

**CONTRACT DOCUMENTS AND SPECIFICATIONS
FOR CONSTRUCTION OF**

**CITY OF UNALASKA
LIGHT CARGO DOCK EXPANSION**

DPW PROJECT No. 15601

Prepared for:



**City of Unalaska
P.O. Box 610
Unalaska, Alaska 99685**

FOR BID

Prepared by:



ENGINEERS, INC.

**PND Engineers, Inc.
1506 West 36th Avenue
Anchorage, Alaska 99503
(907) 561-1011**

May 2016

City of Unalaska
LIGHT CARGO DOCK EXPANSION
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Part 1

BIDDING REQUIREMENTS

**Section 00030
INVITATION TO BID**

Sealed Bids for the **CITY OF UNALASKA LIGHT CARGO DOCK EXPANSION**, addressed to the City of Unalaska, will be received at the following locations:

City of Unalaska
Office of the City Clerk
P.O. Box 610
Unalaska, Alaska 99685
Tel. 907-581-1260
Fax 907-581-1417

PND Engineers, Inc.
1506 West 36th Avenue
Anchorage, Alaska 99503
Tel. 907-561-1011
Fax 907-563-4220

Sealed bids will be received until 2:00 p.m. (AKST) on **June 15, 2016**, and then will be publicly opened and read. Any bids received after the time and date specified will not be considered.

The work will include, but not be limited to, furnishing all labor, tools, equipment, and materials and performing all operations in connection with the **CITY OF UNALASKA LIGHT CARGO DOCK EXPANSION**.

1. Project Location: Light Cargo Dock; Unalaska, Alaska
2. Owner: City of Unalaska

Technical questions shall be directed in writing to PND Engineers, Inc. Questions shall be submitted to croche@pndengineers.com, cc rlund@ci.unalaska.ak.us. A copy of the Bidding Documents can be obtained at the City of Unalaska Website, <http://www.ci.unalaska.ak.us/rfps>, for no charge..

City of Unalaska DPW
P.O. Box 610
Unalaska, Alaska 99685
Attn: Robert Lund P.E., City Engineer
E-mail rlund@ci.unalaska.ak.us
Tel. 907-581-1260

PND Engineers, Inc.
1506 W. 36th Ave
Anchorage, AK 99518
Attn: Corey Roche,
Email: croche@pndengineers.com
Tel. 907-561-1011

Each Bid must be submitted on the prescribed form and accompanied by bid security as prescribed in the Instruction to Bidders, payable to the City of Unalaska, Alaska, in an amount not less than 5 (five) percent of the Total Bid amount. The successful bidder will be required to furnish the necessary additional bond(s) for the faithful performance of the Contract, as prescribed in the Bidding Documents.

INVITATION TO BID

00030-2

A prebid tele-conference will be held on **June 2, 2016** at 2:00 p.m. at the City of Unalaska Department of Public Works. Prior to the tele-conference, a site visit by all bidders is required as described in Article 5 of the Instructions to Bidders.

Call-In No. 1-800-315-6338

Access Code 151125#

The successful Bidder shall hold such Contractors and Business Licenses as required by State Statutes and City of Unalaska Municipal Code Section 9.30.010. The right is reserved to reject any or all Bids, to waive informalities or irregularities in the bidding, and to accept bids that are considered to be in the best interest of the City of Unalaska.

No bidder may withdraw its bid after the time set for opening thereof, except as provided in the Instructions to Bidders or unless the award of the contract is delayed for a period exceeding 60 days.

Dated this _____ day of _____, 2016.

CITY OF UNALASKA, ALASKA

By _____
Director of Public Works

Engineer’s Estimate

The Engineers Estimate is within a US DOT Federal Highway Administration Project Classification F. <http://www.fhwa.dot.gov/programadmin/contracts/ta508046.cfm>

Project Classification	Project Cost
A	\$0 - \$100,000
B	\$100,000 - \$250,000
C	\$250,000 - \$500,000
D	\$500,000 – \$1,000,000
E	\$1,000,000 - \$2,500,000
F	\$2,500,000 - \$5,000,000
G	\$5,000,000 - \$10,000,000
H	\$10,000,000 - \$15,000,000
I	\$15,000,000 – \$25,000,000
J	\$25,000,000 - greater

Prevailing Wage Requirements

All workers shall be paid prevailing wage rates as described in the State of Alaska LABORERS’ AND MECHANICS’ MINIMUM RATES OF PAY, Title 36, Public Contracts, AS 36.05 & AS 35.10 Wage and Hour Administration Pamphlet No. 600 – Latest Revision. The wages published on that date will prevail throughout the entire project regardless of the duration.

Section 00100
INSTRUCTIONS TO BIDDERS

1. Defined Terms.

Terms used in these Instructions to Bidders which are defined in the General Conditions of the Contract Documents have the meanings assigned to them in the General Conditions.

Certain additional terms used in the Bidding Documents have the meanings indicated below which are applicable to both the singular and plural thereof.

- A. Bidder - one who submits a Bid directly to Owner as distinct from a subbidder, who submits a bid to a Bidder.
- B. Bidding Documents - the Bidding Requirements and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).
- C. Bidding Requirements - the Invitation to Bid, Instructions to Bidders, and Bid Form, plus additional documents that may be submitted with the Bid.
- D. Issuing Office - the City Public Works Department, from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.
- E. Low Bidder - Low Bidder will be determined on the basis of the lowest Amount for the total bid including Owner chosen Additive and/or Deductive Bid Items as described in the Bid Form. Award of the Additive or Deductive Bid Items will be made to the extent that construction funds are available, in such order as may suit the best interest of the Owner. The Deductive and Additive Bid items are not in any specific order and are not listed in order of preference. The Owner reserves the right to select the low bidder on the basis of the Base Bid plus any combination of Additive and/or Deductive Bid items. If the order of the bids is affected, the award will be made on the basis of the Base Bid plus any combination of the Deductive and Additive Bid items.
- F. Successful Bidder - the lowest, qualified, responsible and responsive Bidder to whom the City (on the basis of the City's evaluation as hereinafter provided) makes an Award.

2. Copies of Bidding Documents.

- A. Complete sets of the Bidding Documents for the sum stated in the Invitation to Bid may be obtained from the Issuing Offices.
- B. Complete sets of Bidding Documents must be used in preparing Bids; the City does not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

INSTRUCTIONS TO BIDDERS

- C. The Drawings bound in the Contract Documents are at a scale indicated by a note or scale bar on the Drawings.
- D. The City, in making copies of Bidding Documents available on the above terms, does so only for the purpose of obtaining Bids for the work and does not confer a license or grant for any other use.

3. **Qualifications of Bidders.**

To demonstrate qualifications to perform the work, each Bidder must be prepared to submit within 5 days after Bid opening upon City's written request, information such as financial data, previous experience, present commitments, subcontractor names and qualifications, and other such data as may be called for below. Each Bid must contain evidence of Bidder's qualification to do business in Alaska. Bidders shall be eligible to obtain a business license from the City of Unalaska.

Nothing indicated herein should prejudice the right of Owner to seek additional pertinent information as provided in the General Conditions.

At the written request of the owner within 5 days of the bid opening, each bidder shall be prepared to provide evidence of qualification for the Project Manager and pile driving Superintendent showing installation experience of at least three (3) OPEN CELL SHEET PILE™ or closed cell bulkheads of similar magnitude within the last eight (8) years and a specific sheet pile installation plan for the owner to review. Reference the general notes of the drawings for details of the sheet pile installation plan.

4. **License Requirements**

Contractors and subcontractors, in order to perform public work in the State of Alaska, are required to hold State of Alaska Contractor's licenses of the class required to perform the specified work. Contractors and subcontractors are also required to hold current Alaska Business Licenses and obtain a City of Unalaska businesses license in order to perform public work in the State of Alaska. Contractor's license and Business License numbers shall be inserted in the appropriate place on the Bid form. Evidence of subcontractor's compliance with the above shall be submitted to the City before starting subcontract work on public work contracts.

5. **Examination of Contract Documents and Site.**

- A. It is the responsibility of each Bidder before submitting a Bid:
 - 1. To examine thoroughly the Contract Documents and other related data identified in the Bidding Documents (including "technical data" referred to below);
 - 2. To visit the site to become familiar with and satisfy Bidder as to the general, local, and site conditions that may affect cost, progress, performance, or furnishing of the Work;

INSTRUCTIONS TO BIDDERS

3. To consider federal, state, and local Laws and Regulations that may affect cost, progress, performance, or furnishing of the Work;
 4. To study and carefully correlate Bidder's knowledge and observations with the Contract Documents and such other related data;
 5. To promptly notify the City of all conflicts, errors, ambiguities or discrepancies which Bidder has discovered in or between the Contract Documents and such other related documents;
 6. To review applicability of the City of Unalaska sales tax to any purchases of materials or services related to the Work.
- B. Information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based upon information and data furnished to the City by Owners of such Underground Facilities or others, and the City does not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.
- C. Provisions concerning responsibility for the adequacy of data furnished to prospective Bidders on subsurface conditions, other physical conditions and Underground Facilities, and possible changes in the Contract Documents due to differing or unanticipated conditions appear in Article 4 of the General Conditions.
- D. Before submitting a Bid, each Bidder will be responsible to make or obtain such examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, or procedures of construction to be employed by Bidder and safety precautions and programs incident thereto or which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of the Contract Documents.
- E. On request, the City will provide each Bidder access to the site to conduct such examinations, investigations, explorations, tests and studies as each Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the site to its former condition upon completion of any such explorations, investigations, test, and studies.
- F. The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 5; that, without exception, the Bid is premised upon performing and furnishing the work required by the Contract Documents and applying the specific means, methods, techniques, sequences, or procedures of construction (if any) that may be shown or indicated or expressly required by the Contract Documents; that Bidder has given the Contracting Officer written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in the Contract Documents and the written

INSTRUCTIONS TO BIDDERS

resolution thereof by the City is acceptable to Bidder; and that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

- G. The provisions of paragraph 5A through 5F above, inclusive, do not apply to asbestos, polychlorinated biphenyl (PCB), petroleum, hazardous waste, or radioactive material covered by the Supplementary Conditions.
- H. Nothing contained in the Bid Documents, any and all attachments thereto, or any and all addenda thereto, shall be interpreted by any party as requiring or allowing the Contractor to do anything that is not in compliance with all applicable codes and regulations, that is less than general standard industry quality, or that results in an unsafe, unstable or dangerous condition.

6. Availability of Lands for Work, Etc.

The lands upon which the work is to be performed, rights-of-way and easements for access thereto, and other lands designated for use by Contractor in performing the work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the work are to be obtained and paid for by the Successful Bidder. Easements for permanent structures or for permanent changes in existing facilities are to be obtained and paid for by the City unless otherwise provided in the Contract Documents.

7. Interpretations and Addenda.

- A. All questions about the meaning or intent of the Bidding Documents are to be directed to PND Engineers, Inc. with the City of Unalaska copied. Interpretations or clarifications considered necessary by the City in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by the Issuing Office as having received the Bidding Documents. Questions received less than 6 days prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- B. Addenda may also be issued to modify the Bidding Documents as deemed advisable by the City.

8. Bid Security.

- A. Each Bid must be accompanied by Bid security made payable to Owner for 5 percent of Bidder's Total Bid price and in the form of a certified bank check or a Bid Bond on form attached, issued by a Surety meeting the requirements of the General Conditions.
- B. The Bid security of a successful bidder will be retained until such Bidder has executed the Agreement, furnished the required Contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If

INSTRUCTIONS TO BIDDERS

the successful Bidder fails to execute and deliver the Agreement and furnish the required Contract security within 15 days after the Notice of Award, Owner may annul the Notice of Award and the Bid security of that Bidder will be forfeited. The bid security of the Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of the 7th day after the Effective Date of the agreement or the 60th day after the Bid opening, whereupon Bid security furnished by such Bidders will be returned. Bid security submitted with bids which are not competitive will be returned within 15 days after the Bid opening.

9. **Contract Times.**

The number of days within which, or the dates by which, the work is to be completed and ready for final payment (the Contract Times as defined in Article 1 of the General Conditions) are set forth in the Agreement (or incorporated therein by reference to the attached Bid Form).

10. **Liquidated Damages.**

Provisions for liquidated damages, if any, are set forth in the Agreement.

11. **Bid Form.**

- A. The Bid Form is included with the Bidding Documents.
- B. All blanks on the Bid Form must be completed by printing in black ink or by typewriter.
- C. Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation must be shown below the signature.
- D. Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.
- E. All names must be typed or printed in black ink below the signature.
- F. The Bid shall contain an acknowledgment of receipt of all Addenda (the numbers of which must be filled in on the Bid Form).
- G. The address, telephone, email address, and FAX number for communications regarding the Bid must be shown.
- H. See Article 4 above, for required evidence of authority to conduct business as an out-of-state corporation in Alaska. State Contractor license number, if any, must also be shown.

INSTRUCTIONS TO BIDDERS

12. **Submission of Bids.**

- A. Bids shall be submitted not later than the time prescribed, at the place, and in the manner set forth in the Invitation to Bid and shall be enclosed in an opaque sealed envelope, marked with the project title (and, if applicable, the designated portion of the project for which the Bid is submitted) and name and address of Bidder and accompanied by the other required documents. If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "**BID ENCLOSED**" on the face of it.
- B. Only one Bid from any individual, firm, partnership, or corporation, under the same or different names, will be considered. Should it appear to the City that any Bidder is interested in more than one Bid for work contemplated, all Bids in which such Bidder is interested will be rejected.
- C. Attachments.

Bidder shall complete and submit the following forms with its Bid:

Bid Form
Addenda Acknowledgment
Alaska Bid Bond (5% of Bid)
Alaska Business and Contractor's License

13. **Modifications and Withdrawal of Bids.**

- A. Prior to the time and date designated for receipt of Bids, any Bid submitted may be withdrawn by notice to the party receiving Bids at the place designated for receipt of Bids. Such notice shall be in writing over the signature of the Bidder or by facsimile. If by facsimile, the modification received shall be over the signature of the Bidder and shall be received before the date and time set for receipt of Bids. Facsimile messages shall be worded as to not reveal the amount of the original or modified Bid. Facsimile telephone number is:

PND Engineers, Inc. (907) 563-4220
City of Unalaska (907) 581-1417

Bid modifications must be sent to the office to which the original proposal is delivered or sent.

- B. If, within 72 hours after Bids are opened, any Bidder files a duly signed, written notice with the City and promptly thereafter demonstrates to the reasonable satisfaction of the City that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid. Thereafter, that Bidder

INSTRUCTIONS TO BIDDERS

will be disqualified from further consideration on the Work to be provided under the Contract Documents.

14. **Opening of Bids.**

Bids will be opened and read aloud publicly at the place where Bids are to be submitted.

15. **Bids to Remain Subject to Acceptance.**

All Bids will remain subject to acceptance for 60 days after the day of the Bid opening, but the City may, in its sole discretion, release any Bid and return the Bid security prior to that date.

16. **Award of Contract.**

- A. The City reserves the right to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, non-responsive, unbalanced or conditional Bids, and to reject the Bid of any Bidder if the City believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by Owner. The City also reserves the right to waive all informalities not involving price, time, or changes in the Work and to negotiate Contract terms with the successful Bidder. Discrepancies in the multiplication of units of work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.
- B. In evaluating Bids, the City will consider the qualifications of Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- C. The City may consider the qualifications and experience of subcontractors, suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of subcontractors, suppliers, and other persons and organizations must be submitted as provided in the Supplementary Conditions. The City also may consider the operating costs, maintenance requirements, performance data, and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data are required to be submitted prior to the Notice of Award.
- D. The City may conduct such investigations as the City deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications, and financial ability of Bidders, proposed subcontractors, suppliers, and other persons and organizations to execute the work in accordance with the Contract Documents to the City's satisfaction within the prescribed time.

INSTRUCTIONS TO BIDDERS

- E. If, at the time this Contract is to be awarded, the total of the lowest acceptable Bid exceeds the funds then estimated by the City as available, the City may reject all Bids or take such other action as best serves the City's interests.
- F. The USACE permit required for this Project will be under review during the bid phase of this Project. In an effort to avoid delay to the Project, the Contract will be awarded as a limited notice to proceed in order to allow the procurement of long lead time materials and initial mobilization. Should complications arise with the USACE permit and the project start date is delayed, the Contractor shall be compensated as described in the Additive Alternatives #1 or #2 as applicable.
- G. If the Contract is to be awarded, it will be awarded to lowest responsive, responsible Bidder as stated in Section 00100 Instructions To Bidders, whose evaluation by the City indicates to the City that the award will be in the best interests of the Project.
- H. In the event of failure of the lowest responsive, responsible Bidder to sign the Contract and provide an acceptable Performance Bond, Payment Bond, and insurance certificate(s), the Owner may award the Contract to the next lowest responsive, responsible Bidder. Such award, if made, will be made within 60 days after the opening of Proposals.
- I. An Additive or Deductive Bid Item is an amount proposed by Bidders and stated on the Bid Form for certain construction activities defined in the Bidding Requirements that may be added to or deducted from the Base Bid amount if the Owner decides to accept a corresponding change in either the amount of construction to be completed, or in the products, materials, equipment, systems or installation methods described in the Contract Documents.
- J. Award of the Additive or Deductive Bid Items will be made to the extent that construction funds are available, in such order as may suit the best interest of the Owner. The Deductive and Additive Bid items are not in any specific order and are not listed in order of preference. The Owner reserves the right to select the Base Bid plus any combination of Additive and/or Deductive Bid items. If the order of the bids is affected, the award will be made on the basis of the Base Bid plus any combination of Additive or Deductive Bid items that the Owner selects at their option.

17. **Contract Security.**

Article 5 of the General Conditions sets forth Owner's requirements as to Performance and Payment Bonds. When the successful Bidder delivers the executed Agreement to Owner, it must be accompanied by the required Performance and Payment Bonds.

18. **Signing of Agreement.**

When the City gives a Notice of Award to the successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement, with all other written Contract Documents attached. Within 10 days thereafter, contractor shall sign and deliver

INSTRUCTIONS TO BIDDERS

the required number of counterparts of the Agreement and attached documents to the City with the required Bonds. Within 10 days thereafter, the City shall deliver one fully signed counterpart to Contractor.

19. **State Required Wage Rates.**

Contractor shall comply with all applicable Federal and State labor regulations, including State of Alaska Title 36, Public Contracts, otherwise known as the Little Davis-Bacon Act, and all labor regulations and minimum rates of pay contained therein.

State Wage Rates can be obtained at <http://labor.alaska.gov/lss/pamp600.htm>. Use the State wage rates that are in effect 10 days before Bid Opening.

Federal Davis-Bacon Wage Determinations by State are available at <http://www.wdol.gov/dba.aspx>. At "Select DBA WD by number, insert AK1. General Decision Number: AK150001 01/23/2015 AK1, superseded General Decision Number: AK20140001.

NOTE TO BIDDER: Use BLACK ink or typewriter for completing this Bid Form.

**Section 00300
BID FORM**

To: **City of Unalaska, Department of Public Works**

Address: **P.O. Box 610, Unalaska, Alaska 99685**

Project Identification: **City of Unalaska LIGHT CARGO DOCK EXPANSION**
DEFINITIONS

The terms used in this Bid which are defined in the General Conditions and Instructions to Bidders included as part of the Contract Documents are used with the same meaning in this Bid.

BIDDERS DECLARATION AND UNDERSTANDING

This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any person, firm, or corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over the City.

In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that Bidder has examined copies of all the Bidding Documents.

Bidder has familiarized itself with the nature and extent of the Contract Documents, work, site, locality, general nature of work to be performed by Owner or others at the site that relates to work for which this Bid is submitted as indicated in the Contract Documents, and all local conditions and all federal, state, and local Laws and Regulations that in any manner may affect cost, progress, performance, or furnishing of the work.

Bidder has reviewed and checked all information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, or similar information or data in respect of said Underground Facilities are or will be required by Bidder in order to perform and furnish the work at the Contract Price, within the Contract Time, and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 4.3 of the General Conditions.

Bidder has correlated information known to Bidder and the results of all such observations, examinations, investigations, explorations, tests, and studies with the Contract Documents.

Bidder has given the City written notice of all conflicts, errors, ambiguities or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by the City is acceptable to Bidder, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the work for which this Bid is submitted.

CONTRACT EXECUTION AND BONDS

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with the City in the form included in the Contract Documents to perform and furnish all work as specified or indicated in the Contract Documents for the Contract price and within the Contract Time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 30 days after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and City of Unalaska business license and other documents required by the Bidding Requirements within 10 days after the date of Owner's Notice of Award.

CERTIFICATE OF INSURANCE

Bidder agrees to furnish the City, before commencing any Physical Work related to this Contract and as required elsewhere, the certificates of insurance as specified in these Documents.

Bidder further agrees that the amount stated herein includes specific consideration for the insurance coverages, including contractual liability, specified in the Contract Documents.

CONTRACT COMPLETION TIME

Bidder agrees that the work will be completed and ready for final payment in accordance with the number of calendar days or completion date indicated in the Agreement.

LIQUIDATED DAMAGES

Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the work within the times specified in the Agreement.

ADDENDA

The Bidder hereby acknowledges that it has received Addenda No's _____, _____, _____, _____, _____ (Bidder shall insert No. of each Addendum received) and agrees that all addenda issued are hereby made part of the Contract Documents, and the Bidder further agrees that its Bid(s) includes all impacts resulting from said addenda.

SALES AND USE TAXES

The Bidder agrees that all sales and use taxes are included in the stated bid prices for the work, unless provision is made herein for the Bidder to separately itemize the estimated amount of sales tax.

SUBCONTRACTORS

The Bidder further agrees that if the bid is the apparent low bid, he shall submit, within 5 days after the bid opening, a listing of subcontracting firms or businesses that will be awarded subcontracts for work in excess of \$5,000 and a copy of the City of Unalaska business license for the Contractor and each Subcontractor.

BID TABULATION AND SUMMARY

The Bidder further proposes to accept, as full payment for work proposed herein, the amount computed under provisions of the Contract Documents and based on the following Bid amounts, it being expressly understood that the unit quantities of work shown on the plans is independent of the exact quantities involved. The Bidder agrees that the bid amount represent(s) a true measure of the labor and materials required to furnish, install, or provide the item of Work, including all allowances for overhead and profit. The amount shall be shown in both words and figures. In case of a discrepancy, the amount shown in words shall govern.

Bidder agrees to perform all of the work described in the Documents including the specifications, special provisions, and as generally shown on the plans for the prices stated in the Bid Schedules. Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding. Bidder understands that the Owner reserves the right to pick and choose what bid items will be constructed as part of this work, recognizing that Mobilization and Demobilization will be common to the remaining items of Work.

City of Unalaska
LIGHT CARGO DOCK EXPANSION

BIDDER

If the Bidder is awarded a construction Contract on this Proposal, the surety who provides the Performance Bond and Payment Bond will be _____

_____ whose address is _____

_____, _____,

Street

City

_____.

State

Zip

BIDDER

An Individual

By

_____ (SEAL)

(Individual's name)

doing business as

Business

address: _____

Phone No.: _____

Fax No.: _____

Email address: _____

A Partnership

By _____ (SEAL)
(Firm name)

(general partner)

Business address: _____

Phone No.: _____

Fax No.: _____

Email address: _____

A Corporation

By _____
(Corporation name)

(state of incorporation)

By _____
(name of person authorized to sign)

(Title)

(Corporate Seal)

Attest _____
(Secretary)

Business address: _____

Phone No.: _____

Fax No.: _____

Email address: _____

A Joint Venture

By _____
(Name)

(Address)

By _____
(Name)

(Address)

Phone Number and Address for receipt of official communications

Business address: _____

Phone No.: _____

Fax No.: _____

Email address: _____

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

SUBMITTED on _____, 20__.

BID PROPOSAL
City of Unalaska
LIGHT CARGO DOCK EXPANSION

BID SCHEDULE ITEMS

In accordance with the Invitation for Bids and all Terms, Conditions, Plans and Specifications related thereto, I propose to furnish materials and perform construction for the following Lump Sum (LS) or Unit (per unit) prices.

BASE BID ITEMS:

1. Mobilization and Demobilization: Work shall include cost of transporting, mobilizing and demobilizing all materials, construction equipment and personnel necessary to complete this project as detailed in the Plans and Specifications.

_____ LS \$ _____ LS
(Lump Sum In Words)

2. Existing Site Demolition: Work shall consist of providing all materials, labor, equipment and incidentals necessary for demolition and removal of existing items and structures as indicated on the Plans and in accordance with the Contract Documents. The price for this bid item shall include disposal of all demolished materials as indicated on the Plans and in accordance with all local, state, and federal regulations.

_____ LS \$ _____ LS
(Lump Sum In Words)

3. OPEN CELL SHEET PILE™: Work shall consist of providing all materials, labor equipment and incidentals necessary to install the OPEN CELL SHEET PILE™ as indicated on the Plans and in accordance with the Contract Documents. The price for this bid item shall include installation and procurement of all sheet piles, anchor piles, anodes, plug piles, support piles, plug rock, OPEN CELL SHEET PILE™ backfill and leveling course.

_____ LS \$ _____ LS
(Lump Sum In Words)

4. Marine Mammal Observer: Work shall consist of supplying labor in the form of a designated marine mammal observer. The marine mammal observer shall have no other duties and all work and documentation generated shall be in accordance with the project permits.

_____ LS \$ _____ LS
(Lump Sum In Words)

5. Structural Concrete: Work shall consist of providing all materials, labor equipment and incidentals necessary to install all concrete shown on the Plans and in accordance with the Contract Documents. The price for this bid item shall include furnishing and installation of all formwork, rebar, dowels and placement and finishing of concrete.

_____ LS \$ _____ LS
(Lump Sum In Words)

6. Structural & Miscellaneous Steel: Work shall consist of providing all materials, labor equipment and incidentals necessary to install all steel shown on the Plans and in accordance with the Contract Documents. The price for this bid item shall include furnishing and installation of all face beams, infill beams, plates, rails and other miscellaneous steel required for completion of the Project.

_____LS \$ _____LS
(Lump Sum In Words)

7. Fender System: Work shall consist of providing all materials, labor equipment and incidentals necessary to install the dock fender system shown on the Plans and in accordance with the Contract Documents. The price for this bid item shall include furnishing and installation of all timber, UHMW panels, loader tires and mounting hardware required for completion of the Project.

_____LS \$ _____LS
(Lump Sum In Words)

8. Vibracompaction: Work shall consist of providing all materials, labor equipment and incidentals necessary to perform vibracompaction as indicated on the Plans and in accordance with the Contract Documents.

_____LS \$ _____LS
(Lump Sum In Words)

9. Water Service: Work shall consist of providing all materials, labor equipment and incidentals necessary to tie into the existing water system and install the new water service as indicated on the Plans and in accordance with the Contract Documents. The price for this bid item shall include connecting and installing the new water service, drain pipe, trenching and backfilling, water meter, protective bollards, new fire hydrant and new dock face water vaults.

_____LS \$ _____LS
(Lump Sum In Words)

10. Electrical System: Work shall consist of providing all materials, labor equipment and incidentals necessary to the complete electrical system as indicated on the Plans and in accordance with the Contract Documents.

_____LS \$ _____LS
(Lump Sum In Words)

11. Site Cleanup & Restoration: Work shall consist of providing all materials, labor, equipment and incidentals necessary to cleanup the site and restore all used areas to a neat and clean condition as determined by the City. Excess material shall be hauled to a City-designated site within five (7) miles of the project in accordance with all governmental regulations. The bid for this item shall not be less than ten thousand dollars (\$10,000).

_____LS \$ _____LS
(Lump Sum In Words)

12. As-Built Drawings & Information: Work shall consist of providing all materials, labor, equipment and incidentals necessary to provide red-lined as-built drawings and information for the project, including the as-built alignment and profile.

_____ LS \$ _____ LS
(Lump Sum In Words)

BASE BID Total:

_____ LS \$ _____ LS
(Lump Sum In Words)

ADDITIVE ALTERNATE Items:

1. Additive Alternate No. 1: As described in Section 0100 – Instructions for Bidders, Part 16-F, in an effort to avoid delay to the Project, the Contract will be awarded as a limited notice to proceed in order to allow the procurement of long lead time materials and initial mobilization. This bid item shall include cost impacts to the CONTRACTOR associated with delaying the respective base bid project start and finish dates by 30 days.

