



General Manager  
 334 Front Street  
 Ketchikan, AK 99901  
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TRANSMITTAL MEMORANDUM
------------------------

TO: The Honorable Mayor and City Council

FROM: Karl R. Amylon, General Manager

DATE: March 8, 2021

RE: **Approving Contract No. 21-03 – Evaluation of Cyber Security Risks to KPU's Water System and Financial Infrastructure, Jacobs Engineering Group, Inc.**

In adopting the 2021 Ketchikan Public Utilities Operating and Capital Budget, the City Council appropriated \$150,000 to the Water Division for the preparation of Risk and Resilience Assessments and Emergency Response Plan as required by the 2018 America's Water Infrastructure Act (AWIA). By report dated January 26, 2021, my office submitted to the City Council a proposal from the Jacobs Engineering Group, Inc. to undertake this work at a cost of \$150,000. Following the announcement of Canada's one-year ban on pleasure craft and cruise vessels and its associated economic impacts, Water Division management requested to withdraw the agenda item to negotiate a reduced scope of work with Jacobs.

The motion detailed below was prepared at the request of Water Division Manager John Kleinegger, who asked that it be placed before the City Council for consideration at its meeting of March 18, 2021. If adopted, the motion provides for awarding Contract No. 21-03, Evaluation of Cyber Security Risks to KPU's Water System and Financial Infrastructure, to Jacobs Engineering Group, Inc. at a cost of \$40,000. The revised scope of work that the Jacobs Engineering Group, Inc. will undertake on the utility's behalf is detailed in Mr. Kleinegger's transmittal memorandum and requires no elaboration on the part of my office. I concur with the Water Division Manager's recommendation.

Assistant Water Division Manager Seth Brakke will attend the City Council meeting of March 18, 2021, in order to address any questions and/or concerns that Councilmembers may have.

A motion has been prepared for City Council consideration.

**RECOMMENDATION**

It is recommended the City Council adopt the motion approving Contract No. 21-03, Evaluation of Cyber Security Risks to KPU's Water System and Financial Infrastructure, between the City and the Jacobs Engineering Group, Inc. at a cost not to exceed \$40,000; authorizing funding from the Water Division's 2021 Federal Act – Risk and Resilience Assessment capital account; and directing the General Manager to execute the contract documents on behalf of the City Council.

**Recommended Motion:** I move the City Council approve Contract No. 21-03, Evaluation of Cyber Security Risks to KPU's Water System and Financial Infrastructure, between the City and the Jacobs Engineering Group, Inc. at a cost not to exceed \$40,000; authorize funding from the Water Division's 2021 Federal Act – Risk and Resilience Assessment capital account; and direct the General Manager to execute the contract documents on behalf of the City Council.

February 4, 2021

Manager Amylon explained at the time of the first and second divestitures when the four dam pool eventually became the two dam pool and later became SEAPA, the definitive agreements that were approved by the purchasing utilities, which are Ketchikan, Petersburg and Wrangell, the established power plans that were in effect at that time were grandfathered in and the communities were entitled to take that power before they would take SEAPA power. He indicated in the case of the Ketchikan the Whitman project had not been constructed yet. He informed the power sales agreement say any new power projects that one of the purchasing utilities brings on line if it displaces SEAPA power that is available, we have to make SEAPA whole for the loss of that power. He indicated that was presented to the Council before the bids for Whitman had been accepted. He said the Council at that time chose to move forward, and the City is legally obligated for any power that Whitman produces that displaces SEAPA power.

Mayor Sivertsen informed we also have the lowest rate of 6.8 cents per kilowatt and pay it back at the same rate through the true-up agreement.

Motion passed with Kiffer, Gass, Gage, Zenge, Bradberry, Flora and Bergeron voting yea.

**Contract No. 21-03 – Preparation of Ketchikan’s Risk and Resilience Assessments and Emergency Response Plan, Jacobs Engineering Group, Inc.**

Manager Amylon informed after today’s announcement the Water Division Manager and Assistant Manager said they want to go back to Jacob and reduce the scope of work. He said they will try to do a portion of the self-assessment in-house to reduce expenses. He said this will be brought back to the Council at a later date with a reduced scope.

