



POSSIBLE MOTION

I MOVE TO authorize the Municipal Administrator to
execute the Alaska Clean Water Action
2012 Grant Agreement.

MEMORANDUM

To: Mayor Westover and Assembly Members
Jim Dinley, Municipal Administrator

From: Michael Harmon, Public Works Director 
Stephen Weatherman, Municipal Engineer 

Reviewed: Jay Sweeney, Finance Director
Tammy O'Neill, Contract Coordinator

Date: October 5th, 2011

Subject: **Storm Water Master Plan Grant**
Alaska Clean Water Action (ACWA) 2012 Grant

Background

The City and Borough of Sitka (CBS) currently does not have a stormwater master plan, management, and mapping program. The existing storm water flow facilities are not organized or documented in any manner. In some cases there are no plans for the facilities and only the CBS road crews know their locations. The expected flow rate from upstream areas has not been evaluated based on engineering methods but by "Rule of Thumb" estimates or minimum pipe size. This has resulted in storm water flow problems and little information to guide developers or home owners.

To address this issue CBS Public Works applied for a Grant to the State of Alaska Department of Environmental Conservation in the 2012 grant cycle. The grant application included a two year program. The first year included collecting data and creation of a GIS database. The second year will evaluate the overall hydrology basins of Sitka and Develop a Storm Water Master Plan.

Analysis

This project will develop and implement a stormwater master plan, management, and mapping program that will map and inventory existing stormwater facilities, identify existing discharges, identify inadequate storm drains, identify management measures to reduce polluted stormwater runoff and determine various maintenance, repair, and design alternatives to maximize the capabilities of the stormwater system. It would also consist of defining and mapping existing drainage basins, development of a design storm event to use for the CBS area, and hydrologic modeling to estimate stormwater runoff quantities.

This is a two year project in which the FY12 project will focus on: 1) collecting data/information for mapping existing stormwater infrastructure and record condition of existing facilities (pipes, catch basins, manholes, outlets, etc. and 2) note areas for maintenance and/or repair.

The second year FY13 has not been funded from ACWA at this time.

The project will include obtaining the services of a consultant using an Request For Proposal process to collect, organize and develop a GIS data base of the stormwater facilities supported by CBS personal who know the existing facilities locations.

Fiscal Note

The ACWA grant is for \$ 24,000 and the CBS match (\$16,000) for the grant is included in Contracted/Purchased Services in the 2012 Engineering Budget.

Recommendation:

Authorize the Administrator to execute the ACWA 2012 Grant Agreement.



SFY 2012 ACWA GRANT AGREEMENT

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Division of Water

Project Title **Stormwater Master Plan and Management Guidelines** Grant Number **12-03**

This grant is between the State of Alaska,

Department of Environmental Conservation (DEC)

and,

Organization

Grantee Project Manager

City and Borough of Sitka

hereafter the Grantee

Stephen Weatherman

Mailing Address

City

State

Zip

Phone

Fax

100 Lincoln Street

Sitka

AK

99835

(907) 747-4042

DEC Collocation Code

DEC Encumbrance Number

Vendor Number

205(j)

CIS02030

Agreement: The Grantee shall perform all the work required by this agreement. This agreement consists of this page and the following:

Appendix A Work plan
Budget
Budget Narrative

Appendix C General Provisions

Appendix D Indemnity and Insurance

Appendix B Project Management
Reporting Requirements
Reporting Forms
Payment Plan

Amendments - Any fully executed amendments to this agreement

Period of Performance:

The work to be performed under this agreement begins **October 1, 2011** and shall be completed no later than **June 30, 2012**

Compensation and Match Requirements:

The Department shall pay the Grantee for the performance of the project work under the terms outlined in this agreement.

The amount of the payment is based upon project expenses incurred which are authorized under this agreement.

In no event shall the payment exceed **\$ 24,000**

In order to perform the full scope of services as described in the work plan, matching funds of **\$15,990**

will be required.

Federal Agency & Program/CFDA No/Federal Fund Amount.

