



SEAPA Ketchikan Substation Transformer Procurement Project

ADDENDUM NO. 2

Date: September 10, 2026

Bids Due: September 15, 2026 @ 4:00 p.m. AKDT (no change)

Pages: 57 Total: 4 pages of Addendum + 53 pages of Attachments

- Notes:**
1. Bidders must acknowledge receipt of addenda in the Bid Schedules and Equipment Data Sheet attached as Attachment No. 1 to the RFP.
 2. This addendum provides additional and/or modified information to the Project RFP and associated documents. This addendum forms a part of the Contract Documents. This addendum is posted on SEAPA's website at <https://www.seapahydro.org/opportunities/bids-projects>
 3. No hard copy will be sent.
 4. All other terms and conditions of the original RFP and associated documents are unchanged.

INQUIRIES AND CLARIFICATIONS

1. Could you please advise whether the General Terms and Conditions (GTC) is currently available for distribution?

SEAPA Response: See the sample Contract No. 26026 appended to this Addendum with General Condition and Supplemental Conditions appended to the sample Contract No. 26026 as Exhibits 1 and 2, respectively. SEAPA reserves the right to negotiate the final contract with the successful bidder.

2. If the payment milestones and insurance requirements will be addressed in the GTC, simply confirming that they will be included there would be sufficient. If not, could you please clarify the following:

- **Payment Milestones:** Could you please provide the anticipated payment milestones and the **percentage of the contract value payable at each milestone** (e.g., drawing approval, manufacturing progress, FAT, shipment, delivery, or final acceptance?)

SEAPA Response: See Section 6.3(a) of the attached sample Contract No. 26026.

- **Insurance / COI:** Will the Owner provide the project-specific insurance coverage and limit requirements, or should the bidder submit a COI reflecting its current corporate insurance coverage.

SEAPA Response: See Insurance Requirements in Appendix A to Exhibit 1 (General Conditions) to the sample Contract No. 26026.

3. Section 1.5 states that the Owner will review the first submittal and the first re-submittal. For purposes of establishing our engineering schedule, could you please confirm whether we should plan for one re-submittal as the standard review process?

SEAPA Response: No, one re-submittal should not be considered the 'standard' review process. The intent of Section 1.5 in Section 01 33 00 Submittals (Appendix B to RFP) is to clarify that SEAPA's contract includes the cost to review the initial submittal and one subsequent re-submittal to correct any deficiencies. Bidders should plan their engineering schedule to achieve a complete, fully compliant, and approvable first submittal. If a second re-submittal (a third review total) is required due to the Supplier's failure to address comments or meet technical specifications, SEAPA reserves the right to back-charge the Supplier for additional engineering review costs.

4. May an LLC submit as the Supplier/Bidder using a separately identified U.S.-based BABA-compliant OEM manufacturer responsible for fabrication, factory testing and transformer warranty, provided the complete OEM qualifications and required certifications are included?

SEAPA Response: Yes, the LLC may submit a proposal as the primary Supplier/Bidder utilizing a separate, U.S.-based OEM manufacturer, provided that the transformer fully complies with the Build America, Buy America Act (BABA), 2 CFR Part 184, and OMB M-24-02 guidelines. The proposal must include the complete qualifications of the OEM, along with a formal, signed Buy America Certification of Compliance confirming that the transformer is manufactured in the U.S. and meets the 55% domestic component cost threshold. The LLC will retain ultimate contractual and performance liability for fabrication, factory testing, and warranties as required by the federal grant requirement. BABA compliance requirements flow down to all suppliers and subcontractors under the proposed contract. All required certifications and documentation must be met prior to purchase. All bidders are required to complete the bid certifications attached to the RFP attesting to compliance with BABA and flowing down all requirements as the company submitting the bid response.

5. Does the active SAM.gov UEI requirement apply only to the Supplier/Bidder, or must the proposed OEM manufacturer also maintain an active SAM.gov registration/UEI?

SEAPA Response: Under federal financial assistance guidelines and 2 CFR Part 25, the requirement for an active SAM.gov registration and Unique Entity Identifier (UEI) applies strictly to the primary Supplier/Bidder, not to the Original Equipment Manufacturer (OEM) performing as a vendor or subcontractor.

6. For the BABA manufactured-products test, should the transformer be evaluated as the complete manufactured product at the final U.S. manufacturing location, with the required component-cost documentation and supplier certifications supporting the greater than 55% U.S. component cost threshold?

SEAPA Response: Yes. For the Buy America manufactured products test, the transformer will be evaluated as the complete, final manufactured product delivered to the project site. In accordance with 2 CFR Part 184 and OMB M-24-02, the Supplier/Bidder must provide component-cost documentation and signed manufacturer certifications establishing that the transformer underwent its final manufacturing processes in the U.S., and that the cost of its U.S.-produced components exceeds 55% of the total cost of all components. Final assembly labor, testing, and facility overhead costs at the U.S. manufacturing location may not be included when calculating the 55% component cost threshold.

7. Please confirm that a 5% standby letter of credit meeting Section 5.2.6 is acceptable in lieu of the bid bond without affecting responsiveness or evaluation.

SEAPA Response: Yes. As stated in Section 5.2.6 of the RFP, an irrevocable, unconditional standby letter of credit representing at least five percent (5%) of the total contract amount in U.S. Dollars is acceptable in lieu of a bid bond. The letter of credit must be issued by a bank with sound financial standing, a record of service satisfactory to SEAPA, and authorization to do business in Alaska or Seattle, Washington. This alternative security will not affect the proposal's responsiveness or evaluation, provided that the exact language of the letter of credit strictly complies with all criteria and terms required in the RFP package and is submitted alongside the proposal.

8. (a) Please confirm whether manufacturing registration on the procurement webpage is sufficient to receive all courtesy notices and whether any additional supplier prequalification is required before proposal submission.

SEAPA Response: Yes, completing the manufacturing registration on the procurement webpage is sufficient to receive all courtesy notices regarding this RFP, and no additional supplier prequalification is required prior to proposal submission. Please note, however, that all registrations are monitored for security compliance. If a submitted registration uses an email address that appears to be invalid, malicious, or identified as spam, the registration will be rejected immediately, and courtesy notices will not be sent. Bidders must ensure they use a valid, verifiable corporate email address to guarantee receipt of project updates.

(b) Please also confirm that Addendum No. 1 is the latest issued addendum and whether there are any additional Build America, Buy America, domestic-content, bonding, testing, or approved-manufacturer requirements beyond those contained in the posted RFP package.

SEAPA Response: Yes, Addendum No. 1 is the latest issued addendum. At this time, there are no additional Build America, Buy America, domestic-content, bonding, testing, or approved-manufacturer requirements beyond those contained in the posted RFP package, Addendum No. 1 and this Addendum No. 2. SEAPA reserves the right to issue further addenda to modify, clarify, or supplement procurement requirements prior to the proposal submission deadline. Following the closing of the solicitation, any contract conformance or final negotiations will be conducted strictly within the framework established by the RFP package and applicable federal grant regulations.

MODIFICATION:

1. Revision to Section 5.7 (Surge Arresters) to Appendix A of the RFP:

Revise Section 5.7 of the Transformer Specification to require surge arresters on the 34.5 kV low-voltage side of the transformer.

Provide three (3) station-class, metal-oxide surge arresters, one for each phase, on the 34.5 kV side of the transformer. The surge arresters shall have a Maximum Continuous Operating Voltage (MCOV) rating of 36.5 kV and shall comply with IEEE C62.11-2020.

Surge arrester housings shall be ANSI 70 Gray.

The 36.5 kV MCOV rating is required because the 34.5 kV system may operate as an ungrounded system under certain operating conditions. During a single line-to-ground fault, the unfaulted phase-to-ground voltages may rise to approximately the system line-to-line voltage.

All other requirements of Section 5.7 remain unchanged.

2. Amendment to Attachment 8 to RFP: Down Payment Bond Form & RFP References

Attachment 8 to the RFP (Down Payment Bond Form) has been fully revised to update the required bond value. Effective immediately, the Down Payment Bond requirement is increased from five percent (5%) to ten percent (10%) of the total Contract Price. The original Attachment 8 is hereby deleted in its entirety and replaced with a Revised Attachment 8 (Down Payment Bond Form), which is attached to this Addendum No. 2 and incorporated herein by reference. Bidders must utilize this revised form when its submittal is required.

Any and all references within the RFP, its attachments, exhibits, or appendices to a Down Payment Bond value of five percent (5%) are hereby amended and increased to ten percent (10%) of the total Contract Price, wherever they may occur. This global revision supersedes all prior statements regarding the down payment bond percentage.

Except as amended herein, all other terms, conditions, and specifications of the original RFP remain unchanged.

Attachments to this Addendum No. 2:

- Sample Contract No. 26026 with following five (5) Exhibits attached:
 - Exhibit 1: Section 00 70 00 General Conditions with Insurance Specs attached
 - Exhibit 2: Section 00 80 00 Supplemental General Conditions
 - Exhibit 3: Cover Sheet for Successful Suppliers's Sched/Equip Sheets to be attached to final Contract
 - Exhibit 4: Cover Sheet for Successful Supplier's Assumptions, etc. to be attached to final Contract
 - Exhibit 5: BABA Compliance Certification for Manufactured Products with Instructions to Bidders attached
- Revised Down Payment Bond Form

End of Addendum No. 2

(Attachment to Addendum No. 2 to RFP)

(SEAPA reserves the right to negotiate the final contract with the successful Supplier.)



SEAPA Ketchikan Substation Transformer Procurement Project

This procurement Contract No. 26026 is made by and between the **Southeast Alaska Power Agency**, a Joint Action Agency formed under Alaska Statutes §§ 42.45.300, *et seq.*, of 55 Don Finney Lane, Ketchikan, Alaska 99901, hereinafter referred to as "Owner", "Agency" or "SEAPA", and _____, a _____ [type of entity], of _____ [address], hereinafter referred to as "Supplier".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. Supplier will design, manufacture, factory test, deliver and provide onsite assembly supervision, field testing, and commissioning support for one (1) 115 kV grounded-wye/34.5 kV delta, three-phase 20/25 MVA oil-immersed power transformer, with low and high side surge arresters, as part of **SEAPA's Ketchikan Substation Transformer Procurement Project** ("Project").
2. The Supplier will furnish all of the materials, supplies, tools, equipment, labor, and other services necessary for the design, manufacture, factory testing, delivery, start-up, testing and completion of the Work described herein.
3. The Supplier will commence the Work required by the Contract Documents within ten (10) calendar days after the date of the Notice to Proceed and will complete the same within the dates bid in the Bid Schedule unless the period for completion is extended otherwise by the Contract Documents.
4. The Supplier agrees to perform all of the Work described in the Contract Documents and comply with the terms therein for the sum as shown in the Negotiated Bid Schedule as referenced in Section 5.G.a below.
5. The term "Contract Documents" means and includes the following in order of precedence:
 - A. The following which may be delivered or issued on or after the effective date of this Contract No. 26026:

- a. Written Amendments;
 - b. Notice to Proceed;
 - c. Written Interpretation(s); and,
 - d. Change Orders.
- B. This procurement Contract No. 26026;
- C. Addendum Nos. ____ through ____ to the RFP;
- D. Section 00 70 00 (General Conditions) which includes Insurance Requirements, attached as **Exhibit 1** and incorporated herein by reference;
- E. Section 00 80 00 (Supplemental General Conditions) attached as **Exhibit 2** and incorporated herein by reference;
- F. Specifications included as Appendices A and B to the Request for Proposal documents, which includes and incorporates all specification changes in any Addendums to the Request for Proposals;
- G. Exhibits to this Contract No. 26026 (enumerated as follows):
- a. The successful Supplier's Bid Schedule and Equipment Data Sheets submitted with its bid, which includes a Negotiated Bid Schedule attached as **Exhibit 3** and incorporated herein by reference.
 - b. Supplier's Comments, Clarifications and Exceptions submitted with its bid attached as **Exhibit 4** and incorporated herein by reference;
 - c. Documentation submitted to Supplier prior to Notice of Award;
- H. 25% Performance Bond;
- I. 25% Payment Bond; and,
- J. 10% Down Payment Bond;
6. Contract Price / Payment Terms

6.1 Contract Price. SEAPA shall pay the following to Supplier for performance of the Work that conforms to this Contract: The total Lump-Sum Price stated in the attached

Exhibit 3 Negotiated Bid Schedule and Equipment Data Sheets is _____ and 00/100ths (\$_____) U.S. Dollars (the "Lump Sum Price") for all items 1-____, with the exception of Bid Item #____, which has been excluded, in the Negotiated Bid Schedule.

