Contractor shall achieve Substantial Completion no later than October 31, 2008.

11.4 Contract Time Change:

The Contract Time may only be changed by a Change Order or Supplemental Agreement.

11.5 Extension Due to Delays:

If the CONTRACTOR is delayed or disrupted in its performance under the Contract by any of the following causes, the CONTRACTOR shall be entitled to an extension of Contract Time as its exclusive remedy. The Contractor agrees to complete the

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Work within the Contract Time as thus extended. Such extensions shall postpone the beginning of the time period for payment of liquidated damages by the CONTRACTOR, but they and the events producing them shall not be grounds for claims by the CONTRACTOR in damages or for additional costs, expenses, overhead or profit or other compensation.

The delays to which this Article applies, unless otherwise specified elsewhere in the Contract Documents, are unforeseeable delays due to:

- 11.5.1. Force majeure which includes war, riot, acts of God, unusually severe weather or any other cause beyond the CONTRACTOR's reasonable ability to foresee or control, whether or not similar to those enumerated.
- 11.5.2. An event that is the result of the negligence or other fault of the Owner, Contracting Officer or Project Manager.
- 11.5.3. Performance, attempted performance or delays in performance by any other contractor employed by the OWNER or their subcontractors; delays caused by any direction of the Project Manager respecting the order of precedence in the performance of the other contracts, and acts by other third parties including public and private utilities.

The CONTRACTOR shall file with the Project Manager a written request for an extension of Contract Time within 7 Calendar Days after the CONTRACTOR knows or by reasonable diligence should know, of the event causing or likely to cause delay. The request shall state the portion of the Work so delayed and shall fully state the reasons for such delay. No extension will be made for any portion of any delay occurring more than 10 Days before said request is made in writing to the Project Manager. In the case of a continuing cause of delay, only 1 request is necessary.

When such a request is received, the Project Manager will ascertain the reasons for and the extent of the delay, if any, and shall provide a finding of fact and determination to the CONTRACTOR. If the Project Manager determines that the facts justify an extension of Contract Time, the Contract will be modified by a Change Order in writing. If the Project Manager determines that the facts as reported by the CONTRACTOR do not justify an extension of Contract Time, such request will be denied in writing. The Project Manager's determination shall be final and conclusive unless the Contractor submits a Notice of Claim under the article entitled CLAIMS AND DISPUTES.

11.6 Essence of Contract:

All time limits stated in the Contract Documents are of the essence of the Contract.

11.7 Reasonable Completion Time:

It is expressly understood and agreed by and between the OWNER and the CONTRACTOR that the date of beginning and the time for Substantial Completion of the Work described herein are reasonable times for the completion of the Work.

11.8 Delay Damages:

Whether or not the CONTRACTOR's right to proceed with the Work is terminated, the CONTRACTOR and its Sureties shall be liable for damages resulting from CONTRACTOR's refusal or failure to complete the Work within the specified time.

Liquidated damages for delay shall be paid by the CONTRACTOR or its Surety to the OWNER in the amount(s) stipulated in Supplementary Conditions 00800 for each Calendar Day the completion of the Work or any part thereof is delayed beyond the time required by the Contract, or any extension thereof. The CONTRACTOR stipulates and agrees that the liquidated damages established herein are not a penalty but rather constitute an estimate of damages that the OWNER will sustain by reason of delayed completion. These liquidated and actual damages are intended as compensation for losses anticipated to arise. These damages will continue to run both before and after termination in the event of default termination. These liquidated damages do not cover excess costs of completion or OWNER costs, fees, and charges related to procurement. If a default termination occurs, the CONTRACTOR or its Surety shall pay in addition to these damages, all excess costs and expenses related to completion as provided by Article 14.2.3.

ARTICLE 12 - QUALITY ASSURANCE

12.1 Warranty and Guaranty:

The CONTRACTOR warrants that all Work will be in accordance with the Contract Documents and will not be Defective. Prompt notice of all defects shall be given to the CONTRACTOR. All defective work, whether or not in place, may be rejected, corrected, or accepted as provided for in this Article.

12.1.1 General Provisions

- a. Neither the final payment nor any provision in the Contract Documents nor partial or entire occupancy of the Project by the OWNER shall constitute acceptance of Work not performed in accordance with the Contract Documents, or operate to relieve the CONTRACTOR of liability with respect to any responsibilities for faulty materials or workmanship. In addition to any other warranties in this Contract, the CONTRACTOR shall remedy any defects in the Work that appear within a period of 1 year after the date this warranty period commences unless a longer period is specified and shall pay for any damage to other work resulting from defective work or from efforts to repair defective Work. The OWNER shall give notice of observed defects with reasonable promptness.
- b. The warranty period shall commence at Substantial Completion, as evidenced by the OWNER's written notice. The warranty period shall commence only as to those items of Work that are substantially complete as of the date of beneficial occupancy. The CONTRACTOR shall make all required arrangements with Suppliers of equipment and materials for the Project to enable all manufacturer and Supplier warrantees to remain in force during the warranty period at a minimum.
- c. The CONTRACTOR, when notified by the OWNER of a defect in the Work within the warranty period, shall immediately, and at no cost to the OWNER, place in satisfactory condition all defective Work. The CONTRACTOR's warranty with respect to Work repaired or replaced will extend for one year from the date of the repair or replacement.
- d. If the CONTRACTOR fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the OWNER shall have the right to replace, repair or otherwise remedy the failure, defect, or damage at the CONTRACTOR's expense.