EPA SEC. 205(j) /CFDA 66.454/\$24,000

GRANTEE		GRANTING AGENCY	
Certification: The signature of the Authorized Representative for the Grantee indicates acceptance of all the terms and conditions set out in this grant agreement, including all the requirements of state and federal law.		DEC Contacts Project Manager: Brock Tabor (907) 465-5023 Grants Administrator: Marcie Fader (907) 269-7576	
		DEC DIVISION OF WATER	
Signature of Authorized Representative	Date	Authorized Signature	Date
Printed Name of Authorized Representative Jim Dinley		Printed Name Michelle Bonnet	Title Director
Title Administrator	Employer ID No. 92-0041163	DEC DIVISION OF ADMINISTRATIVE SERVICES	
		Authorized Signature	Date
DUNS Number (9-digit) 063-373-831		Printed Name Joanna McDowell	Title Finance Officer

This agreement takes effect upon Department's signature but not before the period of performance start up date.

APPENDIX A

Scope of Services

The scope of services is fully described in the attached workplan, budget and budget narrative.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION ALASKA CLEAN WATER ACTION (ACWA) GRANT SFY 2012 WORK PLAN

PROJECT #: ACWA-12-03

PROJECT TITLE: Stormwater Master Plan and Management Guidelines

GRANT AMOUNT: \$24,000

MATCH AMOUNT: \$15,990

GRANT AGREEMENT PERFORMANCE PERIOD: October 1, 2011 – June 30, 2012

Description and Purpose: The City and Borough of Sitka (CBS) currently does not have a stormwater master plan, management, and mapping program. This project will develop and implement a stormwater master plan, management, and mapping program that will map and inventory existing stormwater facilities, identify existing discharges, identify inadequate storm drains, identify management measures to reduce polluted stormwater runoff and determine various maintenance, repair, and design alternatives to maximize the capabilities of the stormwater system. It would also consist of defining and mapping existing drainage basins, development of a design storm event to use for the CBS area, and hydrologic modeling to estimate stormwater runoff quantities.

This is a two year proposal in which the FY12 project will focus on: 1) collecting data/information for mapping existing stormwater infrastructure and record condition of existing facilities (pipes, catch basins, manholes, outlets, etc. and 2) note areas for maintenance and/or repair.

The FY13 project will use the data collected from the previous year and focus on: 1) defining and mapping existing drainage basins based upon the latest topography for the CBS area; 2) develop a reasonable design storm event for the CBS area, provide hydrologic modeling for the basins defined in task 1, and estimate stormwater runoff quantities based upon various intensity rainfall events; 3) evaluate and analyze features of the existing stormwater drainage system, identify components that are inadequate or undersized based on the design storm event developed in task 2, and determine various maintenance, repair, and design alternatives to maximize the capabilities of the stormwater system at the lowest cost; and 4) develop a final report that includes recommendations for future stormwater projects for each individual drainage basin defined in task 1.

Reporting Requirements:

- **Quarterly Reports:** The quarterly progress, financial, and MBE/WBE reports are due 10 days after the end of each quarter for the periods ending **December 31, 2011**, and **March 31, 2012**. The final financial and MBE/WBE reports are due 15 days after the end of the grant completion date, **June 30, 2012**. All final reports and deliverables are due **July 31, 2012**, and are considered late after that date. All reports will be submitted in written and electronic formats requested by DEC.

- **Monitoring Data Entry:** In addition to a written project report, any water quality monitoring data collected by the project will be provided to the Department in accordance with the guidance and templates provided at: http://dec.alaska.gov/water/wqsar/awq_data_info.htm. The guidance and templates show the layout required for STORET compatible files and detail the valid values for various fields used in STORET (e.g. characteristics, analytic procedures, HUCs, etc). The data will be provided to the Department electronically via email, CD, diskette, or via a File Transfer Protocol (FTP) website. All data collected by Dec. 31, 2011 will be furnished to the Department by March 31, 2012, and all data collected by the project will be furnished to the Department by July 31, 2012.
- **Project Photographs:** At least 3 electronic photograph(s) of the project will be submitted in a format suitable for publishing. Additional project photos are appreciated. These photos will represent all of the following: the problem the project addresses, the project in progress, and the environmental benefit of the project. At least one of these photos must be submitted with the first quarterly report; the remainder will be submitted with the final report or sooner if available. Each photo will be at least 800 x 600 pixels in size and in JPEG format or other format acceptable to the department. Included will be background information on what the photo represents and when and where it was taken. If possible, the information will be in the photo's file name, such as "Fish_Ck_samplesite1_iron_floc_10162012". Alternatively, it may be provided with a caption that states the date, location, and describes the subject: for example "MCV-023X.JPG. Taken 10-16-2012, Ditch along south side of Alaska Highway that empties into Fish Creek: Note channelization."
- **Final Report Evaluating Project Accomplishments and Benefits:**
A final report will be produced that evaluates and describes the project accomplishments and their environmental benefit. These environmental benefits will be determined by:
 - Collection and development of background material needed for updating the current Geographic Information System (GIS) system and capacity for managing stormwater infrastructure;
 - A report that references the condition of existing stream buffers;
 - Information on the location and condition of stormwater mitigation infrastructure.
- **Deliverables:** (at least 1 electronic and 3 hard copies of each)
In addition to submitting the information identified in the reporting requirements, the following products will be delivered to the Department. All written products will be submitted to the Department in both hard copy and electronic format.
 1. **Updated Geodatabase:** Includes georeferenced existing stormwater infrastructure including for all:
 - Existing facilities (pipes, catch basins, manholes, outlets, etc),
 - Stream buffer width and condition
 - Stormwater Best Management Practices (BMP) infrastructure (swales, retention ponds, etc)
 2. **Quarterly Reports:** Due no later than January 10, 2012; April 10, 2012; and July 15, 2012; and must include:

First Quarter (Due January 10, 2012)

 - Progress reports (in the format provided by the DEC Project Manager)
 - Data from all sampling to date, in the formatted excel template provided by DEC (task 1)

- Quarterly Financial Report excel spreadsheets (plus any supplementary materials)
- MBE-WBE forms

Second Quarter (Due April 10, 2012)

- Progress report (in the format provided by the DEC Project Manager)
- Data from all sampling to date, in the formatted excel template provided by DEC (task 1)
- Quarterly Financial Report excel Spreadsheets (plus any supplementary materials)
- MBE-WBE forms

Third Quarter (Due July 15, 2012)

- Progress report (in the format provided by the DEC Project Manager)
- Draft of final report that details findings and all deliverables for DEC review.
- Quarterly Financial Report excel spreadsheets (plus any supplementary materials)
- MBE-WBE forms

3. **Final Report:** Following DEC review, prepare final report. (July 31, 2012)

Grantee Project Manager:

Stephen Weatherman, P.E.
Municipal Engineer
City & Borough of Sitka
100 Lincoln St
Sitka, AK 99835
Ph: (907) 747-4042; Fax (907) 747-3158
Stephen@cityofsitka.com

DEC Grantee Project Manager:

Brock Tabor, Environ Program Spec III
Dept of Environmental Conservation
410 Willoughby Ave
Juneau, AK 99801
Ph: (907) 465-5023; Fax (907) 465-5274
Brock.tabor@alaska.gov

**Stormwater Master Plan and Management Guidelines
12-03**

PROJECT TASKS

OBJECTIVE 1: Develop and implement a stormwater master plan, management, and mapping program

TASK 1: Collect data/information for mapping existing stormwater infrastructure including Global Positioning System (GPS) locations for all existing facilities (pipes, catch basins, manholes, outlets, etc), input data into Geographic Information System (GIS) system, record condition of existing facilities, and note areas for maintenance and/or repair.

Start and end date: October 1, 2011 – June 30, 2012

Description: CBS and its consulting firm will both contribute to gathering field data, photographs, as built plans, and locating existing stormwater facilities with GPS equipment.

Product: Updated GIS system

OBJECTIVE 2: Reporting Requirements

TASK 1: Quarterly Reports

Start and end date: October 1, 2011 – June 30, 2012

Description: Quarterly progress, financial, and MBE/WBE reports will be submitted for the periods ending December 31, 2011 and March 31, 2012. Reports are due 10 days after the final date of the quarter and are considered late if received more than 10 days after these dates.

Deliverable:

First Quarter (Due January 10, 2012)

- Progress reports (in the format provided by the DEC Project Manager)
- Quarterly Financial Report excel spreadsheets (plus any supplementary materials)
- MBE-WBE forms

Second Quarter (Due April 10, 2012)

- Progress report (in the format provided by the DEC Project Manager)
- Quarterly Financial Report excel spreadsheets (plus any supplementary materials)
- MBE-WBE forms

Third Quarter (Due July 15, 2012)

- Quarterly Financial Report excel spreadsheets (plus any supplementary materials)
- MBE-WBE forms

TASK 2: Final Report

Start and end date: June 1, 2012 – June 30, 2012

Description: A final progress report and all required deliverables are due July 31, 2012, and are considered late if received after that date. All reports will be submitted in written and electronic formats requested by the DEC. A final report will be produced that evaluates and describes the project accomplishments and their environmental benefit. These environmental benefits will be determined by the extent to which the grantee completed all tasks described in this workplan.