_____ LS \$ _____ LS
(Lump Sum In Words)

2. Additive Alternate No. 2: As described in Section 0100 – Instructions for Bidders, Part 16-F, in an effort to avoid delay to the Project, the Contract will be awarded as a limited notice to proceed in order to allow the procurement of long lead time materials and initial mobilization. This bid item shall include cost impacts to the CONTRACTOR associated with delaying the respective base bid project start and finish dates by 60 days.

_____ LS \$ _____ LS
(Lump Sum In Words)

BID AUTHORIZATION

The undersigned represents (check appropriate boxes) that he/she operates as an Individual,
 Joint Venture, Partnership, or Corporation, incorporated in the State of _____.

BIDDER:

Bidding Company: _____

Name (Printed): _____

Signature: _____ Date: _____

Contractor's License No. _____ Business License No. _____

CORPORATE SEAL (If Corporation)

BID BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

as Principal, hereinafter called Principal, and

(Name of Surety)

(Address of Surety)

a corporation duly organized under the laws of the State of Alaska as Surety, hereinafter called Surety, are held and firmly bound unto

City of Unalaska

(Name of Owner)

PO Box 610, Unalaska, Alaska 99685

(Address of Owner)

as Obligee, hereinafter called Obligee, in the sum of _____
_____ Dollars, (\$_____)

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for the City of Unalaska **LIGHT CARGO DOCK EXPANSION**, located in Unalaska, Alaska.

NOW THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and Sealed this _____ day of _____ 2016

(Principal) Seal

(Surety) Seal

(Printed Name & Title)

(Printed Name & Title)

Part 2
CONTRACT FORMS

Section 00500
STANDARD FORM OF AGREEMENT
BETWEEN THE OWNER AND CONTRACTOR

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2016, by and between the City of Unalaska (hereinafter called OWNER) and _____
_____ (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK

CONTRACTOR shall complete all work as specified or indicated in the Contract Documents. The work is generally described as follows:

The work will include, but not be limited to, furnishing all labor, tools, equipment, and materials and performing all operations in connection with the **CITY OF UNALASKA LIGHT CARGO DOCK EXPANSION**. This contract includes expansion of the Light Cargo Dock as shown on the Contract Drawings, as well as any additive alternates awarded.

1. Project Locations: City of Unalaska; Light Cargo Dock
2. Owner: City of Unalaska, Department of Public Utilities.

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the WORK consists of the following:

- Construction Drawings (Plan Sheets)
- Agreement
- Invitation to Bid
- Instructions to Bidders
- Bid Forms
- Performance Bond
- Payment Bond
- General Conditions
- Supplementary Conditions
- Addenda numbers _____ to _____, inclusive.
- Change Orders which may be delivered or issued after Effective Date of the Agreement and not attached hereto.

Article 2. CONTRACT TIME

- 2.1 For the Base Bid that are awarded, the **Start Date** shall be August 1st, 2016, the **Substantial Completion Date** shall be November 15th, 2016 and the **Final Completion Date** shall be November 30th, 2016.
- 2.2 Liquidated Damages. The OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that the OWNER will suffer financial loss if the work is not completed within

OWNER CONTRACTOR AGREEMENT

the times specified above, plus any extensions thereof allowed in accordance with Article 11 of the General Conditions. These types of losses are difficult to quantify. They include, but are not limited to, increased expenses associated with management, lost efficiency in the movement of City employees and materials, impacts to public health associated with drainage, loss of efficiency and impacts to local businesses, and general inconvenience to the public. They also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the OWNER if the work is not completed on time. Accordingly, instead of requiring any such proof, the OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay the OWNER, for each project shown above, **Five Hundred Dollars (\$500.00) for each day** that expires after the time specified above for **Substantial Completion** and **One Thousand Dollars (\$1,000.00) for each day** that expires after the time specified above for **Final Completion** and readiness for final payment. Should Substantial Completion not be accomplished before the specified Final Completion date, then the combined liquidated damages shall be **One Thousand Dollars (\$1,000.00) for each day**.

Article 3. CONTRACT PRICE

- 3.1 The OWNER shall pay CONTRACTOR for completion of the work in accordance with the Contract Documents an amount equal to sum of the established unit prices for each separately identified item of unit price work multiplied by the measured quantity of actual items installed plus the sum of the lump sum prices for each separately identified and selected bid item (herein referred to as the "Contract Sum").
- 3.2 The Contract sum is based upon the Bid Items which are set forth in the Contract Documents and which are hereby accepted by the OWNER.

Article 4. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 13 of the General Conditions. Applications for Payment will be processed by the OWNER as provided in the General Conditions.

- 4.1. Progress Payments. The OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment on or about a day of the month mutually agreeable to the OWNER and CONTRACTOR as agreed to at the preconstruction conference. All progress payments will be on the basis of the progress of the work measured by the actual installed quantity of items, plus allowances for stockpiled materials.
 - 4.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as the OWNER shall determine, or the OWNER may withhold, in accordance with Article 13 (paragraph 13.8) of the General Conditions and the Supplemental Conditions.
 - a. Ninety percent of work completed.
 - b. Once 50 percent of the work is complete as determined by the OWNER, and if the character and progress of the work have been satisfactory to the OWNER, the OWNER, may determine that, as long as the character and progress of the work remain satisfactory to them, there will be no additional retainage on account of work

OWNER CONTRACTOR AGREEMENT

completed; in which case, the remaining progress payments prior to Substantial Completion will be in an amount equal to 100 percent of the work completed.

4.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 95 percent of the Contract Price, less such amounts as the OWNER shall determine, or the OWNER may withhold, in accordance with Article 13 of the General Conditions.

4.2. Final Payment. Upon final completion and acceptance of the work in accordance with the General Conditions; Affidavit of Payment of Debts and Claims; Affidavit of Release of Liens; and Receipt of Consent of Surety Company to Final Payment, the OWNER shall pay the remainder of the Contract Price as provided in said Article 13.

4.2.1 Deductions. The City may deduct from the amount of any payment made to Contractor any sums owed to City by Contractor including, but not limited to, past due sales tax, port and harbor fees, property tax, or rent. Before making any such deduction the City shall have provided Contractor written notice of the amount claimed by City to be due and owing from Contractor.

Article 5. INTEREST ON RETAINAGE

All retainage shall bear interest at the rate required by AS 36.90.250, if applicable.

Article 6. CONTRACTOR'S REPRESENTATIONS

In order to induce the OWNER to enter into this agreement, CONTRACTOR makes the following representations:

- 6.1. CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance, or furnishing of the work.
- 6.2. CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports, and studies which pertain to the subsurface or physical conditions at or contiguous to the site or which otherwise may affect the cost, progress, performance, or furnishing of the work as CONTRACTOR considers necessary for the performance or furnishing of the work at the Contract Price, within the Contract Time, and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 4.2 of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies, or similar information or data are or will be required by CONTRACTOR for such purposes.
- 6.3. CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies, or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to perform and furnish the work at the Contract Price, within the Contract Time, and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 4.4 of the General Conditions.

OWNER CONTRACTOR AGREEMENT

- 6.4. CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports, and studies with the terms and conditions of the Contract Documents.
- 6.5. CONTRACTOR has given the OWNER written notice of all conflicts, errors, or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by the OWNER is acceptable to CONTRACTOR.

Article 7. MISCELLANEOUS

- 7.1. Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.
- 7.2. The CONTRACTOR shall submit the Performance Bond, Labor and Material Payment Bonds, and Certification of Insurance and City of Unalaska business licenses and all Subcontractor City of Unalaska business licenses as required by the Contract Documents, prior to commencement of the Work. The Performance and Material Payment Bonds shall be in the amount of 100% of the contract bid price.
- 7.3. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 7.4. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect of all covenants, agreements, and obligations contained in the Contract Documents.

IN WITNESS WHEREOF, The OWNER and CONTRACTOR have signed all counterparts of this Agreement. All portions of the Contract Documents have been signed or identified by the OWNER and - CONTRACTOR.

This Agreement will be effective on _____, 2016

CITY OF UNALASKA

CONTRACTOR _____

By _____ By _____
David A. Martinson, City Manager

(CORPORATE SEAL)

(CORPORATE SEAL)

Attest _____ Attest _____
City Clerk

Address for giving notices
PO Box 610
Unalaska, Alaska 99685

Address for giving notices

**Section 00610
PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

as Principal, hereinafter called Principal, and

(Name of Surety)

(Address of Surety)

as Surety, hereinafter called Surety, are held and firmly bound unto

City of Unalaska
(Name of Owner)

PO Box 610, Unalaska, Alaska 99685
(Address of Owner)

as Obligee, hereinafter called Obligee, in the sum of _____

_____ Dollars, (\$ _____) for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Contractor has a written agreement dated _____ day of _____ 20 ____, entered into a Contract with Owner for the

**CITY OF UNALASKA
LIGHT CARGO DOCK EXPANSION**

in accordance with the Specifications prepared by the **PND Engineers, Inc.**, which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

PERFORMANCE BOND

00610-1

1) Complete the Contract in accordance with its terms and conditions, or

2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as the Work progresses (even though there should be a default or a succession of defaults under the contract or contracts completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract price", as used in this paragraph, shall mean the total amount payable by Owner to the Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of six (6) years from the date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators, or successors of the Owner.

Signed and Sealed this _____ day of _____ 20__.

(Principal)

(Witness)

(Title)

Seal

(Surety)

(Witness)

(Title)

Seal

**Section 00620
PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS,

That _____ as Contractor, and
_____ as Surety, are held and firmly bound unto
City of Unalaska hereinafter called "OWNER", in the sum of _____ dollars, for the
payment of which sum, well and truly made, we bind ourselves, our heirs, executors, administrators,
successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, said CONTRACTOR has been awarded and is about to enter into the annexed
Agreement with said OWNER to perform the WORK as specified or indicated in the Contract
Documents entitled

**CITY OF UNALASKA
LIGHT CARGO DOCK EXPANSION**

NOW THEREFORE, if said CONTRACTOR, or subcontractor, fails to pay for any materials,
equipment, or other supplies, or for rental of same, used in connection with the performance of work
contracted to be done, or for amounts due under applicable State law for any work or labor thereon,
said Surety will pay for the same in an amount not exceeding the sum specified above, and, in the
event suit is brought upon this bond, a reasonable attorney's fee to be fixed by the court. This bond
shall inure to the benefit of any persons, companies, or corporations entitled to file claims under
applicable State law.

PROVIDED, that any alterations in the WORK to be done or the materials to be furnished, or
changes in the time of completion, which may be made pursuant to the terms of said Contract
Documents, shall not in any way release said CONTRACTOR or said surety thereunder, nor shall
any extensions of time granted under the provisions of said Contract Documents release either said
CONTRACTOR or said Surety thereunder, nor shall any extensions of time granted under the
provisions of said Contract Documents release either said CONTRACTOR or said Surety, and notice
of such alterations or extensions of the Agreement is hereby waived by said Surety.

SIGNED AND SEALED, this _____ day of _____, 20____.

(SEAL)

(CONTRACTOR)

(Surety)

By: _____
(Signature)

By: _____
(Signature)

(SEAL AND NOTARIAL ACKNOWLEDGMENT OF SURETY)

Part 3

GENERAL CONDITIONS

GENERAL CONDITIONS

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GENERAL CONDITIONS

ACKNOWLEDGMENT

The City of Unalaska, "General Conditions" are based on the "Standard General Conditions of the Construction Contract" as published by the National Society of Professional Engineers (document number 1910-8, 1983 edition) on behalf of the Engineers Joint Construction Documents Committee. Portions of the NSPE General Conditions are reprinted herein by the express permission of NSPE to the State of Alaska, which supplied these General Conditions to the City of Unalaska. Modifications to the NSPE text are made to provide for State laws, regulations, and established procedures.

The granting of permission by NSPE to allow the State of Alaska to reprint portions of the NSPE document 1910-8, 1983 does not constitute approval of the State of Alaska General Conditions or the subsequently developed City of Unalaska General Conditions.

Insurance requirements were modified March, 2001. Brooks Chandler review comments were incorporated January, 2005 and March, 2008.

ARTICLE 1 - DEFINITIONS

Wherever used 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 which are applicable to both the singular and plural thereof. Working titles which 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 in which 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 which 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 CITY after the advertisement but prior to the opening of bids.

Advertisement - The public announcement, as required by law, inviting Bids for work to be performed or materials to be furnished.

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

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

A.S. - Initials which stand for Alaska Statute.

Award - The acceptance, by the City, of the successful Bid.

Bid - The offer of a bidder, on the prescribed form to perform the work at the prices quoted.

Bid Bond - A type of bid Guarantee.

Bid Guaranty - The security furnished with a bid to guarantee that the bidder will enter into a contract if his proposal is accepted by the Department.

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 CITY directing changes to the contract, within its general scope.

City - The City of Unalaska, Alaska. References to "owner" or "Contracting Agency" mean the city.

Conditions of the Contract - Those portions of the Contract Documents which 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.

Contract - The written agreement between the CITY 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 CITY 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 to enter into and administer the contract on behalf of the CITY. 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 Construction Contract.

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

Contract Price - The total moneys payable by the CITY to the CONTRACTOR under the terms of the Contract Documents.

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

Consultant - A person, firm, agency or corporation retained by the CITY to prepare Contract Documents, perform construction administration services, or other Project related services.

Defective - An adjective which 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 CITY'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 which show the character and scope of the Work to be performed and which have been furnished by the CITY or the CITY's Consultant and are by reference made a part of the Contract Documents.

Effective Date of the Contract - The date on which the Contract is fully executed by both CONTRACTOR and the CITY.

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

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

Holidays - The City of Unalaska recognizes the following holidays:

1. New Years Day - January 1
2. President's Day - Third Monday in February
3. Memorial Day - Last Monday in May
4. Independence Day - July 4
5. Labor Day - First Monday in September
6. Veteran's Day - November 11
7. Thanksgiving Day - Fourth Thursday in November
8. Christmas Day - December 25

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, Sunday and the following Monday are both legal holidays.

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 or Invitation to Bid - A portion of the Bidding Documents soliciting bids for the Work to be performed.

Notice of Intent to Award - The written notice by the CITY to all Bidders identifying the apparent successful Bidder and establishing the CITY's intent to execute the Contract when all conditions required for execution of the Contract are met.

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

Payment Bond - The security furnished by the CONTRACTOR and his surety to guarantee payment of the debts covered by the bond.

Performance Bond - The security furnished by the CONTRACTOR and his 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 prime 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 his proposal is accepted by the Department.

Regulatory Requirement - Laws, rules, regulations, ordinances, codes and/or orders of the United States, State of Alaska or City of Unalaska to the extent applicable to the Work.

Shop Drawings - All drawings, diagrams, illustrations, schedules and other data which 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.

Specification - 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 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 the CITY as evidenced by the CITY'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 CITY covering work that is not within the general scope of the contract.

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

Unit Price Work - Work to be paid for on the basis of unit prices.

Using Agency - The entity who 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.

ARTICLE 2 - AUTHORITIES AND LIMITATIONS

2.1 Authorities and Limitations:

- 2.1.1 The Contracting Officer alone, shall have the power to bind the CITY 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 CITY 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 City Council reserves the right to appoint a new Contracting Officer without affecting any of the CONTRACTOR's obligations to the CITY under this Contract.
- 2.1.2 The CONTRACTOR shall perform the Work in accordance with any written order (including but not limited to instruction, direction, interpretation or determination) issued by an authorized representative 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 CITY 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 which 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 whenever 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 "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).

2.2.3 The use of any such term or adjective shall not be effective to assign to the CITY 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 provision of paragraphs 2.3 or 2.4.

2.3 Means & 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:

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. Such observations or the lack of such observations shall in no way relieve the CONTRACTOR from his 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 by the Bidder is considered a representation that the Bidder examined the Contract Documents to make certain that all sheets and pages were provided and that the Bidder is satisfied as to the conditions to be encountered in performing the Work. The CITY 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 CITY shall furnish to the CONTRACTOR up to ten 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 CITY 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.

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 the terms or provisions 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, 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, code or Regulatory Requirements in effect at the time of Advertisement for the Project (or, in 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 CITY 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 CITY or any of the CITY'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. 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 Document, or a discrepancy between the Contract Documents and any standard specification, manual, code, or Regulatory Requirement which 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 his own risk and expense. However, the CONTRACTOR shall not be liable to the CITY for failure to report any conflict, error or discrepancy in the Contract Documents unless the CONTRACTOR had actual knowledge thereof or should reasonably have knowledge 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:

- Supplementary Conditions
- General Conditions
- General Requirements
- Technical Specifications
- Drawings (recorded dimensions will govern over scaled dimensions, large 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 other person or organization performing or furnishing any of the Work under a direct or indirect contract with the CITY shall have or acquire any title to or ownership rights in any of the Contract Documents (or copies thereof) prepared by or for the CITY 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 CITY.

ARTICLE 4 - LANDS AND PHYSICAL CONDITIONS

4.1 Availability of Lands:

The CITY shall furnish as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for use of the CONTRACTOR in connection with the Work. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by the CITY, unless otherwise provided in the Contract Documents. The CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.2 Visit to Site:

The submission of a Bid by the CONTRACTOR is considered a representation that the CONTRACTOR has visited and carefully examined the site and is satisfied as to the conditions to be encountered in performing the Work and as to the requirements of the Contract Documents.

4.3 Explorations and Reports:

The Supplementary Conditions identify those reports of explorations and tests of subsurface conditions at the site that have been utilized by the CITY in preparation of the Contract Documents. The CONTRACTOR may rely upon the accuracy of the factual data contained in such reports, but not upon interpretations or opinions drawn from such factual data contained therein or for the completeness or sufficiency thereof. Except as indicated in the immediately preceding sentence and in paragraphs 4.4 and 9.9, CONTRACTOR shall have full responsibility with respect to surface and subsurface conditions at the site.

4.4 Utilities:

4.4.1 The horizontal and vertical locations of known underground utilities as shown or indicated by the Contract Documents are approximate and are based on information and data furnished to the CITY by the owners of such underground utilities.

4.4.2 The CONTRACTOR shall have full responsibility for:

- a. Reviewing and checking all information and data concerning utilities.
- b. Locating all underground utilities shown or indicated in the Contract Documents which are affected by the Work.
- c. Coordination of the Work with the owners of all utilities during construction.
- d. Safety and protection of all utilities as provided in paragraph 6.17.
- e. Repair of any damage to utilities resulting from the Work in accordance with 4.4.4 and 4.5.

4.4.3 If Work is to be performed by any utility owner, the CONTRACTOR shall cooperate with such owners to facilitate the Work.

4.4.4 In the event of interruption to any utility service as a result of accidental breakage or as a result of being exposed or unsupported, the CONTRACTOR shall promptly notify the utility owner and the Contracting Officer. If service is interrupted repair work shall be continuous until the service is restored. No Work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.

4.5 Damaged Utilities:

When utilities are damaged by the CONTRACTOR, the utility owner shall have the choice of repairing the utility or having the CONTRACTOR repair the utility. In the following circumstances, the CONTRACTOR shall reimburse the utility owner for repair costs or provide at no cost to the utility owner or the CITY, all materials, equipment and labor necessary to complete repair of the damage:

- a. When the utility is shown or indicated in the Contract Documents.
- b. When the utility has been located by the utility owner.
- c. When no locate was requested by the CONTRACTOR for utilities shown or indicated in the Contract Documents.
- d. All visible utilities.

- e. When the CONTRACTOR could have, otherwise, reasonably been expected to be aware of such utility.

4.6 Utilities Not Shown or indicated.

If, while directly performing the Work, an underground utility is uncovered or revealed at the site which was not shown or indicated in the Contract Documents and which the CONTRACTOR could not reasonably have been expected to be aware of, the CONTRACTOR shall, promptly after becoming aware thereof and before performing any Work affected thereby (except in an emergency as permitted by paragraph 6.19) identify the owner of such underground facility and give written notice thereof to that owner and to the Contracting Officer. The Contracting Officer will promptly review the underground utility to determine the extent to which the Contract Documents and the Work should be modified to reflect the impacts of the discovered utility. The Contract Documents will be amended or supplemented to the extent necessary through the issuance of a change document by the Contracting Officer. During such time, the CONTRACTOR shall be responsible for the safety and protection of such underground utility as provided in paragraph 6.17. The CONTRACTOR may be allowed an increase in the Contract Price or an extension of the Contract Time, or both, to the extent that they are directly attributable to the existence of any underground utility that was not shown or indicated in the Contract Documents and which the CONTRACTOR could not reasonably have been expected to be aware of.

4.7 Survey Control:

The CITY will identify sufficient horizontal and vertical control data to enable the CONTRACTOR to survey and layout the Work. All survey work shall be performed under the direct supervision of a registered Land Surveyor when required by paragraph 7.8.

ARTICLE 5 - BONDS, INSURANCE, AND INDEMNIFICATION

5.1 Delivery of Bonds:

When the CONTRACTOR delivers the executed Contract to the Contracting Officer, the CONTRACTOR shall also deliver to the Contracting Officer such bonds as the CONTRACTOR may be required to furnish in accordance with paragraph 5.2.

5.2 Bonds:

The CONTRACTOR shall furnish Performance and Payment Bonds, each in an amount as shown on the Contract as security for the faithful performance and payment of all CONTRACTOR's obligations under the Contract Documents. These bonds shall remain in effect for one year after the date of Final Completion and until all obligations under this Contract, except special guarantees as per 12.7, have been met. All bonds shall be furnished on forms provided by the CITY (or copies thereof) and shall be executed by such Sureties as are authorized to do business in the State of Alaska. The contracting Officer may at his option copy the Surety with notice of any potential default or liability.

5.3 Replacement of Bond and Surety:

If the Surety on any bond furnished in connection with this Contract is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of paragraph 5.2, or otherwise becomes unacceptable to the CITY, or if any such Surety fails to furnish reports as to his financial condition as requested by the CITY, the CONTRACTOR shall within five days thereafter substitute another bond and Surety, both of which must be acceptable to CITY.

5.4 Insurance Requirements:

- 5.4.1. The contractor shall carry and maintain throughout the life of this contract, at its own expense, insurance not less than the amounts and coverage herein specified, and the City of Unalaska, its employees and agents shall be named as additional insured under the insurance coverage so specified and where allowed, with respect to the performance of the work. There shall be no right of subrogation against the City or its agents performing work in connection with the work, and this **waiver of subrogation** shall be endorsed upon the policies. Insurance shall be placed with companies acceptable to the City of Unalaska; and these policies providing coverage thereunder shall contain provisions that no cancellation or material changes in the policy relative to this project shall become effective except upon **30 days** prior written notice thereof to the City of Unalaska.

- 5.4.2. Prior to commencement of the work, the contractor shall furnish certificates to the City of Unalaska, in duplicate, evidencing that the Insurance policy provisions required hereunder are in force. Acceptance by the City of Unalaska of deficient evidence does not constitute a waiver of contract requirements.
- 5.4.3. The contractor shall furnish the City of Unalaska with certified copies of policies upon request. The minimum coverages and limits required are as follows:
1. **Workers' Compensation** insurance in accordance with the statutory coverages required by the State of Alaska and **Employers Liability** insurance with limits not less than **\$1,000,000** and, where applicable, insurance in compliance with any other statutory obligations, whether State or Federal, pertaining to the compensation of injured employees assigned to the work, including but not limited to Voluntary Compensation, Federal Longshoremen and Harbor Workers Act, Maritime and the Outer Continental Shelf's Land Act.
 2. **Commercial General Liability** with limits not less than **\$1,000,000** per Occurrence and **\$2,000,000** Aggregate for Bodily Injury and Property Damage, including coverage for Premises and Operations Liability, Products and Completed Operations Liability, Contractual Liability, Broad Form Property Damage Liability and Personal Injury Liability. Coverage shall not contain any exclusion of Explosion, Collapse, or Underground. Coverage is to be endorsed to include a per project aggregate. Additionally, such insurance shall be considered primary to any other insurance carried by the City of Unalaska and the insurer will endorse the policy accordingly.
 3. **Commercial Automobile Liability** on all owned, non-owned, hired and rented vehicles with limits of liability of not less than **\$1,000,000** Combined Single Limit for Bodily Injury and Property Damage per each accident or loss.
 4. If applicable, Contractor's Equipment insurance covering all of the contractor's equipment and machinery to be used in connection with the performance of the work specified in this contract. This coverage requirement may be waived at the discretion of the City of Unalaska if the Contractor self-insures the equipment and will waive all right of recovery against the City of Unalaska in writing.
 5. **Umbrella/Excess Liability** insurance coverage of not less than **\$1,000,000** per occurrence and annual aggregate providing coverage in excess of General Liability, Auto Liability, and Employers Liability.
 6. If work involves use of aircraft, Aircraft Liability insurance covering all owned and non-owned aircraft with a per occurrence limit of not less than \$1,000,000.
 7. If work involves use of watercraft, Protection and Indemnity insurance with limits not less than \$1,000,000 per occurrence. Hull and Machinery coverage is to be carried on the vessel for the full current market value. This coverage requirement may be waived at the discretion of the City of Unalaska if the contractor self-insures the equipment and will waive all rights of recovery against the City of Unalaska in writing.
 8. Where applicable, **Professional Liability** insurance with limits of not less than \$1,000,000 per claim and \$1,000,000 aggregate, subject to a maximum deductible of \$10,000 per claim. The City of Unalaska has the right to negotiate increase of deductibles subject to acceptable financial information of the policyholder.
 9. Where applicable, Pollution Liability insurance with a project limit of not less than \$1,000,000 subject to a maximum deductible of \$10,000 to include coverage for Asbestos, Hazardous Materials, Lead or other related environmental hazards. The City of Unalaska has the right to negotiate increase of deductibles subject to acceptable financial information of the policyholder.

In the event Asbestos, Hazardous Materials, Lead or other related environmental hazards are transported by vehicle and/or marine vessel, the operator of such vehicles and vessels shall provide a Certificate of Insurance for the transportation of such materials (including loading and unloading) with limits of not less than \$1,000,000.

10. **Builder's Risk Insurance:** Coverage shall be provided on an "All Risk" completed value basis and protect the interests of the City, the contractor and his subcontractors. Coverage shall include all materials, equipment and supplies 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.
- 5.4.4. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expense.
- 5.4.5. All insurance policies as described above are required to be written on an "occurrence" basis. In the event occurrence coverage is not available, the contractor agrees to maintain "claims made" coverage for a minimum of two years after project completion.
- 5.4.6. If the contractor employs subcontractors to perform any work hereunder, the contractor agrees to require such subcontractors to obtain, carry, maintain, and keep in force during the time in which they are engaged in performing any work hereunder, policies of insurance which comply with the requirements as set forth in this section. This requirement is applicable to subcontractors of any tier.
- 5.4.7. The contractor is required to maintain all certificates of insurance during the course of the project and for a minimum of three (3) years following the completion of such project. It is further agreed, that upon request by the City of Unalaska, the Contractor will provide copies of any and all subcontractor certificates of insurance for review of compliance.
- 5.4.8. Failure by the Contractor to maintain the required insurance coverage or to comply with the above, may, at the option of the City of Unalaska, be deemed Defective Work and remedied in accordance with the contract.
- 5.5 Indemnification:
- 5.5.1 The CONTRACTOR and his Subcontractors will name the owner as "Additional Insured" and will provide a "Waiver of Subrogation" on all required policies of insurance.
- 5.5.2 The CONTRACTOR shall indemnify, save harmless, and defend the CITY and its agents and its employees from any and all claims or actions for injuries or damages sustained by any person or property arising directly or indirectly from the CONTRACTOR's performance of this contract; however, this provision has no effect if, but only if, the sole proximate cause of the injury or damage is the negligence of the City or its agents.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.1 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. All Work under this Contract shall be performed in a skillful and workmanlike manner. The CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures of construction.

6.2 Superintendence by CONTRACTOR:

The CONTRACTOR shall keep on the Work at all times during its progress 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 CITY. 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.

6.3 Character of Workers:

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

6.4 CONTRACTOR to Furnish:

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

6.5 Materials and Equipment:

All materials and equipment shall be of specified quality and new, except as otherwise provided in the Contract Documents. 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. 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 CITY or any of the CITY'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.

6.6 Anticipated Schedules:

6.6.1 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.

6.6.2 Within fifteen days after the date of the Notice to Proceed, the CONTRACTOR shall submit to the Contracting Officer for review:

Anticipated schedule of Shop Drawing submissions; and Anticipated Schedule of Values for all of the Work which will include quantities and prices of items aggregating the Contract Price and will subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work which will be confirmed in writing by the CONTRACTOR at the time of submission.

6.7 Finalizing Schedules:

Prior to processing the first Application for Payment the Contracting Officer and the CONTRACTOR will finalize schedules required by paragraph 6.6.