12.2 Access to Work:

The OWNER and the OWNER's representatives, testing agencies and governmental agencies with jurisdiction interests will have access to the Work at reasonable times for their observation, inspecting and testing. The CONTRACTOR shall provide proper and safe conditions for such access.

12.3 Tests and Inspections:

12.3.1 The CONTRACTOR shall give the Contracting Officer timely notice of readiness of the Work for all required inspections, tests or approvals.

12.3.2 If Regulatory Requirements of any public body having jurisdiction require any work (or part thereof) to specifically be inspected, tested or approved, the CONTRACTOR shall assume full responsibility therefore, pay all costs in connection therewith and Furnish the Contracting Officer the required certificates of inspection, testing or approval. The CONTRACTOR shall also be responsible for and shall pay all costs in connection with any inspection or testing required in connection with OWNER's acceptance of a Supplier of materials or equipment proposed to be incorporated in the Work, or of materials or equipment submitted for approval prior to the CONTRACTOR's purchase thereof for incorporation in the Work. The cost of all inspections, tests and approvals in addition to the above which are required

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- by the Contract Documents shall be paid by the CONTRACTOR. The OWNER may perform additional tests and inspections that it deems necessary to insure quality control. All such failed tests or inspections shall be at the CONTRACTOR's expense. OWNER shall pay for all special inspections required by the IBC Chapter 17.
- 12.3.4 If any Work (including the work of others) that is to be inspected, tested or approved is covered without written concurrence of the Contracting Officer, that Work must, if requested by the Contracting Officer, be uncovered for observation. Such uncovering shall be at the CONTRACTOR's expense unless the CONTRACTOR has given the Contracting Officer timely notice of CONTRACTOR's intention to cover the same and the Contracting Officer has not acted with reasonable promptness in response to such notice.
- 12.3.5 Neither observations nor inspections, tests or approvals by the OWNER or others shall relieve the CONTRACTOR's obligations to perform the Work in accordance with the Contract Documents.
- 12.4 OWNER May Stop the Work:
- If the Work is Defective, or the CONTRACTOR fails to supply suitable materials or equipment, or fails to Furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, the Contracting Officer may order the CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Contracting Officer to stop the Work shall not give rise to any duty on the part of the Contracting Officer to exercise this right for the benefit of the CONTRACTOR or any other party.
- 12.5 Correction or Removal of Defective Work:
- If required by the Contracting Officer, the CONTRACTOR shall promptly, as directed, either correct all Defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by the Contracting Officer, remove it from the site and replace it with Work that conforms to the requirements of the Contract Documents. The CONTRACTOR shall bear all direct, indirect and consequential costs of such correction removal (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby.
- 12.6 Acceptance of Defective Work
- Instead of requiring correction or removal and replacement of Defective Work, the Contracting Officer may accept Defective Work, the CONTRACTOR shall bear all direct, indirect and consequential costs attributable to the Contracting Officer's evaluation of and determination to accept such Defective Work (costs to include but not be limited to fees and charges of engineers, architects, attorneys and other professionals). If any such acceptance occurs prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and the OWNER shall be entitled to an appropriate decrease in the Contract Price. If the OWNER has already made final payment to the CONTRACTOR, an appropriate amount shall be paid by the CONTRACTOR or its Surety to the OWNER.
- 12.7 OWNER May Correct Defective Work:
- If the CONTRACTOR fails within a reasonable time after written notice from the Contracting Officer to proceed to correct Defective Work or to remove and replace rejected Work as required by the Contracting Officer in accordance with paragraph 12.5 or if the CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if the CONTRACTOR fails to comply with any other provision of the Contract Documents, the OWNER may, after seven days' written notice to the CONTRACTOR, correct and remedy any such deficiency. The cost of corrective action shall be born by the CONTRACTOR or its Surety. To the extent necessary to complete corrective and remedial action, the Contracting Officer may exclude the CONTRACTOR from all or part of the site, take possession of all or part of the Work, and suspend the CONTRACTOR's services related thereto, take possession of the CONTRACTOR's tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stored at the site or approved remote storage sites or for which the OWNER has paid the CONTRACTOR but which are stored elsewhere, the CONTRACTOR shall allow the Contracting Officer and his authorized representative such access to the site as may be necessary to enable the Contracting Officer to exercise the rights and remedies under this paragraph. All direct, indirect and consequential costs of the OWNER in exercising such rights and remedies will be charged against the CONTRACTOR, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and the OWNER shall be entitled to an appropriate decrease in the Contract Price. Such direct, indirect and consequential costs will include, but not be limited to, fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of the CONTRACTOR's Defective Work. The CONTRACTOR shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by the Contracting Officer of the OWNER's rights and remedies hereunder.
- ARTICLE 13 - PAYMENTS TO CONTRACTOR AND COMPLETION
- 13.1 Application for Progress Payment:
- The CONTRACTOR shall submit to the Contracting Officer for review a Request for Payment filled out and signed by the CONTRACTOR covering the Work completed as of the date of the Request for Payment and accompanied by such supporting documentation as is required by the Contract Documents. Progress payments will be made as the Work progresses on a monthly basis.
- 13.2 Review of Applications for Progress Payment:
- Contracting Officer will either indicate in writing a recommendation of payment or return the Request for Payment to the CONTRACTOR indicating in writing the Contracting Officer's reasons for refusing to recommend payment. In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the Request for Payment.
- 13.3 Stored Materials and Equipment:
- If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the Request for Payment shall also be accompanied by a bill of sale, paid invoice or other documentation warranting that the OWNER has received the materials and equipment free and clear of all charges, security interests and encumbrances and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect the OWNER's interest therein, all of which will be satisfactory to the Contracting Officer. No payment will be made for perishable materials that could be rendered useless because of long storage periods. No progress payment will be made for living plant materials until planted.
- 13.4 CONTRACTOR's Warranty of Title:
- The CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by any Request for Payment, whether incorporated in the Project or not, will pass to the OWNER no later than the time of payment free and clear of any claims, liens, security interests and further obligations.
- 13.5 Withholding of Payments:
- The OWNER may withhold or refuse payment for any of the reasons listed below provided it gives written notice of its intent to withhold and of the basis for withholding:
- 13.5.1 The Work is Defective, or completed Work has been damaged requiring correction or replacement, or has been Installed without Approval of Shop Drawings, or by an unapproved Subcontractor or for unsuitable storage of materials and equipment.
- 13.5.2 The Contract Price has been reduced by Change Order.
- 13.5.3 The OWNER has been required to correct Defective Work or complete Work in accordance with paragraph 12.7.
- 13.5.4 The occurrence of any of the events enumerated in paragraphs 14.2.1a through 14.2.1k inclusive.
- 13.5.5 Claims have been made against the OWNER or against the funds held by the OWNER on account of the CONTRACTOR's actions or inactions in performing this Contract, or there are other items entitling the OWNER to a set off.
- 13.5.6 Subsequently discovered evidence or the results of subsequent inspections or test, nullify any previous