Product: An updated GIS system with geodatabase of georeferenced existing stormwater infrastructure, condition, and potential areas of improvement.

LINE ITEM BUDGET

Cost Category	Grant Amount	Non-Federal Match	Total
Salaries/ Benefits		\$5,990	\$5,990
Travel			
Equipment/Freight			
Materials/Supplies			
Contractual	\$24,000	\$10,000	\$34,000
Insurance			
Other			
Administration/ Indirect			
Total:	\$24,000	\$15,990	\$39,990

BUDGET NARRATIVE

Grant Funds

Salaries/Benefits:	
Travel:	
Equipment/Freight:	
Materials/Supplies:	
Contractual:	Includes a portion of the estimated consultant costs for completing task 1. Consultant rate is estimated at \$150/hour (two-man crew) for 20 days (8 hour days).
Insurance	
Other:	
Admin/Indirect:	

Non-Federal Match

Salaries/Benefits:	City and Borough of Sitka, Project Manager – 20 hours x \$70.69 (salary and benefits) – Stephen Weatherman: oversees entire project and
---------------------------	---

	<p>reporting \$1,414</p> <p>CBS Senior Engineer – 12 hours x \$72.13 (salary and benefits)(Lance Henrie: reviews and project coordination) \$865</p> <p>CBS Contract Coordinator – 24 hours x \$46.37 (salary and benefits)(Tamara O’neill: prepare and process contract documents) \$1,113</p> <p>CBS Engineering Intern – 200 hours x \$12.99 (salary and benefits) \$2,598</p> <p>Approximate Total Match Salaries: \$5,990</p>
Travel:	
Equipment/Freight:	
Materials/Supplies:	
Contractual:	<p>Includes estimated consultant costs to record condition of existing facilities. Consultant rate is estimated at \$125/hour for 80 hours.</p> <p>Total Match Contractual: \$10,000</p>
Insurance:	
Other:	
Admin/Indirect:	

APPENDIX B

1. Project management

Availability of funding from July 1, 2011 to June 30, 2012 is contingent upon approval of grant money from the Environmental Protection Agency and Legislative appropriation of funds. **No expenditures incurred after June 30, 2012 are authorized under this grant.**

This project will be managed by the **City and Borough of Sitka** with signatory authority for execution of the grant agreement, subsequent amendments and financial/progress reports granted to the **DEC Project Manager**. Delegation of signatory authority and changes in the authorized representative must be received in writing and approved by the Department.

The Grantee will acknowledge DEC funding for all reports, brochures, videos, maps, and outreach materials produced by grant funds with a statement such as the following: "Paid for (in part) by an Alaska Clean Water Actions (ACWA) grant from the Department of Environmental Conservation".

The Grantee must notify the DEC Project Manager regarding of any press releases or public announcements prior to publication or dissemination that describe or are otherwise related to the grant project. If DEC objects to any provision of a press release or public announcement under this section, it shall notify the Grantee within twenty four (24) hours of receiving the notification described herein, and shall work diligently and in good faith with the Grantee to develop mutually agreeable language prior to the planned publication or dissemination. The Grantee will not conduct a press release or public announcement or will strike language that refers to the grant project, if agreement cannot be reached.

The Grantee must notify the DEC Project Manager via email within the same day of any questions from the media and describe the responses if questions are in relation to the grant project, but are not part of a planned public event or other outreach described in the approved workplan. For some grant projects, the DEC Project Manager may also respond to the inquiries or may direct the Grantee to refer questions regarding the grant project to the Department.

The Grantee will notify DEC immediately of any significant organization changes during the term of the grant, including changes in key personnel or tax status, and any unforeseen problem or project delay that may cause a change to the work plan or budget. Any unreported or unapproved changes to the work plan or budget evident in reports may result in an amendment being required, costs disallowed, suspension or termination of the grant as described in Appendix C.

A Quality Assurance/Quality Control Plan (QAPP) must be submitted and approved by DEC for all projects prior to collecting environmental monitoring data.

2. Reporting requirements

The Grantee agrees to provide quarterly status reports to the Department for the period ending **December 31, 2011; March 31, 2012** and a final report for the period ending **June 30, 2012**. These reports must update the Department on project progress, grant funds and match expenditures, and compliance with MBE/WBE requirements during the reporting period.