Acceptance by the CITY of the progress schedule, will neither impose on the CITY nor relieve the CONTRACTOR from full responsibility for the progress or scheduling of the Work. If accepted, the finalized schedule of Shop Drawing and other required submissions will be acceptable to the CITY as providing a workable arrangement for processing the submissions. If accepted the finalized Schedule of Values will be acceptable to the CITY as an approximation of anticipated value of Work accomplished over the anticipated Contract Time. Receipt and acceptance of a schedule submitted by the CONTRACTOR shall not be construed to assign responsibility for performance or contingencies to the CITY or relieve the CONTRACTOR of his responsibility to adjust his forces, equipment, and work schedules as may be necessary to insure completion of the Work within prescribed Contract Time. Should the progress of the Work be discontinued for any reason, the CONTRACTOR shall notify the Contracting Officer at least 24 hours in advance of resuming operations.

6.8 Adjusting Schedules:

Upon substantial changes to the schedule or upon request, the CONTRACTOR shall submit to the Contracting Officer for acceptance (to the extent indicated in paragraph 6.7 and the General Requirements) adjustments in the schedules to reflect the actual present and anticipated progress of the Work.

6.9 Substitutes or "Or-Equal" Items:

- 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 only if sufficient information is submitted by the CONTRACTOR which 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.
- 6.9.2 Requests for review of substitute items of material and equipment will not be accepted by the Contracting Officer from anyone other than the CONTRACTOR.
- 6.9.3 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 state 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 CITY 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.
- 6.9.4 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 Contracting Officer in evaluating the proposed substitute. The Contracting Officer may require the CONTRACTOR to furnish at the CONTRACTOR's expense additional data about the proposed substitute. The Contracting Officer may reject any substitution request which the Contracting Officer determines is not in the best interest of the CITY.

6.10 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 6.9 as applied by the Contracting Officer and as may be supplemented in the General Requirements.

6.11 Evaluation of Substitution:

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 a Shop Drawing approved in accordance with Sections 6.20 and 6.21. 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.

6.12 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.

6.13 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, in accordance with the following conditions:

- 6.13.1 The CONTRACTOR shall not award any Work to any Subcontractor without prior written approval of the Contracting Officer. This approval will not be given until the CONTRACTOR submits to the Contracting Officer a written statement concerning the proposed award to the Subcontractor which shall contain required E.E.O. documents, evidence of insurance, and a copy of the proposed subcontract executed by the subcontractor. No acceptance by the Contracting Officer of any such Subcontractor shall constitute a waiver of any right of the CITY to reject Defective Work.
- 6.13.2 The CONTRACTOR shall be fully responsible to the CITY 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.
- 6.13.3 All Work performed for CONTRACTOR by a Subcontractor will be pursuant to an appropriate written agreement between CONTRACTOR and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the CITY and contains waiver provisions as required by paragraph 13.17 and termination provisions as required by Article 14.
- 6.13.4 Nothing in the Contract Documents shall create any contractual relationship between the CITY and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of the CITY 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 CITY will not undertake to settle any differences between or among the CONTRACTOR, Subcontractors, or Suppliers.
- 6.13.5 The CONTRACTOR and Subcontractors shall coordinate their work and facilitate general progress of Work. Each trade shall afford other trades every reasonable opportunity for installation of their work and storage of materials. If cooperative work of one trade must be altered due to lack of proper supervision, or failure to make proper provisions in time by another trade, such conditions shall be remedied by the CONTRACTOR with no change in Contract Price or Contract Time.
- 6.13.6 The CONTRACTOR shall include on his own payrolls any person or persons working on the contract who are not covered by written subcontract, and shall ensure that all Subcontractors include on their payrolls all persons performing work under the direction of the Subcontractor.

6.14 Use of Premises:

The CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of workers to the Project limits and approved remote storage sites and lands and areas identified in and permitted by Regulatory Requirements, rights-of-way, permits and easements, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. The CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work. Should any claim be made against the CITY by any such owner or occupant because of the performance of the Work, the CONTRACTOR shall hold the CITY and its agencies harmless.

6.15 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.

6.16 Record Documents:

The CONTRACTOR shall maintain in a safe place at the site one record copy of all Drawings, Specifications, Addenda, Field Memos, Work Orders, 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. 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 which vary from requirements shown or indicated in the Contract Documents.

6.17 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:

- 6.17.1 All employees on the Work and other persons and organizations who may be affected thereby;
- 6.17.2 All the Work and materials and equipment to be incorporated therein, whether in storage on or off the site; and
- 6.17.3 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.
- 6.17.4 The CONTRACTOR shall comply with all applicable Regulatory Requirements enacted 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 as stated in 4.6, 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 acts of God or the public enemy. 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).

6.18 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.

6.19 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 CITY, 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 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.

6.20 Shop Drawings and Samples:

- 6.20.1 After checking and verifying all field measurements and after complying with applicable procedures specified in the General Requirements, the CONTRACTOR shall submit to the Contracting Officer for review and approval in accordance with the accepted schedule of Shop Drawing submissions the required number of all Shop Drawings, which will bear a stamp or specific written indication that the CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to the review of the submission. All submissions will be identified as the Contracting Officer may require. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to enable the Contracting Officer to review the information as required.
- 6.20.2 The CONTRACTOR shall also submit to the Contracting Officer for review and approval with such promptness as to cause no delay in Work, all samples required by the Contract Documents. All samples will have been checked by and accompanied by a specific written indication that the CONTRACTOR has satisfied CONTRACTOR's responsibilities under the Contract Documents with respect to the review of the submission and will be identified clearly as to material, Supplier, pertinent data such as catalog numbers and the use for which intended.
- 6.20.3 Before submission of each Shop Drawing or sample the CONTRACTOR shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and reviewed or coordinated each Shop Drawing or sample with other Shop Drawings and samples and with the requirements of the Work and the Contract Documents.
- 6.20.4 At the time of each submission the CONTRACTOR shall give the Contracting Officer specific written notice of each variation that the Shop Drawings or samples may have from the requirements of the Contract Documents, and, in addition, shall cause a specific notation to be made on each Shop Drawing submitted to the Contracting Officer for review and approval of each such variation. All variations of the proposed shop drawing from that specified will be identified in the submission and available maintenance, repair and replacement service will be indicated. The submittal will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such variation, including costs of redesign and claims of other contractors affected by the resulting change, all of which shall be considered by the CITY in evaluating the proposed variation. If the variation may result in a change of Contract Time or Price, or contract responsibility, and is not minor in nature; the CONTRACTOR must submit a written request for Change Order with the variation to notify the CITY of his intent. The CITY may require the CONTRACTOR to furnish at the CONTRACTOR's expense additional data about the proposed variation. The Contracting Officer may reject any variation request which the Contracting Officer determines is not in the best interest of the CITY.

6.21 Shop Drawing and Sample Review:

- 6.21.1 The Contracting Officer will review with reasonable promptness Shop Drawings and samples, but the Contracting Officer's review will be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents and shall not extend to means, methods, techniques, sequences or procedures of construction (except where a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents) or to safety precautions or programs incident thereto. The review of a separate item as such will not indicate acceptance of the assembly in which the item functions. The CONTRACTOR shall make corrections required by the Contracting Officer and shall return the required number of corrected copies of Shop Drawings and submit as required new samples for review. The CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by the Contracting Officer on previous submittals.
- 6.21.2 The Contracting Officer's review of Shop Drawings or samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless the CONTRACTOR has in writing advised the Contracting Officer of each such variation at the time of submission as required by paragraph 6.20.4. The Contracting Officer if he so determines, may give written approval of each such variation by Change Order, except that, if the variation is minor and no Change Order has been requested a specific written notation thereof incorporated in or accompanying the Shop Drawing or sample review comments shall suffice as a modification. No approval by the Contracting Officer will relieve the

CONTRACTOR from responsibility for errors or omissions in the Shop Drawings or from responsibility for having complied with the provisions of paragraph 6.20.3.

- 6.21.3 Where a Shop Drawing or sample is required by the Specifications, any related Work performed prior to the Contracting Officer's review of the pertinent submission will be the sole expense and responsibility of the CONTRACTOR.

6.22 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 13.10.

6.23 Continuing the Work:

The CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with the CITY. 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.

6.24 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 his Sureties of any of his or its 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.

6.25 Use of Explosives:

- 6.25.1 When the use of explosives is necessary for the prosecution of the Work, the CONTRACTOR shall exercise the utmost care not to endanger life or property, including new Work and shall follow all Regulatory Requirements applicable to the use of explosives. The CONTRACTOR shall be responsible for all damage resulting from the use of explosives.
- 6.25.2 All explosives shall be stored in a secure manner in compliance with all Regulatory Requirements, and all such storage places shall be clearly marked. Where no Regulatory Requirements apply, safe storage shall be provided not closer than 1,000 feet from any building, camping area, or place of human occupancy.
- 6.25.3 The CONTRACTOR shall notify each public utility owner having structures in proximity to the site of his intention to use explosives. Such notice shall be given sufficiently in advance to enable utility owners to take such steps as they may deem necessary to protect their property from injury. However, the CONTRACTOR shall be responsible for all damage resulting from the use of the explosives, whether or not, utility owners act to protect their property.

6.26 CONTRACTOR's Records:

- 6.26.1 Records of CONTRACTOR and Subcontractors relating to personnel, payrolls, invoices of materials, and any and all other data relevant to the performance of the Contract, must be kept on a generally recognized accounting system. Such records must be available during normal work hours to the Contracting Officer for purposes of investigation to ascertain compliance with Regulatory Requirements and provision of the Contract Documents.
- 6.26.2 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 State of Alaska Department of Labor and Workforce Development and will permit such representatives to interview employees during working hours on the Project.
- 6.26.3 Records of all communications between the CITY 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 CITY or its assigned representative may perform an audit of these records during normal work hours after written notice to the CONTRACTOR.

ARTICLE 7 - LAWS AND REGULATIONS

7.1 Laws to be Observed:

The CONTRACTOR shall keep fully informed of all 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 CITY and its representatives against claim or liability arising from or based on the 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 CITY shall not be responsible for monitoring CONTRACTOR's compliance with any Regulatory Requirements.

7.2 Permits, Licenses, and Taxes:

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 the Contract. Proof of payment of these taxes is a condition precedent to final payment by the CITY under this Contract.

7.2.2 The CONTRACTOR's certification that taxes have been paid (as contained in the Release of Contract) may be verified with the Department of Revenue and Department of Labor and Workforce Development and Unalaska City Clerk, prior to final payment.

7.2.3 If any Federal, State or local tax is imposed, charged, or repealed after the date of Bid opening and is made applicable to and paid by the CONTRACTOR on the articles or supplies herein contracted for, then the Contract shall be increased or decreased accordingly by a Change Order.

7.2.4 The Contractor shall require all Subcontractors to obtain a City of Unalaska Business License.

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 CITY and its agents, any affected third party, 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 CITY for any costs, expenses, and damages which it may be obliged to pay by reason of any infringement, at any time during the prosecution or after the completion of the Work.

7.4 Compliance of Specifications and Drawings:

If the CONTRACTOR observes that the Specifications and Drawings supplied by the CITY 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 appropriate 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 CITY are in accordance with such Regulatory Requirements.

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.

7.6 Sanitary Provisions:

The CONTRACTOR shall provide and maintain in a neat and sanitary condition such accommodations for the use of his employees and CITY representatives as may be necessary to comply with the Regulatory requirements.

7.7 Business Registration:

The Contractor shall comply with AS 08.18.011 which states, as follows: "it is unlawful for a person to submit a bid or work as a contractor until he has been issued a certificate of registration by the Department of Commerce. A partnership or joint venture shall be considered registered if one of the general partners or ventures whose name appears in the name under which the partnership or venture does business is registered." The Contractor shall obtain a City of Unalaska Business License prior to commencement of the Work to the extent required by the City of Unalaska Code of Ordinances section 9.30.101.

7.8 Professional Registration and Certification:

All craft trades, architects, engineers and land surveyors, electrical administrators, explosive handlers, and welders employed under the Contract shall specifically comply with applicable provisions of AS 08.18, 08.48, 08.40, 08.52, and 08.99. Provide copies of individual licenses within seven days following a request from the Contracting Officer.

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. City of Unalaska permits required for the work are identified in the Supplemental Conditions.

7.10 Air Quality Control:

The CONTRACTOR shall comply with all applicable provision of AS 46.03.04 as pertains to Air Pollution Control.

7.11 Archaeological or Paleontological Discoveries:

When the CONTRACTOR's operation encounters prehistoric artifacts, burials, remains of dwelling sites, or paleontological remains, such as shell heaps, land or sea mammal bones or tusks, the CONTRACTOR shall cease operations immediately and notify the Contracting Officer. No artifacts or specimens shall be further disturbed or removed from the ground and no further operations shall be performed at the site until so directed. Should the Contracting Officer order suspension of the CONTRACTOR's operations in order to protect an archaeological or historical finding, or order the CONTRACTOR to perform extra work, such shall be covered by an appropriate Contract change document.

7.12 Not used.

7.13 Preferential Employment:

To the fullest extent allowed by law, the CONTRACTOR shall comply with AS 36.10, as amended, which provides for preferential employment of Alaska residents.

7.14 Wages and Hours of Labor:

- 7.14.1 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. The prime 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 his 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 Contracting Agency shall also receive a copy of the CONTRACTOR's certified payrolls.

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

- a. The CONTRACTOR and his Subcontractors shall pay all employees unconditionally and not less than once a week;
- b. 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;
- c. 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;
- d. The CITY shall withhold so much of the accrued payments as is necessary to pay 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.

7.15 Overtime Work Hours and Compensation:

Pursuant to 40 U.S.C. 327-330 and 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 any affected employee for any amounts due and penalties and to the CITY 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.

7.16 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. For breach or violation of this warranty, the CITY 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.

7.17 Officials Not to Benefit:

No member of or delegate to the U.S. Congress, the State Legislature, Unalaska City Council or other State or City Officials shall be admitted to any share or part of this Contract, nor to any benefit that may arise there from. However, this provision shall not be construed to extend to this Contract if made with a corporation for its general benefits.

7.18 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 City nor upon its agents or authorized as its representatives, either personally or as officials of the City of Unalaska, it being always understood that in such matters they act as agents and representatives of the CITY.

ARTICLE 8 - OTHER WORK

8.1 Related Work at Site:

- 8.1.1 The CITY reserves the right at any time to contract for and perform other or additional work on or near the Work covered by the Contract.
- 8.1.2 When separate contracts are let within the limits of the Project, the CONTRACTOR shall conduct his Work so as not to interfere with or hinder the work being performed by other contractors. The CONTRACTOR shall join his work with that of the others in an acceptable manner and shall perform it in proper sequence to that of others.
- 8.1.3 If the fact that other such work 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 City of Unalaska and its agents 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.
- 8.1.4 If the fact that such other work to be performed was 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 fifteen (15) calendar days following receipt of the Contracting Officer's notice. Should the Contracting Officer find such increase(s) to be justified, a Change Order will be executed.

8.2 Access, Cutting, and Patching:

The CONTRACTOR shall afford each utility owner and any other contractor who is a party to such a direct contract with the CITY (or the CITY, if the CITY is performing the additional work with the CITY'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 there are comparable provisions for the benefit of the CONTRACTOR in said direct contracts between the CITY and other contractors.

8.3 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 CITY, 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 non apparent defects and deficiencies in the other work.

8.4 Coordination:

If the CITY contracts with others for the performance of other work at the site, Contracting Officer will have authority and responsibility for coordination of the activities among the various prime contractors.

ARTICLE 9 - CHANGES

9.1 CITY's Right to Change:

Without invalidating the Contract and without notice to any Surety, the CITY may, at any time or from time to time, order additions, deletions or revisions in the Work within the general scope of the Contract, including but not limited to changes:

- 9.1.1 In the Contract Documents;
- 9.1.2 In the method or manner of performance of the Work;
- 9.1.3 In City-furnished facilities, equipment, materials, services, or site;
- 9.1.4 Directing acceleration in the performance of the Work.

9.2 Authorization of Changes within the General Scope:

Additions, deletions, or revisions in the Work within the general scope of the Contract as specified in 9.1 shall be authorized by one or more of the following ways:

- 9.2.1 Directive (pursuant to paragraph 9.3)
- 9.2.2 A Change Order (pursuant to paragraph 9.5)
- 9.2.3 CITY's acceptance of Shop Drawing variations from the Contract Documents as specifically identified by the CONTRACTOR as required by paragraph 6.20.4.

9.3 Directives:

- 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 which do not involve an adjustment in the Contract Price or the Contract Time and are consistent with the overall intent of the Contract Documents.
- 9.3.3 The Contracting Officer may order the Contractor to correct Defective Work or methods which are not in conformance with the Contract Documents.
- 9.3.4 The Contracting Officer may direct the commencement or suspension of Work or emergency related work (as provided in paragraph 6.19).
- 9.3.5 Upon the issuance of a Directive to the CONTRACTOR by the Contracting Officer, the CONTRACTOR shall immediately 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 immediately provide written notice to the Contracting Officer depicting such increases before proceeding with the Directive, except in the case of an emergency. If the Contracting Officer finds the increase in Contract Price or the extension of Contract Time justified, a Change Order will be issued. If however, the Contracting Officer does not find that a Change Order is justified, the Contracting Officer may direct the 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 as provided in 10.4.

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 Documents except as otherwise specifically provided. Changes in Contract Price and Contract Time shall be made in accordance with Article 10 and 11.

9.5 Shop Drawing Variations:

Variations by shop drawings shall only be eligible for consideration under 9.4 when the conditions affecting the price, time, or responsibility are identified by the CONTRACTOR in writing and a request for a Change Order is submitted as per 6.20.4.

9.6 Changes Outside the General Scope; Supplemental Agreement:

Any change which is outside the general scope of the Contract, as determined by the Contracting Officer, must be authorized by the appropriate representatives of the CITY and the CONTRACTOR.

9.7 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 6.19 and except in the case of uncovering Work as provided in paragraph 12.4.2.

9.8 Notification of Surety:

If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents including, but not limited to, Contract Price or Contract Time is required by the provisions of any Bond to be given to a Surety, the giving of any such notice will be the CONTRACTOR's responsibility, and the amount of each applicable Bond will be adjusted accordingly.

9.9 Differing Site Conditions:

9.9.1 The CONTRACTOR shall promptly, and before such conditions are disturbed (except in an emergency as permitted by paragraph 6.19), 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, or an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract. The Contracting Officer shall promptly investigate the conditions, and if the Contracting Officer finds that such conditions do materially so differ and cause an increase or decrease in the 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.

9.9.2 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 an alleged differing site condition, the CONTRACTOR will be required to keep an accurate and detailed record which will indicate the actual cost of the work done under the alleged differing site condition. Failure to keep such a record shall be a bar to any recovery by reason of such alleged differing site conditions. The Contracting Officer shall be given the opportunity to supervise and check the keeping of such records.

ARTICLE 10 - CONTRACT PRICE; COMPUTATION AND CHANGE

10.1 Contract Price:

The Contract Price constitutes the total compensation (subject to 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 his expense without change in the Contract Price. The Contract Price may only be changed by a Change Order or Supplemental Agreement.

10.2 Claim for Price Change:

Any claim for an increase or decrease in the Contract Price shall be submitted in accordance with the terms of Article 15, and shall not be allowed unless notice requirements of this Contract have been met.

10.3 Change Order Price Determination:

The value of any work covered by a Change Order for an increase or decrease in the Contract Price shall be determined in one of the following ways:

- 10.3.1 Where the work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved (subject to the provisions of paragraphs 10.9.1
- 10.3.2 By mutual acceptance of a lump sum price which includes overhead and profit.
- 10.3.3 When 10.3.1 and 10.3.2 are inapplicable, on the basis of the Cost of the Work (determined as provided in paragraphs 10.4 and 10.5) plus a CONTRACTORS's fee for overhead and profit (determined as provided in paragraph 10.6).

10.4 Cost of the Work:

The term Cost of the Work means the sum of all costs necessarily incurred and paid by the CONTRACTOR in the proper performance of the work. Except as otherwise may be agreed to in writing by the CITY, such costs shall be in amount no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in paragraph 10.5:

- 10.4.1 Payroll costs for employees in the direct employ of the CONTRACTOR in the performance of the work under schedules of job classifications agreed upon by the CITY and the CONTRACTOR. Payroll costs for employees not employed full time on the work shall be apportioned on the basis of their time spent on the work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' or workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing work after regular working hours, on Saturday, Sunday or legal holidays, shall be included in the above to the extent authorized by the CITY.
- 10.4.2 Cost of all materials and equipment furnished and incorporated in the work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to the CONTRACTOR unless the CITY deposits funds with the CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to the CITY. All trade discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to the CITY, and the CONTRACTOR shall make provisions so that they may be obtained.
- 10.4.3 Payments made by the CONTRACTOR to Subcontractors for work performed by Subcontractors. If required by the CITY, CONTRACTOR shall obtain competitive quotes from Subcontractors or Suppliers acceptable to the CONTRACTOR and shall deliver such quotes to the CITY who will then determine which quotes will be accepted. If a subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work Plus a Fee, the Subcontractor's Cost of the Work shall be determined in the same manner as the CONTRACTOR's Cost of Work. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.
- 10.4.4 Costs of special consultants (including but not limited to engineers, architects, testing laboratories, and surveyors) employed for services necessary for the completion of the work.
- 10.4.5 Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel and subsistence expenses of the CONTRACTOR's employees incurred in discharge of duties connected with the work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the work, and cost less market value of such items used but not consumed which remain the property of the CONTRACTOR.

- c. Rentals of all construction equipment and machinery and the parts thereof whether rented from the CONTRACTOR or others in accordance with rental agreements approved by the CITY and the costs of transportation, loading, unloading, installation, dismantling and removal thereof - all in accordance with terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the work.
- d. Sales, consumer, use or similar taxes related to the work, and for which the CONTRACTOR is liable, imposed by Regulatory Requirements.
- e. Deposits lost for causes other than negligence of the CONTRACTOR, any Subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses), not compensated by insurance or otherwise, to the Work or otherwise sustained by the CONTRACTOR in connection with the performance and furnishing of the Work provided they have resulted from causes other than the negligence of the CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of the CITY. No such losses, damages and expenses shall be included in the Cost of the Work for the purpose of determining the CONTRACTOR's Fee. If, however, any such loss or damage requires reconstruction and the CONTRACTOR is placed in charge thereof, the CONTRACTOR shall be paid for services a fee proportionate to that stated in paragraphs 10.6.2.a and 10.6.2.b.
- g. The cost of utilities, fuel and sanitary facilities at the site.
- h. Minor expenses such as long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the work.
- i. Cost of premiums for additional bonds and insurance required because of changes in the work and premiums for property insurance coverage within the limits of the deductible amounts established by the CITY in accordance with Article 5.

10.5 Excluded Costs:

The term Cost of the Work shall not include any of the following:

- 10.5.1 Payroll costs and other compensation of CONTRACTOR's officer, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agency, expeditors, timekeepers, clerks and other personnel employed by CONTRACTOR whether at the site or in CONTRACTOR's principal or a branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 10.4.1 or specifically covered by paragraph 10.4.4 - all of which are to be considered administrative costs covered by the CONTRACTOR's Fee.
- 10.5.2 Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the site.
- 10.5.3 Any part of CONTRACTOR's capital expenses including interest on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments.
- 10.5.4 Cost of premiums for all bonds and for all insurance whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same (except for the cost of premiums covered by subparagraph 10.4.5.i above).
- 10.5.5 Costs due to the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of Defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.

10.5.6 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraph 10.4.

10.6 CONTRACTOR's Fee:

The CONTRACTOR's Fee allowed to CONTRACTOR for overhead and profit shall be determined as follows:

10.6.1 A mutually acceptable fixed fee; or if none can be agreed upon.

10.6.2 A fee based on the following percentages of the various portions of the Cost of the Work:

- a. For costs incurred under paragraphs 10.4.1 and 10.4.2, the CONTRACTOR's Fee shall be twenty percent;
- b. For costs incurred under paragraph 10.4.3, the CONTRACTOR's Fee shall be fifteen percent; and if a sub-contract is on the basis of Cost of the Work Plus a Fee, the maximum allowable to CONTRACTOR on account of overhead and profit of all subcontractors shall be fifteen percent;
- c. No fee shall be payable on the basis of costs itemized under paragraphs 10.4.4, 10.4.5 and 10.5;
- d. The amount of credit to be allowed by the CONTRACTOR to the CITY for any such change which results in a net decrease in cost will be the amount of the actual net decrease plus a deduction in CONTRACTOR's Fee by an amount equal to ten percent of the net decrease; and
- e. When both additions and credits are involved in any one change, the adjustment in CONTRACTOR's Fee shall be computed on the basis of the net change in accordance with paragraphs 10.6.2.a through 10.6.2.d, inclusive.

10.7 Cost Breakdown:

Whenever the cost of any work is to be determined pursuant to paragraphs 10.4 and 10.5, the CONTRACTOR will submit in form acceptable to the CITY an itemized cost breakdown together with supporting data.

10.8 Cash Allowances:

It is understood the CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be done by such Subcontractors or Suppliers and for such sums within the limit of the allowances as may be acceptable to the Contracting Officer. CONTRACTOR agrees that:

10.8.1 The allowances include the cost to CONTRACTOR (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the site, and all applicable taxes; and

10.8.2 CONTRACTOR's cost for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the allowances have been included in the Contract Price and not in the allowances. No demand for additional payment on account of any thereof will be valid.

Prior to final payment, an appropriate Change Order will be issued to reflect actual amounts due the CONTRACTOR on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

10.9 Unit Price Work:

10.9.1 Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the established unit prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Contract. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by the CONTRACTOR will be made by the CITY in accordance with paragraph 10.9.3.

10.9.2 Each unit price will be deemed to include an amount considered by the CONTRACTOR to be adequate to cover the CONTRACTOR's overhead and profit for each separately identified item. If the "Basis of Payment" clause in the Contract Documents relating to any unit price in the bid schedule requires that the said unit price cover and be considered compensation for certain work or material essential to the item, this same work or material will not also be measured or paid for under any other pay item which may appear elsewhere in the Contract Documents.

10.9.3 Payment to the CONTRACTOR shall be made only for the actual quantities of work performed and accepted or materials furnished, in conformance with the Contract Documents. When the accepted quantities of work or materials vary from the quantities stated in the bid schedule, or change documents, the CONTRACTOR shall accept as payment in full, payment at the stated unit prices for the accepted quantities of work and materials furnished, completed and accepted; except as provided below:

- a. When the quantity of work to be done or material to be furnished under any item, for which the total cost of the item exceeds 10% of the total Contract Price, is increased by more than 25 per cent of the quantity stated in the bid schedule, or change documents, either party to the Contract, upon demand, shall be entitled to an equitable unit price adjustment on the portion of the work above 125 per cent of the quantity stated in the bid schedule.
- b. When the quantity of work to be done or material to be furnished under any major item, for which the total cost of the item exceeds 10% of the total Contract Price, is decreased by more than 25 per cent of the quantity stated in the bid schedule, or change documents either party to the contract, upon demand, shall be entitled to an equitable price adjustment for the quantity of work performed or material furnished, limited to a total payment of not more than 75 per cent of the amount originally bid for the item.

10.10 Determinations for Unit Prices:

The Contracting Officer will determine the actual quantities and classifications of Unit Price Work performed by the CONTRACTOR. The Contracting Officer will review with the CONTRACTOR preliminary determinations on such matters before certifying the prices on the Bid Schedule. The Contracting Officer's certification thereon will be final and binding on the CONTRACTOR, unless, within ten days after the date of any such decisions, the CONTRACTOR delivers to the Contracting Officer written notice of intention to appeal from such a decision.

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.

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 24 hours 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 him to order long lead materials which could cause delays in project completion. However, granting 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 time, or alteration of 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 Final 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 Final Completion.

11.4 Time Change:

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

11.5 Extension Due to Delays:

The right of the CONTRACTOR to proceed shall not be terminated nor the CONTRACTOR charged with liquidated or actual damages because of any delays to the completion of the Work due to unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR, including, but not restricted to the following: acts of God or of the public enemy, acts of the CITY in contractual capacity, acts of another contractor in the performance of a contract with the CITY, floods, fires, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and delays of Subcontractors or Suppliers due to such causes. Any delay in receipt of materials on the site, caused by other than one of the specifically mentioned occurrences above, does not of itself justify a time extension. Provided, that the CONTRACTOR shall within twenty four (24) hours from the beginning of any such delay (unless the Contracting Officer shall grant a further period of the time prior to the date of final settlement of the Contract) notify the Contracting Officer in writing of the cause of delay. The Contracting Officer shall ascertain the facts and the extent of the delay and extend the time for completing the Work when the findings of fact justify such an extension.