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	payments for reasons stated in subparagraphs 13.5.1 through 13.5.5.		warranties, which shall be consistent with the terms of the Contract Documents.
13.5.7	The CONTRACTOR has failed to fulfill or is in violation of any of its obligations under any provision of this Contract.		The OWNER shall be responsible for all OWNER costs resulting from the initial inspection and the first re-inspection, the CONTRACTOR shall pay all costs incurred by the OWNER resulting from re-inspections, thereafter.
13.5.8	Contract close-out documentation and a Schedule of Values are both required by General Requirements to be submitted and accepted by the Contracting Officer. Submittal of the contract close-out documents must be included in the Schedule of Values as specific activities or items for each class of documents listed below. The minimum Schedule of Value percentages or amounts required are shown:	13.8	Access Following Substantial Completion: The OWNER shall have the right to exclude the CONTRACTOR from the Work after the date of Substantial Completion, but the OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.
	a. Certificate of Occupancy: 10% of Contract amount or \$20,000 whichever is less. Submittal of a Conditional Certificate of Occupancy may allow partial payment of this item.	13.9	Final Inspection: Upon written notice from the CONTRACTOR that the entire Work or an agreed portion thereof is complete, the Contracting Officer will make a final inspection with the CONTRACTOR and appropriate consultants and will notify the CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or Defective. The CONTRACTOR shall immediately take such measures as are necessary to remedy such deficiencies. The CONTRACTOR shall pay for all costs incurred by the OWNER resulting from re-inspections.
	b. Project Record Documents, Operation and Maintenance Manuals, warranties, guarantees, bonds, certificate of compliance, close-out abatement reports, commissioning reports and other required technical submittals: 10% of Contract amount or \$10,000 whichever is less.	13.10	Final Completion and Request for Payment: After the CONTRACTOR has completed all such corrections to the satisfaction of the Contracting Officer and 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 - all as required by the Contract Documents; and after the Contracting Officer has indicated in writing that the Work has met the requirements for Final Completion, and subject to the provisions of paragraph 13.14, the CONTRACTOR may make application for final payment following the procedure for progress payments. The final Request for Payment shall be accompanied by all certificates, warranties, guarantees, releases, affidavits, and other documentation required by the Contract Documents.
	c. Contractor and subcontractor affidavit of release of liens, affidavit of payment of debts and claims, consent of surety to final payment, wage certification: 5% of Contract or \$5,000, whichever is less.		
13.5.9	Delay damages per paragraph 11.8.		
13.5.10	On the basis of estimates of Work performed during the preceding calendar month and Approved by the Contracting Officer, the OWNER will make progress payments to the CONTRACTOR; but to ensure the proper performance of this Contract, the OWNER may at any time, at its sole option, retain up to ten percent (10%) of the amount of progress payments until Final Completion and Final Acceptance; provided that on completion and acceptance of the Project or of each separate building, public work, or other division of the Project on which the price is stated separately in the Contract, payment may be made in full for that portion completed and accepted including retained percentages less authorized deductions or other provisions of the Contract.	13.11	Final Payment: 13.11.1 If, on the basis of the Contracting Officer's observation of the Work during construction and final inspection, and the Contracting Officer's review of the final Request for Payment and accompanying documentation - all as required by the Contract Documents; and the Contracting Officer is satisfied that the Work has been completed and the CONTRACTOR's other obligations under the Contract Documents have been fulfilled, the OWNER will process final Request for Payment. Otherwise, the Contracting Officer will return the Request for Payment to the CONTRACTOR, indicating in writing the reasons for refusing to process final payment, in which case the CONTRACTOR shall make the necessary corrections and resubmit the final Request for Payment. 13.11.2 If, through no fault of the CONTRACTOR, Final Completion of the Work is significantly delayed, the Contracting Officer shall, upon receipt of the CONTRACTOR's final Request for Payment, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. Such payment shall be made under the terms and Conditions of the Contract governing final payment, except that it shall not constitute a waiver of claims.
13.6	Request for Release of Funds: If the CONTRACTOR believes the basis for withholding is invalid or no longer exists, immediate written notice of the facts and Contract provisions on which the CONTRACTOR relies, shall be given to the OWNER, 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, the CONTRACTOR shall provide a letter from the Department of Labor stating that withholding is no longer requested. Following such a submittal by the CONTRACTOR, the OWNER shall have a reasonable time to investigate and verify the facts and seek additional assurances before determining whether release of withheld payments is justified.		
13.7	Substantial Completion: When the CONTRACTOR considers the Work ready, in accordance with the Contract Documents, for its intended use the CONTRACTOR shall notify the Contracting Officer in writing that the Work or a portion of Work that has been specifically identified in the Contract Documents is substantially complete (except for items specifically listed by the CONTRACTOR as incomplete) and request that the OWNER issue a certificate of Substantial Completion. Within a reasonable time thereafter, the Contracting Officer, the CONTRACTOR and appropriate consultant(s) shall make an inspection of the Work to determine the status of completion. If the Contracting Officer does not consider the Work substantially complete, the Contracting Officer will notify the CONTRACTOR in writing giving the reasons therefore. If the Contracting Officer considers the Work substantially complete, the Contracting Officer will within fourteen days execute and deliver to the CONTRACTOR a certificate of Substantial Completion with tentative list of items to be completed or corrected. At the time of delivery of the certificate of Substantial Completion the Contracting Officer will deliver to the CONTRACTOR a written division of responsibilities pending Final Completion with respect to security, operation, safety, maintenance, heat, utilities, insurance and	13.12	Final Acceptance: Following certification of payment of payroll and revenue taxes, and final payment to the CONTRACTOR, the OWNER will issue a letter of Final Acceptance, releasing the CONTRACTOR from further obligations under the Contract, except as provided in paragraph 13.13. 13.13 CONTRACTOR's Continuing Obligation: The CONTRACTOR's obligation to perform and complete the Work and pay all laborers, Subcontractors, and materialmen in accordance with the Contract Documents shall be absolute. Neither any progress or final payment by the OWNER, nor the issuance of a certificate of Substantial Completion, nor any use or occupancy of the Work or any part thereof by the OWNER or Using Agency, nor any act of acceptance by the OWNER nor any failure to do so, nor any review and approval of a Shop Drawing or other Project submittal, nor any correction of Defective Work by the OWNER will constitute an acceptance of Work not in accordance