**Award of Contract No. 20-25 – Continuation of Water Meter Design/Build – Business & Commercial Customers – Ketchikan Mechanical, Inc.**

Moved by Gage, seconded by Bergeron the City Council accept the bid of Ketchikan Mechanical, Inc. in the amount of \$169,053.74 for Contract No. 20-25, Continuation of Water Meter Design/Build – Business & Commercial Customers; establish a ten percent contingency in the amount of \$16,906.26, bringing the total project cost to \$185,960; approve funding in the amounts of \$92,980 and \$92,980 respectively from the Water and Wastewater Divisions’ 2021 Water Meters – Business and Commercial Customers Capital Accounts; and direct the General Manager to execute the contract documents on behalf of the City Council.

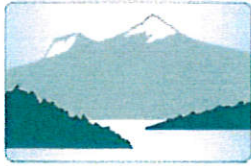
Councilmember Bergeron questioned why we are buying water meters, and what is the ultimate policy goal with the meters. He questioned why we continue to have the residential ratepayers subsidize the commercial ratepayer, as we know what it costs to produce water and they should be paying accordingly.

In answer to Councilmember Bergeron, Mayor Sivertsen indicated the ultimate goal is to change the commercial customers to metered water with a structured rate that reflects what they actually use. He felt this is really the only fair and equitable way to establish a rate structure.

Councilmember Gass said rates over the last fifteen years for the businesses that use a large amount of water has skyrocketed. He felt we need to be considerate to these businesses, as these businesses provide jobs and fund this government. He indicated he was opposed to paying for meters, but we are already too far into the project.

Manager Amylon informed the acquisition and installation of these meters are being done through an Alaska Department of Environmental Conservation (ADEC) low interest loan.

# KPU



Your Community, Your Utility


Water  
2930 Tongass Avenue  
Ketchikan, AK 99901

Phone (907) 225-1000  
Fax (907) 247-3232

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## Memorandum

TO: Karl R. Amylon, General Manager

FROM: John C. Kleinegger, Water Division Manager/Project Engineer 

DATE: February 26, 2021

SUBJECT: **Contract 21-03 - Evaluation of Cyber Security Risks to KPU's Water System and Financial Infrastructure**

The Federal Regulations in the America's Water Infrastructure Act (AWIA) require every community water system to complete a new Risk and Resilience Assessment (RRA) and develop an Emergency Response Plan (ERP). Recognizing the complexity and expense that individual utilities will incur while developing a RRA, the EPA has created a Vulnerability Self-Assessment Tool (VSAT) for everyone's use.

This is a free tool which allows individual utilities to prepare their own RRA by making self-evaluations of all their assets for potential malevolent and natural physical hazards. Both accidental and intentional vulnerabilities are evaluated including their raw water source, major disinfection components, the water reservoirs & pump stations, and critical distribution mains. The VSAT also provides the utility with a suite of countermeasures from which to select and then prepares a profile of existing risks including a benefit/cost analysis of the potential countermeasures.

Although use of the VSAT program has prepared a comprehensive review of Ketchikan's water utility which addresses the physical components, there is one important area that is not identified, cybersecurity. Within the last several decades, cybersecurity threats, including such things as cyber-terrorism and ransomware attacks, have grown from the esoteric practice of a few specialists to a problem of general concern. Critical infrastructure systems serving the people of the United States have been found to be particularly vulnerable to such attacks.

An example of malevolent cybersecurity recently occurred on February 8<sup>th</sup> which could have had very serious consequences. A hacker gained entry into Oldsmar, Florida's water treatment plant control system. Access through their remote-access software program allowed the hacker to



surreptitiously increase the addition rate of a strongly corrosive basic chemical, sodium hydroxide, by over one-hundred fold. Fortunately, before anyone could be harmed, an operator at the plant observed the change on his computer's video display, intervened, and safely reversed it.

In addition to the RRA and ERP requirements, America's Water Infrastructure Act (AWIA) also places emphasis on assessing and mitigating cybersecurity risks that could impact the following:

- Electronic, computer, or other automated systems (including the security of such systems) which are utilized by the system;
- The monitoring practices of the system (including network monitoring); and
- The financial infrastructure of the system (accounting and financial business systems operated by a utility, such as customer billing and payment systems).

Although Ketchikan's water process control systems are well protected by the Information Technology Department's dedicated staff, the fact remains that the Utility staff who are preparing the AWIA documents are not cybersecurity technologists nor are they responsible for the secure and reliable operation of the financial enterprise systems.