6.2 Ongoing Negotiations. The parties agree and acknowledge that certain prices outlined in this Contract may be subject to adjustment based on negotiations between the parties. Should these negotiations result in changes to the agreed-upon scope of work, specifications, or other relevant factors, the contract price shall be adjusted accordingly. Any such price adjustments will be documented through a formal change order or amendment to this Contract, agreed upon in writing by both parties.

6.3 Payment Terms: The parties acknowledge the following language in Section 16.1 of the Supplemental General Conditions (Exhibit 2 hereto):

Payment procedures and documentation as required for payments as stipulated in Schedule 1 shall prevail over any payment conditions, procedures, modalities as may be written in any other part of the CONTRACT DOCUMENTS.

The parties expressly agree that only as to the percentages of payments to be made, the following payment schedule shall prevail over Section 1.0 (Payment Conditions) of the Schedule 1 (Schedule of Payments) required under Schedule 1.

(a) The following schedule outlines the invoicing milestones, dates and amounts for this contract. Upon completion of each milestone, Supplier shall submit their invoice to accounting@seapahydro.org. Payment terms are net 30 pending SEAPA's approval of each invoice.

[Remainder of page intentionally left blank.]

INVOICE SCHEDULE			
Milestone	Estimated Date	%	Value (U.S. Dollars)
Supplier's invoice may be submitted for Owner's Deposit of 10% of the purchase price upon its receipt of Owner's Notice to Proceed.		10%	
Approval of Supplier's shop drawings, design data, and all other submittals requiring approval prior to fabrication. Supplier's invoice may be submitted to Owner upon Owner's issuance of Notice to Initiate Fabrication.		50%	
Payment upon completion of all factory acceptance testing, and immediately prior to shipment of all (100%) equipment from factories, and including the following documents: • Commercial invoice • Packing List • Certificate of Origin		25%	
Payment upon receipt of all (100%) equipment at the Ketchikan Substation project site, or other shipping destination agreed upon by the Owner and Supplier. Certificate of Arrival at Shipping Destination or copy of Warehouse Receipt must be provided to Owner prior to payment.		10%	
SEAPA's receipt of Supplier's invoice, along with copy of Final Acceptance Certificate (FAC), signed by Owner or Owner's representative and by Supplier upon completion of the tests.		5%	
TOTAL		100%	\$ _____

(b) **Milestone Payments and Right to Withhold.** Payments shall be made in accordance with the established milestone schedule (10% NTP; 50% Submittal Approval; 25% FAC; 10% Delivery; 5% Final Acceptance). SEAPA reserves the right to withhold, in whole or in part, any milestone payment as an administrative remedy if the Contractor is in default of any material obligation. Specifically, approval of the 50% Submittal milestone is strictly conditioned upon the Contractor providing satisfactory preliminary Build America, Buy America Act (BABA) component documentation. Final execution of the 25% FAC milestone and processing of the 10% Receipt milestone are strictly conditioned upon the delivery of a signed, legally binding Manufacturer's BABA Certification. The Buyer's decision

to withhold progress payments for non-compliance or failure to meet technical submittal gates shall not excuse the Contractor from meeting project delivery deadlines.

(i) Sample Instructions to Bidders for Compliance and Calculation Guide, and a BABA Certification Form to be pasted on manufacturer's letterhead and signed by the manufacturer are attached as **Exhibit 5** and incorporated herein by reference.

(c) SEAPA Approval. Subject to Section (b) above, all payment requests must be approved by SEAPA solely for the purposes of payment, which approval shall not be unreasonably withheld, conditioned or delayed, provided, however, that such approval shall not be deemed approval of the workmanship or materials.

(d) Waiver and Release of Lien. Supplier shall provide to SEAPA a Waiver and Release of Lien for all material suppliers and subcontractors used on the Project prior to release of the final 5% payment to the Supplier.

(e) No payment shall be due if the Supplier is in default in respect to any of the provisions of this Contract.

(f) Unless approved by SEAPA, no additional payment shall be made to the Supplier for materials or labor involved in correcting errors or omissions on the part of the Supplier which result in non-conforming, substandard or defective Supplies provided as required by this Contract, unless such errors or omissions were the result of incorrect or incomplete information received from SEAPA.

(g) Subject to a pending dispute in accordance with Section 29.0 (Arbitration) of Section 00 70 00 (General Conditions) and any adjustments permitted by this Contract, payment to Supplier in accordance with this section shall be Supplier's full and exclusive compensation for Supplier's performance under this Contract for the scope outlined.

(h) Interest at the rate of 1.5% per month shall be paid by SEAPA to the Supplier on all unpaid balances due, commencing fifteen (15) days after the Net 30 due date.

(i) All required sales and use taxes shall be paid by the Supplier as required by the laws and statutes of any Governmental Authority and shall be included in the Contract Price.

7. Federal Funding and Buy America Act Compliance

A. Explicit Compliance Mandate

Federal Funding Compliance: The Contractor acknowledges that this Project is funded in whole or in part by federal financial assistance from the U.S. Department of Energy through

Alaska Energy Authority Grant Agreement No. 7710006. The Contractor agrees to comply with all applicable federal laws, regulations, executive orders, and the terms and conditions of the Grant Agreement.

B. Build America, Buy America (BABA) Clause

The Contractor acknowledges that this contract is funded in whole or in part by federal financial assistance and agrees that the electrical transformer provided under this agreement is a 'manufactured product' as defined by the Build America, Buy America Act (BABA) and 2 CFR Part 184. The Contractor guarantees that: (1) the transformer will be manufactured in the United States; and (2) the cost of its components mined, produced, or manufactured in the United States exceeds 55 percent of the total cost of all components. The Contractor shall provide a signed Certificate of Buy America Act Compliance prior to equipment delivery and shall maintain verifiable documentation of domestic content tracing. Failure to comply without an approved federal waiver from the U.S. Department of Energy shall constitute a material breach of contract.

C. Certification and Documentation Requirement

Certification and Verification: The Contractor shall provide a written Buy America certification for all applicable materials and products delivered to the project site prior to incorporation into the work. The Contractor shall maintain documented evidence of domestic origin (such as Mill Test Reports or manufacturer certifications) and provide them to the Owner upon request. No payment shall be approved for non-compliant materials.

D. Subcontractor Flow-Down Provision

Subcontractor Flow-Down: The Contractor shall include the requirements of this section, including the Build America, Buy America domestic preference provisions, in all subcontracts, purchase orders, and supply agreements for work or materials related to this Project.

E. Remedies for Non-Compliance

Remedies for Breach: Failure by the Contractor to comply with the Build America, Buy America requirements constitutes a material breach of contract. In the event of such breach, the Owner reserves the right to withhold payment, require the Contractor to remove and replace non-compliant materials at the Contractor's sole expense, or terminate this Contract for cause.

8. This Contract shall be binding upon Supplier and SEAPA and their respective directors, officers, employees, agents, heirs, executors, administrators, successors and assigns.

9. This Contract shall be interpreted under applicable laws in the State of Alaska, U.S.A.

10. **Acceptance of Scanned Signatures.** The parties agree that this Contract, agreements ancillary to this Contract, and related documents to be entered into in connection with this Contract, will be considered signed when the last dated signature of a party is delivered by scanned image (e.g., .pdf or .tiff file extension name) as an attachment to electronic mail (email). Such scanned signature will be treated in all respects as having the same effect as an original signature.

11. **Effective Date.** The effective date of this Contract shall be the date of the last signature below.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officials set forth below.

OWNER:
Southeast Alaska Power Agency

By: _____ Dated: _____
Chief Executive Officer

SUPPLIER:
_____[Name]

By: _____ Dated: _____
**

Attachments:

- Exhibit 1: Section 00 70 00 - General Conditions
- Exhibit 2: Section 00 80 00 - Supplemental General Conditions
- Exhibit 3: Supplier's Bid Schedule & Equipment Data Sheets
- Exhibit 4: Supplier's Comments, Clarifications & Exceptions
- Exhibit 5: Instructions to Bidders (Compliance & Calculation Guide) & BABA Certification Form

EXHIBIT 1 TO CONTRACT NO. 26026

SECTION 00 70 00 – GENERAL CONDITIONS

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1.0 DEFINITIONS

- 1.1 Wherever used in the CONTRACT DOCUMENTS, the following terms shall have the meanings indicated and shall be applicable to both the singular and plural thereof.
- 1.2 ADDENDA - Written or graphic instruments issued prior to the execution of the AGREEMENT which modify or interpret the CONTRACT DOCUMENTS, Drawings, and Specifications, by additions, deletions, clarifications, or corrections as agreed upon by the parties.
- 1.3 BID - The offer or proposal of the BIDDER submitted on the prescribed form setting forth the prices for the WORK to be performed.
- 1.4 BIDDER - Any person, firm, or corporation submitting a BID for WORK. The term BIDDER and SUPPLIER may be used interchangeably herein.
- 1.5 BONDS - Performance Bonds and other instruments of surety, furnished by the SUPPLIER and the SUPPLIER'S banks in accordance with the CONTRACT DOCUMENTS and approved by OWNER.
- 1.6 CHANGE ORDER - A written order to the SUPPLIER authorizing an addition, deletion, or revision in the WORK and/or CONTRACT PRICE within the general scope of the WORK.
- 1.7 CONTRACT DOCUMENTS - The CONTRACT including the SUPPLIERS Proposal, AGREEMENT, Bank Guarantees and Bonds, Change Orders, General Conditions, Supplemental General Conditions, Drawings, Specifications, and Addenda.
- 1.8 CONTRACT PRICE - The total moneys payable to the SUPPLIER under the terms and conditions of the CONTRACT DOCUMENTS. All prices and monetary amounts in the CONTRACT DOCUMENTS shall be expressed in currency of the United States of America (\$US) unless otherwise noted.
- 1.9 CONTRACT TIME - The periods of time stated in the AGREEMENT for completion of the Work, as measured from the date of signing of this document.
- 1.10 CONTRACTOR - The entity selected by the Owner at a later date through a separate procurement process that will provide services to install the materials and equipment as part of this agreement.
- 1.11 DRAWINGS - the parts of the CONTRACT DOCUMENTS which show the characteristics and scope of the WORK to be performed and which have been prepared or approved by the ENGINEER.
- 1.12 ENGINEER – SEL Engineering Services, Inc.

- 1.13 FIELD ORDER - A written order effecting a change in the WORK not involving an adjustment in the CONTRACT PRICE or an extension of CONTRACT TIME, issued by the OWNER or OWNER's REPRESENTATIVE to the SUPPLIER during construction.
- 1.14 FINAL COMPLETION - That date, as certified by the OWNER or OWNER's REPRESENTATIVE by issuance of a FINAL ACCEPTANCE CERTIFICATE (FAC), when 100% of each and every part of the WORK has been completed, tested and accepted by the SUPPLIER in writing.
- 1.15 NOMINATED SUBCONTRACTOR - An individual, firm or corporation approved by the CONTRACTOR which subcontracts with the SUPPLIER to provide a major portion of the WORK. NOMINATED SUBCONTRACTORS include:
- 1) _____;
- 2) _____;
- 3) _____.
- 1.16 OWNER – Southeast Alaska Power Agency (may be referred to as “SEAPA” or “Agency”).
- 1.17 OWNER's REPRESENTATIVE - The authorized representative of the OWNER who is assigned to the Project site or any part thereof.
- 1.18 PROJECT - The undertaking to be performed as provided in the CONTRACT DOCUMENTS.
- 1.19 SHOP DRAWINGS - All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the SUPPLIER, a SUBCONTRACTOR, manufacturer, supplier or distributor, which illustrate how specific portions of the WORK shall be fabricated or installed.
- 1.20 SPECIFICATIONS - A part of the CONTRACT DOCUMENTS consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.
- 1.21 SUBCONTRACTOR - An individual, firm, or corporation having a direct contract with SUPPLIER or with any other NOMINATED SUBCONTRACTOR for the performance of a part of the WORK at the site.
- 1.22 SUBSTANTIAL COMPLETION or PROVISIONAL ACCEPTANCE- That date certified by the OWNER or the OWNER's REPRESENTATIVE by issuance of a PROVISIONAL ACCEPTANCE CERTIFICATE when the construction of the Project or a specified part thereof is sufficiently completed, in accordance with the CONTRACT DOCUMENTS, so that the Project or specified part can be utilized for the purposes for which it is intended.