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with the Contract Documents or a release of the CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents.

termination shall be in accordance with U.S.C. 362 and/or 11 U.S.C. 365. In the event the CONTRACTOR declares bankruptcy the CONTRACTOR agrees that the Contract will be assumed or rejected in a timely manner so that the Contract will be completed by the date specified in the Contract, or

13.14 Waiver of Claims by CONTRACTOR:

The making and acceptance of final payment will constitute a waiver of all claims by the CONTRACTOR against the OWNER other than those previously made in writing and still unsettled.

g. Allows any final judgment to stand against him unsatisfied for period of 60 days, or

13.15 No Waiver of Legal Rights:

The OWNER shall not be precluded or be estopped by any payment, measurement, estimate, or certificate made either before or after the completion and acceptance of the Work and payment therefor, from showing the true amount and character of the Work performed and materials Furnished by the CONTRACTOR, nor from showing that any payment, measurement, estimate or certificate is untrue or is incorrectly made, or that the Work or materials are Defective. The OWNER shall not be precluded or estopped, notwithstanding any such measurement, estimate, or certificate and payment in accordance therewith, from recovering from the CONTRACTOR or its Sureties, or both, such damages as it may sustain by reason of its failure to comply with requirements of the Contract Documents. Neither the acceptance by the OWNER, or any representative of the OWNER, 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 OWNER, shall operate as a waiver of any portion of the Contract or of any power herein reserved, or of any right to damages. A waiver by the OWNER of any breach of the Contract shall not be held to be a waiver of any other subsequent breach.

h. Makes an assignment for the benefit of creditors without the consent of the Contracting Officer, or

i. Disregards Regulatory Requirements of any public body having jurisdiction, or

j. Otherwise violates in any substantial way any provisions of the Contract Documents, or

k. For any cause whatsoever, fails to carry on the Work in an acceptable manner,

the Contracting Officer may give notice in writing to the CONTRACTOR and its Surety of such delay, neglect, or default.

14.2.2

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

ARTICLE 14 - SUSPENSION OF WORK, DEFAULT AND TERMINATION

14.1 OWNER May Suspend Work

14.1.1 The OWNER may, at any time, suspend the Work or any portion thereof by notice in writing to the CONTRACTOR. If the Work is suspended without cause the CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension if the CONTRACTOR makes an Approved claim therefore as provided in Article 15. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that suspension is due to the fault or negligence of the CONTRACTOR, or that suspension is necessary for Contract compliance, or that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the CONTRACTOR.