Attached is Jacobs Scope of Services cybersecurity proposal includes individual key activities and their specific due dates for completion as well as support and review of the VSAT document now being prepared by KPU. Together these documents will be submitted to the EPA at the AWIA due date of no later than June 30, 2021. Each of the three subtasks shown on Table 2 of the Jacobs proposal will be billed on a lump sum amount basis with the total project budget of \$40,000.

Recommendation:

That the City Council adopt a motion approving Contract No. 21-03, Evaluation of Cyber Security Risks to KPU's Water System and Financial Infrastructure, an engineering services contract in a lump-sum amount of \$40,000 between Ketchikan Public Utilities and Jacobs; authorizing \$40,000 funding from the Water Division's Capital Projects Account (5400-2021-006); and direct the KPU General Manager to execute the contract documents on behalf of the City Council.

<b>Division:</b> Water			<b>Project Priority:</b> 4			<b>Project Number:</b>							
<b>Project Title:</b> Federal Act - Risk & Resilience Assessment			<b>Start Date:</b> 01/21			<b>Estimated Project Cost:</b>							
			<b>End Date:</b> 12/21			Design 150,000							
<b>Description:</b>						Land/Right-of-Way							
<p>Recently adopted Federal Regulations in the America's Water Infrastructure Act require every community water system to complete a new Risk and Resilience Assessment (RRA) and develop an Emergency Response Plan (ERP). Although KPU developed one in the aftermath of 911 and has kept it updated, this legislation includes additional specific requirements particularly in the electronic/cyber security and malevolent act detection fields. Due by June 30, 2021, the RRA requires evaluation of the risk to the system from malevolent acts, natural hazards, the resilience and security of our distribution system, monitoring practices, use and storage of chemicals, and financial infrastructure to support management of the system. Similarly, the ERP due by December 31, 2021 incorporates the findings of the RRA and includes strategies to improve system resilience, plans &amp; procedures to respond to malevolent acts or natural hazards, as well as procedures or equipment that can be used to aid in the detection of malevolent acts or hazards that threaten the security of the water system.</p>						Construction Management							
									Construction				
									Equipment				
									Other				
						Project Total 150,000							
Source of Funds	Fund No.	Prior Years	Adopted 2021			Projected Requirements				Total Project			
			Reappropriated	New Funding	Total	2022	2023	2024	2025				
Revenue Generating Fund				150,000	150,000					150,000			
<b>Total</b>				150,000	150,000					150,000			

**AGREEMENT**

**FOR PROFESSIONAL SERVICES**

**CONTRACT 21-03**

**Evaluation of Cyber Security Risks to KPU's Water System  
and Financial Infrastructure**

**JACOBS ENGINEERING GROUP, INC.**

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **CITY OF KETCHIKAN d/b/a KETCHIKAN PUBLIC UTILITIES**, a municipal corporation whose address is: 334 Front Street, Ketchikan, Alaska 99901, hereinafter called "**Owner**" and **Jacobs Engineering Group, Inc., 949 East 36<sup>th</sup> Avenue, Suite 500, Anchorage, Alaska 99508**, licensed and qualified to do business within the State of Alaska, hereinafter called "**Contractor**."

**RECITALS**

- (a) The **Owner** desires the performance, provision, and accomplishment of the work, services and materials described and set forth in Section 1.
  
- (b) **Contractor** represents that it is ready, able and qualified to perform, and will perform, in all respects, all of the work, services, and materials, and to otherwise perform all of the terms, covenants, conditions and provisions of the agreement in the manner, at the times, and for the consideration hereafter provided.

**NOW, THEREFORE**, for and in consideration of the terms, covenants, conditions, and provisions contained herein, and/or attached and incorporated herein and made a part hereof, the parties hereto agree as follows:

**Section 1: Agreement to Perform.** The **Owner** hereby agrees to engage the **Contractor**, and the **Contractor** hereby agrees to perform, complete, provide and furnish, in a timely and proper manner, and pursuant to and in accordance with all of the terms, covenants, conditions and provisions of this Agreement, all of the work, services, labor and materials required to accomplish all of the work described in Section 2 [Scope of Work] hereof at the times, in the manner, and for the consideration and payments hereinafter set forth.

**Section 2: Scope of Work.** The **Contractor** shall perform, supply, and provide all of the work, services and materials [hereinafter collectively referred to as "work"] as follows:

As set forth and described on Exhibit A attached hereto and incorporated herein by this reference.