- 1.23 SUPPLEMENTAL GENERAL CONDITIONS - Modifications to General Conditions, attached hereto as Section 00 80 00.
- 1.24 SUPPLIER - Any person or organization who supplies materials, equipment, or services for the WORK under this AGREEMENT.
- 1.25 WORK - All labor necessary to produce the construction required by the CONTRACT DOCUMENTS, and all materials and equipment incorporated or to be incorporated in the Project.
- 1.26 WRITTEN NOTICE - Any notice to any party of the AGREEMENT relative to any part of this AGREEMENT in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at their last given address, or delivered in person to said party or their authorized representative on the WORK.
- 2.0 ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS
 - 2.1 The SUPPLIER may be furnished additional instructions and detail drawings, by the ENGINEER with OWNER's approval, as necessary to carry out the WORK required by the CONTRACT DOCUMENTS. Any price modifications that arise as a result of such additional instructions shall be indicated to the OWNER in writing within seven (7) days after receipt of such additional instructions and/or detailed drawings.
 - 2.2 The additional drawings and instructions thus supplied will become a part of the CONTRACT DOCUMENTS. The SUPPLIER shall carry out the WORK in accordance with the additional detail drawings and specifications.
- 3.0 SCHEDULES, REPORTS AND RECORDS
 - 3.1 The SUPPLIER shall submit to the OWNER such progress schedules, reports, estimates, records and other data where applicable as are required by the CONTRACT DOCUMENTS for the WORK to be performed.
 - 3.2 Prior to the first payment invoice, the SUPPLIER shall submit progress schedules showing the order in which the SUPPLIER proposes to carry on the WORK, including dates at which the various parts of the WORK will be started, estimated date of completion of each part and, as applicable and as detailed in the Specifications.
- 4.0 DRAWINGS AND SPECIFICATIONS
 - 4.1 The intent of the Drawings and Specifications is that the SUPPLIER shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the WORK in accordance with the CONTRACT DOCUMENTS and all incidental work necessary to complete the Project in an acceptable manner, ready for use, occupancy or operation by the OWNER.

- 4.2 In case of conflict between the Drawings and Specifications, the Specifications shall govern. Figure dimensions on Drawings shall govern over general Drawings.
- 4.3 Any discrepancies found between the Drawings and Specifications and site conditions or any inconsistencies or ambiguities in the Drawings and Specifications shall be immediately reported to the ENGINEER and OWNER, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. WORK done by the SUPPLIER after discovery of such discrepancies, inconsistencies or ambiguities shall be done at the SUPPLIER'S risk.
- 5.0 SHOP DRAWINGS
- 5.1 The SUPPLIER shall provide the number of copies of SHOP DRAWINGS as may be necessary for the prosecution of the WORK as required by the CONTRACT DOCUMENTS. The ENGINEER shall promptly, but not exceeding two weeks from date of receipt, review all SHOP DRAWINGS. If the SUPPLIER does not receive a response to its submittal of drawings within this time, the submittal shall be considered accepted. The ENGINEER'S review of any SHOP DRAWING shall not release the SUPPLIER from any responsibility for deviations from the CONTRACT DOCUMENTS. The review of any SHOP DRAWING which substantially deviates from the requirement of the CONTRACT DOCUMENTS shall be evidenced by a CHANGE ORDER.
- 5.2 When submitted for the ENGINEER's review, SHOP DRAWINGS shall bear the SUPPLIER's certification that it reviewed, checked and approved the SHOP DRAWINGS and that they are in conformance with the requirements of the CONTRACT DOCUMENTS.
- 5.3 Portions of the WORK requiring a SHOP DRAWING or sample submission shall not begin until the SHOP DRAWING or submission has been reviewed by the ENGINEER and approved by the OWNER or the OWNER's REPRESENTATIVE. A copy of each reviewed SHOP DRAWING and each approved sample shall be kept in good order by the SUPPLIER at the site and shall be available to the OWNER.
- 5.4 All accepted drawings, blueprints, documentation for assembly and maintenance, tools, printing plates, etc., prepared or constructed by SUPPLIER and paid for by OWNER in accordance with the terms of this Agreement shall be the property of OWNER immediately upon payment therefore and upon completion of deliveries hereunder, or upon termination of this AGREEMENT, shall be delivered to OWNER.
- 6.0 MATERIALS, SERVICES AND FACILITIES
- 6.1 It is understood that, except as otherwise specifically stated in the CONTRACT DOCUMENTS, the SUPPLIER shall provide and pay for all materials, labor, tools, equipment, transportation, supervision, temporary construction, and all other services

and facilities of any nature whatsoever necessary to execute, complete, and deliver the WORK within the specified time.

- 6.2 Materials and equipment shall be so stored as to insure the preservation of other quality and fitness for the WORK. Stored materials and equipment to be incorporated in the WORK shall be located so as to facilitate prompt inspection.
- 6.3 Manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.
- 6.4 Materials, supplies, or equipment to be incorporated into the WORK shall not be purchased by the SUPPLIER or SUBCONTRACTOR subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

7.0 INSPECTION AND TESTING

- 7.1 All materials and equipment used in the construction of the Project shall be subject to adequate inspection and testing in accordance with generally accepted standards, as required and defined in the CONTRACT DOCUMENTS.
- 7.2 The SUPPLIER shall provide inspection at the factory if OWNER so desires for his purposes. Any such inspection does not relieve SUPPLIER for responsibility for inspection.
- 7.3 The SUPPLIER shall provide at the SUPPLIER's expense the testing and inspection services required by the CONTRACT DOCUMENTS.
- 7.4 If the CONTRACT DOCUMENTS, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any WORK to specifically be inspected, tested, or approved by someone other than the SUPPLIER, the SUPPLIER will give the OWNER timely notice of readiness. The SUPPLIER will then furnish the OWNER the required certificates of inspection, testing or approval.
- 7.5 Inspections, tests, or reviews by the ENGINEER, OWNER, or others, shall not relieve the SUPPLIER from the obligations to perform the WORK in accordance with the requirements of the CONTRACT DOCUMENTS.
- 7.6 The OWNER and the OWNER's REPRESENTATIVES will at all times have access to the WORK.

8.0 SUBSTITUTIONS

- 8.1 When a material, article, or piece of equipment is identified on the Drawings or Specifications by reference to brand name or catalogue numbers, it shall be understood

that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality and function shall be considered. The SUPPLIER may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the CONTRACT DOCUMENTS by reference to brand name or catalogue number, and if, in the opinion of the ENGINEER or OWNER, such material, article, or piece of equipment is of equal substance and function to that specified, the OWNER may approve its substitution and use by the SUPPLIER. The appropriate CHANGE ORDER will be issued. The SUPPLIER warrants that if substitutes are approved, no changes in the function or general design of the project will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the SUPPLIER without change in the CONTRACT PRICE or CONTRACT TIME.

9.0 ROYALTIES AND PATENTS

9.1 The SUPPLIER shall pay all royalties and all license fees and shall defend and indemnify OWNER against all suits or claims for infringement of patent rights on account of the use of any patented invention, process, article, or application and shall save the OWNER harmless from loss on account thereof.

9.2 The SUPPLIER agrees to defend, indemnify and hold the OWNER and ENGINEER harmless from and against claims, demands, or suits based on allegations that the equipment manufactured or supplied by the SUPPLIER constitutes an infringement of any patent, trademark, copyright, or other proprietary interest or violation of any noncompetitive or secrecy covenant, if the SUPPLIER is notified promptly of the assertion of any such allegation and if the SUPPLIER is given authority to defend the same and reasonable information and assistance of OWNER for the defense of the same. Upon notification of an infringement, or claim, the SUPPLIER agrees to perform the following, at no cost to the OWNER:

- a. Procure for the OWNER the right to continue using the equipment; or
- b. Replace, subject to the approval of the OWNER, the same with non-infringing machinery; or and
- c. Modify it subject to the approval of the OWNER so that it becomes non-infringing.

10.0 SURVEYS, PERMITS, REGULATIONS

10.1 The OWNER shall furnish all boundary surveys and establish all base lines for locating the principal component parts of the WORK together with a suitable number of bench marks adjacent to the WORK as shown in the CONTRACT DOCUMENTS.

- 10.2 The SUPPLIER shall carefully preserve bench marks, reference points and stakes and, in case of willful or careless destruction, shall be charged with the resulting expense and shall be responsible for any mistake that may be caused by their unnecessary loss or disturbance.
- 10.3 Permits and licenses of a temporary nature necessary for the prosecution of the WORK shall be secured and paid for by the SUPPLIER unless otherwise stated in the SUPPLEMENTAL GENERAL CONDITIONS. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the OWNER, unless otherwise specified. The SUPPLIER shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the WORK as drawn and specified. If the SUPPLIER observes that the CONTRACT DOCUMENTS are at variance therewith, the SUPPLIER shall promptly notify the OWNER in writing, and any necessary changes shall be adjusted as provided in Section 13, CHANGES IN THE WORK.
- 11.0 PROTECTION OF WORK, PROPERTY, AND PERSONS (ONLY APPLICABLE TO THE SUPERVISION WORK AT THE PROJECT SITE)
- 11.1 The SUPPLIER shall abide by the OWNER's safety program on site. The SUPPLIER will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the WORK for their personnel. The SUPPLIER will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to all employees on the WORK and other persons who may be affected thereby, all the WORK and all materials or equipment to be incorporated therein.
- 11.2 The SUPPLIER will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. When applicable, the SUPPLIER will erect and maintain, as required by the conditions and progress of the WORK, all necessary safeguards for safety and protection. The SUPPLIER will notify OWNER of adjacent utilities when prosecution of the WORK may affect them. The SUPPLIER will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or part, by the SUPPLIER, and SUBCONTRACTOR or anyone directly or indirectly employed by any of them or anyone directly or indirectly employed by any of them anyone of whose acts any of them be liable, except damage or loss attributable solely to the fault of the CONTRACT DOCUMENTS or solely to the negligent acts or omissions or willful misconduct of the OWNER, of the ENGINEER, or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the SUPPLIER.
- 11.3 In emergencies affecting the safety of persons at the site or the WORK or property at the site or adjacent thereto, the SUPPLIER, without special instructions or authorization from the ENGINEER, OWNER or OWNER's REPRESENTATIVE, shall act to prevent

threatened damage, injury or loss. The SUPPLIER will give the ENGINEER prompt WRITTEN NOTICE of any significant changes in the WORK or deviations from the CONTRACT DOCUMENTS caused thereby, and a CHANGE ORDER shall thereupon be issued covering the changes and deviations involved.

- 11.4 SUPPLIER warrants that all materials, equipment, supplies, and facilities, whether temporary or permanent, furnished by SUPPLIER or any of SUPPLIER'S subcontractors at the site in connection with performance of the Work shall strictly comply with all applicable laws, ordinances, codes, rules, regulations, and orders of any and all governmental authorities, including federal, state, municipality, and local, pertaining to health or safety or environmental protection.

At all times while any of SUPPLIER'S employees, agents, or subcontractors are on or about OWNER'S premises, SUPPLIER shall be solely responsible for providing them with a safe place of employment, and SUPPLIER shall inspect the places where its employees, agents, or subcontractors are or may be present on or about OWNER'S premises and shall promptly take action to correct conditions which are or may become an unsafe place of employment for them. SUPPLIER shall indemnify and save harmless OWNER and ENGINEER and their directors, officers, employees, and agents, from and against any and all claims, loss or liability in any manner arising about of SUPPLIER'S failure to comply with the foregoing provisions of this Paragraph.

- 11.5 SUPPLIER shall designate a responsible representative at the site whose duty shall be the prevention of accidents. This person shall be SUPPLIER'S superintendent unless otherwise designated in writing by SUPPLIER or OWNER.
- 11.6 If a death, serious personal injury, or substantial property damage occurs in connection with the performance of work under the CONTRACT at the site, SUPPLIER shall immediately notify the OWNER personally or by telephone. SUPPLIER shall promptly submit to OWNER a written report, in such form as may be required by OWNER, of all accidents which occur in connection the Work. Any such report must include the following information: (1) name and address of the injured or decease person(s) and/or person(s) whose property was damaged, (2) name and address of SUPPLIER or subcontractor(s) involved, (3) name and address of SUPPLIER's liability insurance carrier and/or Workmen's Compensation carrier, as applicable, (4) a detailed description of the accident or event and the injuries and/or property damage involved and whether any of OWNER's property, equipment, tools, or material were involved, and (5) a dated copy of SUPPLIER's report to its insurance carrier concerning such accident or event.