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

14.2.3

If the Contract is terminated for default, the CONTRACTOR shall be liable for damages for delay as provided by Article 11.8, and for the excess cost of completion, and all costs and expenses incurred by the OWNER in completing the Work, including but not limited to costs of assessing the Work to be done, costs associated with advertising, soliciting or negotiating for bids or Proposals for completion, and other reprourement costs. Following termination the CONTRACTOR shall not be entitled to receive any further balance of the amount to be paid under the Contract until the Work is fully finished and accepted, at which time if the unpaid balance exceeds the amount due the OWNER and any amounts due to persons for whose benefit the OWNER has withheld funds, such excess shall be paid by the OWNER to the CONTRACTOR. If the damages, costs, and expenses due the OWNER exceed the unpaid balance, the CONTRACTOR and its Surety shall pay the difference.

14.2 Default of Contract

14.2.1 If the CONTRACTOR:

a. Fails to begin the Work under the Contract within the time specified in the Proposal, or

b. Fails to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficiently skilled workmen, suitable materials, or equipment or failure to adhere to the progress schedule established under paragraph 6.6 as revised from time to time), or

14.2.4

If, after notice of termination of the CONTRACTOR's right to proceed under the provisions of this clause, it is determined for any reason that the CONTRACTOR was not in default under the provisions of this clause or that the delay was excusable under the provisions of this clause, or that termination was wrongful, the rights and obligations of the parties shall be determined in accordance with the clause providing for convenience termination.

c. Performs the Work unsuitably or neglects or refuses to remove materials or to correct Defective Work, or

d. Discontinues the prosecution of the Work, or

e. Fails to resume Work that has been discontinued within a reasonable time after notice to do so, or

14.3

Rights or Remedies:

Where the CONTRACTOR's services have been so terminated by the OWNER, the termination will not affect any rights or remedies

f. Becomes insolvent, except that if the CONTRACTOR declares bankruptcy

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of the OWNER against the CONTRACTOR then existing or that may thereafter accrue. Any retention or payment of moneys due the CONTRACTOR by the OWNER will not release the CONTRACTOR from liability.

costs not amortized by the amount of Work accomplished shall be paid by the OWNER. Charges for loss of profit or consequential damages shall not be recoverable except as provided above.

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| 14.4 | <p>Convenience Termination:</p> <p>14.4.1 The performance of the Work may be terminated by the OWNER in accordance with this section in whole or in part, whenever, for any reason the Contracting Officer shall determine that such termination is in the best interest of the OWNER. Any such termination shall be effected by delivery to the CONTRACTOR of a "Notice of Termination", specifying termination is for the convenience of the OWNER the extent to which performance of Work is terminated, and the date upon which such termination becomes effective.</p> <p>Immediately upon receipt of a "Notice of Termination" and except as otherwise directed by the Contracting Officer, the CONTRACTOR shall:</p> <ul style="list-style-type: none"> a. Stop Work on the date and to the extent specified in the "Notice of Termination"; b. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the Work as is not terminated; c. Terminate all orders and subcontracts to the extent that they relate to the performance of Work terminated by the "Notice of Termination"; d. With the written Approval of the Contracting Officer, to the extent he may require, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable, in whole, or in part, in accordance with the provisions of the Contract; e. Submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory exclusive of items the disposition of which had been directed or authorized by the Contracting Officer; f. Transfer to the Contracting Officer the completed or partially completed record Drawings, Shop Drawings, information, and other property that if the Contract had been completed, would be required to be Furnished to the OWNER; g. Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to the Contract that is in the possession of the CONTRACTOR and in which the OWNER has or may acquire any interest. <p>The CONTRACTOR shall proceed immediately with the performance of the above obligations.</p> | 14.4.3 | <p>The 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 Contracting Officer upon request of the CONTRACTOR made in writing within the 90 Day period. Upon failure of the CONTRACTOR to submit its termination claim within the time allowed, the Contracting Officer may determine, on the basis of information available to him, the amount, if any, due to the CONTRACTOR by reason of the termination and shall thereupon pay to the CONTRACTOR so determined.</p> |
| 14.4.2 | <p>When the OWNER orders termination of the Work effective on a certain date, all Work in place as of that date will be paid for in accordance with Article 13 of the Contract. Materials required for completion and on hand but not incorporated in the Work will be paid for at invoice cost plus 15% with materials becoming the property of the OWNER - or the CONTRACTOR may retain title to the materials and be paid an agreed upon lump sum. Materials on order shall be cancelled, and the OWNER shall pay reasonable factory cancellation charge with the option of taking delivery of the materials in lieu of payment of cancellation charges. The CONTRACTOR shall be paid 10% of the cost, freight not included, of materials cancelled, and direct expenses only for CONTRACTOR chartered freight transport that cannot be cancelled without charges, to the extent that the CONTRACTOR can establish them. The extra costs due to cancellation of bonds and insurance and that part of job start-up and phase-out</p> | 14.4.4 | <p>The CONTRACTOR and the Contracting Officer may agree upon whole or any part of the amount or amounts to be paid to the CONTRACTOR by reason of the total or partial termination of Work pursuant to this section. The Contract shall be amended accordingly, and the CONTRACTOR shall be paid the agreed amount.</p> <p>In the event of the failure of the CONTRACTOR and the Contracting Officer to agree in whole or in part, as provided heretofore, as to the amounts with respect to costs to be paid to the CONTRACTOR in connection with the termination of the Work the Contracting Officer shall determine, on the basis of information available to him, the amount, if any, due to the CONTRACTOR by reason of the termination and shall pay to the CONTRACTOR the amount determined as follows:</p> <ul style="list-style-type: none"> a. All costs and expenses reimbursable in accordance with the Contract not previously paid to the CONTRACTOR for the performance of the Work prior to the effective date of the "Notice of Termination"; b. So far as not included under "a" above, the cost of settling and paying claims arising out of the termination of the Work under subcontracts or orders that are properly chargeable to the terminated portions of the Contract; c. The reasonable costs of settlement with respect to the terminated portion of the Contract heretofore, to the extent that these costs have not been covered under the payment provisions of the Contract. |
| | | 14.4.5 | <p>The CONTRACTOR shall have the right of appeal under the OWNER's claim procedures as defined in Article 15, for any determination made by the Contracting Officer, except if the CONTRACTOR has failed to submit its claim within the time provided and has failed to request extension of such time, CONTRACTOR shall have no such right of appeal. In arriving at the amount due the CONTRACTOR under this section, there shall be deducted:</p> <ul style="list-style-type: none"> a. All previous payments made to the CONTRACTOR for the performance of Work under the Contract prior to termination; b. Any claim for which the OWNER may have against the CONTRACTOR; c. The agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the CONTRACTOR or sold pursuant to the provisions of this section and not otherwise recovered by or credited to the OWNER; and, d. All progress payments made to the CONTRACTOR under the provisions of this section. |
| | | 14.4.6 | <p>Where the Work has been terminated by the OWNER said termination shall not affect or terminate any of the rights of the OWNER against the CONTRACTOR or its Surety then existing or that may thereafter accrue because of such default. Any retention or payment of monies by the OWNER due to the</p> |