**Section 3: Time for Commencement and for Completion of Work.**

(a) **Commencement.** **Contractor** shall commence the work called for in this Agreement upon the giving of a Notice to Proceed by the **Owner**.

(b) **Completion.** Upon giving of Notice to Proceed, the work called for in this Agreement shall be performed and completed as follows: As set forth and described on Exhibit A attached hereto and incorporated herein by this reference.

**Section 4: Compensation and Payment.** For and in consideration of the timely and proper performance of work authorized as provided herein, the **Owner** shall pay the **Contractor** as follows: As set forth and described on Exhibit A attached hereto and incorporated herein by this reference. The **Owner** shall make monthly progress payments based upon the percentage of work actually performed.

**Section 5: No Additional Work.** No claim for additional work, services or materials, not specifically and expressly requested and authorized as provided for in this Agreement, or by a written amendment thereto signed by both parties, done or furnished by the **Contractor**, will be allowed or paid by the **Owner** and **Contractor** expressly waives any claim therefor.

**Section 6: Owner's Contracting Officer.** For purposes of this Agreement, the **Owner's** contracting officer shall be Karl Amylon, KPU General Manager or such other person as is designated in writing by such person.

**Section 7: Compliance with Guidelines and Procedures.** The **Contractor** shall provide and perform all work, services and materials in full, strict and complete compliance with all the following procedures and guidelines:

**Section 8: Contractor Qualified.** The **Contractor** expressly represents and warrants it is now and shall continue to be at all times during the performance of this Agreement, the holder of all required or necessary professional, business or other licenses or permits and is qualified and capable of performing all of the work covered or called for by this Agreement and is presently ready, able and willing to undertake and perform all of such work and services, and to supply all necessary materials and equipment, at the times, and in a non-negligent professional and workmanlike manner, and pursuant to the terms, conditions and provisions, and for the compensation and payments as herein provided. The standard of care applicable to Contractor's services will be the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time said services are performed. Contractor will reperform any

services not meeting this standard without additional compensation.

**Section 9: Contractor Responsible for Personnel.** The Contractor has or will secure, at Contractor's own cost and expense, all personnel required to perform this Agreement in a timely and proper manner. The parties hereto agree and understand that such personnel shall in no event be deemed to be, and are not, employees, agents, or representatives of the Owner and such persons shall have no contractual or other relationship with the Owner, and the Owner shall have no responsibility or liability whatsoever to any of said persons, or for the acts or omissions of any of such persons.

**Section 10: Personnel Supervision.** Contractor agrees that all work and services required or provided under this Agreement shall be performed personally by the Contractor, unless otherwise authorized in writing by the Owner's contracting officer, and in such event all personnel engaged in any such work shall be fully qualified, and shall be licensed and authorized under applicable state, federal and local laws to perform such services; provided, however, the Owner hereby authorizes the following persons to participate as follows:

\_\_\_\_\_ N/A \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Section 11: Independent Contractor.** The parties hereto expressly agree that the Contractor shall be and is an independent contractor and is not an employee or agent of the Owner, and is, therefore, entitled to no insurance coverage, whether worker's compensation or otherwise, and no other benefits accorded to Owner's employees. No withholding, FICA, or other taxes (whether income, sales or otherwise) or other amounts will be withheld from the payments due to the Contractor, it being understood that the Contractor is solely responsible therefor, provided Owner shall be entitled to withhold such retainage or other amounts from any progress or other payments as have been provided for elsewhere in this Agreement.

**Section 12: Forms To Be Provided To Contractor.** The Owner shall provide the Contractor with any special forms required by the Owner for reporting to the Owner and the necessary instruction regarding proper use of the forms.

**Section 13: Termination.** (a) **Termination for Cause.** This Agreement may be terminated in whole or in part in writing by Owner in the event of failure by Contractor to fulfill any of the terms and conditions of this Agreement upon the giving of not less than five (5) calendar days prior written notice of intent to terminate in the manner provided in Section 25 hereof. Contractor shall be provided opportunity to remedy or cure such failure within a reasonable timeframe upon such written notice.

(b) **Termination for Convenience of Owner.** This Agreement may be terminated in whole or in part in writing by the Owner for Owner's convenience provided the Contractor is given not less than thirty (30) calendar days prior written notice of intent to terminate in the manner provided in Section 25 hereof.