12.0 SUPERVISION BY SUPPLIER

The SUPPLIER will supervise and/or direct the WORK of installation at the site. It will be solely responsible for the means, methods, techniques, sequences and procedures of installation work, and must coordinate with the installation contractor. The SUPPLIER

will employ and maintain on the WORK, a qualified supervisor or superintendent who shall have been designated in writing by the SUPPLIER as the SUPPLIER's representative at the site. The supervisor shall have full authority to act on behalf of the SUPPLIER and all communications given to the supervisor shall be as binding as if given to the SUPPLIER.

The supervisor shall be present on the site at all times as stipulated in the PROPOSAL and as additionally may be required by the OWNER to perform adequate supervision and coordination of the WORK. SUPPLIER agrees that by providing such supervision, all performance guarantees shall remain in full force and effect at all times during performance of the WORK, and that no claims shall be made by SUPPLIER for improper delivery, handling, or installation of equipment.

13.0 CHANGES IN THE WORK

13.1 The OWNER may at any time, as the need arises, order changes with the scope of the WORK without invalidating the AGREEMENT. If such changes increase or decrease the amount due under the CONTRACT DOCUMENTS, or in the time required for performance of the WORK, an equitable adjustment shall be authorized by CHANGE ORDER.

13.2 The OWNER, also, may at any time, by issuing a FIELD ORDER, make changes in the details of the WORK. The SUPPLIER shall proceed with the performance of any changes in the WORK, so ordered by the OWNER unless the SUPPLIER believes that such FIELD ORDER entitles the SUPPLIER to a change in CONTRACT PRICE or TIME or both, in which event the SUPPLIER shall give the OWNER WRITTEN NOTICE thereof within seven (7) days after the receipt of the ordered change. Thereafter the SUPPLIER shall document the basis for the change in CONTRACT PRICE or TIME within seven (7) days. The SUPPLIER shall not execute such changes pending the receipt of an executed CHANGE ORDER or further instruction from the OWNER.

If SUPPLIER believes that OWNER has given an oral change order, or that work must be performed for any reason that is outside the CONTRACT Scope of Work, SUPPLIER must make written request to OWNER for a written change order prior to commencement of performance thereof and in any event within three (3) days of the date that any such oral direction is given or the date of occurrence of the event that caused work to be performed beyond the CONTRACT Scope of Work. Any such written request must identify the person who gave the oral direction and the nature of the direction and its effect or other event and its impact, if any, on CONTRACT price and schedule. Subcontractors shall adhere to all applicable provisions of the above paragraph, and their subcontracts shall so provide.

14.0 CHANGES IN CONTRACT PRICE

The CONTRACT PRICE may be changed only by a CHANGE ORDER. The value of any WORK covered by a CHANGE ORDER or of any claim for increase or decrease in the CONTRACT PRICE shall be determined by one or more of the following methods in the order of precedence listed below:

- a. Unit prices previously approved.

An agreed lump sum.

15.0 TIME FOR COMPLETION AND LIQUIDATED DAMAGES

- 15.1 The date of beginning and the time for completion of the WORK are essential conditions of the CONTRACT DOCUMENTS and the WORK embraced shall commence after the signing of this AGREEMENT.

- 15.2 The SUPPLIER will proceed with the WORK at such rate of progress as to insure full completion within the CONTRACT TIME. It is expressly understood and agreed, by and between the SUPPLIER and the OWNER, that the CONTRACT TIME for the completion of the WORK described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the WORK. If the WORK is not completed by the times guaranteed by the SUPPLIER, OWNER will suffer loss and damages, and possibly penalties from the purchaser of the electricity to be produced by the Project, including possible guaranteed capacity penalties.

Neither party shall be liable to the other for any loss of profit, loss of use, loss of production, loss of contracts or for any other indirect or consequential damage that may be suffered by the other, or any exemplary or punitive damages, except as agreed in paragraph 15.3 of GENERAL CONDITIONS and in paragraph 14 of SUPPLEMENTAL GENERAL CONDITIONS.

- 15.3 The SUPPLIER and OWNER agree that no liquidated damages shall apply to late delivery or delay under this Contract. In the event of SUPPLIER's delayed performance or non-performance, OWNER reserves all remedies available at law or in equity, including the recovery of actual damages proven, including the following:

15.3.1 REMEDIES FOR BREACH AND DEFAULT

(a) Event of Default. SUPPLIER shall be in default of this Contract if it fails to comply with any material term, condition, or covenant contained herein, including but not limited to: failure to deliver the transformer in accordance with the specified schedule, failure to meet technical specifications, or failure to maintain compliance with applicable federal laws, regulations, and Department of Energy grant requirements under Alaska Energy Authority Grant Agreement No. 7710006.

(b) Notice and Cure. Upon the occurrence of an Event of Default, the Southeast Alaska Power Agency (SEAPA) provide SUPPLIER with written Notice of Default. SUPPLIER shall have fifteen (15) calendar days from the receipt of such notice to cure the default to the satisfaction of SEAPA.

(c) Rights and Remedies. If SUPPLIER fails to cure the default within the specified cure period, SEAPA may, at its sole discretion, pursue any and all administrative, contractual, legal, and equitable remedies available under Alaska law and federal procurement regulations. These remedies include, but are not limited to:

- Withholding of Payment: Suspending or withholding any pending or future progress payments until the default is fully remedied.
- Right to Cover: Procuring a replacement transformer or obtaining corrective services from an alternative source. SUPPLIER shall be liable to SEAPA for all reasonable excess costs incurred in procuring such cover.
- Actual Damages: Holding SUPPLIER liable for all actual, direct, and provable damages resulting from the breach or delay.

(d) Termination for Cause. In addition to the financial and performance remedies above, failure to cure a material breach shall constitute grounds for immediate Termination for Cause under Section 18.0 herein.

(e) Remedies Cumulative. The duties and obligations imposed by this Contract, and the rights and remedies available thereunder, shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law or by the Grant Agreement.

15.4 The SUPPLIER shall not be charged with liquidated damages or any excess cost when the delay in completion of the WORK is due to the following and the SUPPLIER has promptly given WRITTEN NOTICE of such delay to the OWNER:

15.4.1 To any preference, priority or allocation order duly issued by the OWNER.

15.4.2 To causes without any fault or negligence of the SUPPLIER, including acts of God, or of the public enemy, acts of the OWNER, acts of another SUPPLIER in the performance of a contract with the OWNER, fires, floods, epidemics, quarantine restrictions, strikes; and

15.4.3 To any delays of SUBCONTRACTORS occasioned by any of the causes specified in paragraphs 15.4.1 and 15.4.2 of this article.

- 15.5 SUPPLIER shall be entitled to an extension of time to complete the Work equal to only the time of any delay, disruption, or interference which is due to fire, flood, other acts of God, war, civil insurrection, strikes except for lock outs, or other force majeure events without any fault or negligence of SUPPLIER. SUPPLIER shall notify OWNER in writing of the amount of lost time involved within three (3) days following any such occurrence. SUPPLIER shall not make claims for loss of efficiency or continuity due to such events. Such extension of time shall be the exclusive remedy of SUPPLIER for any such delay and SUPPLIER shall not be entitled to and hereby waives any claim for damages against OWNER on account of such delay. If SUPPLIER fails to notify OWNER in writing of the amount of lost time involved within three (3) days following any such occurrence, SUPPLIER shall be deemed to have waived any claim for an extension of time.
- 15.6 SUPPLIER shall advise OWNER promptly in writing of any labor dispute or anticipated labor dispute, or delay in material delivery or fabrication, which may reasonably be expected to affect the performance of the Work by SUPPLIER or any of its subcontractors in regard to the completion date of the Work.
- 16.0 CORRECTION OF WORK
- 16.1 The SUPPLIER shall promptly remove from the premises all WORK rejected by the ENGINEER, OWNER or OWNER's REPRESENTATIVE for failure to comply with the CONTRACT DOCUMENTS, whether incorporated in the construction or not, and the SUPPLIER shall promptly replace and re-execute the WORK in accordance with the CONTRACT DOCUMENTS and without expense to the OWNER and shall bear the expense of making good all WORK of other SUPPLIERS destroyed or damaged by such removal or replacement.
- 16.2 All removal and replacement WORK shall be done at the SUPPLIER'S expense. If the SUPPLIER does not take action to remove such rejected WORK within ten (10) days after receipt of WRITTEN NOTICE, the OWNER may remove such WORK and store the materials at the expense and responsibility of the SUPPLIER.
- 17.0 SUBSURFACE CONDITIONS
- 17.1 N/A
- 18.0 SUSPENSION OF WORK, TERMINATION, AND DELAY
- 18.1 The OWNER may suspend the WORK or any portion thereof for a period of not more than ninety (90) days or such further time as agreed upon by the SUPPLIER, by WRITTEN NOTICE to the SUPPLIER and the ENGINEER which shall fix the date on which WORK shall resume. The SUPPLIER will resume that WORK on the date so fixed. The SUPPLIER will be allowed an increase in the CONTRACT PRICE or an extension of the

CONTRACT TIME, or both, directly attributable to any such suspension caused at the request of the OWNER.

- 18.2 If the SUPPLIER is adjudged as bankrupt or insolvent, or make a general assignment for the benefit of its creditors, or if a trustee or receiver is appointed for the SUPPLIER or for any of its property, or if SUPPLIER files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or repeatedly fails to make prompt payments to SUBCONTRACTORS or for labor, materials or equipment or disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the WORK or disregards the authority of the ENGINEER, OWNER or OWNER's REPRESENTATIVE, or otherwise violates any provision of the CONTRACT DOCUMENTS, then the OWNER may, without prejudice to any other right or remedy and after giving the SUPPLIER and its surety a minimum of seven (7) days from receipt of a WRITTEN NOTICE, terminate the services of the SUPPLIER and take possession of the Project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the SUPPLIER, and finish the WORK by whatever method the OWNER may deem expedient. In such case the SUPPLIER shall not be entitled to receive any further payment. If the direct and indirect costs of completing the SUPPLIER'S obligations, including costs for outside professional services, exceed the unpaid balance of the Contract Price, the SUPPLIER will pay the difference to the OWNER within thirty (30) days. If delays in achieving final completion result as a consequence of such termination, penalties for late completion shall be assessed and paid by the SUPPLIER in accordance with Paragraph 15 of these terms and conditions. Such costs incurred by the OWNER will be determined by the ENGINEER and incorporated in a CHANGE ORDER.
- 18.3 Where the SUPPLIER's services have been so terminated by the OWNER, said termination shall not affect any right of the OWNER against the SUPPLIER then existing or which may thereafter accrue. Any retention or payment of moneys by the OWNER due the SUPPLIER will not release the SUPPLIER from compliance with the CONTRACT DOCUMENTS.
- 18.4 After ten (10) days from delivery of a WRITTEN NOTICE to the SUPPLIER and the ENGINEER, the OWNER may, without cause and without prejudice to another right or remedy, elect to abandon the Project and terminate the Contract. In such case the SUPPLIER shall be paid for all WORK executed and any expense sustained plus a negotiated reasonable profit.
- 18.5 If, through no act or fault of the SUPPLIER, the WORK is suspended for a period of more than ninety (90) days by the OWNER or under an order of court or other public authority, or the OWNER fails to act on any request for payment within thirty (30) days after it is submitted, or the OWNER fails to pay the SUPPLIER substantially the sum approved by

the OWNER or awarded by arbitrators within thirty (30) days of its approval and presentation, then the SUPPLIER may, after ten (10) days from delivery of a WRITTEN NOTICE to the OWNER and the ENGINEER, terminate the Contract, and recover from the OWNER payment for all WORK executed and all expenses sustained. In addition and in lieu of terminating the CONTRACT, if the OWNER has failed to act on a request for payment or if the OWNER has failed to make any payment as aforesaid, the SUPPLIER may upon ten (10) days written notice to the OWNER and the OWNER stop the WORK until paid all amounts then due, in which event and upon resumption of the WORK CHANGE ORDERS shall be issued for adjusting the CONTRACT PRICE or extending the CONTRACT TIME or both to compensate for the costs and delays attributable to the stoppage of the WORK.

- 18.6 If the performance of all or any portion of the WORK is suspended, delayed, or interrupted as a result of a failure of the OWNER to act within the time specified in the CONTRACT DOCUMENTS, or if no time is specified, within a reasonable time, an adjustment in the CONTRACT PRICE or an extension of the CONTRACT TIME, or both, shall be made by CHANGE ORDER to compensate the SUPPLIER for the costs and delays necessarily caused by the failure of the OWNER or ENGINEER.