CONTRACTOR under the terms of the Contract shall not release the CONTRACTOR or its Surety from liability.

Unless otherwise provided for in the Contract Documents, or by applicable statute, the CONTRACTOR, from the effective date or termination and for a period of three years after final settlement under this Contract, shall preserve and make available to the OWNER at all reasonable times at the office of the CONTRACTOR, all its books, records, documents, and other evidence bearing on the cost and expenses of the CONTRACTOR under its Contract and relating to the Work terminated hereunder.

15.6 Integrated Contract

This is an integrated contract. If any provision of this Contract is found to be illegal, all other provisions shall be given full force and effect.

END OF SECTION

ARTICLE 15 - CLAIMS AND DISPUTES

15.1 Notification:

In addition to the notice requirements set out elsewhere in this Contract, if the CONTRACTOR becomes aware of any act or occurrence that may form the basis of a claim by the CONTRACTOR for additional compensation or an extension of time for performance, or if any dispute arises regarding a question of fact or interpretation of the Contract, the CONTRACTOR shall, within 3 Working Days, inform the Project Manager. If the matter cannot be resolved by agreement within 7 days, the CONTRACTOR shall, within the next 14 days, submit an "Intent to Claim" in writing. The claim, if not resolved, shall be presented to the Project Manager within 60 days following receipt of the "Intent to Claim". Receipt of the claim will be acknowledged in writing by the Project Manager. The CONTRACTOR agrees that unless these written notices are provided, the CONTRACTOR will have no entitlement to additional time or compensation for such act, event or condition. The CONTRACTOR shall in any case continue diligent performance of the Contract.

15.2 Presenting Claim:

The claim shall specifically include the following:

- 15.2.1 The act, event, or condition giving rise to the claim.
- 15.2.2 The Contract provisions that apply to the claim and under which relief is provided.
- 15.2.3 The item or items of Contract Work affected and how they are affected.
- 15.2.4 The specific relief requested, including Contract Time if applicable, and the basis upon which it was calculated.

15.3 Claim Validity, Additional Information, and Project Manager's Actions:

The claim, in order to be valid, must not only show that the CONTRACTOR suffered damages or delay but that those conditions were actually a result of the act, event or condition complained of and that the Contract provides entitlement to relief to the CONTRACTOR for such act, event, or condition. The Project Manager reserves the right to make written request to the CONTRACTOR at any time for additional information that the CONTRACTOR may possess relative to the claim. The CONTRACTOR agrees to provide the Project Manager such additional information within 30 days of receipt of such a request. Failure to Furnish such additional information may be regarded as a waiver of the claim. The claim, if not resolved by agreement within 60 days of its receipt, will automatically be forwarded to the Contracting Officer for formal written decision.

15.4 Contracting Officer's Decision:

The CONTRACTOR will be furnished the Contracting Officer's decision within the next 90 days, unless additional information is requested by the Contracting Officer. The Contracting Officer's decision is final and conclusive unless fraudulent as to the claim or unless, within 14 days of receipt of the decision, the CONTRACTOR delivers a written Notice of Appeal to the Deputy Director, Alaska Court System. Procedures for appeals and hearings are covered under Admin Rule 47. Any dispute or appeal requiring judicial review must be filed within the Third Judicial District in Anchorage, Alaska.

15.5 Construing the Contract

This Contract shall be construed in accordance with the laws of Alaska.

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**SECTION 01 0100
SUMMARY OF WORK**

PART 1 – GENERAL

1.1 Definitions

- A. Alaska Court System (ACS) Working Hours: 7:30am until 5:00pm, Monday through Friday, not including State holidays.
- B. Provide: To provide and install.