The quarterly progress, financial and MBE/WBE reports are due **January 10, 2012; April 10, 2012; and July 15, 2012**. The quarterly progress, financial, and MBE/WBE reports are considered late ten (10) days after the end of the quarter for the periods ending December 31, 2011; and March 31, 2012. The final financial and MBE/WBE reports are due fifteen (15) days after the end of the grant completion date, **June 30, 2012**. All final reports and deliverables are due **July 31, 2012, and are considered late after that date**. No further payments will be made without submission and approval of required reports. Work completed after the ten-day period when required reports have not been submitted is at the Grantee's risk, and costs incurred may be disallowed. Repeated failure to submit reports in a timely manner could result in suspension or termination of the grant. Final progress, financial report and all deliverables are considered late 32 days after the end of the fiscal year unless otherwise specified in the work plan or with prior written approval. Requests for reimbursement received 32 days or more after the completion date of the grant will not be reimbursed. Financial and progress reports will be submitted using the forms and formats provided by DEC.

Minority and Women's Business Enterprises (MBE/WBE) – The Grantee agrees to comply with the requirements of Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements:

- (a) The Grantee accepts the following applicable Minority Business Enterprise (MBE)/Women's Business Enterprise (WBE) negotiated "fair share" goals/objectives:

Services: MBE 3.22%; WBE 2.54%
Supplies: MBE 2.06%; WBE 1.29%
Equipment: MBE 2.36%; WBE 2.10%
- (b) The Grantee must ensure to the fullest extent possible that at least the negotiated "Fair Share" percentage of Federal funds for prime contracts or subcontracts for supplies, equipment, construction, or services are made available to organizations owned or controlled by socially and economically disadvantaged individuals, women, and historically black colleges and universities.
- (c) The Grantee agrees to include in its bid documents the applicable "fair share" objectives and require all of its prime contractors to include in their bid documents for subcontracts the negotiated "fair share" percentages.
- (d) The Grantee agrees to follow the six affirmative steps or positive efforts stated in 40 CFR Section 33.301, as appropriate, and retain records documenting compliance.
- (e) The Grantee agrees to report the compliance of the above requirements with the quarterly progress and financial reports on the forms provided by the Department.

Documentation and Record-Keeping

The Grantee shall set up a file containing the following: grant application, grant agreement and amendments; all written correspondence; progress reports; documentation for products indicated in the work plan; financial reports with backup documentation such as billings, invoices or other records that validate expenditures or match; and any other documents pertinent to the performance of this grant agreement and completion of the project.

The State or authorized federal representative may inspect, in the manner and at any reasonable time it considers appropriate, the Grantee's facilities, records or activities under this grant agreement

Payment Plan

Reimbursement

Eligible expenses incurred under this agreement will generally be reimbursed on a quarterly basis but may be reimbursed as frequently as monthly. Reimbursement will be made upon receipt and approval of the financial and progress reports.

All reports and deliverables required in this agreement must have been submitted and approved by the Department prior to final payment.

Matching Funds

The Grantee certifies that the match of cash and/or in-kind services provided for the project are supported solely with non-federal funding used exclusively for this project and is not being used to match any other federal grant. Match funds may be cash or in-kind services including volunteer time and donated supplies and must be from non-federal sources. The source of the match must be fully documented. Match activities must meet the same eligibility requirements and must conform to the same laws and regulations as the federal funds in the grant.

Management Fees

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this Agreement. Management fees or similar charges may not be used to improve or expand the project funded under this Agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

Data Universal Numbering System (DUNS)

The Grantee is required to provide a DUNS number to the Department in order for this Agreement to be in effect. A DUNS number means the nine-digit number established and assigned by Dun and Bradstreet to uniquely identify business entities. A DUNS number may be obtain from D&B by telephone (currently (866-705-5711) or the internet (currently at <http://fedgovdnb.com/webform>). The DUNS number should be provided by the Grantee on the signatory page of this Agreement.

APPENDIX C

GENERAL PROVISIONS

Article 1. Definitions

“Department” refers to the Department of Environmental Conservation (DEC) within the State of Alaska.

“Authorized Signature” means the person who has the authority to sign this grant agreement and other legally binding forms related to the grant on behalf of the Grantee, Issuing Division and the Department.

“State of Alaska” fiscal year is defined as July 1st through June 30th.

In this grant and appendices, “DEC Project Manager” refers to the Environmental Specialist or other DEC staff assigned to manage the project and administer the grant. The DEC Project Manager is the primary contact between the Department and the Grantee.

Article 2. Legal Authority

The Grantee certifies by signing this grant agreement that it possesses legal authority to accept grant funds and to execute the project described in this grant agreement. The Grantee’s relationship to the Department and the State of Alaska shall be at all times as an independent Grantee.