19.0 PAYMENTS TO SUPPLIER

- 19.1 Payments to the SUPPLIER will include milestone payments and progress payments based on the progress of the WORK. The payment schedule is presented in the Supplemental General Conditions, 00 80 00, Schedule 1.
- 19.2 Prior to PROVISIONAL ACCEPTANCE, the OWNER, with the recommendation of the ENGINEER and with the concurrence of the SUPPLIER, OWNER may use any completed or substantially completed portions of the WORK. Such use shall not constitute an acceptance of such portions of the WORK.
- 19.3 The OWNER and the OWNER's REPRESENTATIVE shall have the right to enter the premises for the purpose of doing work not covered by the CONTRACT DOCUMENTS. This provision shall not be construed as relieving the SUPPLIER of the sole responsibility for the care and protection of the WORK, or the restoration of any damaged WORK except such as may be caused by agents or employees of the OWNER.
- 19.4 Upon substantial completion of the Work, the SUPPLIER shall apply to the OWNER and OWNER's REPRESENTATIVE for a PROVISIONAL ACCEPTANCE certificate. The OWNER or OWNER's REPRESENTATIVE shall inspect the facilities within fifteen (15) days of such application, and if the WORK has been completed to the extent allowing the Project to be safely put to its intended purpose, in the OWNER's opinion, OWNER shall issue a PROVISIONAL ACCEPTANCE certificate and a complete list of all items necessary for the SUPPLIER to complete for the work to be considered finally complete. Upon final completion and acceptance of the WORK, the OWNER shall issue a FINAL

COMPLETION certificate. After FINAL COMPLETION, any unpaid balance found to be due to the SUPPLIER, but except such sums as may be lawfully retained by the OWNER, shall be paid to the SUPPLIER in accordance with the payment provisions. (FINAL COMPLETION certificate is to be understood as equal to the FINAL ACCEPTANCE CERTIFICATE referred to in other parts of the CONTRACT DOCUMENTS).

- 19.5 The SUPPLIER and ENGINEER will indemnify and save the OWNER and the OWNER's, directors, officers, employees and agents harmless from all claims growing out of the lawful demand of SUBCONTRACTORS, laborers, workmen, mechanics, material men, and furnisher of machinery and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the WORK. The SUPPLIER shall, at the OWNER'S request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the SUPPLIER fails to do so the OWNER may, after having notified the SUPPLIER, either pay unpaid bills or withhold from the SUPPLIER'S unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged where upon payment to the SUPPLIER shall be resumed in accordance with the terms of the CONTRACT DOCUMENTS, but in no event shall the provisions of this sentence be construed to impose any obligations upon the OWNER to either the SUPPLIER, the SUPPLIER'S Surety, or any third party. In paying any unpaid bills of the SUPPLIER, any payment so made by the OWNER shall be considered as a payment made under the CONTRACT DOCUMENTS by the OWNER to the SUPPLIER and the OWNER shall not be liable to the SUPPLIER for any such payments made in good faith.

20.0 ACCEPTANCE OF FINAL PAYMENT AS RELEASE

The acceptance by the SUPPLIER of final payment shall be and shall operate as a release to the OWNER of all claims and liability to the SUPPLIER other than claims in stated amounts as may be specifically excepted by the SUPPLIER for all things done or furnished in connection with this WORK and for every act and neglect of the OWNER and other relating to or arising out of this WORK. Any payment, however, final or otherwise, shall not release the SUPPLIER or its sureties from any obligations under the CONTRACT DOCUMENTS or the respective Bonds.

- 21.0 INSURANCE: SEE **APPENDIX A** ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

22.0 CONTRACT SECURITY

The SUPPLIER shall furnish the OWNER with bonds in penal sums equal to the amounts as agreed upon in the CONTRACT DOCUMENTS. The expense of these Bonds shall be borne by the SUPPLIER. The wording of the Bonds shall be according to the text draft included in the CONTRACT.

23.0 ASSIGNMENTS

Neither the SUPPLIER nor the OWNER shall sell, transfer, assign, or otherwise dispose of the Contract or any portion thereof, or of any right, title or interest therein, or any obligations there-under, without written consent of the other party.

24.0 INDEMNIFICATION

24.1 The SUPPLIER will indemnify and hold harmless the OWNER and the ENGINEER and their directors, agents, employees and assigns from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the WORK, provided that any such claims, damage, loss or expense is attributed to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom; and is caused in whole or in part by any negligent or willful act or omission of the SUPPLIER, and SUBCONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

24.2 In any and all claims against the OWNER or the ENGINEER, or any of their directors, agents, employees or assigns, by any employee of the SUPPLIER, any SUBCONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the SUPPLIER or any SUBCONTRACTOR under workmen's compensation acts, disability benefit acts or other employee benefits acts.

24.3 The SUPPLIER's liability on all claims of any kind, whether based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, for all losses or damages arising out of, connected with, or resulting from the CONTRACT, or from breach thereof shall in no case exceed 100% percent of the total CONTRACT PRICE, plus proceeds for any insurance. Except as to title to any goods furnished, all such liability shall terminate upon the expiration of the warranty period specified in the AGREEMENT.

The aggregate liability of the OWNER on claims of any kind, to the maximum extent permitted by law for any and all damages under this Contract, is limited to the Contract Price.

25.0 SEPARATE CONTRACTS

25.1 The OWNER reserves the right to enter into other contracts in connection with this Project. The SUPPLIER shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their WORK, and shall properly connect and coordinate the WORK with theirs. If the proper execution or results of any part of the SUPPLIER's WORK depends upon the WORK of any other Contractor,

the SUPPLIER shall inspect and promptly report to the OWNER any defects in such WORK that render it unsuitable for such proper execution and results. Such other contracts shall not affect SUPPLIER's guarantees and warranties in any way as long as they are not interfering with the SUPPLIER's scope of work.

- 25.2 The OWNER may perform additional WORK related to the project, or the OWNER may enter into other contracts containing provisions similar to these. The SUPPLIER will afford the other Contractors who are parties to such Contracts (or the OWNER, if the OWNER is performing the additional WORK) reasonable opportunity for the introduction and storage of materials and equipment and the execution of WORK, and shall properly connect and coordinate the WORK with theirs.

26.0 SUBCONTRACTING

- 26.1 The SUPPLIER may utilize the services of specialty SUBCONTRACTORS on those parts of the WORK which, under normal contracting practices, are performed by specialty SUBCONTRACTORS.
- 26.2 The SUPPLIER shall not award WORK to SUBCONTRACTOR(s), in excess of ten (10%) percent of the CONTRACT PRICE, without prior written approval of the OWNER.
- 26.3 The SUPPLIER shall be fully responsible to the OWNER for the acts and omissions of its SUBCONTRACTORS, and of persons either directly or indirectly employed by them, as the SUPPLIER is for the acts and omissions of persons directly employed by the SUPPLIER.
- 26.4 The SUPPLIER shall cause appropriate provisions to be inserted in all subcontracts relative to the WORK to bind SUBCONTRACTORS to the SUPPLIER by the terms of the CONTRACT DOCUMENTS insofar as applicable to the WORK of SUBCONTRACTORS and to give the SUPPLIER the same power as regards terminating any subcontract that the OWNER may exercise over the SUPPLIER under any provision of the CONTRACT DOCUMENTS.
- 26.5 Nothing contained in this Contract shall create any contractual relationship between any SUBCONTRACTOR and the OWNER.

27.0 ENGINEER'S AUTHORITY

- 27.1 If authorized by OWNER, the ENGINEER may act as the OWNER's REPRESENTATIVE during the manufacturing, factory testing, delivering, installation and Project site testing and commissioning periods, and shall decide questions which may arise as to quality and acceptability of materials furnished and WORK performed. The ENGINEER may make visits to the factory or to the site and determine if the WORK is proceeding in accordance with the CONTRACT DOCUMENTS.

27.2 If not duly appointed by the OWNER to act in the role of an OWNER's REPRESENTATIVE, the ENGINEER may witness and observe the manufacturing, factory testing, delivering, installation and Project site testing and commissioning periods, and shall make recommendations to the OWNER or OWNER's REPRESENTATIVE regarding questions which may arise as to quality and acceptability of materials furnished and WORK performed. The ENGINEER may make visits to the factory or to the site and make recommendations to the OWNER or OWNER's REPRESENTATIVE regarding if the WORK is proceeding in accordance with the CONTRACT DOCUMENTS.

27.3 The SUPPLIER will be held strictly to the intent of the CONTRACT DOCUMENTS in regard to the quality of materials, workmanship, and execution of the WORK. Inspections may be made at the factory or fabrication plant of the source of material supply.

27.4 The ENGINEER will not be responsible for the construction means, controls, techniques, sequences, procedures, or construction safety.

28.0 LAND AND RIGHTS-OF-WAY

The OWNER is in the process of obtaining all land and rights-of-way necessary for carrying out and for the completion of the WORK to be performed pursuant to the CONTRACT DOCUMENTS.

29.0 ARBITRATION

29.1 All claims, disputes, and other matters in question arising out of, or relating to, the CONTRACT DOCUMENTS or the breach thereof, except for claims which have been waived by making an acceptance of final payment as provided by Section 20, shall be decided by binding arbitration based on the American Arbitration Association rules. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in any court having jurisdiction thereof. Arbitration shall take place in Seattle, Washington, USA.

29.2 Notice of the request for arbitration shall be filed in writing with the other party to the CONTRACT DOCUMENTS and a copy shall be filed with the OWNER. Request for arbitration shall in no event be made on any claim, dispute, or other matter in question which would be barred by the applicable statute of limitations.

29.3 The SUPPLIER will carry on the WORK and maintain the progress schedule during any arbitration proceedings, unless otherwise mutually agreed in writing.

30.0 TAXES

The SUPPLIER will pay any and all taxes legally required inside and outside of Alaska, related to its work and income. OWNER shall pay any sales tax, consumer tax, use tax,

USA import duties, tariffs and other similar taxes required by the laws of Alaska and the United States.

31.0 EQUAL EMPLOYMENT OPPORTUNITY

31.1 Each Party agrees and acknowledges that it is an Equal Opportunity Employer under Applicable Laws, and shall maintain a policy not to discriminate against any employee or applicant for employment on the basis of race, religion, color, national origin, age, physical or mental disability, sex, marital status, changes in marital status, pregnancy, or parenthood (unless the reasonable demands of such position require a distinction) (an "EEO Policy").

31.2 The EEO Policy shall apply equally to the Parties, their subcontractors, employees and hiring policies with respect to any Work performed under this Contract, and each of the Parties shall be responsible for inserting similar language into its contracts. Each Party shall keep all records regarding its compliance with this EEO Policy in the event a Governmental Authority confidentially request such records.

32. CONFIDENTIALITY

32.1 The Parties shall hold in strict confidence, and shall not disclose, directly or indirectly, to any third party any information, drawings, specifications or data received from the other Party or discerned pursuant to this Contract without prior written approval of the other Party. Notwithstanding the above, the SUPPLIER may furnish to its suppliers or subcontractors such information which it receives from the OWNER to the extent required for the suppliers or subcontractors to perform their obligations, in which event the SUPPLIER shall obtain from them an undertaking of confidentiality similar to that imposed on the SUPPLIER under this Section.

32.2 The Parties may disclose information: (a) if and to the extent required by law or government regulations; and (b) to their legal or other advisers solely for the purpose of obtaining advice in connection with this Contract and subject to appropriate confidentiality obligations.

32.3 The obligations imposed by this Section shall survive for a period of two (2) years from the expiration or termination of this Contract.

32.4 Notwithstanding the foregoing, SEAPA is formed under Alaska Statutes 42.45.300 et. seq. and has adopted policies that may require public disclosure. Before it will disclose any such information in this Contract, or pursuant to this Contract, it shall use its best efforts to notify the SUPPLIER to provide it notice and time, if possible, should the SUPPLIER seek to challenge such disclosure in court.

ATTACHMENT: APPENDIX A – INSURANCE SPECIFICATIONS

APPENDIX A TO EXHIBIT 1 TO CONTRACT NO. 26026

SUPPLIER AND SUBCONTRACTOR INSURANCE REQUIREMENTS

Southeast Alaska Power Agency

SUPPLIER shall purchase and maintain or cause to be maintained insurance to protect it from claims of all types which may arise or result from SUPPLIER'S execution of WORK under the contract, whether such execution is by SUPPLIER, SUBCONTRACTOR, or by any person or entity directly or indirectly employed or hired by SUPPLIER or SUBCONTRACTOR, or by anyone whose acts SUPPLIER or SUBCONTRACTOR may be liable.