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 CONTRACTOR and the CITY that the date of beginning and the time for Final 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, he and his sureties shall be liable for damages resulting from his refusal or failure to complete the Work within the specified time. Liquidated damages for delay shall be paid by the CONTRACTOR or his Surety to the City in the amount as specified in the Agreement or the Supplementary Conditions for each Calendar Day the completion of the Work or any part thereof is delayed beyond the Contract Time required by the Contract, or any extension thereof. If such amount of liquidated damages is not established by the Contract Documents, then the CONTRACTOR and his Surety shall be liable to the City for any actual damages occasioned by such delay. The CONTRACTOR acknowledges that the liquidated damages established herein are not a penalty but rather constitute an estimate of damages that the City will sustain by reason of delayed completion. These liquidated damages are intended as compensation for losses difficult to estimate, and include those items enumerated in the Supplementary Conditions or elsewhere in the Contract Documents. 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 the CITY's costs, fees, and charges related to reprocurement. If a default termination occurs, the Contractor or his Surety shall pay in addition to these damages, all excess costs and expenses related to completion as provided by Article 14.2.5.

ARTICLE 12 - QUALITY ASSURANCE

12.1 Warranty and Guaranty:

The CONTRACTOR warrants and guarantees to the CITY 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.

12.2 Access to Work:

The CITY and the CITY'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 require any Work (or part thereof) to specifically be inspected, tested or approved, the CONTRACTOR shall assume full responsibility therefor, 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 CITY'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 by the Contract Documents shall be paid by the CONTRACTOR. The CITY may perform additional tests and inspections which it deems necessary to insure quality control. All such failed tests or inspections shall be at the CONTRACTOR's expense.
- 12.3.3 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, it 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.
- 12.3.4 Neither observations nor inspections, test or approvals by the CITY of others shall relieve the CONTRACTOR from the CONTRACTOR's obligations to perform the Work in accordance with the Contract Documents.

12.4 Uncovering Work:

- 12.4.1 If any Work is covered contrary to the written request of the Contracting Officer, it must, if requested by the Contracting Officer, be uncovered for the contracting Officer's observation and replaced at the CONTRACTOR's expense.
- 12.4.2 If the Contracting Officer considers it necessary or advisable that covered Work be observed, inspected or tested, the CONTRACTOR, at the Contracting Officer's request, shall uncover, expose or otherwise make available for observation, inspection or testing as the Contracting Officer may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is Defective, the CONTRACTOR shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) and the CITY shall be entitled to an appropriate decrease in the Contract Price. If, however, such Work is not found to be Defective, the CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction.

12.5 CITY 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.

12.6 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 which conforms to the requirements of the Contract Documents. The

CONTRACTOR shall bear all direct, indirect and consequential costs of such correction or removal (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby.

12.7 One Year Correction Period:

If within one year after the date of Final Completion or such longer period of time as may be prescribed by Regulatory Requirements or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be Defective, the CONTRACTOR shall promptly, without cost to the CITY and in accordance with the Contracting Officer's written instructions, either correct such Defective Work, or, if it has been rejected by the Contracting Officer, remove it from the site and replace it with conforming Work. If the CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, the CITY may have the Defective Work corrected or the rejected Work removed and replaced, and all direct, indirect and consequential costs of such removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) will be paid by the CONTRACTOR. In special circumstances where a particular item of equipment is placed in continuous service for the benefit of the CITY before Substantial Completion of all the Work, the correction period for the item may begin on an earlier date if so provided in the Specifications or by Change Order. Provisions of this paragraph are not intended to shorten the Statute of Limitations for bringing an action.

12.8 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 CITY shall be entitled to an appropriate decrease in the Contract Price. If the CITY has already made final payment to the CONTRACTOR, an appropriate amount shall be paid by the CONTRACTOR or his Surety to the CITY.

12.9 CITY 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 12.6, 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 CITY may, after seven days' written notice to the CONTRACTOR, correct and remedy any such deficiency. In exercising the rights and remedies under this paragraph the CITY shall proceed expeditiously. 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 tool, 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 CITY has paid the CONTRACTOR but which are stored elsewhere, the CONTRACTOR shall allow the Contracting Officer and his authorized representatives 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 CITY or its agents 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 CITY 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 cost 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 CITY's rights and remedies hereunder.

ARTICLE 13 - PAYMENTS TO CONTRACTOR AND COMPLETION

13.1 Schedule of Values:

The Schedule of Values established as provided in paragraph 6.6 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to the Contracting Officer. Progress payments on account of Unit Price Work will be based on the number of units completed.

13.2 Preliminary Payments:

Upon approval of the Schedule of Values the CONTRACTOR may be paid for direct costs substantiated by paid invoices and other prerequisite documents required by the General Requirements. Direct costs shall include the cost of Bonds, insurance, approved materials stored on the site or at approved remote storage sites, deposits required by a Supplier prior to fabricating materials, and other approved direct mobilization costs substantiated as indicated above. These payments shall be included as a part of the total Contract Price as stated in the Contract.

13.3 Application for Progress Payment:

The CONTRACTOR shall submit to the Contracting Officer for review an Application for Payment filled out and signed by the CONTRACTOR covering the Work completed as of the date of the Application 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 or twice a month when requested by the CONTRACTOR, but only when the approved invoice exceeds \$10,000.00.

13.4 Review of Applications for Progress Payments:

Contracting Officer will, either indicate in writing a recommendation of payment, or return the Application for Payment to the CONTRACTOR indicating in writing the Contracting Officer's reasons for refusing to recommend payment. If the latter case, the CONTRACTOR may make the necessary corrections and resubmit the Application for Payment.

13.5 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 Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that the CITY 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 CITY'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. The payment may be reduced by an amount equal to transportation and handling cost if the materials are stored offsite, in a remote location, or will require special handling.

13.6 CONTRACTOR's Warranty of Title:

The CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to the CITY no later than the time of payment free and clear of any claims, liens, security interests and further obligations.

13.7 Withholding of Payments:

The CITY 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:

13.7.1 The Work is Defective, or completed Work has been damaged requiring correction or replacement, or has been installed without approval of Shop Drawing, or by an unapproved Subcontractor.

13.7.2 The Contract Price has been reduced by Change Order.

- 13.7.3 The CITY has been required to correct Defective Work or complete Work in accordance with paragraph 12.9.
- 13.7.4 The CITY's actual knowledge of the occurrence of any of the events enumerated in paragraphs 14.2.1.a through 14.2.1.k inclusive.
- 13.7.5 Claims have been made against the CITY or against the funds held by the CITY on account of the CONTRACTOR's actions or inactions in performing this Contract, or there are other items entitling the CITY to a set off.
- 13.7.6 Subsequently discovered evidence or the results of subsequent inspections or test, nullify any previous payments for reasons stated in subparagraphs 13.7.1 through 13.7.5.
- 13.7.7 The CONTRACTOR has failed to fulfill or is in violation of any of his obligations under any provision of this Contract.

13.8 Retainage:

At any time the CITY finds that satisfactory progress is not being made it may in addition to the amounts withheld under 13.7 retain a maximum amount equal to 10% of the total amount earned on all subsequent progress payments. This retainage may be released at such time as the Contracting Officer finds that satisfactory progress is being made.

13.9 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 CITY, together with a request for release of funds and adequate documentary evidence proving that the problem has been cured. In the case of withholding which has occurred at the request of the Department of Labor and Workforce Development, 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 CITY shall have a reasonable time to investigate and verify the facts and seek additional assurances before determining whether release of withheld payments is justified.

13.10 Substantial Completion:

When the CONTRACTOR considers the Work ready for its intended use the CONTRACTOR shall notify the Contracting Officer in writing that the Work or a designated portion thereof is substantially complete (except for items specifically listed by the CONTRACTOR as incomplete) and request that the CITY 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 therefor. 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 warranties which shall be consistent with the terms of the Contract Documents. The CITY shall be responsible for all CITY costs resulting from the initial inspection and the first re-inspection, the CONTRACTOR shall pay all costs incurred by the CITY resulting from re-inspections, thereafter.

13.11 Access Following Substantial Completion:

The CITY shall have the right to exclude the CONTRACTOR from the Work after the date of Substantial Completion, but the CITY shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

13.12 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 CITY resulting from re-inspections.

13.13 Final Application 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 that the Work is acceptable (subject to the provisions of paragraph 13.17), the CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by all certificates, warranties, guaranties, releases, affidavits, and other documentation required by the Contract Documents.

13.14 Final Payment and Final Completion:

13.14.1 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 Application for Payment and accompanying documentation - all as required by the Contract Documents, 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 CITY will process final Application for Payment. Otherwise, the Contracting Officer will return the Application 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 Application for Payment.

13.14.2 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 Application for Payment, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by the CITY for Work not fully completed or corrected is less than the retainage provided for in paragraph 13.8, and if Bonds have been furnished as required in paragraph 5.1, the written consent of the Surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the CONTRACTOR to the CITY with the application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

13.14.3 In addition to other requirements, final payment shall not be due until CITY's receipt of verification from the State of Alaska Department of Labor and Workforce Development ("the Department") that (i) Contractor has complied with AS 36.05.045(a) and (ii) the Department is not conducting an investigation and (iii) the Department has not issued a notice of violation of AS 36.05 to Contractor or to any subcontractor.

13.15 Final Acceptance:

Following receipt of the CONTRACTOR's Release with no exceptions, and certification that laborers, Subcontractors and materialmen have been paid, certification of payment of payroll and sales taxes and revenue taxes, and final payment to the CONTRACTOR, the CITY will issue a letter of Final Acceptance, releasing the CONTRACTOR from further obligations under the Contract, except as provided in paragraph 13.16.

13.16 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 CITY, nor the issuance of a certificate of Substantial Completion, nor any use or occupancy of the Work or any part thereof by the CITY, nor any act of acceptance by the CITY nor any failure to do so, nor any review and approval of a Shop Drawing or sample submission, nor any correction of Defective Work by the CITY will constitute an acceptance of Work not in accordance with the Contract Documents or a release of the CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents.

13.17 Waiver of Claims by CONTRACTOR:

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

13.18 No Waiver of Legal Rights:

The CITY shall not be precluded or be stopped 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 CITY shall not be precluded or stopped, notwithstanding any such measurement, estimate, or certificate and payment in accordance therewith, from recovering from the CONTRACTOR or his Sureties, or both, such damages as it may sustain by reason of his failure to comply with requirements of the Contract Documents. Neither the acceptance by the CITY, or any representative of the CITY, 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 CITY, shall operate as a waiver of any portion of the Contract, or of the power herein reserved, or of any right to damages. A waiver by the CITY of any breach of the Contract shall not be held to be a waiver of any other subsequent breach.

ARTICLE 14 - SUSPENSION OF WORK, DEFAULT AND TERMINATION

14.1 CITY May Suspend Work:

14.1.1 The CITY 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 therefor 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 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 sufficient skilled workmen or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 6.6 as revised from time to time), or
- c. Performs the Work unsuitably or neglects or refuses to remove materials or to correct Defective Work.
- d. Discontinues the prosecution of the Work, or
- e. Fails to resume Work which has been discontinued within a reasonable time after notice to do so, or
- f. Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency except as prohibited by 11 U.S.C. 363e, or
- g. Allows any final judgment to stand against him unsatisfied for period of 60 days, or
- h. Makes an assignment for the benefit of creditors without the consent of the Contracting Officer, or

- i. Disregards Regulatory Requirements, 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 his Surety of such delay, neglect, or default.

If the CONTRACTOR or Surety, within the time specified in the above Notice of Default, shall not proceed in accordance therewith, then the CITY 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 CITY 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 CITY has paid the CONTRACTOR but which are stored elsewhere, and finish the Work as the CITY may deem expedient. The CITY 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.

- 14.2.3 The Contracting Officer may, by written notice to the CONTRACTOR and his Surety or his representative, transfer the employment of the Work from the CONTRACTOR to the Surety, or if the CONTRACTOR abandons the Work undertaken under the Contract, the Contracting Officer may, at his option with written notice to the Surety and without any written notice to the CONTRACTOR, transfer the employment for said Work directly to the Surety. The Surety shall submit its plan for completion of the Work, including any contracts or agreements with third parties for such completion, to the CITY for approval prior to beginning completion of the Work. Approval of such contracts shall be in accordance with all applicable requirements and procedures for approval of subcontracts as stated in the Contract Documents.
- 14.2.4 Upon receipt of the notice terminating the services of the CONTRACTOR, the Surety shall enter upon the premises and take possession of all materials, tools, and appliances thereon for the purpose of completing the Work included under the Contract and employ by contract or otherwise any person or persons to finish the Work and provide the materials therefor, without termination of the continuing full force and effect of this Contract. In case of such transfer of employment to the Surety, the Surety shall be paid in its own name on estimates covering Work subsequently performed under the terms of the Contract and according to the terms thereof without any right of the CONTRACTOR to make any claim for the same or any part thereof.
- 14.2.5 If the Contract is terminated for default, the CONTRACTOR and the Surety shall be jointly and severally 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 CITY in completing the Work or arranging for completion of the Work, including but not limited to costs of assessing the Work to be done, costs associated with advertising, soliciting or negotiating for bids or proposals for completion, and other procurement costs. Following termination the 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 CITY and any amounts due to persons for whose benefit the CITY has withheld funds, such excess shall be paid by the CITY to the CONTRACTOR. If the damages, costs, and expenses due the CITY exceed the unpaid balance, the CONTRACTOR and his Surety shall pay the difference.
- 14.2.6 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.

14.3 Rights or Remedies:

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

14.4 Convenience Termination:

14.4.1 The performance of the Work may be terminated by the CITY 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 CITY. Any such termination shall be effected by delivery to the CONTRACTOR of a Notice of Termination, specifying termination is for the convenience of the CITY the extent to which performance of Work is terminated, and the date upon which such termination becomes effective. Immediately upon receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer the CONTRACTOR shall:

- a. Stop Work on the date and to the extent specified in the Notice of Termination;
- b. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the Work as is not terminated;
- c. Terminate all orders and subcontracts to the extent that they relate to the performance of Work terminated by the Notice of Termination;
- d. With the written approval of the Contracting Officer, to the extent he may require, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable, in whole, or in part, in accordance with the provisions of the Contract;
- e. Submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory exclusive of items the disposition of which had been directed or authorized by the Contracting Officer;
- f. Transfer to the Contracting Officer the completed or partially completed record drawings, Shop Drawings, information, and other property which, if the Contract had been completed, would be required to be furnished to the CITY;
- g. Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to the Contract which is in the possession of the CONTRACTOR and in which the CITY has or may acquire any interest. The CONTRACTOR shall proceed immediately with the performance of the above obligations.

14.4.2 When the CITY 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 the Basis of Payment clause of the Contract. Materials required for completion and on hand but not incorporated in the Work will be paid for at cost plus 15% with materials becoming the property of the CITY - or the CONTRACTOR may retain title to the materials and be paid an agreed upon lump sum. Materials on order shall be canceled, and the CITY shall pay reasonable factory cancellation charges 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 canceled, and direct expenses only for CONTRACTOR chartered freight transport which cannot be canceled 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 costs not amortized by the amount of Work accomplished shall be paid by the CITY. Charges for loss of profit or consequential damages shall not be recoverable except as provided above.

14.4.3 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 his termination claim within the time allowed, the Contracting Officer may determine, on the basis of

information available to him, the amount, if any, due to the CONTRACTOR by reason of the termination and shall thereupon pay to the CONTRACTOR so determined.

14.4.4 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 the Work pursuant to this section. The Contract shall be amended accordingly, and the CONTRACTOR shall be paid the agreed amount. 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:

- 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 which 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 The CONTRACTOR shall have the right of appeal under the CITY's claim procedures, as defined in Article 15, for any determination made by the Contracting Officer, except if the CONTRACTOR has failed to submit his 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:

- a. All previous payments made to the CONTRACTOR for the performance of Work under the Contract prior to termination;
- b. Any claim which the CITY 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 CITY; and,
- d. All progress payments made to the CONTRACTOR under the provisions of this section.

14.4.6 Where the Work has been terminated by the CITY said termination shall not affect or terminate any of the rights of the CITY against the CONTRACTOR or his Surety then existing or which may thereafter accrue because of such default. Any retention or payment of monies by the CITY due to the CONTRACTOR under the terms of the Contract shall not release the CONTRACTOR or his Surety from liability. Unless otherwise provided for in the Contract Documents, or by applicable statute, the CONTRACTOR, from the effective date of termination and for a period of three years after final settlement under this Contract, shall preserve and make available to the CITY 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 his Contract and relating to the Work terminated hereunder.

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 which 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 immediately 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 to the Project Manager. The

Claim, if not resolved, shall be presented to the Project Manager, in writing, 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 which 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 which 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.

15.5 Notice of Appeal:

Within 30 days of receipt of the Decision, the CONTRACTOR may deliver a Notice of Appeal to the City Manager of Unalaska, Alaska. The Notice of Appeal shall include specific exceptions to the Contracting Officer's Decision, including specific provisions of the contract, which the CONTRACTOR intends to rely upon in the appeal. General assertions that the Contracting Officer's decision is contrary to law or fact are not sufficient.

15.6 City Manager's Decision:

The decision of the City Manager will be rendered within 120 days of Notice of Appeal. This decision constitutes the exhaustion of contractual and administrative remedies. The time limits given above may only be extended by mutual consent. The decision of the City Manager shall be final and conclusive unless the CONTRACTOR commences action through the court within 120 days from receipt thereof.

REFERENCE:

1. "GENERAL CONDITIONS OF THE CONTRACT", constitutes the General Conditions of this Contract and is further revised and supplemented by the provisions of these Supplementary Conditions to the Contract, hereinafter called the "Supplementary Conditions." The General Conditions and the Supplementary Conditions are applicable to all of the Work under this Contract and shall apply to the Contractor and all Subcontractors.

SUPPLEMENTS: 2. The following supplements modify, change, delete, or add to the General Conditions. Where any article of the General Conditions is modified or any paragraph deleted, subparagraph or clause thereof is modified, or deleted by these supplements, the unaltered provisions of such article, paragraph, subparagraph or clause shall remain in effect.

SC-1 ARTICLE 1 – DEFINITIONS, Add the following:

OWNER - The OWNER and CONTRACTING OFFICER are further defined as:

City of Unalaska
Tom Cohenor, Director of Public Works
P.O. Box 610
Unalaska, Alaska 99685-0610
Tel. (907) 581-1260
FAX (907) 581-2187
Attn: Tom Cohenour, Director of Public Works

PROJECT MANAGER – The PROJECT MANAGER is further defined as:

Robert Lund, City Engineer
Department of Public Works
P.O. Box 610
Unalaska, Alaska 99685-0610
Tel. (907) 581-1260
FAX (907) 581-2187

ENGINEER - The ENGINEER is further defined as:

PND Engineers, Inc. 1506 West 36th Avenue
Anchorage, AK 99503
Tel. (907) 561-1011
Attn: Dempsey Thieman, P.E.

SC-2 ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.2 Copies of Contract Documents:

Change the paragraph to read: “The CITY shall furnish the CONTRACTOR up to four copies of the Contract Documents. Additional copies will be furnished, upon request, at the cost of reproduction.”

3.5.2 Discrepancy – Order of Precedence:

Replace section with the following:

When conflicts, errors, or discrepancies within the Contract Documents exist, the order of precedence from most governing to least governing will be as follows:

All project permit requirements
Design Drawings
Supplemental Conditions
General Conditions

SC-3 ARTICLE 4 - LANDS AND PHYSICAL CONDITIONS

Section 4.1, add the following:

The CITY requires that one side and staging area of the existing dock remain active and functional for vessel mooring and active cargo handling operations. The CONTRACTOR shall be responsible for coordinating with the CITY all construction activities that will impact active area of the dock.

Add the following section:

4.8 HAZARDOUS MATERIALS

- A. OWNER shall be responsible for any Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Material uncovered or revealed at the site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of WORK and which may present a substantial danger to persons or property exposed thereto in connection with the WORK at the site. OWNER will not be responsible for any such material brought to the site by the CONTRACTOR, Subcontractors, Suppliers, or anyone else for whom CONTRACTOR is responsible.
- B. CONTRACTOR shall immediately stop all WORK in connection with such hazardous condition and any area affected thereby (except in an emergency as required in the General Conditions) and notify OWNER and ENGINEER (and thereafter confirm such notice in writing.) OWNER will promptly consult with ENGINEER concerning the necessity for OWNER to retain a qualified expert to evaluate such hazardous condition or take corrective action, if any. CONTRACTOR shall not be required to resume WORK in connection with such hazardous condition or in any such affected area until after OWNER has obtained any required permits related thereto, and delivered to CONTRACTOR special written notice. Such written notice will specify that such condition and any affected area is or has been rendered safe for resumption of the WORK or specify any special conditions under which such WORK may be resumed safely. If OWNER and CONTRACTOR cannot agree as to entitlement to or the amount or extent of adjustment, if any, in Contract Price or Contract Times as a result of such WORK stoppage or such special conditions under which WORK is agreed by CONTRACTOR to be resumed, either party may make a claim therefore and provided in Articles 10 and 11."

SC-4 ARTICLE 5 – BONDS, INSURANCE, AND INDEMNIFICATION

Item 5.4 *Insurance Requirements*, 5.4.1, add the following sentence:

"PND Engineers Inc. will act as the City's agents and shall be specifically named as additional insured under the insurance coverage so specified and where allowed."

SC-5 ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES

Section 6.17, add the following:

6.17.5 The Contractor shall do whatever work is necessary for overall project safety and be solely and completely responsible for conditions of the job site, including safety of all persons (including employees) and property during the Contract period. This requirement shall apply continuously and not limited to normal working hours.

Safety provisions shall conform to Federal and State Departments of Labor Occupational Safety and Health Act (OSHA), and other applicable federal, state, county, and local laws, ordinances, codes, requirements set forth herein, and regulations that may be specified in other parts of these Contract Documents. Where these are in conflict, the more stringent requirements shall apply. Contractor shall become thoroughly familiar with governing safety provisions and shall comply with the obligations set forth therein.

The Contractor shall develop and maintain for the duration of the Contract, a safety program that will effectively incorporate and implement required safety provisions. Contractor shall appoint a qualified employee who is authorized to supervise and enforce compliance with the safety program.

The Engineer's duty to conduct construction review of the Contractor's performance does not include a review or approval of the adequacy of Contractor's safety supervisor, safety program, or safety measures taken in, on, or near the construction site.

As part of safety program, Contractor shall maintain at its office or other well-known location at the job site, safety equipment applicable to the Work as prescribed by governing safety authorities, and articles necessary for giving first aid to the injured. Establish procedures for the immediate removal to a hospital or a doctor's care of persons who may be injured on the job site.

Contractor shall do all work necessary to protect the general public from hazards, including but not limited to, surface irregularities, trenches, excavations, and blasting. Barricades, lanterns, and proper signs shall be furnished in sufficient amount to safeguard the public and the work. Construct and maintain satisfactory and substantial fencing, railings, barricades, or steel plates, as applicable, at all openings, obstructions, or other hazards. Such barricades shall have adequate warning lights as necessary or required for safety.

SC-6 ARTICLE 7 – LAWS AND REGULATIONS

7.2.5 Add the following:

“All expenses required to comply with permits shall be the sole responsibility of the CONTRACTOR, including the Protected Species Observer program and associated reporting. Shutdowns and delays required for compliance with the permits shall not constitute a basis for claims.”

SC-7 ARTICLE 11 - CONTRACT TIME; COMPUTATION AND CHANGE

11.2 Starting the Work; Change the second sentence to read as follows:

“CONTRACTOR shall notify the Contracting Officer at least fourteen (14) days in advance of the time actual construction operations will begin.”

11.5 Extension Due to Delays; Add the following sentences:

“Normal weather in Unalaska shall not be cause for time extension and the CONTRACTOR shall allow ample time in his schedule to accommodate normal weather delays.

Shutdown or delays required by permit conditions shall not be cause for time extension.”

Item 11.8 – Delay Damages: The following list includes but is not limited to the items used to determine the amount established for Liquidated Damages; ENGINEER's Fees; PROJECT MANAGER's Fees; CONTRACTING OFFICER's Fees; Impacts to Public Health; Lost Efficiency in the Movement of City Employees and Materials; Vehicle Wear and Tear; and Public Inconvenience.

SC-8 ARTICLE 13 – PAYMENTS TO CONTRACTOR AND COMPLETION

13.8 Retainage:

Delete the existing paragraph and replace with the following:

“The CITY will retain a maximum amount equal to 10% of the total amount earned on all progress payments. Once 50 percent of the work is complete and if the character and progress of the work have been satisfactory to the OWNER, the OWNER may determine that, as long as the character and progress of the work remain satisfactory to them, there will be no additional retainage on account of work completed; in which case, the remaining progress payments prior to Substantial Completion will be in an amount equal to 100 percent of the work completed.”

Part 4

MINIMUM RATES OF PAY

Section 000900
MINIMUM RATES OF PAY

Contractor shall comply with all applicable Federal and State labor regulations, including State of Alaska Title 36, Public Contracts, otherwise known as the Little Davis-Bacon Act, and all labor regulations and minimum rates of pay contained therein.

State Wage Rates

State Wage Rates can be obtained at <http://labor.alaska.gov/lss/pamp600.htm>. Use the State wage rates that are in effect 10 days before Bid Opening.

Federal Wage Rates

Federal Davis-Bacon Wage Determinations by State are available at <http://www.wdol.gov/dba.aspx>. At "Select DBA WD by number, insert AK1. General Decision Number: AK150001 01/23/2015 AK1, superseded General Decision Number: AK20140001

Part 5

CONTRACTOR PERFORMANCE ASSESSMENT REPORT (CPAR)

Contractor Performance Assessment Report

City of Unalaska



March 1, 2015

CONTRACTOR PERFORMANCE ASSESSMENT REPORT

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1.1 INTRODUCTION.

Since the implementation of the Contractor Performance Assessment Reporting System (CPARS) by the Federal Government in 1994, other agencies (school districts, municipalities, private industry) have initiated their own procedures to record contractor performance. Experience has demonstrated that recording contractor performance information periodically during performance of the contract and discussing the results with contractors is a powerful motivator for contractors to maintain high quality performance or improve inadequate performance before the next reporting cycle. Current performance assessment is a basic “best practice” for good contract administration, and is one of the most important tools available for ensuring good contractor performance.

Properly completed performance assessments become past performance information for use in future source selections. Completion of these assessments improves the amount and quality of performance information available to source selection teams. The use of past performance as a major Assessment factor in the contract award process is instrumental in making “best value” selections. It enables agencies to better predict the quality of, and satisfaction with, future work.

How well the City’s purchasing and Contracting Officer administer in-process contracts and discuss with contractors their current performance determines to a great extent how well the City can achieve its mission and provide value to the taxpayers. By increasing attention to contractor performance on in-process contracts and ensuring past performance data is readily available for selection teams, the City is reaping two benefits: 1. Better current performance because of the active dialog between the contractor and the City; and 2. Better ability to select high-quality contractors for new contracts because contractors know the assessments will be used in future award decisions.

1.2 Assessment Areas

It is imperative that assessments be completed, be completed consistently, be completed objectively, and be completed in a timely manner. Inflated assessments are just as detrimental as poor assessments because inflated assessments unfairly skew results, thereby helping poor contractors and hurting good contractors. Contractors will receive frank discussions early in the process so they have an opportunity to improve performance, if necessary, before final assessments are given. Contractors will be advised of any negative comments being entered into official reports and given ample opportunity for a rebuttal.

1.3 Frequency of Assessments

Interim assessments are strongly recommended as part of good contract management. If the performance period is expected to exceed 12 months, then interim assessments will be conducted at least every 4 months. Interim assessments provide essential feedback to contractors on their performance. They provide an opportunity to give contractors performing well a "pat on the back" and encouragement to keep up the good work. Interim assessments give contractors experiencing problems the opportunity to correct problems before they jeopardize contract completion. They also provide current performance information on comparable contracts to source selection teams. However, assessments will be prepared and discussed with contractors more often depending on contractor performance problems. An *honest* discussion of the contractor's performance is important. Contractors know past performance assessments directly affect their ability to compete for future contracts and will normally take actions necessary to improve their rating. The contractor should always know how the City rates its performance -- no surprises! Likewise, during discussions, the contractor will be asked if there are areas in which the City could improve its performance, such as in partnerships, contributions to achieving mission success, etc. The key to the process is *communication!*

1.4 Performance Indicators

Four performance indicators will be evaluated:

1. Quality of Performance - as defined in the contract standards.
2. Cost Performance - how close to project bid and/or cost estimate.
3. Schedule Performance - timeliness of completion of milestones and contract dates.
4. Business Relations - history of professional behavior and overall business-like concern for the interests of the City including customer satisfaction.