1.2 Owners Occupancy

- A. The Owner will continue to occupy and operate the building. The Contractor shall coordinate with the Owner to allow normal business operations to continue and shall cooperate with Owner in painting operations to minimize conflict and to facilitate Owner usage. Contractor shall at all times conduct his operation to insure the least inconvenience to staff, visitors, the general public, and employee parking.
 - 1. Contractor must maintain the existing fire exiting, and public and private circulation pathways.
- B. Contractor shall schedule any work which could interfere with the Owner's operation to be conducted after normal working hours. Specific schedules and Work activities which will be required to be performed after normal work hours are:
 - 1. All demolition work.
 - 2. All work with loud power tools.
 - 3. All fire alarm and security system disruption or testing.
 - 4. All work in common circulation areas, including office space, courtrooms, public lobbies, public toilets and stairwells.
 - 5. Work which will impede employee parking.
- C. Office and interior spaces
 - 1. Contractor to provide Owner a 2 week notice prior to commencement with Work on site.
 - 2. Contractor to provide office occupants a 1 week and a 24-hour notice prior to commencement of Work.

Note: The work areas should be considered lobby, common areas and walkways.
 - 3. Contractor shall move furniture, cabinets, and equipment, as needed to perform the Work and after completion of the Work shall return the space to the configuration and level of cleanliness in which it was found.
 - 4. The Owner shall assure all work, cabinet, and equipment surfaces within the area of Work are cleared to the extent they may be effectively moved to accommodate the Work. Electronics will be shut off or unplugged
- D. Disruption of Operations: Any work deemed by the Owner to be disruptive to operations or to the record of the court due to excessive noise, vibration or other reasons will be required to be performed after normal working hours. The Contractor must schedule and coordinate such work with the Owner prior to proceeding with work. Contractor shall coordinate with the Owner periods of time when construction work is producing strong odors for the manipulation of air intake fans.
 - 1. Upon notice by court staff that the contractors work is disrupting operations the contractor must immediately cease work.

- E. Include in contract sum sufficient funds as may be required for any “after hours” work caused by these requirements. No additional payment to Contractor will be authorized because of Contractor’s failure to anticipate required “after hours” work.

1.2 WORK COVERED BY CONTRACT DOCUMENTS

Provide all equipment, materials, labor, and workmanship, necessary to complete the Work as described and reasonably inferred to in the Contract Documents. In General:

The project generally consists of the partial replacement of interior finishes only in rooms 101, 103 and 112. Alcoves off of rooms 101, 103, and 112 are included in the scope of work.

Work includes: demolition of existing acoustic wall panels; demolition and replacement of column base tiles and column base ledge; demolition and replacement of column accent trim; preparation for new paint to the existing wood paneling; Preparation of surface damage/wear/age then painting of interior surfaces.

Paint Sheen - MPI Gloss Level 4: 20 to 35 units at 60 degrees and not less than 35 units at 85 degrees, according to ASTM D523.

Coats - MPI system – RIN 9.2 – G4. System consists of a prime coat MPI #137 for DSD-2 conditions and MPI #149 for DSD-03 conditions with 2 topcoats of MPI #146

Primer - The MPI system indicated above includes a primer coat.

1. The contractor shall protect the existing facilities and surrounding grounds during construction. All affected areas shall be restored to existing conditions by the contractor at the conclusion of construction activities.
2. The contractor shall field verify all project-related new and/or existing conditions, including dimensions, prior to the commencement of work. Promptly notify the owner's representative in writing of all discrepancies and/or unanticipated conditions observed.
3. Dimensions take precedence over drawings. Do not scale drawings. The owner shall be notified if any discrepancy occurs prior to continuing with work.
4. The contractor shall bear all expense of repair or replacement of property damaged by operations in conjunction with the performance of the work.
5. All work shall be accomplished with quality workmanship, and to industry standards. All materials shall be installed in strict accordance with manufacturers' instructions, recommendations, and national trade group standards unless otherwise noted.
6. The contractor shall remove all demolished materials and construction debris from premises and all areas within the area of work shall be left in a clean (broom) condition at the end of each work day.
7. The contractor shall take all necessary precautions to ensure the safety of the occupants and workers at all times.
8. The documents have been produced at drawing scales related to their full-size (22 inch x 34 inch). Any deviations from this format size may produce drawing copies that are not to scale. Do not scale the drawings.
9. Owner is responsible for all moveable equipment and furniture, and shall have the area of work cleared of all such items, as well as all affected employee's personal effects and supplies, prior to the start of construction. Owner is responsible for relocating said items after substantial completion.

10. The plans do not incorporate any detailed phasing requirements. It is assumed the area of work will be available in its entirety to the contractor for the duration of construction, subject to any other restrictions listed in the construction documents or in the construction contract. The contractor shall submit a work plan including a detailed schedule for approval by the owner.
11. Remove existing wall mounted objects, including but not limited to tack boards, vents, etc. as required to allow work to be completed and reinstall in at original location.
12. Existing to remain surfaces and materials to be protected in place, including but not limited to sprinklers, sprinkler piping, wall base, etc.

1.4 CONTRACT TYPE

Project will be performed under a competitively bid Lump Sum Single Prime Contract.

1.5 Performance Period and Notice to Proceed

- A. Notice to Proceed will be given after Award and Project Manager receipt and approval of Contractor submitted product list and work plan for all surface and product application, and of Contractor insurance documentation
- B. Notice to Proceed with Work On-site will be given when Contractor has all materials on-hand and has submitted and received approval from the Project Manager of a Work schedule.
- C. Contractor shall provide the Project Manager with a 2 week notice prior to the commencement of Work on-site.
- D. Substantial Completion required on interior work within 21 days of commencement of the work.
- E. Final Completion required within 10 days of Substantial Completion.