1. Policies shall be issued by insurance companies rated "A-/VII" or better, by Best's Insurance Guide and Key Ratings (or, if Best's Insurance Guide and Key Ratings is no longer published, or is not available, an equivalent rating by another nationally recognized insurance rating agency of similar standing) or other insurance companies of recognized responsibility satisfactory to SEAPA, until all obligations of SUPPLIER pursuant to the contract have been fully discharged, unless otherwise stated herein.

2. SUPPLIER shall obtain and maintain the insurance coverage specified below on an occurrence-basis, except for Professional Liability insurance (if applicable and required), which may be on a claims-made basis. If Professional liability insurance is provided on a claims-made form, then the insurance coverage must continue for a minimum period of two (2) years beyond the expiration or termination of the contract, and any retroactive date must coincide with or predate the effective date.

3. SUPPLIER shall require any subcontractors to provide and maintain during the term of their agreements the insurance coverages specified below, including the naming of the Southeast Alaska Power Agency as an additional insured (see specification 11.(c.) in the table below, with limits of liability deemed appropriate by SUPPLIER. In the event work is performed by a subcontractor, SUPPLIER shall be primarily responsible for any liability arising directly or indirectly out of the services performed that is not otherwise covered by any subcontractor's insurance.

4. Southeast Alaska Power Agency, 55 Don Finney Lane, Ketchikan, Alaska 99901, shall be named as Certificate Holder and listed as an "additional insured" on all applicable policies.

5. SUPPLIER for itself and its insurers hereby waives subrogation against SEAPA, its directors, officers, employees, and agents.

6. If SUPPLIER fails to meet the requirements herein, SEAPA may suspend the contract, withhold payments, or terminate the contract for breach.

7. THE INSURANCE COVERAGE DESCRIBED HEREIN SHALL NOT BE CONSTRUED AS ESTABLISHING OR LIMITING SUPPLIER'S LIABILITY. SEAPA's receipt of or failure to object to any insurance certificates or policies submitted by SUPPLIER or its subcontractors does not release or diminish in any manner the liability or obligations of SUPPLIER, or its subcontractors, or constitute a waiver of any of the insurance requirements under the contract.

8. All policies will be endorsed to specify that they are primary to and not excess to or on a contributing basis with any insurance or self-insurance maintained by SEAPA (not applicable to Workers' Compensation insurance policies).

9. The policies shall include standard severability provisions that state each insured is provided coverage as though a separate policy had been issued to each, except with respect to limits of insurance. The policies shall not contain a cross-liability or cross-suit exclusion that prevents SEAPA from asserting claims against the SUPPLIER or any other insured under the policies.

10. SUPPLIER shall be responsible for premiums payable to insurance companies, deductibles, and self-insured retentions, if any, stated in policies or assumed by SUPPLIER or SUBCONTRACTOR.

[see table on next page for additional coverage specifications]

	Type of Insurance	Minimum Coverage
1.	Workers' Compensation applicable to Alaska (including Jones Act and United States Longshore and Harbor Workers Act coverage), Employer's Liability, and Maritime Employers' Liability for applicable operations, such as but not limited to commercial diving.	Statutory Benefits with Employers Liability limits of: \$1,000,000 Bodily Injury by Accident \$1,000,000 Bodily Injury by Disease \$1,000,000 Bodily Injury Policy Limit
2.	Commercial General Liability including for SUPPLIER'S and SUBCONTRACTOR'S WORK, including for completed operations.	Coverage shall be at least as broad as Insurance Services Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) If SUPPLIER or SUBCONTRACTOR maintains broader coverage and/or higher limits than the minimums shown above, SEAPA requires and shall be entitled to the broader coverage and/or the higher limits maintained by the SUPPLIER or SUBCONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.
3.	Commercial Automobile Liability	Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
4.	Hired and Non-Owned Aviation-Charterer's Liability	SUPPLIER and/or SUBCONTRACTOR shall procure and maintain for the duration of the contract insurance against claims for injuries to people or damage to property which may arise from or in connection with the ownership, maintenance or use of non-owned, hired or chartered aircraft related to WORK under this contract. Coverage shall be on an "occurrence" basis, including products and completed operations, property damage, bodily injury with limits no less than \$5,000,000 per occurrence, and \$5,000,000 in the aggregate.
5.	Hired and Non-Owned Watercraft-Charterer's Liability	SUPPLIER and/or SUBCONTRACTOR shall procure and maintain for the duration of the contract, insurance against claims for injuries to people or damage to property which may arise from or in connection with the ownership, maintenance or use of non-owned, hired or chartered watercraft related to WORK under this contract. Coverage shall be on an "occurrence" basis, including products and completed operations, property damage, bodily injury with limits no less than \$5,000,000 per occurrence, and \$5,000,000 in the aggregate
6.	Umbrella Insurance (Excess Liability)	Coverage must be at least as broad as, and applies in excess and follows form of, the primary liability coverages required above, with minimum limits of \$5,000,000 per occurrence and in the aggregate.
7.	SUPPLIER's Pollution Liability	Covering liability and property damage losses caused by pollution conditions and cleanup that arise from SUBCONTRACTOR'S WORK under this Contract at jobsite. Coverage of not less than \$1,000,000 per occurrence and in the aggregate shall be carried for the period of the Contract.
8.	SUPPLIER's Equipment	SUPPLIER and SUBCONTRACTOR shall insure all equipment, tools, supplies and other owned, leased, or rented property and material used in the performance of WORK under this Contract for the full replacement value of such property, tools, and equipment, wherever located.

9.	Property insurance for ground, air and ocean cargo transit exposures.	SUPPLIER shall insure machinery and equipment during all ground, air and ocean transit delivery FOB destination to jobsite at SEAPA Tyee facility for all risks of physical loss or damage including loading and unloading, concealed damage, expediting expenses, and general average losses, for the full replacement value.	
10.	Other Business Insurance	SUPPLIER shall purchase and maintain any such insurance it deems appropriate to cover risks of loss, including but not limited to bodily injury and property damage liability claims and first party property loss arising from its operations and exposures at its own workshops, factories and other places of business.	
11.	Include the following items (a) through (g) when submitting evidence of insurance compliance: <u>VERIFICATION OF COVERAGE</u>	(a) (b) (c) (d) (e) (f) (g)	A fully completed ACORD Certificate of Liability and property Insurance form evidencing compliance with requirements stated in this INSURANCE REQUIREMENTS attachment. Provide a separate ACORD Certificate for SUPPLIER and SUBCONTRACTOR. A copy of the declarations page for all policies. For all liability policies, including hired and non-owned aviation and hired and non-owned watercraft , Southeast Alaska Power Agency (SEAPA) must be listed as a named additional insured utilizing form CG201011/85 or CG2010/10 with CG2037 10/01, or their equivalent. Form CG2033 is not acceptable for subcontractor insurance. Include additional insured forms/endorsements when submitting ACORD Certificate. For primary liability coverage(s) include form CG250303/97, or equivalent, for per-project aggregate limit. Include per-project aggregate forms/endorsements when submitting ACORD Certificate. Include endorsement of all policies evidencing policies are primary and non-contributing. Include evidence of waiver of subrogation for all applicable policies. SEAPA reserves the right to request copies of all insurance policy documents.

EXHIBIT 2 TO CONTRACT NO. 26026

SECTION 00 80 00 – SUPPLEMENTAL GENERAL CONDITIONS

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1.0 GENERAL

These Supplemental General Conditions amend or supplement the General Conditions of these CONTRACT DOCUMENTS and specific provisions of the CONTRACT DOCUMENTS as indicated herein and shall supersede any conflicting provisions in this Contract. All provisions which are not so amended or supplemented remain in full force and effect. The terms in these Supplemental General Conditions shall be those as defined in the General Conditions.

2.0 PROJECT DESCRIPTION

- 2.1 The work covered by these CONTRACT DOCUMENTS includes design, fabrication, delivering to jobsite, supervision of installation, start-up and testing of one (1) 115 kV grounded-wye/34.5 kV delta, three-phase 20/25 MVA oil-immersed power transformer, with low and high side surge arresters, as part of SEAPA's Ketchikan Substation Transformer Procurement Project .

3.0 PERMITS

The SUPPLIER will abide by all required local construction and environmental permits required for this project as obtained by OWNER.

4.0 PUBLIC CONVENIENCE AND SAFETY

All reasonable measures, notifications and scheduling considerations will be required of the SUPPLIER to limit traffic disturbances and other disruptions when on route to or at the project site. The SUPPLIER shall be responsible that all on site work through completion of this work complies with local standards or ordinances, Alaskan regulations or safe working practice. The OWNER reserves the right to stop work when in his judgment safety conditions are compromised and threaten the public, property owners, workmen or inspection personnel, and no extension of time will be given to SUPPLIER for any delays as a result of such work stoppages.

5.0 MEASUREMENT, PAYMENT AND WORK QUANTITIES

- 5.1 Measurements and payment for all work shall be as defined in paragraph 16 of this section.
- 5.2 Rights are reserved to increase, decrease or to entirely eliminate certain items from the work if found desirable or expedient, and the SUPPLIER is cautioned against unbalancing of its Bid by prorating its overhead and profit. The overhead, indirect charges and profit should be equally prorated on all items in the proposal.

- 5.3 The SUPPLIER will be allowed no claims for anticipated profits, loss of profits or damages because of any difference between the estimated and the actual amounts of work done or materials furnished or used in the completed project.

6.0 PROTECTION OF WORK AND PROPERTY

The SUPPLIER shall protect the Work described in this contract package and required materials from damage due to the nature of the work, the action of the elements, or any other cause whatever until the completion and acceptance of the Work, including during shipment via ocean or land transportation.

7.0 CODES, STANDARDS AND LAWS

Where codes or standards are referred to in these CONTRACT DOCUMENTS, plans and specifications, they shall be the current approved editions of said code or standard. It shall be the duty of any supplier of materials on this project to submit evidence as requested that said materials are in compliance with the applicable codes and specifications. The SUPPLIER shall conform to all applicable Alaskan laws in carrying out his obligations under this Contract.

8.0 ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the SUPPLIER and the OWNER with reference to the subject matter hereof. This Agreement shall become effective upon execution by the OWNER and SUPPLIER.

9.0 CONDITIONS AT SITE

- 9.1 SUPPLIER represents and agrees that it has fully informed itself of the conditions to be encountered at or affecting the site and all other conditions that may affect the progress of the Work and satisfied itself as to those conditions and problems indicated or reasonably inferable there-from. Without limitation to the generality of the foregoing, SUPPLIER hereby represents and agrees that it shall thoroughly investigate and fully satisfy itself as to the conditions affecting the site, the performance of the Work, and the construction and completion of the Project, including but not restricted to those bearing upon shipping and delivery, access to the site, accommodations which may be required, risks, contingencies, laws, regulations, codes, licenses and permits; transportation, disposal, handling and storage of materials and supplies; availability of labor, materials, and supplies; availability of water, electric power, and other utilities; roads; and uncertainties of weather, as well as physical conditions at the site, obstructions; and the character and extent of equipment, materials, supplies, facilities, services and labor needed for prosecution and completion of the Work. The SUPPLIER shall at his cost conduct any and all tests which are necessary or advisable in connection with the foregoing investigations. The contract prices include all work that may have to be done

by SUPPLIER and its subcontractors to overcome all situations, problems, or site conditions actually encountered to the extent they were indicated to be probable or existing or reasonably inferable or foreseeable from proper performance of the aforementioned investigations. SUPPLIER acknowledges responsibility for determining prior to submitting its Bid the effects of all conditions existing at the site or affecting performance of the Work on its work, activities, schedule, and cost. SUPPLIER is responsible for having properly estimated the difficulty and cost of successfully performing the Work and SUPPLIER shall have no recourse against OWNER if any of the matters referred to above are other than as assumed by SUPPLIER, to the extent indicated or reasonably inferable from information in the CONTRACT DOCUMENTS or otherwise available to the SUPPLIER or from proper performance of the aforementioned investigations.

OWNER reserves the right to inspect all crates and containers received at the port of entry of the equipment into Alaska for visible signs of shipping damage and to verify that all crates and boxes expected have arrived. SUPPLIER shall retain the risk of hidden damage to the parts and for missing parts until final completion.

- 9.2 OWNER 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 the use of SUPPLIER. Easements for permanent structures or permanent change in existing facilities will be obtained and paid for by OWNER, unless otherwise provided in the CONTRACT DOCUMENTS. If SUPPLIER believes that any delay in OWNER's furnishing these lands, rights-of-way, or easements entitles SUPPLIER to an extension of the Contract time, SUPPLIER may make a claim therefore as provided in paragraph 13 of the General Conditions.