1.5 Performance Ratings

Problems with poor performance can lead to frustrations for both the contractor and the City. Early identification of concerns and open lines of communication (e.g., interim reports) can lead to constructive dialog that can help to improve performance and avoid adversarial feelings that might otherwise develop if potential misunderstandings are ignored until late into contract performance.

The ratings given will reflect how well the contractor met the cost, schedule, and performance requirements of the contract, and the business relationship. Contractors are not expected to be perfect in their execution to reach contract requirements. A critical aspect of the assessment rating system described below is the second sentence of each rating, which recognizes the contractor's resourcefulness in overcoming challenges that arise in the context of contract performance. The City is looking for overall results, not problem free management of the contract.

Five ratings will be used to rate each of the four performance indicators:

- 5 Exceptional
- 4 Very good
- 3 Satisfactory
- 2 Marginal
- 1 Unsatisfactory

Exceptional (5). Performance meets contract requirements and *significantly exceeds* contract requirements to the City's benefit. For example, the contractor implemented innovative or business process reengineering techniques, which resulted in added value to the City. The contractual performance of the element or sub-element being assessed was accomplished with few minor problems for which corrective actions taken by the contractor were highly effective.

Very Good (4). Performance meets contractual requirements and *exceeds some* to the City's benefit. The contractual performance of the element or sub-element being assessed was accomplished with some minor problems for which corrective actions taken by the contractor were effective.

Satisfactory (3). Performance *meets* contractual requirements. The contractual performance of the element or sub-element contains some minor problems for which proposed corrective actions taken by the contractor appear satisfactory, or completed corrective actions were satisfactory.

Marginal (2). Performance *does not meet some* contractual requirements. The contractual performance of the element or sub-element being assessed reflects a serious problem for which the contractor has submitted minimal corrective actions, if any. The contractor's proposed actions appear only marginally effective or were not fully implemented.

Unsatisfactory (1). Performance *does not meet* contractual requirements and *recovery is not likely* in a timely or cost effective manner. The contractual performance of the element or sub-element contains serious problem(s) for which the contractor's corrective actions appear or were ineffective.

1.6 Contractor Response and City Review

While the ultimate conclusion on the performance assessment is a decision of the City, the Contractor Performance Assessment provides for contractor comment. Upon completion of the initial assessment by the Contracting Officer, the assessment should be signed by the person most familiar with the contractor's performance and initialed by the Contracting Officer. The Contracting Officer should sign the final assessments. As soon as practicable after the form is signed, and ordinarily within a day, it should be sent to the contractor for comments. The required turnaround time for contractor response may not be less than thirty days, but in most cases, 30 days should be a sufficient response time. Contracting Officers may extend the response period as warranted. If the contractor fails to provide a response by the established deadline, the Contracting Officer should call the contractor and initiate discussions on the performance and request a written reply. If all attempts fail, then the City's comments can stand alone.

If the contractor submits a rebuttal for any or all of the ratings and an agreement on the ratings cannot be reached by the contractor and lead assessor, the contractor may seek review at least one level above the Contracting Officer. In the event the contractor and Contracting Officer do not agree on the performance rating(s), the Contracting Officer and lead assessor should make every effort to discuss with the contractor the details of the performance assessment and the contractor's response. In these cases, such effort should require a face-to-face meeting between the parties. The contractor's statement and agency review must be attached to the performance report and must be provided to source selection officials requesting a reference check.

When the City has completed its review of the contractor's comments, the Contracting Officer must send a copy of the completed assessment to the contractor. The completed assessments, including any contractor response or rebuttal, and agency reviews above the Contracting Officer, should be filed in the contract file, in a separate file, or automated database where they can be readily accessible by contracting office personnel. Automated databases should be accessible by source selection teams in other agencies through use of a secure system. Interim assessments should be retained for the duration of the contract and included with the final assessment in the file. The interim assessment allows source selection teams to analyze performance trends during the contract.

1.7 Release of Contractor Assessment

Contractor assessments shall not be released to anyone other than City personnel needing the information for contract selection purposes, however, Freedom of Information Act rules apply.

1.0 SCOPE

This document provides guidance on the policies and procedures pertaining to contractor performance Assessments.

2.0 PURPOSE

This document is intended to serve as an authoritative source for coordinating the activities of the various Departments within the City of Unalaska with regard to the completion, distribution, and storage of Contractor Performance Assessments.

3.0 REFERENCES

Chapter 6.24 of the Unalaska Code of Ordinances (UCO).

4.0 DEFINITIONS

For purposes of this policy, the terms defined in this section have meanings ascribed to them in this section unless the context clearly indicated that another meaning is intended.

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

City: The City of Unalaska, Alaska. References to "owner" or "Contracting Agency" mean the City.

Construction: Building, altering repairing, improving, or demolishing any structure, building, road, street or highway, sewer, water line, and any draining, dredging, excavation, grading, or similar work upon real property.

Construction Contract: A contract awarded by the City for construction as defined in UCO 6.24, as opposed to a contract for goods and services.

Consultant: A person, firm, agency, or corporation retained by the City to prepare Contract Documents, perform construction administration services, or other Project related services.

Contracting Officer: The Contracting Officer shall be the City of Unalaska Director of Public Works. The Contracting Officer alone shall have the power to bind the City 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 City, 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 City Council reserves the right to appoint a new Contracting Officer without affecting any of the contractor's obligations to the city under this Contract.

Contractor: The individual, firm, corporation, or any acceptable combination thereof, contracting with the City for performance of the Work.

Contractor Performance Assessment: A process by which the City formally evaluates the overall contract performance by the Contractor and his subcontractors/suppliers.

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

Responsible Bidder: A person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will ensure good faith performance, and who has been prequalified, if required.

Subcontractor: An individual, firm, or corporation to whom the contractor sublets part of the contract.

Using Agency: The entity who will occupy or use the completed Work.

5.1 **DISCUSSION:** Chapter 6.24.060 of Unalaska Code of Ordinances

Chapter 6.24.060 of Unalaska Code of Ordinances states that contracts shall be awarded to the lowest responsible bidder. In determining the lowest responsible bidder, in addition to price, there shall be considered:

- A. The ability, capacity, and skill of the bidder to perform the contract.
- B. Whether the bidder can perform the contract within the time specified, without delay or interference.
- C. The character, integrity, reputation, judgment, experience, and efficiency of the bidder. When considering the character, integrity, and reputation of the bidder, the City Council or its delegate may consider any past conduct of the bidder which the City Council or its delegate in the exercise of their discretion determines is evidence of poor character, integrity, or reputation sufficient to conclude that award of the contract to the low bidder is not in the best interest of the citizens of Unalaska. This would include past instances in which the bidder has submitted grossly inflated claims for additional compensation for work done on a city project either as a subcontractor or as a general contractor and past conduct of the bidder in meetings with city employees or consultants.
- D. The quality of performance of previous contracts. In considering the quality of performance of previous contracts, the City Council or its delegate may consider any of the following factors:
 - 1) Whether contracts were completed on time.
 - 2) Whether the bidder promptly corrected defective work.
 - 3) Whether the bidder fully performed the contract, including submission of as-built drawings.
 - 4) The number and validity of claims for additional compensation submitted by the bidder.
 - 5) The conducts of the bidder during meetings with city employees and consultants.
 - 6) Previously completed Assessments of bidder performance by any city department.
- E. The previous and existing compliance by the bidder with laws and ordinances relating to the contract.
- F. The sufficiency of the financial resources and ability of the bidder to perform the contract.
- G. The number and scope of conditions attached to the bid.
- H. Whether there are any unresolved claims between the bidder and the City under any existing city contract in which the bidder is either a general contractor or a subcontractor. Unresolved claims alone may be a sufficient basis for an award to other than the low bidder.

6.1 POLICY

6.2 Contractor Performance Assessment Form.

The Contractor Performance Assessment Form, as shown in Section 9, shall be the only performance Assessment form used for documenting the performance of a contractor at the close of a contract or for annual service contracts. The form shall be used at the end of each contract term.

6.3 Bid Document Inclusion.

The Contractor Performance Assessment form should be included in all published construction bid documents as part of the front-end project book (Spec Book) composed by the Department of Public Works or its designee.

6.4 Completion of Contractor Performance Assessment Form.

The Contractor Performance Assessment form shall be completed at the close of each contract. Completion should be done prior to issuance of final payment to the Contractor.

6.5 Distribution of Completed Contractor Performance Assessment Form.

The completed Contractor Performance Assessment form will be distributed by the Contracting Officer to the Department of Public Works and the Contractor upon completion.

6.6 Presentation of Contractor Performance Assessment to Contractor

Upon completion of the Contractor Performance Assessment, the Contractor shall be notified and a meeting shall be setup between the Contracting Officer and the Contractor. During this meeting, the Contracting Officer shall review the completed Contractor Performance Assessment Form with the Contractor and discuss the performance of the project. Upon the completion of this meeting, the Contractor shall sign the Contractor Performance Assessment form verifying that the Contracting Officer's opinion of the performance of the contract by the Contractor has been discussed. Refusal of a Contractor to sign the Contractor Performance Assessment form shall be noted by the Contracting Officer.

6.7 Electronic Storage & Accessibility of Contractor Performance Assessments.

All completed Contractor Performance Assessments shall be posted and maintained on the City's Intranet under the Department of Public Works site. All City personnel shall have access to all past completed Contractor Performance Assessments.

6.8 Storage of the Contractor Performance Assessments.

All completed Contractor Performance Assessments shall be stored with the official contract file maintained by the Department of Finance. As well, the Using Agency shall maintain a copy of the completed Assessment in their official project file as part of the contract close-out procedures.

7.1 PROCEDURES

7.2 Project Manager Procedures.

The Contracting Officer shall assign a Project Manager to each construction contract. The Project Manager shall perform all duties involved in project management with a construction contract. At the close of the construction contract (prior to final payment being made to the contractor), the Project Manager shall complete the required Contractor Performance Assessment form to document the contractor's performance, compliance and non-compliance with the contract's terms and conditions. Upon completion of the Contractor Performance Assessment form, the Project Manager shall contact the contractor and schedule a date and time for a meeting at which the Project Manager will discuss with the contractor the Project Manager's opinion on the performance of the contract. This meeting shall be conducted prior to final payment being made to the contractor. The Project Manager shall have the contractor sign and date the completed Assessment and provide the contractor with a copy for their records. The Project Manager shall provide the assigned Contracting Officer a completed and fully signed copy of the Contractor Assessment form. The Project Manager shall maintain a copy of the completed Assessment form in their official project file as part of the contract close-out procedures. If the contractor refuses to sign the Assessment form, the Project Manager will document the reasoning for the refusal and attach it to the Contractor Performance Assessment form upon submittal to the Contracting Officer for review.

7.3 Contracting Officer Procedures.

The Contracting Officer shall receive a copy of the completed Contractor Performance Assessment form from the Project Manager. The Contracting Officer shall review the Assessment to verify that the Project Manager has met with the contractor and discussed the Contractor Performance Assessment. The Contracting Officer shall verify that a copy of the completed Contractor Performance Assessment Form is in the official construction contract file.

8.1 RESPONSIBILITIES

8.2 Project Manager.

The Project Manager is responsible for:

- A. Completion of the Contractor Performance Assessment Form;
- B. Meeting with the Contractor to discuss the Contractor Performance Assessment;
- C. Obtaining the Contractor's signature on the Contractor Performance Assessment Form;
- D. Providing a copy of the completed and signed Contractor Performance Assessment Form to the Contractor and the Contracting Officer; and
- E. Maintaining a copy of the completed and signed Contractor Performance Assessment form for their official project file as part of the contract close-out procedures.
- F. Documenting any reason(s) that a Contractor refuses to sign the Contractor Performance Assessment form and attach to the Contractor Performance Assessment form upon submittal to the Contracting Officer.

8.3 Contracting Officer

The Contracting Officer is responsible for:

- A. Receiving a copy of the completed Construction Contractor Performance Assessment Form from the Project Manager;
- B. Review the Assessment to verify that the Project Manager has met with the Contractor and discussed the Contractor Performance Assessment;
- C. Verify that a copy of the completed Contractor Performance Assessment Form is in the official construction contract file; and

9.1 CONTRACTOR PERFORMANCE ASSESSMENT

9.2 Contractor Performance Assessment Report (CPAR) Form: **Attachment A**

9.3 Guidelines for Completing Contractor Performance Assessment Report: **Attachment B**

CONTRACTOR PERFORMANCE ASSESSMENT REPORT (CPAR)										
1. NAME/ADDRESS OF CONTRACTOR		2. INITIAL <input type="checkbox"/>		INTER-MEDIATE <input type="checkbox"/>		FINAL REPORT <input type="checkbox"/>	OUT OF CYCLE <input type="checkbox"/>	ADDENDUM <input type="checkbox"/>		
3. PERIOD OF PERFORMANCE BEING ASSESSED										
OWNER / CEO		PHONE		4a. CONTRACT NUMBER			4b.			
SUPERINTENDENT		PHONE		5.						
6. LOCATION OF PROJECT				7a. CONTRACTING OFFICER			7b. PHONE NUMBER			
				8a. CONTRACT AWARD DATE		8b. SUBSTANTIAL COMPLETION DATE		9. FINAL COMPLETION DATE		
				10. CONTRACT PERCENT COMPLETE / DELIVERY ORDER STATUS						
				11. AWARDED VALUE				12. CURRENT CONTRACT DOLLAR VALUE		
				13. <input type="checkbox"/> COMPETITIVE BID		<input type="checkbox"/> NEGOTIATED PRICE				
				14. CONTRACT TYPE						
<input type="checkbox"/> UNIT PRICE		<input type="checkbox"/> BID		<input type="checkbox"/> Negotiated		<input type="checkbox"/>		<input type="checkbox"/> OTHER		
15. KEY SUBCONTRACTORS AND DESCRIPTION OF EFFORT PERFORMED										
16. CONTRACTOR TYPE										
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		
17. CONTRACT EFFORT DESCRIPTION (Highlight key components, technologies and requirements; key milestone events and major modifications to contract during this period.)										
18. EVALUATE PERFORMANCE INDICATORS:				Exceptional	Very Good	Satisfactory	Marginal	Unsatisfactory	N/A	
a. QUALITY OF PERFORMANCE										
(1) PRODUCT PERFORMANCE										
(2) VALUE ENGINEERING										
(3) LOGISTICAL SUPPORT										
(4) PRODUCT ASSURANCE / WARRANTY										
(5) OTHER										
(6) OTHER										
b. COST CONTROL										
c. SCHEDULE PERFORMANCE										
d. BUSINESS RELATIONS										
(1) MANAGEMENT RESPONSIVENESS										
(2) SUBCONTRACT MANAGEMEN										
(3) PROFESSIONAL BEHAVIOR										
e. OTHER AREAS										
(1)										
(2)										

19. VARIANCE (Contract to date)		CURRENT	COMPLETION
COST VARIANCE (%)			
SCHEDULE VARIANCE (%)			
20. ASSESSING OFFICIAL or CONTRACTING OFFICER NARRATIVE			
21. TITLE OF ASSESSING OFFICIAL		DEPARTMENT	PHONE NUMBER
EMAIL ADDRESS:			
SIGNATURE			DATE
22. CONTRACTOR COMMENTS (Contractor's Option)			
23. NAME AND TITLE OF CONTRACTOR'S REPRESENTATIVE			PHONE NUMBER
EMAIL ADDRESS:			FAX NUMBER
SIGNATURE			DATE
24. REVIEW BY REVIEWING OFFICIAL (Comments Optional)			

Guidelines for completing Contractor Performance Assessment Report

Exceptional: Performance meets contractual requirements and exceeds many to the City's benefit. The contractual performance of the element or sub-element being assessed was accomplished with few minor problems for which corrective actions taken by the Contractor were highly effective.

Note: To justify an Exceptional rating, you should identify multiple significant events in each category and state how it was a benefit to the City. However, a singular benefit could be of such magnitude that it alone constitutes an Exceptional rating. Also, there should have been NO significant weaknesses identified.

Very Good: Performance meets contractual requirements and exceeds some to the Government's benefit. The contractual performance of the element or sub-element being assessed was accomplished with some minor problems for which corrective actions taken by the Contractor were effective.

Note: To justify a Very Good rating, you should identify a significant event in each category and state how it was a benefit to the City. Also there should have been no significant weaknesses identified.

Satisfactory: Performance meets contractual requirements. The contractual performance of the element or sub-element contains some minor problems for which corrective actions taken by the Contractor appear or were satisfactory.

Note: To justify a Satisfactory rating, there should have been only minor problems, or major problems the contractor recovered from without impact to the contract. Also there should have been NO significant weaknesses identified. A fundamental principle of assigning ratings is that Contractors will not be assessed a rating lower than Satisfactory solely for not performing beyond the requirements of the contract.

Marginal: Performance does not meet some contractual requirements. The contractual performance of the element or sub-element being assessed reflects a serious problem for which the Contractor has not yet identified corrective actions. The Contractor's proposed actions appear only marginally effective or were not fully implemented.

Note: To justify Marginal performance, you should identify a significant event in each category that the Contractor had trouble overcoming and state how it impacted the City. A Marginal rating should be supported by referencing the management tool that notified the Contractor of the contractual deficiency (e.g. Management, Quality, Safety, or Environmental Deficiency Report or letter).

Unsatisfactory: Performance does not meet most contractual requirements and recovery is not likely in a timely manner. The contractual performance of the element or sub-element contains a serious problem(s) for which the Contractor's corrective actions appear or were ineffective.

Note: To justify an Unsatisfactory rating, you should be able to identify multiple significant events in each category that the contractor had trouble overcoming and state how it impacted the City. However, a singular problem could be of such serious magnitude that it alone constitutes an unsatisfactory rating.

Part 6

ELECTRICAL TECHNICAL SPECIFICATIONS

SECTION 16050 - BASIC ELECTRICAL MATERIALS AND METHODS

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes the following electrical materials and methods:
 - 1. Supporting devices for electrical components.
 - 2. Electrical identification.
 - 3. Electrical demolition.

1.3 SUBMITTALS

- A. Provide catalog cut sheets providing product data for each type of product specified. Note specifically what component is being submitted when more than one model or version is shown on the cut sheet. Write on the top of the cut sheet the description of the project equipment being submitted on (Power Enclosure or Float lighting contactor, etc.).
- B. Provide Shop Drawings detailing fabrication and installation of supports and anchorage for electrical items. Show all components of a system and how they relate to each other during installation. Include details of mounting brackets, wiring interconnections, single line diagrams, component layout diagrams for enclosures, materials lists for components in enclosures, wiring schematic diagrams with each wire numbered and each terminal numbered for wiring in enclosures. Provide Shop drawings for the pedestals, light poles, cable support brackets, pedestal mounting plates, and light pole base support structures.

1.4 QUALITY ASSURANCE

- A. Comply with NFPA 70 for components and installation.
- B. Listing and Labeling: Provide products specified in this Section that are listed and labeled.
 - 1. The Terms "Listed and Labeled": As defined in the National Electrical Code, Article 100.
 - 2. Listing and Labeling Agency Qualifications: A "Nationally Recognized Testing Laboratory" (NRTL) as defined in OSHA Regulation 1910.7.
- C. All expose hardware on this project shall either be hot dipped galvanized or stainless steel. All steel components of all electrical equipment and their support brackets and associated equipment, plates, etc. shall be hot dipped galvanized. Strut channel (Unistrut) shall be 316 stainless steel unless it is welded to a structure, then it shall be hot dipped galvanized. All junction boxes and enclosures shall be 316 stainless steel. Size all junction boxes and enclosures as required. All dimensions of enclosures, junction boxes shown are a minimum unless specifically stated as a maximum. Increase dimensions as required.

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- D. Perform all work as required to provide an operational electrical power and lighting system as shown on the drawings.

1.5 SEQUENCING AND SCHEDULING

- A. Coordinate electrical equipment installation with other trades.
- B. Arrange for chases, slots, and openings in float structure during progress of construction to allow for electrical installations.
- C. Coordinate installing required supporting devices and cut slots and holes as required in structural components as they are constructed.

PART 2 - PRODUCTS

2.1 SUPPORTING DEVICES

- A. Channel and angle support systems, hangers, anchors, sleeves, brackets, fabricated items, and fasteners are designed to provide secure support from the structure for electrical components.
 - 1. Material: Hot-dip galvanized steel where welded to a structure, otherwise type 316L stainless steel.
- B. Steel channel supports have 9/16-inch diameter holes at a maximum of 8 inches o.c., in at least one surface.
 - 1. Fittings and accessories mate and match with channels and are from the same manufacturer.
- C. Raceway and Cable Supports: Manufactured clevis hangers, riser clamps, straps, threaded C-clamps with retainers, ceiling trapeze hangers, wall brackets, and spring steel clamps or "click"- type hangers.
- D. Expansion Anchors: Red Head, Hilti, or equal. Stainless steel.

2.2 ELECTRICAL IDENTIFICATION

- A. Manufacturer's Standard Products: Where more than one type is listed for a specified application, selection is Installer's option, but provide single type for each application category. Use colors prescribed by ANSI A13.1, NFPA 70, and these Specifications.
- B. Raceway and Cable Labels: Conform to ANSI A13.1, Table 3, for minimum size of letters for legend and minimum length of color field for each raceway or cable size.
 - 1. Type: Preprinted, flexible, self-adhesive, vinyl. Legend is overlaminated with a clear, weather- and chemical-resistant coating.
 - 2. Color: Black legend on orange field.
 - 3. Legend: Indicates voltage, panel, and circuit number. Locate every 100 feet in utilidor.

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- C. Engraved, Plastic-Laminated Labels, Signs, and Instruction Plates: Engraving stock, melamine plastic laminate punched for mechanical fasteners 1/16-inch minimum thick for signs up to 20 sq. in., 1/8 inch thick for larger sizes. Engraved legend in black letters on white face.
- D. Fasteners for Plastic-Laminated and Metal Signs: Self-tapping stainless-steel screws or No. 10/32 stainless-steel machine screws with nuts and flat and lock washers.

2.3 TOUCHUP PAINT

- A. For Equipment: Provided by equipment manufacturer and selected to match equipment finish.
- B. For Nonequipment Surfaces: Matching type and color of undamaged, existing adjacent finish.
- C. For Galvanized Surfaces: Zinc-rich paint recommended by item manufacturer.

PART 3 - EXECUTION

3.1 EQUIPMENT INSTALLATION REQUIREMENTS

- A. Store all materials in dry heated storage prior to installing them on the project. Make arrangements for ENGINEER to inspect all power centers, pedestals, panels, etc. prior to being installed. None of this equipment may be installed without being inspected by the ENGINEER first.
- B. Install items level, plumb, and parallel and perpendicular to other structures and components, except where otherwise indicated.
- C. Install equipment to facilitate service, maintenance, and repair or replacement of components. Connect for ease of disconnecting, with minimum interference with other installations.

3.2 ELECTRICAL SUPPORTING METHODS

- A. Hot-dip galvanized materials or 316 stainless steel, or as noted on the drawings. All locations on this Project are considered outdoors.
- B. Conform to manufacturer's recommendations for selecting supports.
- C. Strength of Supports: Adequate to carry all present and future loads, times a safety factor of at least 4; 200-lb- minimum design load.

3.3 INSTALLATION

- A. Install devices to securely and permanently fasten and support electrical components.
- B. Raceway Supports: Comply with NFPA 70 and the following requirements:
 - 1. Conform to manufacturer's recommendations for selecting and installing supports.

SECTION 16050 - BASIC ELECTRICAL MATERIALS AND METHODS

2. Install individual and multiple raceway hangers and riser clamps to support raceways. Provide U bolts, clamps, attachments, and other hardware necessary for hanger assembly and for securing hanger rods and conduits.
 3. Provide supports for cables as shown on the drawings. Use nylon cable ties to secure cable to all supports at every support and as shown on the drawing. Only high quality Thomas & Betts, Burndy or equivalent cable ties may be used with a minimum 250 lb tensile strength. All nails shall be hot dipped galvanized. All screws shall be stainless steel.
- C. Install identification devices where required and on all circuit breakers, panels, power centers, pedestals, etc. Provide voltage and phase on labels. Submit labels for approval prior to making them.
1. Install labels where indicated and at locations for best convenience of viewing without interference with operation and maintenance of equipment.
 2. Coordinate names, abbreviations, colors, and other designations used for electrical identification with corresponding designations indicated on the Contract Documents or required by codes and standards. Use consistent designations throughout the Project.
 3. Tag or label power circuits for future connection and circuits in raceways and enclosures with other circuits. Identify source and circuit numbers in each cabinet, pull box, junction box, and outlet box. Color coding may be used for voltage and phase indication.
 4. For panelboards, provide framed, typed circuit schedules with explicit description and identification of items controlled by each individual breaker.
- D. Store all material and equipment in a dry, heated area until it is installed. Keep all material dry and if it has printed circuit boards or any other electronic components, keep it in a dry heated location after it is installed.

3.4 DEMOLITION

- A. Where electrical WORK to remain is damaged or disturbed in the course of the WORK, remove damaged portions and install new products of equal capacity, quality, and functionality.
- B. Keep all existing electrical systems on the Project site fully operational during the course of the WORK. Coordinate outages with ENGINEER and the Harbor Master. Outages are only to be on the portion of the WORK being done at the time. The remainder of the system shall remain energized.

3.5 CUTTING AND PATCHING

- A. Cut, channel, chase, and drill surfaces necessary for electrical installations. Perform cutting by skilled mechanics of the trades involved. All cutting, chases, and drilling shall be per structural drawings. If no specific instruction is given on the structural drawings the cutting, chases, and drilling shall be approved by the ENGINEER as to size, location, method, etc. If a float structure or member is cut, drilled, or a chase made through it without the permission of the ENGINEER or in violation with the structural drawings, it shall be replaced at the cost of the CONTRACTOR.
- B. Repair disturbed surfaces to match adjacent undisturbed surfaces. Repair all disturbed galvanized surfaces per general notes.

3.6 TOUCH-UP PAINTING

- A. Thoroughly clean damaged areas and provide primer, intermediate, and finish coats to suit the degree of damage at each location.

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- B. Follow paint manufacturer's written instructions for surface preparation and for timing and application of successive coats.

END OF SECTION

SECTION 16120 - CONDUCTORS AND CABLES

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes wires and cables and associated connectors, splices, and terminations for wiring systems rated 600 V and less.

1.3 SUBMITTALS

- A. Catalog cut sheets for all products used.

1.4 QUALITY ASSURANCE

- A. Testing Agency Qualifications: In addition to requirements specified in Division 1 Section "Quality Control," an independent testing agency shall meet OSHA criteria for accreditation of testing laboratories, Title 29, Part 1907; or shall be a full-member company of the International Electrical Testing Association.

- 1. Testing Agency's Field Supervisor: Person currently certified by the International Electrical Testing Association or the National Institute for Certification in Architecting Technologies, to supervise on-site testing specified in Part 3.

- B. Listing and Labeling: Provide wires and cables specified in this Section that are listed and labeled.

- 1. The Terms "Listed" and "Labeled": As defined in NFPA 70, Article 100.
- 2. Listing and Labeling Agency Qualifications: A "Nationally Recognized Testing Laboratory" as defined in OSHA Regulation 1910.7.

- C. Comply with NFPA 70.

1.5 DELIVERY, STORAGE, AND HANDLING

- A. Deliver wires and cables according to NEMA WC 26.

SECTION 16120 - CONDUCTORS AND CABLES

1.6 COORDINATION

- A. Coordinate layout and installation of cables with other installations.
- B. Revise locations and elevations from those indicated, as required to suit field conditions and as approved by ENGINEER.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the WORK include, but are not limited to, the following:
 - 1. Wires and Cables:
 - a. American Insulated Wire Corp.; Leviton Manufacturing Co.
 - b. Carol Cable Co., Inc.
 - c. Southwire Company.
 - d. Priority Wire & Cable.
 - 2. Connectors for Wires and Cables:
 - a. AMP Incorporated.
 - b. General Signal; O-Z/Gedney Unit.
 - c. Monogram Co.; AFC.
 - d. Square D Co.; Anderson.
 - e. 3M Company; Electrical Products Division.