Article 3. Governing Law

The Grantee must conform to all applicable federal, state, and local laws, ordinances, and regulations. It is the responsibility of the Grantee to ensure that all permits required for this project by federal, state or local governments have been obtained prior to any activity that requires permitting take place. All actions concerning this grant shall be brought in the Superior Court of the State of Alaska.

Article 4. Severability and Waivers

If any provision under this agreement or its application to any person or circumstances is held invalid by a court of rightful jurisdiction, this invalidity does not affect any other provisions of the grant agreement which can be given effect without the invalid provision. No condition or provision of this Grant Agreement can be waived unless approved by the Department in writing.

Article 5. Site Control

If the grant project involves occupancy, use, or modification of real property, the Grantee shall acquire the legal right to occupy, use, or modify the real property for the purposes of the grant and authority to access the project site to complete the proposed project.

Article 6. Sovereign Immunity

If the Grantee is an entity that possesses sovereign immunity, it is a requirement of this grant agreement that the Grantee irrevocably waives its sovereign immunity with respect to State enforcement of this grant agreement. The waiver of sovereign immunity affected by a resolution of the entity's governing body is hereby incorporated into this grant agreement.

Article 7. Covenant Against Contingent Fee

The Grantee warrants that no person or agency has been employed or retained to solicit or secure this grant upon an agreement or understanding for a commission, percentage, contingent fee, or brokerage except employees or agencies maintained by the Grantee for the purpose of securing business. For the breach or violation of this warranty, the State may terminate this grant without liability or in its discretion deduct from the grant price or consideration the full amount of the commission, percentage, brokerage, or contingent fee.

Article 8. Officials Not to Benefit

The Grantee must comply with all applicable federal or State laws regulating ethical conduct of public officers and employees.

Article 9. Political Activity

No portion of these funds may be used for lobbying and propaganda purposes as prohibited in USC Section 1913 or Section 607(a) of Public Law 96-74.

Article 10. Obligations regarding Third-Party Relationships

The Grantee may not assign or delegate this grant, or any part of it, or any right to any of the money to be paid under it, except with the written consent of the Division's Authorized Representative. None of the work specified in this Grant Agreement shall be contracted by the Grantee unless stated in the grant agreement or with prior written approval from the Department. The Grantee shall remain fully obligated under the provisions of this grant agreement notwithstanding its designation of any third party or parties of the undertaking of all or part of the project described therein. The Grantee shall bind all contractors to every applicable provision.

Article 11. Local Share of Project

The Grantee shall contribute a local share of this grant project of no less than 40% of the total project costs. The matching funds may be in the form of cash or in-kind contributions and must be certified as a non-federal source.

Article 12. No Additional Work or Materials

No claim will be allowed for services not specifically provided for in this grant agreement which are performed or furnished by the Grantee.

Article 13. Changes

Any changes that have been agreed to by both parties will be attached and made part of this grant agreement by use of an Amendment. Any such amendment must be dated and signed by both

parties before the change is considered approved and effective. The change is effective upon final signature by DEC Division of Administrative Services.

Article 14. Budget Flexibility

Notwithstanding the provisions in Article 13, "Changes", the Grantee may revise the project budget without a formal amendment to this agreement. Such revisions are limited to a maximum of 10% of the total grant amount or \$10,000, whichever is less, over the entire term of this agreement. Such budget revisions shall be limited to changes to existing budget line items. The creation of new budget line items may only be done through a formal amendment to the grant agreement. Budget revisions may not be used to increase the project administration expenses without prior written approval from the Department.

Budgets that have been placed with an indirect rate not yet approved by the federal agency, for project administrative expenses, are subject to revision based on the rejection or approval of the final approved indirect rate. If the indirect rate proposal was rejected or deemed lower by the federal agency the Grantee will be required to adjust project administration expenses already incurred to the appropriate amount as required under federal regulations.

Article 15. Financial Management and Accounting

The Grantee shall establish and maintain a financial management and accounting system that conforms to generally accepted accounting principles.

Article 16. Payment Plan

The Grantee shall comply with the payment plan established in Appendix B of this grant agreement.

Article 17. Reporting Requirements

The Grantee shall submit all reports including but not limited to quarterly progress, financial, and MBE/WBE reports to the Department according to the schedule established in Appendix B of this grant agreement using the forms provided. Failure to submit progress reports or to make adequate progress may result in the Department withholding funds, suspending or terminating the grant.