10.0 FORCE MAJEURE

SUPPLIER shall not be responsible for any delays in or inability to perform when such delay or inability is due to events of force majeure such as fire, flood, other acts of God, war, civil insurrection, or strikes except for lockouts, if the SUPPLIER gives written notice to the OWNER within three (3) calendar days of when SUPPLIER knew or should have known of such delay occurring. Delay or inability to perform shall be of not greater duration than the event of force majeure. SUPPLIER shall use its best efforts to remedy such event of force majeure and continue its performance. Delays or defaults by Subcontractors of the SUPPLIER shall not constitute force majeure unless reasons are caused by the force majeure events defined above.

11.0 CANCELLATION

This agreement may be canceled by the OWNER if the SUPPLIER is so notified for cause, convenience, or any other reason, in writing. In the event of cancellation for OWNER convenience, the OWNER agrees to pay to the SUPPLIER upon presentation of invoices,

reasonable cancellation fees, less any contract payments made as of that date. Such fee shall include allocable overhead and profit for the Work completed up to that point, the cost of any material supplied to the Work, and the cost of purchased materials and components applicable to the Work. In the event of cancellation by OWNER for cause or breach by SUPPLIER, SUPPLIER shall not be entitled to any cancellation fee, in addition OWNER shall be entitled to set-off any costs and/or expenses incurred by it and resulting from SUPPLIER's breach, including the costs of any delays in achieving FINAL COMPLETION of the Project caused as a result of such cancellation. Upon cancellation for any reason, all drawings, data, material, and components associated with the work shall become the property of the OWNER.

12.0 SAFETY DEVICES

The SUPPLIER shall furnish and install guards and safety devices as required by the latest safety regulations for all equipment supplied. The OWNER may inform the SUPPLIER on a timely basis of the need for other or different guards or safety devices, which will be supplied by the SUPPLIER under the changes provision of this Agreement.

13.0 EQUIPMENT WARRANTY AND REMEDY

The SUPPLIER warrants the equipment to be new, free from defects in design, material, and workmanship disclosed or discovered under normal use and operation for a period of thirty (30) months from completion of 100% of all delivery, or twenty four (24) months after commissioning, commencing from written issuance of the FINAL ACCEPTANCE certificate by the OWNER, whichever is shorter. If the OWNER notifies the SUPPLIER in writing of any claimed defect in the equipment and if, after appropriate tests and inspection by the SUPPLIER, the equipment is found not to be in conformity with this warranty, the SUPPLIER shall at the OWNER's option, either repair the same at his cost including travel expenses, labor charges, shipping and costs to remove the nonconforming equipment from service and to place it back into service after repair, or provide and install a replacement free of charge at the OWNER's site. Regardless of which of these two methods is used by the SUPPLIER to effect the repairs, all such repairs must be completed within 30 days of the initial Notice from the OWNER unless agreement is obtained from the OWNER. Any part repaired or replaced by the SUPPLIER within the warranty period shall have its own warranty period limited to two (2) years after the date of completion of the repair or replacement of the equipment. New or replaced parts supplied or installed after the expiration of this warranty shall be covered by the manufacturer's standard new parts warranty.

The OWNER, without waiving any of its rights or remedies against SUPPLIER hereunder, shall have the right to operate any and all equipment as soon as, and as long as, it is in operating condition whether or not such equipment has been accepted as complete and satisfactory, except that this shall not be construed to permit operation of any equipment which may be materially damaged by such operation before any required alterations or

repairs have been made. All repairs or alterations required of the SUPPLIER shall be made by the SUPPLIER with due speed and with the understanding that time is of the essence in such repair or alterations. The repairs or alterations shall be made in such a manner and at such time as will cause the minimum interruption in the use of the equipment by the OWNER.

The foregoing warranty does not cover and the SUPPLIER makes no warranty with respect to:

- a. Failures not reported to the SUPPLIER within the warranty period above specified; and
- b. Failures or damage due to negligence of the OWNER, including abuse or improper maintenance.

As an accommodation to the OWNER, the SUPPLIER will assign any rights beyond the stated warranty it may have under warranties given to it by the manufacturer of standard or accessory equipment (such as controls, motors, electrical equipment, etc.) purchased by the SUPPLIER and sold by it to the OWNER.

The warranties of these CONTRACT DOCUMENTS are expressly in lieu of all implied warranties (except title), including but not limited to implied warranties of merchantability and fitness for a particular purpose.

Except as provided in sections regarding insurance, indemnity and performance guarantees, the foregoing states OWNER's exclusive remedy against the SUPPLIER and his Sub-suppliers for any defect in the goods or failure of the goods to be as warranted.

14.0 PERFORMANCE GUARANTEE AND REMEDY

The SUPPLIER guarantees the efficiency and capacity performance of the proposed equipment in accordance with the quoted efficiencies and capacities listed in the BID SCHEDULE, and as further submitted to OWNER by SUPPLIER and approved in writing by OWNER.

In the event of noncompliance with the performance guarantees, OWNER will allow SUPPLIER a period not to exceed three (3) months in which to correct the problem causing the noncompliance, by either repair at its cost, including shipping and costs to remove the non-conforming equipment from service and to place it back into service after repair, or by installing a replacement, furnished FOB to the OWNER's project site at the SUPPLIER's sole expense. During this three (3) month period, the power plant shall be shutdown to make the actual repairs for no more than seven (7) days. The actual seven (7) days during which the repairs are to be made shall be selected by the OWNER after a written request by the SUPPLIER. SUPPLIER shall use its best efforts to perform such

repair or replacement in the shortest possible time, but in no case shall such repair or replacement take in excess of three (3) months from the date of discovery of the noncompliance without specific approval of the OWNER in writing.

Any repaired or replaced equipment shall be retested by the same persons who performed the initial test, at the SUPPLIER's cost. In the event of noncompliance with the guarantee, and if SUPPLIER fails to correct such noncompliance within the time period agreed to, the OWNER will suffer direct loss and damage due to this failure.

15.0 SHIPMENT

- 15.1 The purchase price shall be deemed to include, in addition to freight charges, proper packing and tagging, boxing, insurance and special handling charges, all duties required outside of Alaska, and all brokerage fees required outside Alaska, however denominated, imposed against or with respect to the goods by any government authority except Alaska during the term of the Agreement. Details of the points of delivery and delivery times of the various parts of the WORK are given in Contract Documents.

The SUPPLIER shall use the best means of shipment and routing consistent with the nature of the equipment shipped and in accordance with the shipping schedule. The SUPPLIER shall give at least 5 weeks advance notice to the OWNER of the date and time that delivery of the equipment will be made.

The OWNER or its representative has the right to reject any and all equipment having visual or concealed damages. Off-loading and customs clearance, shall be the responsibility of the SUPPLIER, but OWNER agrees to provide advice and in-country assistance. SUPPLIER shall transport to the point of delivery all equipment and accessories. SUPPLIER shall retain the risk of hidden damage to the electro-mechanical equipment parts and for missing parts until final completion. The SUPPLIER shall give the OWNER five (5) weeks advance notice prior to shipping any item from the factory, with an additional forty-eight (48) hour confirmation notification just prior to actual shipment, and a confirmation immediately after shipment.

15.2 Warehouse Clause:

In case the equipment cannot arrive, due to force majeure, in Alaska and implies a delay in excess of sixty (60) days in the scheduled shipment date, the goods will be sent to a warehouse at the port of shipment under the SUPPLIER's responsibility and a Warehouse Certificate will replace the Bill of Lading. The remaining services (ocean freight, supervision of erection and commissioning) to be performed according to the contract will be deducted from the remaining amount of money to be paid. Once the force majeure ends or allows the rest of the services to be provided (i.e. transportation, supervision, and commissioning) the schedule will resume accordingly and the payments

on the rest of the services will be adjusted based upon official indices applicable for such works.

16.0 PAYMENT SCHEDULE

- 16.1 The OWNER shall make payments to the SUPPLIER according to the price breakdown of the various pieces of equipment as bid by the SUPPLIER and in accordance with Schedule 1, attached. Invoices shall be prepared and submitted in accordance with paragraph 19 of Section 00 70 00, "Payments To SUPPLIER". The SUPPLIER shall prepare and submit invoices for the Work with evidence substantiating completion.

The properly prepared and documented invoices submitted in accordance with the above shall be paid by the OWNER within 45 days of receipt or within 10 days of OWNER receiving payment from the OWNER, whichever is later.

Payment procedures and documentation as required for payments as stipulated in Schedule 1 shall prevail over any payment conditions, procedures, modalities as may be written in any other part of the CONTRACT DOCUMENTS.

- 16.2 The OWNER may withhold, or, on account of subsequently discovered evidence, may refuse payment and offset the whole or part of any invoice to such extent as may be necessary to protect it from loss on account of:
- a. Defective Work, material or equipment;
 - b. Failure of the SUPPLIER to make payments due to subcontractors;
 - c. Unsatisfactory prosecution of the work by the SUPPLIER, according to the agreed upon schedule;
 - d. Invoicing which is incorrect; or
 - e. Overcharges in violation of the terms and conditions of this Agreement.

17.0 TITLE TO THE WORK

- 17.1 Title to all Work completed and in course of construction, and to all material to be used in the Work which is delivered and stored at the site or at another location, shall vest in the OWNER immediately, provided the corresponding invoice was duly paid by the OWNER. However, SUPPLIER shall assume and be responsible for all loss and damage to any and all such material and work until final acceptance by OWNER of the entire completed project, except for loss and damages caused by OWNER's personnel and/or subcontractors in the installation of the Transformer by mishandling or non-respecting of SUPPLIER's advice or instructions.

17.2 SUPPLIER 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 OWNER no later than the time of payment by OWNER in respect thereof free and clear of any and all liens or other encumbrances or other charges of any kind and of all claims of third parties related thereto.

18.0 INTERFERENCE

SUPPLIER shall conduct the Work in a manner which will maintain good public relations by minimizing inconvenience and disturbance to the traveling and resident public affected thereby, and in such manner as to cause the least possible interference with the business operations of OWNER or others affected thereby. SUPPLIER shall cooperate with OWNER in all ways to prevent and/or minimize any such interference.

19.0 REMEDIES AND ARBITRATION

19.1 Unless otherwise provided in this CONTRACT, all claims, counterclaims, disputes, and other matters in questions between the OWNER and the SUPPLIER arising out of or relating to this CONTRACT or the breach thereof will be decided by binding arbitration.

20.0 GRATUITIES

20.1 If the OWNER finds after a notice and hearing that the SUPPLIER, or any of the SUPPLIER's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts, or otherwise), to any official, employee, or agent of the OWNER or State officials in an attempt to secure this CONTRACT or favorable treatment in awarding, amending, or making any determinations related to the performance of this CONTRACT, the OWNER may, by written notice to the SUPPLIER, terminate this CONTRACT. The OWNER may also pursue other rights and remedies that the law or this CONTRACT provides. However, the existence of the facts on which the OWNER bases such findings shall be an issue and may be reviewed in proceedings under this clause of this CONTRACT.

20.2 In the event this CONTRACT is terminated as provided in Paragraph 20.1 of this section, OWNER may pursue the same remedies against the SUPPLIER as it could pursue in the event of a breach of the CONTRACT by the SUPPLIER. As a penalty, in addition to any other damages to which it may be entitled by law, the OWNER may pursue exemplary damages in an amount (as determined by the OWNER) which shall be not less than three nor more than ten times the costs the SUPPLIER incurs in providing any such gratuities to any such officer or employee.

21.0 INTEGRATION

The Contract constitutes the entire understanding and agreement between the parties relating to the subject matter hereof and supersedes and cancels any prior written or oral understanding or agreement between the parties relating to the subject matter hereof. The Contract shall not be amended, altered, or supplemented in any way except by an instrument in writing, signed by the duly authorized representatives of the parties, that expressly references the Contract.

22.0 SEVERABILITY

If any provision of this Contract is finally determined to be contrary to, prohibited by, or invalid under acceptable laws or governmental regulations, such provisions shall become inapplicable and shall be deemed omitted, but all other provisions of this Agreement shall remain in full force and effect.

[Remainder of Page Intentionally left blank.]

SCHEDULE 1 SCHEDULE OF PAYMENTS

Following are the scheduled payments to be made by OWNER to SUPPLIER during execution of the Work:

1.0 PAYMENT CONDITIONS:

All commercial invoices shall be submitted to accounting@seapahydro.org. Payment is Net 30 pending OWNER's approval of each invoice..