2.2 WIRES AND CABLES

- A. UL-listed wires and cables with conductor material, insulation type, cable construction, and rating as specified in Part 3 "Wire and Insulation Applications" Article.
- B. Rubber Insulation Material: Comply with NEMA WC 3.
- C. Thermoplastic Insulation Material: Comply with NEMA WC 5.
- D. Cross-Linked Polyethylene Insulation Material: Comply with NEMA WC 7.
- E. Ethylene Propylene Rubber Insulation Material: Comply with NEMA WC 8.
- F. Conductor Material: Copper. Provide tinned copper in the pedestals and with type G or G-GC cable.
- G. Stranding: Solid conductor for No. 10 AWG and smaller; stranded conductor for larger than No. 10 AWG.
- H. All cables shall be type G, G-GC, or type SO cord as shown on the drawings. All type G and G-GC cable shall be UL listed and labeled for constant submersion in water. All type G cable shall have ground conductors of sufficient size to comply with the NEC table 250.122 for equipment grounding

SECTION 16120 - CONDUCTORS AND CABLES

conductors for the ampacity of the cable, i.e. a cable rated at 75 degrees for 230 amps shall have a min. no. 4 AWG ground or multiple grounds of equivalent total size. All type SO cord shall be UL listed and labeled for wet locations and contact with water.

- I. Provide other types of cables as shown on the drawing. Where a part number is provided, a substitute cable shall have the same features as the specified cable. All cables shall be UL listed for direct burial, installation in cable tray, and installation in conduit.

2.3 CONNECTORS AND SPLICES

- A. UL-listed, factory-fabricated wiring connectors of size, ampacity rating, material, type, and class for application and service indicated. Comply with Project's installation requirements and as specified in Part 3 "Wire and Insulation Applications" Article.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Examine cable tray and raceways to receive wires and cables for compliance with requirements for installation tolerances and other conditions affecting performance of wires and cables. Do not proceed with installation until unsatisfactory conditions have been corrected. Pull a mandrel through existing conduit prior to pulling wires or cables.

3.2 WIRE AND INSULATION APPLICATIONS

- A. Underground: Type RHW or XHHW, in raceway.
- B. Feeders and all exterior wiring in conduit: Type XHHW, in raceway.
- C. Float and between enclosures on the approach, bridge, and float: XHHW or Type G or G-GC cable as shown.
- D. Pedestals: Provide tinned copper conductors with an insulation rated at 600V and approved for wet locations.

3.3 INSTALLATION

- A. Install wires and cables as indicated, according to manufacturer's written instructions and NECA's "Standard of Installation."
- B. Pull Conductors: Use manufacturer-approved pulling compound or lubricant where necessary; compound used must not deteriorate conductor or insulation. Do not exceed manufacturer's recommended maximum pulling tensions and sidewall pressure values.
- C. Use pulling means, including fish tape, cable, rope, and basket-weave wire/cable grips that will not damage cables or raceway.

SECTION 16120 - CONDUCTORS AND CABLES

- D. Support cables according to Division 16 Section 16050 - Basic Electrical Materials And Methods. Support cables as shown on the drawings.
- E. Identify wires and cables according to Division 16 Section 16050 - Basic Electrical Materials And Methods.

3.4 CONNECTIONS

- A. Conductor Splices: Keep to minimum. In float circuits, the only splices shall be in the electrical service equipment, panels, or at the power pedestals, unless otherwise noted.
- B. Install splices and tapes that possess equivalent or better mechanical strength and insulation ratings than conductors being spliced. All splices in the floats shall be water-proof using either epoxy or tape that will be waterproof once the installation is complete.
- C. Use splice and tap connectors compatible with conductor material.
- D. Tighten electrical connectors and terminals according to manufacturer's published torque-tightening values. If manufacturer's torque values are not indicated, use those specified in UL 486A and UL 486B.

3.5 FIELD QUALITY CONTROL

- A. Verify all connections are properly tight. Verify no cable has been damaged. Replace any that has.

END OF SECTION

SECTION 16130 - RACEWAYS AND BOXES

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes raceways, fittings, boxes, enclosures, and cabinets for electrical wiring.
 - 1. Raceways include the following:
 - a. RMC.
 - b. RNC.
 - 2. Boxes, enclosures, and cabinets include the following:
 - a. Device boxes.
 - b. Outlet boxes.
 - c. Pull and junction boxes.
 - d. Cabinets and hinged-cover enclosures.
- B. Related Sections include the following:
 - 1. Division 16 Section 16050 - Basic Electrical Materials And Methods for raceways and box supports.

1.3 DEFINITIONS

- A. RMC: Rigid metal conduit.
- B. RNC: Rigid non-metallic conduit.

1.4 SUBMITTALS

- A. Product Data: For raceways and fittings, boxes, hinged-cover enclosures, and cabinets.

1.5 QUALITY ASSURANCE

- A. Listing and Labeling: Provide raceways and boxes specified in this Section that are listed and labeled.
 - 1. The Terms "Listed" and "Labeled": As defined in NFPA 70, Article 100.
 - 2. Listing and Labeling Agency Qualifications: A "Nationally Recognized Testing Laboratory" as defined in OSHA Regulation 1910.7.
- B. Comply with NECA's "Standard of Installation."
- C. Comply with NFPA 70.

SECTION 16130 - RACEWAYS AND BOXES

1.6 COORDINATION

- A. Coordinate layout and installation of raceways and boxes with other construction elements to ensure adequate headroom, working clearance, and access.

PART 2 - PRODUCTS

2.1 MANUFACTURER

- A. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the WORK include, but are not limited to, the following:

- 1. Metal Conduit and Tubing:
 - a. Carol Cable Co., Inc.
 - b. Grinnell Co.; Allied Tube and Conduit Div.
 - c. Monogram Co.; AFC.
 - d. Triangle PWC, Inc.
- 2. Conduit Bodies and Fittings:
 - a. American Electric; Construction Materials Group.
 - b. Crouse-Hinds; Div. of Cooper Industries.
 - c. Emerson Electric Co.; Appleton Electric Co.
 - d. Hubbell, Inc.; Killark Electric Manufacturing Co.
 - e. Lamson & Sessions; Carlon Electrical Products.
 - f. O-Z/Gedney; Unit of General Signal.
 - g. ETCO Speciality Products, Inc.
- 3. Boxes, Enclosures, and Cabinets:
 - a. Butler Manufacturing Co.; Walker Division.
 - b. Crouse-Hinds; Div. of Cooper Industries.
 - c. Hoffman Engineering Co.; Federal-Hoffman, Inc.
 - d. O-Z/Gedney; Unit of General Signal.
 - e. Robroy Industries, Inc.; Electrical Division.
 - f. Thomas & Betts Corp.

2.2 METAL CONDUIT AND TUBING

- A. Rigid Steel Conduit: ANSI C80.1.
- B. Fittings: NEMA FB 1; compatible with conduit/tubing materials. Provide malleable iron conduit bodies with galvanized coating.

2.3 NONMETALLIC CONDUIT AND TUBING

SECTION 16130 - RACEWAYS AND BOXES

- A. RNC: Schedule 40 or 80 PVC per NEMA TC 2 and applicable standards.
- B. Flexible Conduit: All flexible conduit shall be non-metallic UL listed and designed for use where abrasion, physical abuse and constant flexing are a factor. The flexible conduit shall be Anaconda Sealtite Type CNP. Other manufacturers with equal products will be considered during the submittal process. Flexible conduit shall be constructed of smooth inner thermoplastic PVC core and sunlight-resistant PVC cover. Flexible conduit shall have nylon reinforcing layer between the core and outer cover. Flexible conduit shall be assembled with approved fittings with integral stainless steel cable grips to provide a liquid tight raceway for wiring. Flexible conduit shall be UL listed and CSA certified as Type "A" non-metallic conduit with a temperature range of -4F to +140F. Flexible conduit shall be orange.

2.4 OUTLET AND DEVICE BOXES

- A. Stainless Steel, 316L.

2.5 PULL AND JUNCTION BOXES

- A. Stainless Steel, type 316L.

2.6 ENCLOSURES AND CABINETS

- A. All enclosures and cabinets: Stainless Steel type 316 unless noted otherwise.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Examine surfaces to receive raceways, boxes, enclosures, and cabinets for compliance with installation tolerances and other conditions affecting performance of raceway installation. Do not proceed with installation until unsatisfactory conditions have been corrected.

3.2 WIRING METHODS

- A. Outdoors: Use the following wiring methods:
 1. Exposed: Rigid steel.
 2. Underground: Rigid steel, Schedule 80 PVC, or as noted on the drawings. Use Rigid steel within 5 feet of structures including light bases.
 3. Connection to Vibrating Equipment (Including Transformers and Hydraulic, Pneumatic, Electric Solenoid, or Motor-Driven Equipment): Non-metallic flexible conduit. Use connectors with stainless steel integral cable grips for all flexible conduit terminations
 4. Boxes and Enclosures: NEMA 4X, stainless steel, type 316 unless noted otherwise.
 5. Fittings and Conduit Bodies: Malleable iron conduit bodies. Galvanized steel fittings.
 6. All cable grips shall be stainless steel with integral connectors for either flexible conduit or cable. Use nm washers and anticorrosion grease where cable grips contact other metals. All flexible conduit and cables shall be terminated in connector with integral cable grip.

SECTION 16130 - RACEWAYS AND BOXES

3.3 INSTALLATION

- A. Install raceways, boxes, enclosures, and cabinets as indicated, according to manufacturer's written instructions.
- B. Complete raceway installation before starting conductor installation.
- C. Support raceways as specified in Division 16 Section 16050 Basic Electrical Material And Methods.
- D. Use temporary closures to prevent foreign matter from entering raceways.
- E. Protect conduit from filling with water during construction.
- F. Make bends and offsets so ID is not reduced. Keep legs of bends in the same plane and straight legs of offsets parallel, unless otherwise indicated.
- G. Use raceway fittings compatible with raceways and suitable for use and location. For intermediate steel conduit, use threaded rigid steel conduit fittings, unless otherwise indicated.
- H. Install exposed raceways parallel to or at right angles to nearby surfaces or structural members, and follow the surface contours as much as practical.
- I. Join raceways with fittings designed and approved for the purpose and make joints tight.
 - 1. Make raceway terminations tight. Use bonding bushings or wedges at connections subject to vibration. Use bonding jumpers where joints cannot be made tight.
 - 2. Use insulating bushings to protect conductors.
- J. Tighten set screws of threadless fittings with suitable tools.
- K. Terminations: Where raceways are terminated with locknuts and bushings, align raceways to enter squarely and install locknuts with dished part against the box. Where terminations are not secure with 1 locknut, use 2 locknuts: 1 inside and 1 outside the box.
- L. Where raceways are terminated with threaded hubs, screw raceways or fittings tightly into the hub so the end bears against the wire protection shoulder. Where chase nipples are used, align raceways so the coupling is square to the box and tighten the chase nipple so no threads are exposed.
- M. Install pull wires in empty raceways. Use No. 14 AWG zinc-coated steel or monofilament plastic line with not less than 200-lb (90-kg) tensile strength. Leave at least 12 inches (300 mm) of slack at each end of the pull wire.
- N. Where cable is shown in conduit, the purpose of conduit in this project is to provide physical damage protection to the type SO and type G cable. Size the conduit so the cable can be easily installed and so good air flow can be maintained in the conduit to allow the cable to dissipate heat. Increase conduit sizes as required.
- O. All flexible conduit and cables shall be terminated in connector with integral cable grip.

SECTION 16130 - RACEWAYS AND BOXES

3.4 PROTECTION

- A. Provide final protection and maintain conditions, in a manner acceptable to manufacturer and Installer that ensure coatings, finishes, and cabinets are without damage or deterioration at the time of Substantial Completion.
 - 1. Repair damage to galvanized finishes with zinc-rich paint recommended by manufacturer.
 - 2. Repair damage to paint finishes with matching touchup coating recommended by manufacturer.

3.5 CLEANING

- A. On completion of installation, including outlet fittings and devices, inspect exposed finish. Remove burrs, dirt, and construction debris and repair damaged finish, including chips, scratches, and abrasions.

END OF SECTION

SECTION 16452 - GROUNDING

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes grounding of electrical systems and equipment and basic requirements for grounding for protection of life, equipment, circuits, and systems. Grounding requirements specified in this Section may be supplemented in other Sections of these Specifications.
- B. Related Sections: The following Sections contain requirements that relate to this Section:
 - 1. Division 16 Section 16120 – Conductors And Cables.

1.3 SUBMITTALS

- A. General: Submit each item in this Article according to the Conditions of the contract and Division 1 Specification Sections.
- B. Product Data for grounding rods, connectors and connection materials, and grounding fittings.

1.4 QUALITY ASSURANCE

- A. Comply with NFPA 70.
- B. Comply with UL 467.
- C. Listing and Labeling: Provide products specified in this Section that are listed and labeled.
 - 1. The Terms "Listed" and "Labeled": As defined in the National Electrical Code, Article 100.
 - 2. Listing and Labeling Agency Qualifications: A "Nationally Recognized Testing Laboratory" (NRTL) as defined in OSHA Regulation 1910.7.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. Available Manufacturers: Subject to compliance with requirements, manufacturers offering products that may be incorporated into the WORK include, but are not limited to, the following:
 - 1. Ideal Industries, Inc.
 - 2. Burndy
 - 3. O-Z/Gedney Co.
 - 4. Thomas & Betts, Electrical.

SECTION 16452 - GROUNDING

2.2 GROUNDING AND BONDING PRODUCTS

- A. Governing Requirements: Where types, sizes, ratings, and quantities indicated are in excess of National Electrical Code (NEC) requirements, the more stringent requirements and the greater size, rating, and quantity indications govern.

2.3 WIRE AND CABLE GROUNDING CONDUCTORS

- A. Comply with Division 16 Section 16120 – Conductors And Cables. Conform to NEC Table 8, except as otherwise indicated, for conductor properties, including stranding.
 - 1. Material: Copper. Use only copper wire.
- B. Equipment Grounding Conductors: Insulated with green color insulation.
- C. Grounding-Electrode Conductors: Stranded cable.
- D. Underground Conductors: Bare, tinned, stranded, except as otherwise indicated.
- E. Bare Copper Conductors: Conform to the following:
 - 1. Solid Conductors: ASTM B 3.

2.4 MISCELLANEOUS CONDUCTORS

- A. Grounding Bus: Bare, annealed-copper bars of rectangular cross section.
- B. Braided Bonding Jumpers: Copper tape, braided No. 30 AWG bare copper wire, terminated with copper ferrules.
- C. Bonding Straps: Soft copper, 0.05 inch (1 mm) thick and 2 inches (50 mm) wide, except as indicated.

2.5 CONNECTOR PRODUCTS

- A. Pressure Connectors: High-conductivity-plated units.
- B. Bolted Clamps: Heavy-duty type.
- C. Exothermic-Welded Connections: Provided in kit form and selected per manufacturer's written instructions for specific types, sizes, and combinations of conductors and connected items.

2.6 GROUND RODS

- A. Use copper ground rods in salt water. Provide $\frac{3}{4}$ "x10' ground rods. Use copper clad steel rods in earth.

PART 3 - EXECUTION

3.1 APPLICATION

SECTION 16452 - GROUNDING

- A. Equipment Grounding Conductors: Comply with NEC Article 250 for types, sizes, and quantities of equipment grounding conductors, except where specific types, larger sizes, or more conductors than required by NEC are indicated.
 - 1. Install equipment grounding conductor with circuit conductors for the items below in addition to those required by Code:
 - a. Feeders and branch circuits.
 - b. Lighting circuits.
 - c. Receptacle circuits.
 - 2. Nonmetallic Raceways: Install an equipment grounding conductor in nonmetallic raceways unless they are designated for telephone or data cables.
- B. Separately Derived Systems: Where NEC requires grounding, ground according to NEC Paragraph 250-26.
- C. Metal Poles Supporting Outdoor Lighting Fixtures: Ground pole to a grounding electrode in addition to separate equipment grounding conductor run with supply branch circuit.
- D. Ground neutral of all transformers. Provide a ground rod into the salt water at each transformer and ground per NEC. Connect ground at transformer to enclosure, mounting brackets, grounding conductors in all cables entering power center and ground rod. Note: UHMW is used as an insulating means in this project. Make sure all metallic components including brackets and mounting equipment is grounded.

3.2 INSTALLATION

- A. General: Ground electrical systems and equipment according to NEC requirements, except where Drawings or Specifications exceed NEC requirements.
- B. Grounding Conductors: Route along the shortest and straightest paths possible, except as otherwise indicated. Avoid obstructing access or placing conductors where they may be subjected to strain, impact, or damage.
- C. Float Structure: Ground all steel float structures to electrical grounding system. This includes the approach dock, transfer bridge, transition ramp, and other steel on the marine structures and floats. Install lugs on the steel when grounding. Repair connections with galvanizing per the ENGINEER.

3.3 CONNECTIONS

- A. General: Make connections so possibility of galvanic action or electrolysis is minimized. Select connectors, connection hardware, conductors, and connection methods so metals in direct contact will be galvanically compatible.
 - 1. Use electroplated or hot-tin-coated materials to assure high conductivity and to make contact points closer in order of galvanic series.
 - 2. Make connections with clean, bare metal at points of contact.
 - 3. Make aluminum-to-steel connections with stainless-steel separators and mechanical clamps.
 - 4. Make aluminum-to-galvanized steel connections with tin-plated copper jumpers and mechanical clamps.

SECTION 16452 - GROUNDING

5. Coat and seal connections having dissimilar metals with inert material to prevent future penetration of moisture to contact surfaces.
- B. Exothermic-Welded Connections: Use for connections to structural steel, ground rods, and for underground connections, except those at test wells. Comply with manufacturer's written instructions. Welds that are puffed up or that show convex surfaces indicating improper cleaning are not acceptable.
- C. Equipment Grounding-Wire Terminations: For No. 8 AWG and larger, use pressure-type grounding lugs. No. 10 AWG and smaller grounding conductors may be terminated with winged pressure-type connectors.
- D. Noncontact Metal Raceway Terminations: Where metallic raceways terminate at metal housings without mechanical and electrical connection to housing, terminate each conduit with a grounding bushing. Connect grounding bushings with a bare grounding conductor to grounding bus or terminal in housing. Bond electrically noncontinuous conduits at both entrances and exits with grounding bushings and bare grounding conductors, except as otherwise indicated.
- E. Tighten screws and bolts for grounding and bonding connectors and terminals according to manufacturer's published torque-tightening values. Where these requirements are not available, use those specified in UL 486A and UL 486B.
- F. Compression-Type Connections: Use hydraulic compression tools to provide correct circumferential pressure for compression connectors. Use tools and dies recommended by manufacturer of connectors. Provide embossing die code or other standard method to make a visible indication that a connector has been adequately compressed on grounding conductor.
- G. Moisture Protection: Where insulated grounding conductors are connected to grounding rods or grounding buses, insulate entire area of connection and seal against moisture penetration of insulation and cable.

END OF SECTION

Part 7
Project Permits



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Environmental
Conservation

DIVISION OF WATER
Wastewater Discharge Authorization Program

555 Cordova Street
Anchorage, Alaska 99501-2617
Main: 907.269.6285
Fax: 907.334.2415
www.dec.alaska.gov/water/wwdp

April 5, 2016

City of Unalaska
Attention: David Martinson, City Manager
P.O. Box 610
Unalaska, AK 99685

Re: City of Unalaska, Light Cargo Dock Improvements
POA-1998-979-M1, Dutch Harbor

Dear Mr. Martinson:

In accordance with Section 401 of the Federal Clean Water Act of 1977 and provisions of the Alaska Water Quality Standards, the Department of Environmental Conservation (DEC) is issuing the enclosed Certificate of Reasonable Assurance for placement of dredged and/or fill material in waters of the U.S., including wetlands and streams, associated with the improvements to the light cargo dock (LCD) in Dutch Harbor, Alaska.

DEC regulations provide that any person who disagrees with this decision may request an informal review by the Division Director in accordance with 18 AAC 15.185 or an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340. An informal review request must be delivered to the Director, Division of Water, 555 Cordova Street, Anchorage, AK 99501, within 15 days of the permit decision. Visit <http://dec.alaska.gov/commish/ReviewGuidance.htm> for information on Administrative Appeals of Department decisions.

An adjudicatory hearing request must be delivered to the Commissioner of the Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, PO Box 111800, Juneau, AK 99811-1800, within 30 days of the permit decision. If a hearing is not requested within 30 days, the right to appeal is waived.

By copy of this letter we are advising the U.S. Army Corps of Engineers of our actions and enclosing a copy of the certification for their use.

Sincerely,

Handwritten signature of James Rypkema in black ink.

James Rypkema
Program Manager, Storm Water and Wetlands

Enclosure: 401 Certificate of Reasonable Assurance

cc: (with encl.)
Jen Martin, USACE, Soldotna
Lisa Baughman, PND Engineers, Inc.

Michael Daigneault, ADF&G
USFWS Field Office, Anchorage
Heather Dean, EPA Operations, Anchorage

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CERTIFICATE OF REASONABLE ASSURANCE

In accordance with Section 401 of the Federal Clean Water Act (CWA) and the Alaska Water Quality Standards (18 AAC 70), a Certificate of Reasonable Assurance, is issued to City of Unalaska, attention: David Martinson, City Manager, at P.O. Box 610, Unalaska, Alaska 99685 for placement of dredged and/or fill material in waters of the U.S. including wetlands and streams in association with the improvements to the Light Cargo Dock (LCD) at Dutch Harbor's Unalaska Marine Center to enable more berthing space for the commercial users.

The applicant proposes to expand the existing LCD, including: 1) the removal of two existing dolphins and catwalks (six 36-inch diameter steel king piles would be removed with a vibratory hammer, with batter piles cut off at the surface and buried); 2) removal of the existing armor rock between the existing bulkheads; 3) installation of an open cell sheet pile bulkhead backfilled with 5,800 cubic yards (cy) of gravel fill into 0.11 acre of navigable waters of the U.S.; 4) installation of five 36-inch diameter steel fender piles and four 24-inch support piles with an impact hammer [with ten temporary 18-inch diameter steel piles, installed with a vibratory hammer, for support during construction activities]; and, 5) construct a 0.20 acre concrete dock surface over new fill/sheet pile/fender piles. Work would occur over, and below, the high tide line (HTL, approximate elevation +6.7' above the 0.0 foot contour) and mean high water mark (MHW, approximate elevation +3.3' above the 0.0 foot contour) of Dutch Harbor.

A state issued water quality certification is required under Section 401 because the proposed activity will be authorized by a U.S. Army Corps of Engineers permit (POA-1998-979-M1) and a discharge of pollutants to waters of the U.S. located in the State of Alaska may result from the proposed activity. Public notice of the application for this certification was given as required by 18 AAC 15.180 in the Corps Public Notice POA-1998-979-M1 posted from February 19, 2016 to March 21, 2016.

The proposed activity is located within Section 26, T. 72 S., R. 117 W., Seward Meridian; Latitude 53.9072° N., Longitude -166.5097° W.; in Unalaska, Alaska.

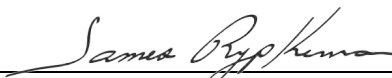
The Department of Environmental Conservation (DEC) reviewed the application and certifies that there is reasonable assurance that the proposed activity, as well as any discharge which may result, will comply with applicable provisions of Section 401 of the CWA and the Alaska Water Quality Standards, 18 AAC 70, provided that the following additional measures are adhered to.

1. Reasonable precautions and controls must be used to prevent incidental and accidental discharge of petroleum products or other hazardous substances. Fuel storage and handling activities for equipment must be sited and conducted so there is no petroleum contamination of the ground, subsurface, or surface waterbodies.

2. During construction, spill response equipment and supplies such as sorbent pads shall be available and used immediately to contain and cleanup oil, fuel, hydraulic fluid, antifreeze, or other pollutant spills. Any spill amount must be reported in accordance with Discharge Notification and Reporting Requirements (AS 46.03.755 and 18 AAC 75 Article 3). The applicant must contact by telephone the DEC Area Response Team for Central Alaska at (907) 269-3063 during work hours or 1-800-478-9300 after hours. Also, the applicant must contact by telephone the National Response Center at 1-800-424-8802.
3. Excavated or fill material, including overburden, shall be placed so that it is stable, meaning after placement the material does not show signs of excessive erosion. Indicators of excess erosion include: gullyng, head cutting, caving, block slippage, material sloughing, etc. The material must be contained with siltation best management practices (BMPs) to preclude reentry into any waters of the U.S., which includes wetlands.
4. Include the following BMPs to handle stormwater and total stormwater volume discharges as they apply to the site:
 - a. Divert stormwater from off-site around the site so that it does not flow onto the project site and cause erosion of exposed soils;
 - b. Slow down or contain stormwater that may collect and concentrate within a site and cause erosion of exposed soils;
 - c. Place velocity dissipation devices (e.g., check dams, sediment traps, or riprap) along the length of any conveyance channel to provide a non-erosive flow velocity. Also place velocity dissipation devices where discharges from the conveyance channel or structure join a water course to prevent erosion and to protect the channel embankment, outlet, adjacent stream bank slopes, and downstream waters.
5. Fill material must be clean sand, gravel or rock, free from petroleum products and toxic contaminants in toxic amounts.
6. Any disturbed ground and exposed soil not covered with fill must be stabilized and re-vegetated with endemic species, grasses, or other suitable vegetation in an appropriate manner to minimize erosion and sedimentation, so that a durable vegetative cover is established in a timely manner.

This certification expires five (5) years after the date the certification is signed. If your project is not completed by then and work under U.S Army Corps of Engineers Permit will continue, you must submit an application for renewal of this certification no later than 30 days before the expiration date (18 AAC 15.100).

Date: April 5, 2016



James Rypkema, Program Manager
Storm Water and Wetlands



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

April 20, 2016

Col. Michael Brooks
US Army Corps of Engineers, Alaska District
PO Box 6898
JBER, Alaska 99506-0898

Re: Light Cargo Dock Expansion, Dutch Harbor, POA-1998-979-M1, NMFS PCTS# AKR-2016-9544

Dear Colonel Brooks:

The National Marine Fisheries Service (NMFS) has completed informal consultation under section 7(a)(2) of the Endangered Species Act (ESA) regarding the proposed Light Cargo Dock expansion project on the Amaknak Island Spit in Dutch Harbor, Unalaska, Alaska (see Figure 1). The U.S. Army Corps of Engineers (Corps) is proposing to authorize the City of Unalaska to expand the existing Light Cargo Dock to allow users more dock space.

NMFS received your February 8, 2016, request for concurrence that the proposed action may affect, but is not likely to adversely affect, the endangered humpback whale (*Megaptera novaeangliae*), the endangered western Distinct Population Segment (DPS) of the Steller sea lion (*Eumetopias jubatus*), or Steller sea lion critical habitat. Based on our analysis of the information you provided to us and additional literature cited below, NMFS concurs with your determination. A complete administrative record of this consultation is on file in this office.

Consultation History

NMFS received the Corps' determinations of effects and designation of the City of Unalaska, as represented by PND Engineers, Inc. (PND), as the Corps' non-federal representative on February 5, 2016. On February 8, NMFS received PND's biological assessment and request for concurrence with the Corps' determination of effects. On March 31, NMFS requested additional information about the project and provided recommendations for mitigation measures. PND provided additional information about the project and NMFS's recommended mitigation measures on April 7.