Article 18. Records Maintenance and Retention

The Grantee shall keep a file for financial, progress and other records relating to the performance of the grant agreement. The file must be retained for a period of three years from the fully executed close out of the grant agreement or until final resolution of any audit findings claim or litigation related to the grant.

Article 19. Inspection of Records

The State or authorized federal representative may inspect, in the manner and at any reasonable time it considers appropriate, the Grantee's facilities, records or activities under this grant agreement.

Article 20. Interest Income

Interest earned on federal or state funds shall be reported to the Department who will make a determination if those funds can be used for the grant or will need to be returned.

Article 21. Compliance Enforcement

If the Grantee fails to comply with the terms of this Grant Agreement, or fails to use the grant for only those purposes set forth therein, the Department may take one or more of the following actions:

21.1. Right to Withhold Funds

The Department may temporarily withhold payments under this grant agreement for any violations pending correction of any deficiency by the Grantee or the Department may take more severe enforcement action.

21.2. Suspension

After written notice that the Grantee is out of compliance with the grant agreement, the Department will suspend the grant and withhold payment or prohibit the Grantee from incurring additional obligations of grant funds pending corrective action or a decision to terminate. Response must be received within 15 days of notification.

21.3 Termination for Cause

The Department, by written notice, may terminate this grant, in whole or in part, when it is in the best interest of the State at any time before the final grant payment is made. The Department shall notify the Grantee in writing of its determination to terminate, the reason for such termination, the effective date and the reason and amount for recoveries that will be made.

Article 22. Termination Due to Lack of Funding

In the event funding from the state, federal, match, or other sources is withdrawn, reduced, or limited in any way after the effective date of this agreement and prior to normal completion, the Department may terminate the agreement, reduce funding, or re-negotiate subject to those new funding conditions.

If the Project is terminated, reduced, or re-negotiated for withdrawal or reduction of match funds, the Grantee shall be entitled to compensation of no more than 60% of total costs of the project, as approved by the Department for cost eligibility. The Grantee shall reimburse the Department for all unspent grant funds advanced to the Grantee for project expenses above the final total approved for project cost or above the renegotiated quarterly payment plan; whichever best applies to the current status of the project. The Grantee shall also reimburse the Department for expenses using grant funds during the course of the project that do not meet eligibility requirements. Eligibility requirements include but are not limited to the required 40% match for all grant funds spent by the Grantee. The Grantee must ensure that grant funds expended during the project do not exceed the 60% limit of total project cost.

Article 23. Closeout

The Department will close out the grant agreement when it determines that all reporting requirements and required work has been completed. The Grantee must submit all financial

performance and other reports and deliverables required as a condition of the grant within 32 days of the expiration of this grant agreement unless otherwise stated in the work plan or with prior written approval. The Grantee shall return all unexpended grant monies to the State within 60 days of the expiration of the grant agreement.

Article 24. Audit

The Grantee must comply with the provisions of OMB Circular A-133 governing the audit of the State and local governments and nonprofit organizations federal assistance recipients.

Article 25. Press Releases

The Grantee must notify the Department of any press releases or public announcements prior to publication or dissemination that describe or are otherwise related to the project supported by the grant award. If DEC objects to any provision of a press release or public announcement under this section, it shall notify the Grantee within twenty four (24) hours of receiving the notification described herein, and shall work diligently and in good faith with the Grantee to develop mutually agreeable language prior to the planned publication or dissemination.

The Grantee must notify the Department within the same day of any media inquiries directed at the Grantee and describe any response or information provided to the media. For some grant projects, the Department may also issue press releases, may respond to media inquiries or may direct the Grantee to refer questions regarding the grant project to the Department.

Article 26. Ownership of Documents and Products

All designs, drawing, specifications, notes, artwork, computer programs, reports and other work developed with grant funds in the performance of this agreement are public domain and will be used by the State and/or public without notice or compensation to the Grantee. The Grantee agrees not to assert any rights and not to establish any claim under the design patent or copyright laws.

Article 27. Ownership of Property

Equipment purchased in part or wholly with federal funds shall be used by the Grantee in the project for which it was acquired as long as needed, whether or not the project or program continues to be supported by federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency. The Grantee shall be responsible for the operation and maintenance of equipment acquired with this grant. Property records must be maintained which will include a description, serial number, source and title, cost and percentage of federal participation in cost, location, use and condition, and sale price and date of disposal. A physical inventory of the property must be taken at least once every two years. Disposition of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation. If the Grantee is a non-profit corporation that dissolves, the assets from this grant project are to be distributed according to Alaska Statutory law, AS 10.20.290-10.20.452.