1.6 Security And Clearances

- A. Contractors, agents, principals, officers or employees who supply goods or services to the court system must have completed background checks. Any person with the following conditions is restricted from entering or working on the premises.
- B. Person has been convicted of a violent crime or crime of theft within last 5 years;
- C. Person has been convicted of more than 2 misdemeanors in last 5 years;
- D. Person has been convicted of more than one felony in previous 10 years;
- E. Person has an on on-going case in the court where work is being performed with ACS (until case is resolved);
- F. The ACS may limit or reject certain individuals if their presence is determined by the Contracting Officer to be detrimental to the normal conduct of the ACS business.
- G. Prior to commencement of any work on court premises, the ACS requires each contractor, agent, principal, officer or employee who will work on court premises to provide a State of Alaska Background Check Form completely and correctly filled out so that a background check can be conducted and a security clearance can be obtained. The completed form must be submitted to the Project Manager. Allow 4 days for clearance approval after Background Check Form is submitted. A Background Check Form has been provided at the back of this Section.
- H. Much of the business of the ACS is necessarily confidential and not subject to public disclosure. The confidentiality of draft opinions, internal memoranda, conversations regarding pending issues and other court business are essential to the court's function. Additionally, records related to personnel issues, procurement proceedings, internal policy discussions, and other administrative issues are also confidential. Prior to commencing any work under this contract, the contractors, agents, principals, officers or employees who supply goods or services to the premises shall inform all contractors, agents, principals, officers, and employees working on the premises that the disclosure of any confidential court business observed or

overheard may result in permanent removal from the premises and may be grounds for termination of contract and even criminal prosecution.

- I. Access to the ACS facilities will be permitted with a limited issuance of hard keys and electronic card keys which will be distributed by the Construction Management Representative and signed for by the Contractor. The Contractor is responsible for tracking and safeguarding those keys and must return them to ACS personnel as a condition of final payment. No duplications are to be made by the Contractor. Should loss of area keys occur, the Contractor shall advise the Owner immediately, and will be responsible for replacement keys and re-keying costs if necessary.

1.7 WARRANTY

All work and materials shall be warranted for a period of one year after acceptance by the Owner, unless otherwise stated in these specifications. At no additional cost to Owner, correct defects in materials and workmanship which appear during warranty period by repairing, or when directed, by replacing.

1.8 MEETINGS

Project Manager to schedule a Preconstruction meeting and weekly progress meetings. Attendance by the Contractor and first-tier subs is required.

PART 2 – PRODUCTS

NOT USED

PART 3 – EXECUTION

3.1 SITE ACCESS:

Vehicle Parking: Contractor will be allowed to park in the courthouse public parking area (lot 4).

3.2 SITE STAGING, STORAGE AND WASTE DISPOSAL: The Contractor shall be responsible for protection of materials during delivery, off-loading and transportation to on-site storage areas.

- A. **Available Storage Areas:** Contractor shall store all materials off-site at their bonded and insured warehouse until the Notice to Proceed with Work on-site is given. After that time, The Contractor will be given a combined minimum of 250 square feet of storage in the atrium. (More storage may be possible with advanced notice)
- B. **Protection:** Use all materials and means necessary to protect and maintain facility property, including plantings, pavements, roadways, structures, lighting, existing utilities and vehicles, from the activity of remodel demolition and material removal operations.
- C. **Site Waste Disposal:** The Contractor shall remove waste resulting from the Work on a daily basis. Transport and legally dispose of materials off site as work progresses. The Owners waste receptacles are not to be used.
- D. **QUALITY ASSURANCE:** All work shall be performed by workmen skilled and experienced in their craft, and under proper supervision to meet all acceptable means and methods per industry standards and commercial application.

3.3 CLEANING:

- A. General: Do not allow the accumulation of scrap, debris, dust, waste material and other items not required for construction of this Work. Provide adequate storage for all items awaiting removal from the job site observing all requirements for fire prevention and protection of the ecology.
 1. All materials and equipment including but not limited to ladders, scaffolding, drop cloths, paint sprayers, and man lifts will be stored in such a manner as to not impede or interfere, with court system normal business operations or be consider unsightly. Retain all stored items in an orderly arrangement allowing maximum access. Do not impede drainage or traffic and provide required protection of materials.

2. Daily, inspect all arrangements of materials stored on the site; restack, tidy or otherwise service.
3. Maintain the site in a neat and orderly condition at all times to the satisfaction of the Owner.
4. Construction activities shall be monitored on a daily basis to determine if dirt, dust, and debris from construction areas is accumulating onto adjacent surfaces, equipment, furnishings, or flooring outside of the construction area. Any cleanup necessary, including sweeping, vacuuming or stain removal, shall be accomplished on a daily basis by the Contractor. Washing dirt and debris into the storm drains is not permitted.
5. The Contractor will be responsible for, and respond promptly to, all additional cleaning required by the Owner at any time during the business day if the conditions of this Section are not adhered to.
6. Janitorial personnel provide cleaning services after ACS Working Hours, and will only clean each toilet room once a day. At the end of each work activity, Contractor must leave all toilets used by their personnel in clean and sanitary condition, ready for public use. No additional cleaning by janitorial personnel will be provided without charge to the Contractor.

A. **Closeout Cleaning:** Fully clean all project work areas, project storage, staging and transport areas to the level of cleanliness found prior to commencement of the Work.

END OF SECTION 01 0100