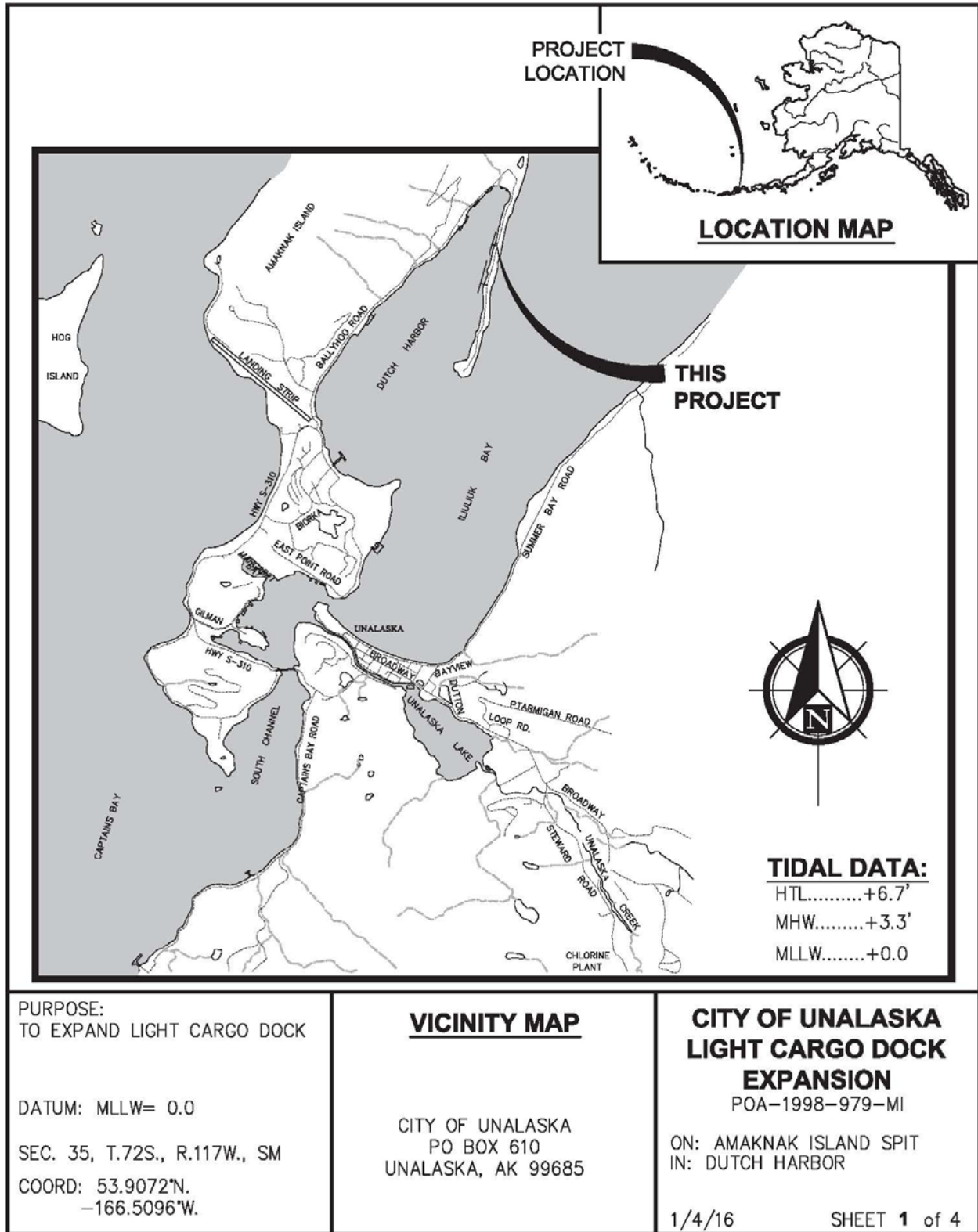


Figure 1. Project location, Amaknak Island Spit, Dutch Harbor, Unalaska, Alaska.

Description of the Proposed Action

The Corps is proposing to authorize the City of Unalaska to expand the existing Light Cargo Dock. Figure 2, below, shows the existing and proposed dock facilities. The proposed expansion will create 0.08 hectare (ha [0.2 acres (ac)]) of new dock and permanently fill 0.04 ha (0.1 ac) below high tide line.

Prior to expansion of the dock, the two existing central dolphins and catwalks will be demolished. A new sheet pile dock will be constructed between the two existing cells and the new dock surface will be paved to create more loading/unloading dock face space. The area between the existing and new cells will require deck framing and a suspended concrete slab.

During demolition, six dolphin king piles (in water) will be removed with a vibratory hammer and the batter piles (on land) will be cut off at the ground level and buried. New sheet pile will be driven with a vibratory hammer and the cell will be filled with approximately 6,652 cubic meters (m³ [8,700 cubic yards (yd³)]) of shot rock. New steel pipe piles will be driven with an impact hammer. Table 1 shows the types and amounts of piles and the methods of removal and installation proposed for the project.

Table 1. Material, size, shape, and amounts of piles and the method of removal and installation proposed for the Light Cargo Dock expansion project on Amaknak Island Spit in Dutch Harbor, Unalaska, Alaska.

Activity Type and Pile Material	Pile Shape	Size (cm)	Number	Method
Removal				
Steel	Pipe	Not provided	6	Vibratory
Installation				
Steel (temporary installation)	Pipe	46	50	Vibratory
Steel	Pipe	61	2	Impact
		91	4	Impact
	Sheet	PS31 (or similar) ¹	250	Vibratory

¹ PS31 sheet piles have a width of 0.5 m

Construction is scheduled to occur from June to October, 2016.

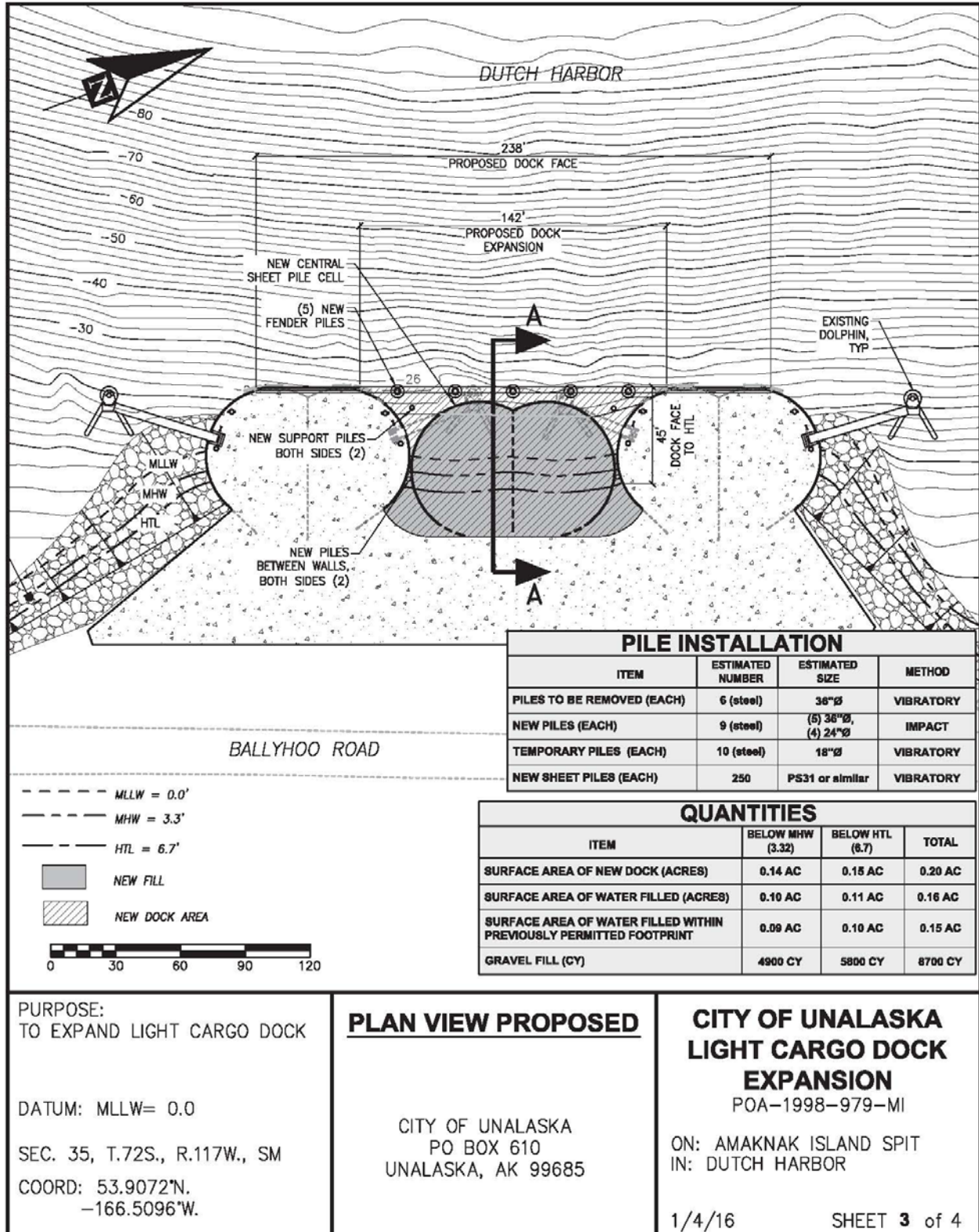


Figure 2. Existing and proposed Light Cargo Dock facilities, Dutch Harbor, Unalaska, Alaska.

Description of the Action Area

The action area is defined in the ESA regulations (50 CFR 402.02) as the area within which all direct and indirect effects of the project will occur. The action area is distinct from and larger than the project footprint because some elements of the project may affect listed species some distance from the project footprint. The action area, therefore, extends out to a point where no measurable effects from the project are expected to occur.

Since 1997 NMFS has used generic sound exposure thresholds to determine whether an activity produces underwater sounds that might result in impacts to marine mammals (70 FR 1871). NMFS is currently developing comprehensive guidance on sound levels likely to cause injury and behavioral disruption to marine mammals. However, until such guidance is available, NMFS uses the following conservative thresholds of underwater sound pressure levels,¹ expressed in root mean square² (rms), from broadband sounds that cause behavioral disturbance, and referred to as Level B harassment under section 3(18)(A)(ii) of the Marine Mammal Protection Act (MMPA):

- impulsive sound: 160 dB re 1 $\mu\text{Pa}_{\text{rms}}$
- continuous sound: 120 dB re 1 $\mu\text{Pa}_{\text{rms}}$

NMFS uses the following conservative thresholds for underwater sound pressure levels from broadband sounds that cause injury, referred to as Level A harassment under section 3(18)(A)(i) of the MMPA:

- 180 dB re 1 $\mu\text{Pa}_{\text{rms}}$ for whales
- 190 dB re 1 $\mu\text{Pa}_{\text{rms}}$ for pinnipeds (seals and sea lions)

NMFS defines the action area for this project as the area within which project-related noise levels will be at least 120 dB re 1 $\mu\text{Pa}_{\text{rms}}$ (i.e., the point where no measurable effect from the project will occur). To define the action area, we considered the diameter and type of piles, the pile-driving method, and empirical measurements of noise from similar projects to estimate the area within which marine mammals are likely to be harassed or injured by noise (see the Effects of the Action section of this letter for additional details). Received sound levels associated with vibratory pile-driving activities are anticipated to diminish to less than 120 dB re 1 $\mu\text{Pa}_{\text{rms}}$ within 2,000 m of the source. This distance represents the greatest distance from the proposed project where effects may be measured; therefore, the action area for this proposed project is defined as a 2,000-m radius around the project area. However, sound from vibratory pile-driving and removal will not reach the full 2,000-m radius into the marine environment due to the land masses surrounding Dutch Harbor.

¹ Sound pressure is the sound force per unit micropascals (μPa), where 1 pascal (Pa) is the pressure resulting from a force of one newton exerted over an area of one square meter. Sound pressure level is expressed as the ratio of a measured sound pressure and a reference level. The commonly used reference pressure level in acoustics is 1 μPa , and the units for underwater sound pressure levels are decibels (dB) re 1 μPa .

² Root mean square (rms) is the square root of the arithmetic average of the squared instantaneous pressure values.



Figure 3. Action area and exclusion zone for pile-driving and removal activities for the proposed Light Cargo Dock expansion project, Amaknak Island Spit, Dutch Harbor, Unalaska, Alaska.

Mitigation Measures

PND informed NMFS via email dated March 7, 2016, that the project would incorporate the following mitigation measures to avoid impacts to ESA-listed species:

1. A sufficient number of protected species observers (PSOs), able to accurately identify marine mammals in Alaskan waters to species, will be used to monitor the entire exclusion zone before and during all in-water construction and demolition activities.
2. The 2000-m radius exclusion zone will be marked in such a way that its entire extent (see Figure 3) will be easily observed by PSOs, such as by placement of temporary, high visibility floats or buoys (i.e., distance markers that do not require additional permitting or interfere with navigation), using easily visible landmarks (e.g., Tundra Road on the west side of Dutch Harbor), or some combination of these methods.
3. PSOs will be positioned such that the entire exclusion zone is visible to them (e.g., situated on a platform, elevated promontory, or boat).
4. PSOs will:
 - 4.1. Have the following:
 - 4.1.1. binoculars
 - 4.1.2. range finder
 - 4.1.3. GPS
 - 4.1.4. compass
 - 4.1.5. two-way radio communication with construction foreman/superintendent
 - 4.1.6. a log book of all activities which will be made available to agencies upon request
 - 4.2. Have no other primary duty than to watch for and report on events related to marine mammals.
 - 4.3. Work in shifts lasting no longer than 4 hours with at least a one hour break between shifts, and will not perform duties as an observer for more than 12 hours in a 24-hour period (to reduce observer fatigue).
 - 4.4. Scan the exclusion zone for the presence of marine mammals for 30 minutes prior to the start of pile-driving and removal activities.
 - 4.4.1. If any marine mammals are present within the zone during this time, pile-driving and removal activities will not begin until the animal(s) has left the zone of its own accord, or no marine mammals have been observed in the zone for 15 minutes (for pinnipeds) or 30 minutes (for cetaceans).
 - 4.5. Continuously scan the exclusion zone to ensure that marine mammals do not enter it throughout all pile-driving activity.
 - 4.5.1. If any marine mammals enter or appear likely to enter the exclusion zone during pile-driving or removal activities, all pile-driving and removal activity will cease immediately.
 - 4.5.1.1. Pile-driving and removal activities may resume when the animal(s) has been observed leaving the area of its own accord.
 - 4.5.1.2. If the animal(s) is not observed leaving the area, pile-driving and removal activities may begin 15 minutes (for pinnipeds) or 30 minutes (for cetaceans) after the animal is last observed in the area.
5. Once the exclusion zone has been cleared, ramp-up procedures will be applied prior to beginning pile-driving and removal activities each day and/or when pile-driving hammers have been idle for more than 30 minutes:

- 5.1. For impact pile-driving, contractors will be required to provide an initial set of three strikes from the hammer at 40 percent energy, followed by a 30-second waiting period. This procedure shall be repeated two additional times.
- 5.2. For vibratory pile-driving, the hammer will be operated for 15 seconds at reduced power (not to exceed 50 percent of full power), followed by a 1-minute waiting period. This procedure will be repeated two additional times.

In addition to measures outlined above, PND proposes to further minimize project impacts to listed species by implementing the following measures:

1. Fill placed in the tidelands will be clean blasted rock with relatively few fines to reduce impacts to turbidity and/or sedimentation.
2. Fill will be placed after the installation of the sheet piles is completed for each cell. The filled sheet piles will act as a silt curtain and contain rocks and sediment.
3. The dock will be maintained in a manner that does not introduce any pollutants or debris into the harbor or cause a migration barrier for fish.
4. Oil booms will be readily available for containment should any releases occur.
5. The contractor will check for leaks regularly on any equipment, hoses, and fuel storage that occur at the project site.
6. All chemicals and petroleum products will be properly stored to prevent spills.
7. No petroleum products, cement, chemicals, or other deleterious materials will be allowed to enter surface waters.

Listed Species and Critical Habitat

Humpback Whales

The humpback whale was listed as endangered under the Endangered Species Conservation Act (ESCA) on December 2, 1970 (35 FR 18319). Congress replaced the ESCA with the ESA in 1973, and humpback whales continued to be listed as endangered. NMFS recently conducted a global status review and proposed changing the status of humpback whales under the ESA. Under this proposal, the Western North Pacific DPS (which includes whales found in the Aleutian Islands and Bering Sea) would be listed as threatened and the Hawaii DPS (which includes whales found in southeast Alaska) and Mexico DPS (which includes whales found in the northern and western Gulf of Alaska, Aleutian Islands, and Bering Sea) would not be listed (80 FR 22304; April 21, 2015). Humpback whales in the action area may belong to the Western North Pacific DPS, the Mexico DPS, or both. Because there are no visible means to differentiate between members of the two DPSs, for purposes of this consultation NMFS assumes that any humpback whales in the action area would include animals from the Western North Pacific DPS. Information on humpback whale biology and habitat is available at:

<http://www.fisheries.noaa.gov/pr/species/mammals/whales/humpback-whale.html> and
http://www.nmfs.noaa.gov/pr/sars/2013/ak2013_humpback-wnp.pdf

Unalaska Island is situated between Unimak and Umnak Passes, important humpback whale migration routes and feeding areas. Humpback whales have been tagged in Unalaska Bay during August and September (Kennedy et al. 2014). Given the documented presence of humpback whales in Unalaska Bay, we assume humpback whales may be present during the proposed project activities.

Humpback whales produce a variety of vocalizations ranging from 0.02 to 10 kHz (Winn et al. 1970, Tyack and Whitehead 1983, Payne and Payne 1985, Silber 1986, Thompson et al. 1986, Richardson et al. 1995, Au 2000, Frazer and Mercado III 2000, Erbe 2002, Au et al. 2006, Vu et al. 2012). NMFS categorizes humpback whales in the low-frequency cetacean functional hearing group. As a group, it is estimated that low-frequency cetaceans can hear frequencies between 0.007 and 25 kHz (NOAA 2015).

Western DPS Steller Sea Lions

The Steller sea lion was listed as a threatened species under the ESA on November 26, 1990 (55 FR 49204). In 1997, NMFS reclassified Steller sea lions as two DPSs based on genetic studies and other information (62 FR 24345); at that time the eastern DPS was listed as threatened and the western DPS was listed as endangered. On November 4, 2013, the eastern DPS was removed from the endangered species list (78 FR 66139). Information on Steller sea lion biology and habitat (including critical habitat) is available at:

<http://alaskafisheries.noaa.gov/protectedresources/stellers/default.htm>

The project area is within designated Steller sea lion critical habitat (see Steller Sea Lion Critical Habitat section, below) and is located approximately 15 km from the Unalaska/Priest Rock haulout. We assume Steller sea lions may occasionally be present in Dutch Harbor for the following reasons:

1. Steller sea lions are highly mobile and have large ranges.
2. In June 2014, 105 non-pup Steller sea lions were counted at the Unalaska/Priest Rock haulout (Fritz et al. 2015), approximately 14 km (8.7 mi) from the project area.
3. Potential prey sources are seasonally present near the project area:
 - 3.1. The Iliuliuk River, a coho, pink, and sockeye salmon and Dolly Varden-bearing river, is approximately 4.1 km (2.5 mi) from the project area (ADF&G 2014).
 - 3.2. The Icicle Seafoods *Gordon Jensen* Pacific cod processing vessel docks in Dutch Harbor approximately 0.5 km (0.3 mi) from the Light Cargo Dock and several fish processing plants and fish processing outfalls are located in the small boat harbor adjacent to Dutch Harbor (ADEC 2014).

Steller Sea Lion Critical Habitat

NMFS designated critical habitat for Steller sea lions on August 27, 1993 (58 FR 45269). In Alaska, designated critical habitat includes:

1. A 37-km (23-mi) seaward buffer around all major haulouts and rookeries west of 144° W longitude;
2. A 0.9-km (0.6-mi) terrestrial, air, and aquatic zone around major haulouts and rookeries east of 144° W longitude; and
3. Three special aquatic foraging areas: the Shelikof Strait, Bogoslof, and Seguam Pass areas.

The action area is within designated Steller sea lion critical habitat surrounding two haulouts (Old Man Rocks and Unalaska/Cape Sedanka) and a rookery (Akutan/Cape Morgan). It should be noted that the Priest Rock haulout is not designated as critical habitat because it is not considered to be a major haulout. The action area is also located in the Bogoslof special aquatic foraging area.

Effects of the Action

For purposes of the ESA, “effects of the action” means the direct and indirect effects of an action on the listed species or critical habitat, together with the effects of other activities that are interrelated or interdependent with that action (50 CFR 402.02). The applicable standard to find that a proposed action is “not likely to adversely affect” listed species or critical habitat is that all of the effects of the action are expected to be insignificant, discountable, or completely beneficial. Insignificant effects relate to the size of the impact and are those that one would not be able to meaningfully measure, detect, or evaluate, and should never reach the scale where take occurs. Discountable effects are those that are extremely unlikely to occur. Beneficial effects are contemporaneous positive effects without any adverse effects to the species.

The potential effects of the proposed action on listed species and critical habitat include in-water noise and habitat alteration.

Noise

Possible impacts to marine mammals exposed to loud sounds include disturbance and injury. Disturbance can range from mild (e.g., heads-up display, increased vocalizations) to severe (e.g., abandonment of vital habitat). In-water noise is the primary concern for potential effects of this project to humpback whales and Steller sea lions. Though proposed pile-driving will introduce both continuous and impulsive sounds into the water, the activities are not expected to adversely affect this species due to the nature of the operation and its mitigation measures.

Impact pile driving is expected to be the louder of the pile-driving activities of the proposed action. Impact pile driving can generate pulsed peak (0-p) sound pressure levels of 237 dB re 1 μ Pa at 1 m at frequencies between 0.1 and 1 kHz, though it is important to note that 0-p sound pressure levels are not directly comparable to RMS sound pressure levels (Hildebrand 2009). No specifics were given regarding the size and type of piles driven or depth of water at the (Hildebrand 2009) site. Vibratory pile driving generates lower peak sound pressure levels than impact pile driving, but the total energy imparted to the pile is somewhat comparable because the vibratory hammer operates continuously and the piles require more time to install (ICF Jones & Stokes and Illingworth and Rodkin Inc. 2012).

Table 2 compares the proposed pile-driving activities at the Light Cargo Dock to pile-driving projects in other areas.

Table 2. Comparison of proposed pile-driving activities and physical characteristics in Dutch Harbor, Alaska, to pile-driving activities in other locations.

Project/Location	Pile Type	Pile Diameter (cm)	Hammer Type	Radius (m) of Area Ensonified to 160 dB re 1 $\mu\text{Pa}_{\text{rms}}$	Radius (m) of Area Ensonified to 120 dB re 1 $\mu\text{Pa}_{\text{rms}}$	Similarities to Proposed Project	Differences from Proposed Project	Reference
Proposed Project								
<i>Light Cargo Dock, Dutch Harbor, Unalaska, Alaska</i>	<i>Sheet</i>	<i>PS31</i>	<i>Vibratory</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>
	<i>Pipe</i>	<i>46</i>	<i>Vibratory</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>
		<i>61</i>	<i>Impact</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>
		<i>91</i>	<i>Impact</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>
Pile-driving Projects in Other Areas								
Port of Anchorage, Cook Inlet, Alaska	H	36	Vibratory	50	800	N/A	Smaller pile size Different pile type In a shallower body of water	URS 2007
			Impact	350	N/A			
Trinidad Pier Reconstruction, Trinidad Harbor, California	Pipe	61	Vibratory	N/A	> 840 ^a	Same pile size	Different installation type In a shallower, less protected body of water (small harbor in Pacific Ocean)	ICF Jones & Stokes and Illingworth and Rodkin Inc. 2012
Trident Support Facilities Explosive Handling Wharf, Hood Canal, Washington	Pipe	61	Vibratory	N/A	2,080 ^b 3,275 ^c	Same pile sizes and installation type	In a narrower, deeper body of water	Illingworth and Rodkin Inc. 2013
			Impact	350 ^d	N/A			
	Pipe	91	Vibratory	N/A	9,465 ^b 11,500 ^c			
			Impact	1,000 ^d	N/A			
Vashon Ferry Terminal, Puget	Pipe	76	Vibratory	N/A	1,931	N/A	Different pile size In a wider,	Laughlin 2010a, b

Project/Location	Pile Type	Pile Diameter (cm)	Hammer Type	Radius (m) of Area Ensonified to 160 dB re 1 $\mu\text{Pa}_{\text{rms}}$	Radius (m) of Area Ensonified to 120 dB re 1 $\mu\text{Pa}_{\text{rms}}$	Similarities to Proposed Project	Differences from Proposed Project	Reference
Sound, Washington							deeper body of water	
Port MacKenzie, Cook Inlet, Alaska	Pipe	91	Vibratory Impact	$\sim 60^e$ $> 1,000^e$	$> 1,000^e$ N/A	Same pile size and installation type	In a shallower body of water	Blackwell 2005
Test Pile Program, Hood Canal, Washington	Pipe	91	Vibratory Impact	N/A 425^d	$4,664^b$ $7,499^c$ N/A	Same pile size and installation type	In a narrower, deeper body of water	Illingworth and Rodkin Inc. 2013
Port of Anchorage, Cook Inlet, Alaska	Hairpin	N/A	Impact	16^f	N/A	Similar sheet piles	Different installation type for pipe piles	SFS 2009
	Pipe	91	Vibratory	N/A	559^f			
	Sheet (face wall)	N/A	Vibratory	N/A	$8,219^f$			
			Impact	$97^{f,g}$	N/A			
	Sheet (tail wall)	N/A	Vibratory	N/A	111^f			
			Impact	24^f	N/A			
Sheet (wye)	N/A	Vibratory	N/A	$1,319^f$				
		Impact	54^f	N/A				

^a Radius of area ensonified to 120 dB re 1 $\mu\text{Pa}_{\text{rms}}$ not known; however, measured sound pressure levels remained ≥ 120 dB re 1 μPa at 840 m and 0-p sound pressure level was ~ 155 dB re 1 μPa at 840 m.

^b Recorded by hydrophones in mid-water depths (between 3.7 and 13.7 m)

^c Recorded by hydrophones in deep-water depths (between 6.7 and 24.4 m)

^d A bubble curtain was used during impact pile-driving, but provided inconsistent sound attenuation, from nearly 10 dB to no apparent attenuation.

^e Blackwell 2005 did not provide estimates for the 120 or 160 dB re: 1 $\mu\text{Pa}_{\text{rms}}$ isopleths. Instead, we inferred the mean received sound pressure levels of underwater sound during

^f SFS 2009 extrapolated “worst case” distances from the maximum recorded values, assuming spreading loss of 20 log R.

^g This estimate is based on the data collected from a “deep hydrophone” placed approximately 1 m above the seafloor; however, water depth is not given.

Though Table 2 does present data from one site, in general, less information is available about the acoustic characteristics of impact and vibratory pile-driving of sheet pile as compared to driving standard piles. A vibratory hammer was used to install one visibly bent sheet pile at the Port of Anchorage (URS 2007). Measured near-source RMS sound pressure levels were similar to those for vibratory pile-driving of 36-cm (14-in) piles in the same project area, though it is not known if the bend in the sheet pile affected sound propagation. Average near-source RMS sound pressure levels recorded for sheet piles driven with both impact and vibratory hammers at the Port of Oakland, California (ICF Jones & Stokes and Illingworth and Rodkin Inc. 2012), were greater than those recorded for vibratory and impact pile-driving of 61-cm (24-in) piles and less than those recorded for vibratory and impact pile-driving of 91-cm (36-in) piles in Hood Canal, Washington (Illingworth & Rodkin Inc. 2013). It should be noted that the radius of areas ensonified to 120 and 160 dB re $1\mu\text{Pa}_{\text{rms}}$ were not measured or calculated for sheet pile-driving activities at any of these sites.

After considering the similarities and differences shown in Table 2, we determined that the area likely to be ensonified to 120 dB re $1\mu\text{Pa}_{\text{rms}}$ from vibratory hammer pile-driving of sheet piles is not greater than 2,000 m from the source. The area ensonified to 160 dB re $1\mu\text{Pa}_{\text{rms}}$ from the impact hammer pile-driving is expected to be less than 2,000 m from the source; however, because this activity is a small portion of the overall project, a separate zone was not calculated. Therefore, we have determined, based upon these previous studies, that it would be extremely unlikely for western DPS Steller sea lions or humpback whales to be exposed to continuous noise levels greater than 120 dB re $1\mu\text{Pa}_{\text{rms}}$ or impulsive noise levels greater than 160 dB re $1\mu\text{Pa}_{\text{rms}}$ if operations are shut down whenever marine mammals appear likely to approach the sound source within 2,000 m.

We do not anticipate that this project will expose western DPS Steller sea lions or humpback whales to sound pressure levels that reach Level A or B acoustic thresholds because: 1) we expect few Steller sea lions and humpback whales to be present in the area, and 2) the project incorporates monitoring and mitigation measures, including an exclusion zone, which minimizes the risk of exposure for any individual that enters it. We expect that mitigation measures would make exposure to sound levels in excess of Level A or Level B MMPA take thresholds extremely unlikely; therefore, we conclude such effects are discountable.

Habitat Alteration

The largest impact of the project on marine habitat will be the direct loss of habitat from placement of fill. Construction of the dock will result in the permanent loss of approximately 0.04 ha of marine habitat. Filling this habitat would not directly harm Steller sea lions or humpback whales because of the proposed mitigation and monitoring measures, and this work is not expected to have any measureable effects to these species. Therefore, we conclude such effects are insignificant.