Article 28. Equal Employment Opportunity

The Grantee may not discriminate against any employee or qualified applicant for employment because of race, religion, color, national origin, or because of age, disability, sex, marital status,

changes in marital status, pregnancy or parenthood. The Grantee shall post in conspicuous places, available to employees and applicants for employment, notices setting out the provisions of this paragraph. The Grantee shall include the provisions of this article in every grant or contract, and shall require the inclusion of these provisions in every contract entered into by any of its subcontractors.

The Grantee shall promptly comply with all State directives considered essential to insure compliance with all federal and State laws, regulations, and policies pertaining to the prevention of discriminatory employment practices. Failure to perform under this article constitutes a material breach of the grant and could result in termination of the grant agreement.

Article 29. Americans with Disabilities Act (ADA)

Reasonable accommodations must be made to ensure or allow access by persons with disabilities to all services, programs or activities paid for with public funds. The Grantee is responsible for assuring compliance by their contractor's with ADA.

Article 30. Disputes

Any disputes concerning a question of fact arising under this grant which is not disposed of by mutual agreement shall be decided in accordance with CONTRACT CONTROVERSIES, AS 36.30.620-632 of the State Procurement Code.

Article 31. Conflicting Provisions

Unless specifically amended and approved by the Department of Law, the General Provisions of this grant supersede any provisions in other appendices.

Article 32. Prohibition Statement

The Grantee may not engage in severe forms of trafficking in persons during the period of time that the Agreement is in effect; procure a commercial sex act during the period of time that the Agreement is in effect; or use forced labor in the performance of the project.

Article 33. ACORN Funding Restriction

None of the funds provided under this Agreement may be used for contracts to ACORN or its subsidiaries.

APPENDIX D

INDEMNITY AND INSURANCE

Article 1. Indemnification

The Grantee shall indemnify, save harmless and defend the state, its officers, agents, and employees from all liability, including costs and expenses, for all actions or claims resulting from injuries or damages sustained by any person or property arising directly or indirectly as a result of any error, omission or negligent act of the Grantee, subcontractor or anyone directly or indirectly employed by them in the performance of this contract.

All actions or claims including costs and expenses resulting from injuries or damages sustained by any person or property arising directly or indirectly from the performance of this contract which are caused by the joint negligence of the state and the Grantee shall be apportioned on a comparative fault basis. Any such joint negligence on the part of the state must be a direct result of active involvement by the State.

Article 2. Insurance

Without limiting the Grantee's indemnification, it is agreed that the Grantee shall purchase and maintain in force at all times during the performance of services under this agreement the following policies of insurance; when applicable. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the Grantee's policy contains higher limits, the State shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the Contracting Officer prior to beginning work and must provide for a 30-day prior notice of cancellation, non-renewal or material change. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach and grounds for termination of the Grantee's services.

2.1 Worker's Compensation Insurance: The Grantee shall provide and maintain, for all employees of the Grantee engaged in work under this contract, Workers' Compensation Insurance as required by AS 23.30.045. The Grantee shall be responsible to ensure all subcontractors provide Workers' Compensation Insurance for anyone who directly or indirectly provides services under this contract. This coverage must include statutory coverage for states in which employees are engaging in work and employer's liability protection of not less than \$100,000 per person, \$100,000 per occurrence. Where applicable, coverage for all federal acts (i.e., U. S. L&H and Jones Act) must also be included.

2.2 Comprehensive (Commercial) General Liability Insurance: with coverage limits not less than \$300,000 combined single limit per occurrence and annual aggregates where generally applicable and shall include premises-operations, independent contractor, products/completed operations, broad form property damage, blanket contractual and personal injury endorsements.

2.3 Comprehensive Automobile Liability Insurance: covering all owned, hired and non-owned vehicles with coverage limits not less than \$100,000 per person/\$300,000 per occurrence bodily injury and \$50,000 property damage.

2.4 Professional Liability Insurance: covering all errors, omissions or negligent acts of the contractor, subcontractor or anyone directly or indirectly employed by them, made in the performance of this contract which results in a financial loss to the State. Limits required as per the following schedule:

Contract Amount	Minimum Required Limit
Under \$100,000	\$100,000 per occurrence/annual aggregate
\$100,000-\$499,999	\$250,000 per occurrence/annual aggregate