1.1. For Transformer and associated equipment covered by these CONTRACT DOCUMENTS, the following payment schedule shall be followed with percentages based on the SUPPLIER's total lump sum price for all base and optional bid items. In the event no optional bid items are exercised, the balance of the base bid item will be payable against the SUPPLIER's commercial invoice after all engineering submittals have been delivered to the OWNER.

10% Deposit upon OWNER's issuance of NTP.

50% Payment upon approval of SUPPLIER's shop drawings, design data, and all other submittals requiring approval prior to fabrication, and receipt of BABA design certification (see Exhibit 5 to Contract No. 26026). SUPPLIER's invoice may be submitted to OWNER by SUPPLIER upon OWNER's issuance of Notice to Initiate Fabrication (see Exhibit 5 to Contract No. 26026).

25% Payment upon completion of all factory acceptance testing, and immediately prior to shipment of all (100%) equipment from factories, and including the following documents:

- Commercial invoice,
- 2 of 3 Originals of Bill of Lading (B/L) or Forwarders Certificate of Receipt (FAR) or copy of Warehouse Receipt
- Packing List
- Certificate of Origin

10% Payment upon receipt of all (100%) equipment at the Ketchikan project site, or other shipping destination agreed upon by the OWNER and SUPPLIER. Certificate of Arrival at Shipping Destination or copy of Warehouse Receipt must be provided to the OWNER prior to payment.

- Certificate of Arrival must include copies of the Bill of Lading and must be signed by the OWNER or the OWNER's REPRESENTATIVE and by the SUPPLIER or its representative and, which signatures shall not be unreasonably withheld.

5% Payment against SUPPLIER's invoice, along with copy of Final Acceptance Certificate and the SUPPLIER's Final BABA Certification of Compliance (see Exhibit 5 to Contract No. 26026) for the delivered equipment. Final Acceptance Certificate must be signed by the OWNER or the OWNER's REPRESENTATIVE and by the SUPPLIER or its representative upon completion of the tests, which signatures shall not be unreasonably withheld

EXHIBIT 3 TO CONTRACT

**SUCCESSFUL SUPPLIER'S SUBMITTED BID
SCHEDULES AND EQUIPMENT DATA SHEETS**

(TO BE ATTACHED)

EXHIBIT 4 TO CONTRACT
SUCCESSFUL SUPPLIER'S SUBMITTED
ASSUMPTIONS, CLARIFICATIONS, AND EXCEPTIONS
(TO BE ATTACHED)

Attachment 5 to Sample Contract No. 26026

**BUILD AMERICA, BUY AMERICA (BABA) COMPLIANCE CERTIFICATION
FOR MANUFACTURED PRODUCTS**

Instructions to Manufacturer:

This is a project-specific template designed to satisfy 2 CFR Part 184, OMB M-24-02, and the Alaska Energy Authority (AEA) grant requirements. This form must be placed on the manufacturer's official letterhead and signed by an authorized corporate officer. It is required for submission at the 50% and 5% submittal milestones (acting as the preliminary and final certifications, respectively) and must be finalized upon equipment delivery. See *Instructions to Supplier for Final Closeout at the bottom of page 2 of this form.*

Project Name: SEAPA Ketchikan Substation Transformer Procurement Project

Grant Funding Source: U.S. Department of Energy via Alaska Energy Authority (AEA)

AEA Grant Agreement No.: 7710006

Procurement Item: Electrical Transformer

Contract / RFP No.: 26026

SECTION I: MANUFACTURER & PRODUCT INFORMATION

- **Manufacturer Name:** _____
- **Manufacturing/Assembly Facility Address:** _____
- **Equipment Model/Type/Serial Number (if available):** _____

SECTION II: CERTIFICATION OF DOMESTIC CONTENT

Certification Stage (Check One):

- **[] PRE-FABRICATION / DESIGN CERTIFICATION (50% Milestone):** *Certified based on design intent, engineering bills of materials, and vendor component commitments prior to manufacturing.*
- **[] FINAL / AS-BUILT CERTIFICATION (5% Milestone):** *Certified based on actual, finalized manufacturing, as-built bills of materials, and delivered components.*

As an authorized representative of the Manufacturer, I hereby certify and guarantee compliance with the **Build America, Buy America Act (BABA), 2 CFR Part 184**, and **OMB Memorandum M-24-02**. Specifically, I certify that the electrical transformer(s) supplied under this agreement qualify as a "**manufactured product**" produced in the United States under the following federal criteria:

1. **Domestic Manufacturing:** The final manufacturing, assembly, and testing of the transformer(s) takes place entirely within the United States at the facility listed in Section I.
2. **55% Component Cost Test:** The cost of the components of the manufactured product that are mined, produced, or manufactured in the United States **exceeds 55 percent** of the total cost of all components of the manufactured product, calculated in strict accordance with 2 CFR § 184.5.

SECTION III: COMPLIANCE DOCUMENTATION AND AUDIT TRAIL

The Manufacturer acknowledges that this project is federally funded. By signing below, the Manufacturer agrees to:

- Maintain itemized material lists, bills of materials (BOM), invoices, and country-of-origin documentation substantiating the 55% component cost calculation.
- Make these records available for inspection or audit upon request by the Buyer, the Alaska Energy Authority (AEA), the U.S. Department of Energy (DOE), or the Comptroller General of the United States.

Instructions for Final Closeout:

The final 55% component cost calculation must be verified against the manufacturer's finalized Bill of Materials (BOM) and actual component acquisition costs in accordance with 2 CFR § 184.5. Estimated or budgeted costs used during the shop drawing phase must be updated to reflect final as-built expenditures prior to signing.

SECTION IV: AUTHORIZED SIGNATURE

False statements or misrepresentations regarding compliance with federal domestic sourcing mandates may result in contract termination for default, withholding of grant funds, and potential civil or criminal penalties under federal law (including 18 U.S.C. § 1001).

Authorized Representative Name: _____

Title: _____

Company/Manufacturer Name: _____

Signature: _____ **Date:** _____

Attachment to Exhibit 5 to Contract No. 26026

INSTRUCTIONS TO BIDDERS ON CALCULATING 55% for 50% payment:

INSTRUCTIONS TO BIDDERS: BUILD AMERICA, BUY AMERICA (BABA) COMPLIANCE & CALCULATION GUIDE

1. Overview of Federal Mandate

This procurement is funded in whole or in part by the **U.S. Department of Energy (DOE)** through **Alaska Energy Authority (AEA) Grant Agreement No. 7710006**. As such, the resulting contract is subject to the **Build America, Buy America Act (BABA), 2 CFR Part 184**, and **OMB Memorandum M-24-02**.

Bidders must certify that the electrical transformer offered qualifies as a "**manufactured product**" that is produced in the United States. To unlock the **50% Submittal Approval Milestone** and the **10% Equipment Receipt Milestone**, the contractor must demonstrate compliance with a rigorous two-part test:

1. **Domestic Final Assembly:** The final manufacturing, assembly, and testing of the transformer must take place entirely within the United States.
2. **55% Domestic Component Cost Threshold:** The cost of the components of the transformer that are mined, produced, or manufactured in the United States must exceed **55 percent** of the total cost of all components.

2. How to Calculate Component Costs (2 CFR § 184.5)

Bidders and their manufacturers must strictly follow the federal standards outlined below to determine if their transformer meets the 55% threshold.

A. Defining a "Component"

A component is any article, material, or supply **incorporated directly** into the transformer. Materials used during manufacturing that do not become a physical part of the final transformer (e.g., temporary tools, safety gear, or factory utilities) are excluded from the calculation.

B. Determining the Cost of Domestic Components

For components mined, produced, or manufactured in the United States, the cost includes:

- **For Components Purchased by the Manufacturer:** The invoice cost of the component (including transportation costs to the manufacturer's facility) and any applicable duties or taxes.
- **For Components Manufactured by the Contractor/Manufacturer:** All direct costs of manufacturing the component (labor, materials) and allocable overhead. *Note: Profit margins on self-manufactured components must be excluded.*

C. Determining the Cost of Foreign Components

For components manufactured or sourced outside the United States, the cost includes:

- The invoice cost or acquisition cost of the foreign component.
- International transportation and logistics costs to the U.S. facility.
- All applicable U.S. import duties, tariffs, and customs taxes.

D. Costs Excluded from the 55% Test

Per **2 CFR Part 184**, the following costs **cannot** be factored into either the numerator or denominator of the 55% calculation:

- The cost of final assembly, wiring, and testing performed on the finished transformer at the U.S. facility.
- Labor costs for building the overall transformer (unless specifically embedded within a pre-manufactured domestic sub-component).
- Administrative overhead, corporate profits, and shipping costs from the manufacturing facility to the final Alaska project site.

3. Step-by-Step Mathematical Formula

Bidders should use the following formula to verify compliance before executing the BABA Certification form:

$$\text{Domestic Component Cost} = \frac{(\text{Total Cost of All Domestic Components})}{\text{Total Cost of ALL Components (Domestic+Foreign x 100)}}$$

*The resulting percentage must be **strictly greater than 55.0%**. Rounding up from a lower decimal (e.g., 54.8%) is not permitted under federal grant guidance.*

4. Submission Requirements & Timeline

- **With Bid Submission:** Bidders must acknowledge their intent to comply with BABA requirements.
 - **At 50% Milestone (Submittal Approval):** The selected Contractor must submit the preliminary **BABA Compliance Certification Form** signed by the manufacturer, along with a high-level Bill of Materials (BOM) establishing that the 55% threshold is achievable.
 - **At Equipment Receipt Milestone (10% Payment / 95% Complete):** The finalized, signed **Manufacturer's BABA Certification Letter** containing exact equipment serial numbers must be delivered with the physical transformer.
-

REVISED DOWN PAYMENT BOND FORM
ATTACHMENT TO ADDENDUM NO. 2 TO RFP

DOWNPAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS: that

(Name of SUPPLIER)

(Address of SUPPLIER)

a _____, hereinafter called "Principal," and

(Corporation, Partnership, or Individual)

(Name of Surety)

(Address of Surety)

hereinafter called "Surety," are held and firmly bound unto **Southeast Alaska Power Agency**, hereinafter called "SEAPA" or "OWNER," in the total aggregate penal sum of _____ Dollars (\$_____) in lawful money of the United States, representing 10% of the Contract Price (as defined in the certain Contract referenced below), for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into that certain contract with the OWNER, dated the day of _____ 2026, a copy of which is hereto attached and made a part hereof, for the SEAPA Ketchikan Substation Transformer Procurement Project ("Contract"); and

WHEREAS, the OWNER has executed the Contract and has agreed to pay to Principal a downpayment of 10% of the Contract Price in accordance with the terms and conditions of the Contract upon Principal's execution of the Contract and providing this Downpayment Bond to the OWNER; and

WHEREAS, the Principal agrees to provide this Downpayment Bond in advance of the downpayment called for under the Contract to insure Principal's performance of the Contract;

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties under the Contract, all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term thereof, and any extensions thereof which may be granted by the OWNER with or without notice to the Surety, and if the Principal shall satisfy all requirements

such Contract, and shall complete fabrication and shipment and delivery to the Project delivery location all equipment required under said Contract as evidenced by certified bills of lading for said equipment, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, that the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to Work to be performed thereunder or the Specifications accompanying same (as such terms are defined in the Contract) shall in any way affect its obligation on this Downpayment Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the Specifications (as such terms are defined in the Contract);

AND IT IS PROVIDED, FURTHER, that it is expressly agreed that the Downpayment Bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment of the Contract not increasing the Contract price more than 20 percent, so as to bind the Principal and Surety to the full and faithful performance of the Contract as so amended. The term "amendment", wherever used in this Downpayment Bond, and whether referring to this Downpayment Bond, the Contract or the Contract Documents (as that term is defined in the Contract), shall include any alteration, addition, extension, or modification of any character whatsoever.

IN WITNESS WHEREOF, this instrument is executed _____ counterparts

each one of which shall be deemed an original, as of this _____ day of _____, 2026.

ATTEST:

Principal

(Principal) Secretary

(SEAL)

By:
(Address)

(Witness as to Principal)

(Address)

_____(Surety)

ATTEST:

Witness to Surety

By: _____
Attorney-in-Fact

(Address)

(Address)

NOTE: Date of Bond must not be prior to date of Contract.

If SUPPLIER is partnership, all partners should execute the Downpayment Bond.

END OF SECTION