The project has the potential to temporarily impact water quality and displace fish species that are prey for humpback whales and Steller sea lions by causing sedimentation from disturbance of the sea floor during pile-driving. Suspended sediment is not expected to persist in the area; therefore, this project is not expected to affect water quality or prey availability to any

measurable degree. Effects to humpback whale habitat would not be measurable; therefore, we conclude such effects are insignificant.

Steller Sea Lion Critical Habitat

NMFS identified physical and biological features essential for conservation of Steller sea lions in the final rule to designate critical habitat (58 FR 45269; August 27, 1993). Construction of the proposed project will result in the direct loss of critical habitat and may impact Steller sea lion critical habitat by causing sedimentation from disturbance of the sea floor during pile-driving. We evaluate effects to each of the essential features below.

- 1. Alaska rookeries, haulouts, and associated areas identified at 50 CFR §226.202(a), including terrestrial zones that extend 914 m (3,000 ft) landward, air zones that extend 914 m above the terrestrial zone, aquatic zones that extend 914 m seaward from each major rookery and major haulout east of 144° W longitude, and aquatic zones that extend 37 km (23 mi) seaward from each major rookery and major haulout west of 144° W longitude.*

The project will result in the direct loss of 0.04 ha of critical habitat that is located 37 km (23 mi) from the nearest rookery designated as critical habitat (i.e., Akutan/Cape Morgan) and 28 km (17 mi) from the nearest haulout designated as critical habitat (i.e., Old Man Rocks); however, the area in which the loss will occur is an industrialized port (i.e., Dutch Harbor), an area which does not currently function as high quality Steller sea lion habitat due to ongoing disturbance. It is unlikely that the loss of habitat in such an area will affect this essential feature to any measurable degree; therefore, we conclude such effects are insignificant.

The project has the potential to temporarily impact water quality by causing sedimentation from disturbance of the sea floor during pile-driving. Suspended sediment is not expected to persist in the area; therefore, this project is not expected to affect water quality to any measurable degree. Therefore, we conclude such effects are insignificant.

- 2. Three special aquatic foraging areas: the Shelikof Strait area, the Bogoslof area, and the Segum Pass area, as specified at 50 CFR §226.202(a).*

The project is located in the Bogoslof special aquatic foraging area. The project has the potential to temporarily impact water quality and displace fish species that are prey for Steller sea lions by causing sedimentation from disturbance of the sea floor during pile-driving. Suspended sediment is not expected to persist in the area; therefore, this project is not expected to affect water quality or prey availability to any measurable degree. Effects to this essential feature would not be measurable; therefore, we conclude such effects are insignificant.

Conclusion

Based on this analysis, NMFS concurs with your determination that the proposed action may affect, but is not likely to adversely affect, humpback whales, western DPS Steller sea lions, or Steller sea lion critical habitat.

As discussed in the Effects of the Action section of this letter, data are lacking on the underwater acoustic characteristics of sheet pile driving. Given the number of sheet pile driving projects

occurring in and around the Dutch Harbor area, NMFS encourages PND to perform sound source measurements during proposed project activities. If such measurements are made, NMFS requests the information be made available to us so the results may be considered during future consultations involving sheet pile driving.

Reinitiation of consultation is required where discretionary federal involvement or control over the action has been retained or is authorized by law and if (1) take of listed species occurs, (2) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered, (3) the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this concurrence letter, or (4) a new species is listed or critical habitat designated that may be affected by the identified action (50 CFR 402.16).

Please direct any questions regarding this letter to Bridget Crokus at bridget.crokus@noaa.gov or (907) 271-1937.

Sincerely,

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Administrator, Alaska Region

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United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE
Anchorage Fish and Wildlife Field Office
4700 BLM Road
Anchorage, Alaska 99507



IN REPLY REFER TO:
FWS/AFES/AFWFO

April 5, 2016

EMAILED TO:

Ms. Jen Martin
U.S. Army Corps of Engineers
Alaska District
44669 Sterling Highway, Suite B
Soldotna, Alaska 99669

Subject: Unalaska Light Cargo Dock Expansion (*Consultation* #07CAAN00-2016-I-0068)

Dear Ms. Martin:

Thank you for requesting section 7 consultation with the U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq., as amended; ESA). The City of Unalaska applied for a U.S. Army Corps of Engineers (USACE) permit to expand the Light Cargo Dock within Dutch Harbor on the Amaknak Island Spit, Alaska. On March 9, 2016, the USACE requested concurrence from the Service on the USACE's determination that the expansion of the Light Cargo Dock may affect, but is not likely to adversely affect the threatened Steller's eider (*Polysticta stelleri*), endangered short-tailed albatross (*Phoebastria albatrus*), or the threatened Southwest Distinct Population Segment of the northern sea otter (*Enhydra lutris kenyoni*; hereafter referred to as sea otter) and its federally designated critical habitat.

The proposed project would expand the existing Light Cargo Dock within Dutch Harbor. The project includes removal of two existing piles with a vibratory hammer, installation of an open cell sheet pile bulkhead, installation of five 36-inch diameter steel fender piles and four 14-inch support piles with an impact hammer. Work is proposed to take place June through October.

The federally threatened, Alaska breeding population of Steller's eider may occur in the project area between November 1 and April 30. Most Steller's eiders molt in several lagoons on the north side of the Alaska Peninsula and along the western Alaskan coast. After molting most Steller's eiders disperse to coastal waters of the eastern Aleutian Islands, southern Alaska Peninsula, Kodiak Archipelago, and southern Cook Inlet where they mix with the Russian breeding population.

Short-tailed albatross have been documented offshore, but not within or near the project area. Short-tailed albatross are continental shelf specialists, closely associated with the shelf-edge habitat throughout the northern Gulf of Alaska and Bering Sea (Piatt et al. 2006). Juveniles can be found offshore of the Aleutian Islands year round, while adults are present during summer and fall. However, they are rarely found in the near shore environment. The closest documented short-tailed albatross was 6 nautical miles from the project area.

Sea otters may also occur within the project area; additionally, the in-water project footprint is within the sea otter's designated critical habitat. Sea otters typically occur in nearshore coastal waters generally less than 131 feet in depth and 0.62 to 1.24 miles from shore (Green and Brueggeman 1991). Sea otters primarily eat benthic invertebrates including sea urchins, crabs, octopus, mussels, and some bottom fishes in rocky substrates and clams in soft substrates. They require cover and shelter from marine predators, especially killer whales. Sea otters also seek shelter in bays, inlets, or lees during high winds (Kenyon 1969). Biological functions that occur at the water surface include communication, thermoregulation, and reproduction (Ghoul and Reichmuth 2014).

While sea otters spend most of the time above the surface of the water, they dive to forage. Animals can be permanently or temporarily harmed by noise, depending on the intensity and duration. Permanent harm could occur if the hearing ability of the animal is impaired. Temporary harm could occur if there is increased stress, reduced foraging efficiency, or temporary abandonment of habitat and subsequent increased probability of predation.

Both Steller's eiders and sea otters may be affected by noise from pile driving, heavy machinery, and other construction related disturbances. Degraded water quality due to sedimentation and petroleum hydrocarbon runoff from construction activities could impact prey for sea otters and Steller's eiders. Dutch Harbor is an extremely active harbor with high levels of ambient noise. Sea otters and Steller's eiders within the project area are habituated to a noisy harbor. However, pile driving creates an intense loud noise above the current noise levels that could cause hearing damage or harassment of listed species.

The following measures have been proposed by the action agency, and will be implemented during construction:

1. To avoid harmful disturbance to sea otters and Steller's eiders, marine wildlife observation areas with radii varying by activity and equipment will be implemented during in-water work. Marine wildlife monitoring will follow this protocol:
 - The wildlife observer must be able to identify the sea otters and be equipped with binoculars, range finder, two-way radio communication with construction foreman or superintendent, and log book
 - If an individual sea otter comes within the designated marine wildlife observation area, all in-water work will be halted immediately; work may resume when the animal moves outside the observation area on its own accord

- The observer will have the authority to stop construction if a sea otter is observed within the observation area
- The observer's sole duty will be to watch for and report on events related to sea otter
- The wildlife observer will work in shifts lasting no longer than 4 hours with at least a 1 hour break between shifts to reduce observer fatigue; work will either cease during the break or two observers will be employed to maintain continuous work, the contractor may decide which method to use

The project site is within an existing harbor. The sea floor in the project site is composed of gravel, shell litter, coarse sand, and silt. Observer protocols will be implemented to reduce potential disturbance to sea otters, and the project will occur when Steller's eiders are not present in the project area. Additionally, short-tailed albatross are not near shore visitors, and therefore are not expected to be in the project area. Based on the existing site conditions, the low probability of species presence, and the proposed avoidance measures, the Service concurs with your determination that this proposed activity may affect, but is not likely to adversely affect the Steller's eider, short-tailed albatross, or the sea otter and its federally designated critical habitat.

Requirements of section 7 of the ESA have been satisfied. However, if new information reveals project impacts that may affect listed species or critical habitat in a manner or to an extent not previously considered, or if this action is subsequently modified in a manner which was not considered in this assessment, or if a new species is listed or critical habitat designated that may be affected by the proposed action, section 7 consultation must be reinitiated.

This letter relates only to federally listed or proposed species and/or designated or proposed critical habitat under the jurisdiction of the Service. It does not address species under the jurisdiction of National Marine Fisheries Service, or other legislation or responsibilities under the Fish and Wildlife Coordination Act, Migratory Bird Treaty Act, Marine Mammal Protection Act, Clean Water Act, National Environmental Policy Act, or Bald and Golden Eagle Protection Act.

The Service appreciates your cooperation in meeting our joint responsibilities under the ESA. If you have any questions, please contact Ms. Erin Knoll at (907) 271-3063 or erin_knoll@fws.gov.

Sincerely,

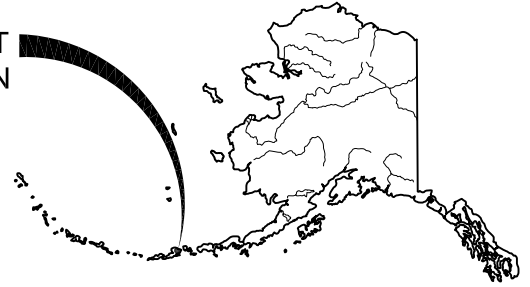


Douglass M. Cooper
Ecological Services Branch Chief

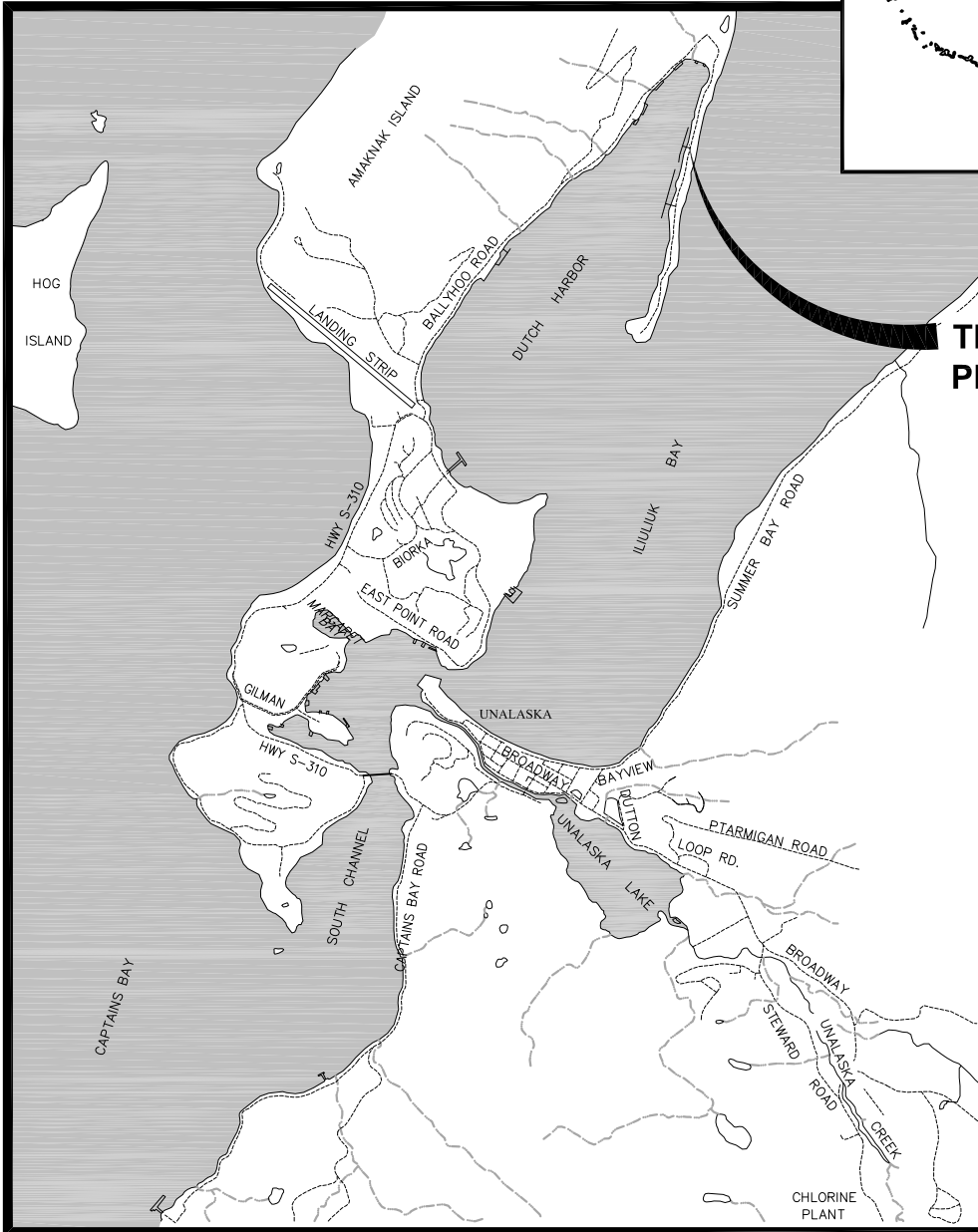
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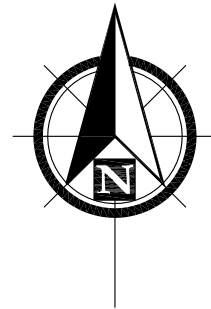
PROJECT
LOCATION



LOCATION MAP



**THIS
PROJECT**



TIDAL DATA:

HTL.....+6.7'
MHW.....+3.3'
MLLW.....+0.0

PURPOSE:
TO EXPAND LIGHT CARGO DOCK

DATUM: MLLW= 0.0

SEC. 35, T.72S., R.117W., SM

COORD: 53.9072°N.
-166.5096°W.

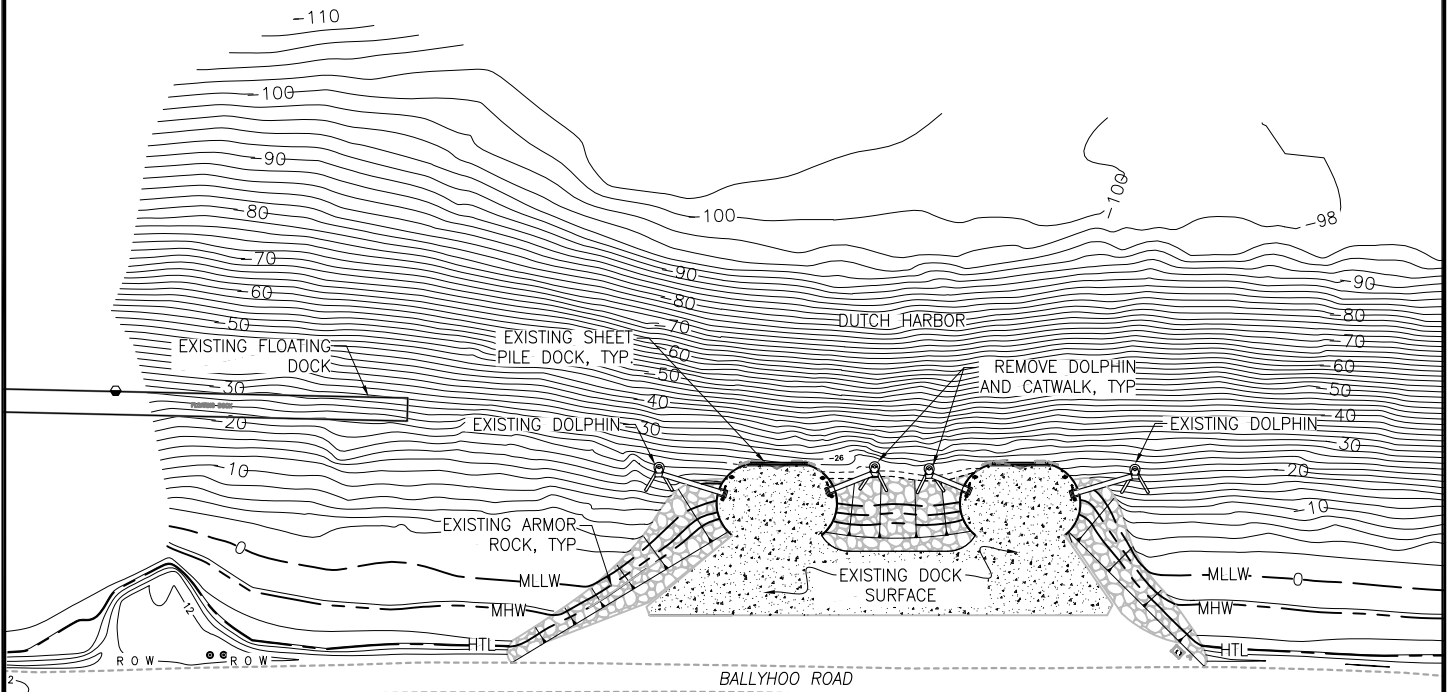
VICINITY MAP

CITY OF UNALASKA
PO BOX 610
UNALASKA, AK 99685

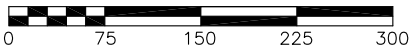
**CITY OF UNALASKA
LIGHT CARGO DOCK
EXPANSION**

POA-1998-979-MI

ON: AMAKNAK ISLAND SPIT
IN: DUTCH HARBOR



- - - - - MLLW = 0.0'
 - - - - - MHW = 3.3'
 - - - - - HTL = 6.7'



PURPOSE:
TO EXPAND LIGHT CARGO DOCK

DATUM: MLLW = 0.0

SEC. 35, T.72S., R.117W., SM

COORD: 53.9072°N.
-166.5096°W.

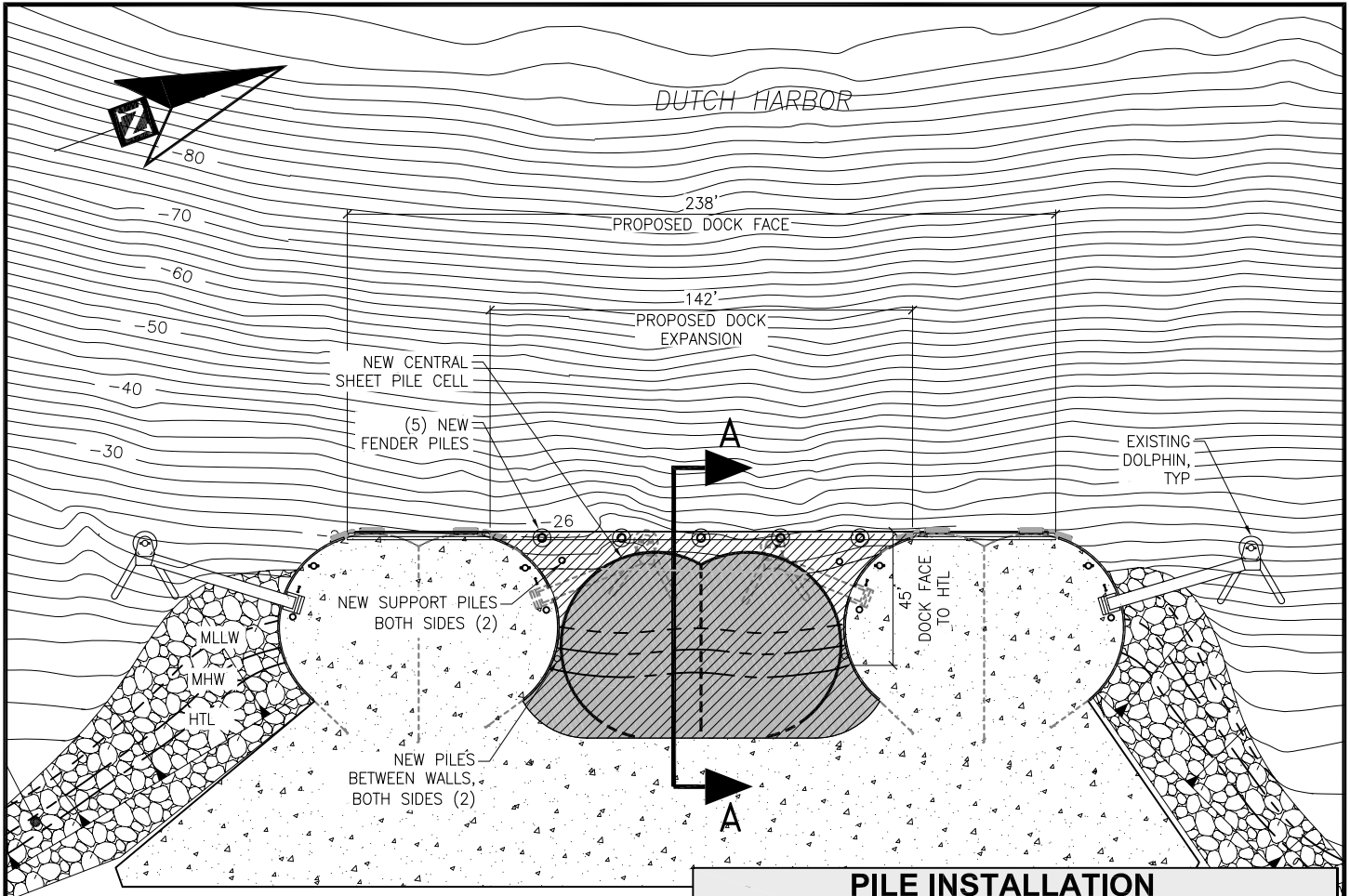
PLAN VIEW EXISTING

CITY OF UNALASKA
PO BOX 610
UNALASKA, AK 99685

**CITY OF UNALASKA
LIGHT CARGO DOCK
EXPANSION**

POA-1998-979-MI

ON: AMAKNAK ISLAND SPIT
IN: DUTCH HARBOR



PILE INSTALLATION			
ITEM	ESTIMATED NUMBER	ESTIMATED SIZE	METHOD
PILES TO BE REMOVED (EACH)	6 (steel)	36"Ø	VIBRATORY
NEW PILES (EACH)	9 (steel)	(5) 36"Ø, (4) 24"Ø	IMPACT
TEMPORARY PILES (EACH)	10 (steel)	18"Ø	VIBRATORY
NEW SHEET PILES (EACH)	250	PS31 or similar	VIBRATORY

QUANTITIES			
ITEM	BELOW MHW (3.32)	BELOW HTL (6.7)	TOTAL
SURFACE AREA OF NEW DOCK (ACRES)	0.14 AC	0.15 AC	0.20 AC
SURFACE AREA OF WATER FILLED (ACRES)	0.10 AC	0.11 AC	0.16 AC
SURFACE AREA OF WATER FILLED WITHIN PREVIOUSLY PERMITTED FOOTPRINT	0.09 AC	0.10 AC	0.15 AC
GRAVEL FILL (CY)	4900 CY	5800 CY	8700 CY

PURPOSE:
TO EXPAND LIGHT CARGO DOCK

DATUM: MLLW= 0.0

SEC. 35, T.72S., R.117W., SM

COORD: 53.9072°N.
-166.5096°W.

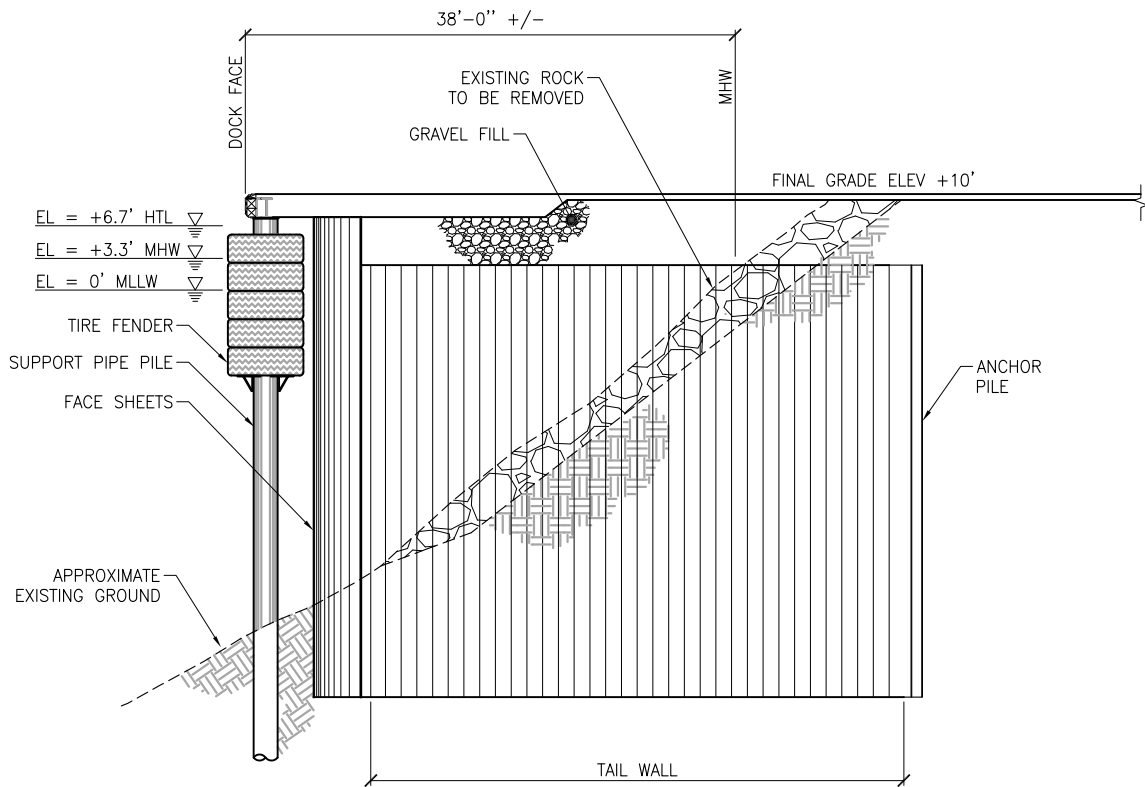
PLAN VIEW PROPOSED

CITY OF UNALASKA
PO BOX 610
UNALASKA, AK 99685

CITY OF UNALASKA LIGHT CARGO DOCK EXPANSION

POA-1998-979-MI

ON: AMAKNAK ISLAND SPIT
IN: DUTCH HARBOR



SECTION A-A
NTS

PURPOSE:
TO EXPAND LIGHT CARGO DOCK

DATUM: MLLW= 0.0

SEC. 35, T.72S., R.117W., SM

COORD: 53.9072°N.
-166.5096°W.

TYPICAL SECTION
SHEET PILE FILL

CITY OF UNALASKA
PO BOX 610
UNALASKA, AK 99685

CITY OF UNALASKA
LIGHT CARGO DOCK
EXPANSION

POA-1998-979-MI

ON: AMAKNAK ISLAND SPIT
IN: DUTCH HARBOR

1/4/16

SHEET **4** of 4

Part 8 – DRAWINGS

Project Design Drawings:

LIGHT CARGO DOCK EXPANSION

SHEET No.	REV No.	TITLE
1	0	COVER SHEET & INDEX
2	0	PLAN OVERVIEW, DEMOLITION, AND SURVEY CONTROL
3	0	SITE PLAN
4	0	GRADING PLAN
5	0	SHEET PILE LAYOUT PLAN & ELEVATIONS
6	0	SLAB PLAN
7	0	DOCK SECTIONS
8	0	DOCK SECTIONS
9	0	DOCK DETAILS
10	0	DOCK DETAILS
11	0	UTILITY PLAN
12	0	UTILITY DETAILS
13	0	UTILITY DETAILS
14	0	VIBRACOMPACTION DETAILS
15	0	GENERAL NOTES
16	0	GENERAL NOTES
17	0	GENERAL NOTES
18	0	GENERAL NOTES
19	0	GENERAL NOTES
E1	0	ELECTRICAL DEMOLITION SITE PLAN
E2	0	NEW LIGHTING ORIENTATION – SITE PLAN
E3	0	HANDHOLD DETAILS