(c) In the event termination by the **Owner** is effected pursuant to (a) above, the **Contractor** shall not be entitled to receive any further payment until the work is completed, or the **Owner** elects to not proceed further with the project. Upon completion of the work, or termination of the project in the event the **Owner** elects to not proceed with the project, the **Contractor** shall be paid as follows:

(1) In the event the costs and expense of taking over, re-advertising and completing the project or the costs of closing out the project if the **Owner** elects to not proceed with the project (hereinafter referred to as "close out costs"), exceed the remaining unpaid amount of this Agreement, any amount which was otherwise due and unpaid to **Contractor** at the time of termination shall be applied to such increased costs in taking over, re-advertising and completing the project, (or applied to close out costs) and the remaining amount of such costs, if any, shall be paid by the **Contractor** to the **Owner**.

(2) In the event said costs and expense of taking over, re-advertising and completing the project, (or close out costs) are less than the total amount which was otherwise due and unpaid to the **Contractor** at the time of termination, the increased costs of taking over and completing the project (or the close out costs) shall be deducted from the amounts due the **Contractor** and the balance, if any, paid to the **Contractor** without interest.

(d) In the event termination is for the convenience of the **Owner** pursuant to (b) above, the **Contractor** shall be paid for the services or other work that have been actually performed prior to the effective time of such notice of intent to terminate, and for reimbursement of any reimbursable expenses that were actually expended and paid prior to the effective time of such notice of intent to terminate, computed and fixed as provided for on Exhibit A and the **Owner** shall not be liable or responsible for any loss of profits or any other damages, amounts, or payments whatsoever to the **Contractor**.

(e) Upon receipt of a termination notice pursuant to paragraphs (a) or (b) above, the **Contractor** shall promptly discontinue all services (unless the notice directs otherwise), and deliver or otherwise make available to the **Owner** all data, drawings, notes, specifications, reports, estimates, summaries, work in progress, and any and all other information and/or materials as may have been accumulated by the **Contractor** in performing this Agreement, whether completed or in process, and free and clear of any mechanics or other liens or claims in favor of **Contractor** or any other person.

(f) Upon termination pursuant to paragraphs (a) or (b) above, the **Owner** may, but shall not be required to, take over the work and prosecute the same to completion by agreement with another person or otherwise, may elect to complete the work itself, or to not proceed further with the work and project.

(g) If, after termination by the **Owner** pursuant to (a) above, it is determined that the **Contractor** had not so failed, the termination shall be deemed to have been effected for

the convenience of the **Owner**. In such event, adjustment of the amounts to be paid to **Contractor** for termination shall be made as provided in paragraph (d) of this section.

(h) No other damages, whether for lost profits or otherwise, other than the amounts allowed and computed as provided for in this Section 13 shall be due or payable to **Contractor** in the event of termination.

**Section 14: Changes or Modifications.** Any change in any regulations or requirements applicable to the work called for herein, made, caused or imposed by, or as a result of, the action of any state, federal or other governmental agency that has or will provide all or any portion of any funds for payment for the work or project which is the subject of this Agreement shall automatically become a part of an amendment to this Agreement and the **Contractor** shall comply therewith.

**Section 15: Conflict of Interest.** The **Contractor** covenants, warrants and represents that the **Contractor** has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner with the subject matter or the performance of this Agreement. The **Contractor** further covenants, warrants and represents that in the performance of this Agreement, no person having any such interest shall be employed.

**Section 16: Information Confidential.** All information, and work products relating to or generated pursuant to this Agreement shall be kept confidential and shall not be disclosed, discussed or made available to any other person or organization by the **Contractor**, its employees or representatives, without the prior written approval of the **Owner** and the further consent of any other agency as may be required by the **Owner**; provided, however, the **Owner** shall have the right to audit, inspect and otherwise obtain any information as provided in Section 17, or regarding performance of this Agreement by the **Contractor**.

**Section 17: Reporting and Records.** (a) At any time during normal business hours, and as often as the **Owner** or any agency providing any portion of the funds provided to the **Owner** for this project deems necessary, there shall be made available to the **Owner** or to such other funding agency and/or their representatives, at a location within the City of Ketchikan, or other location acceptable to the **Owner**, any and all books, records and documents regarding matters covered or related to this Agreement or the performance of, or payment for, the work called for herein, and the **Owner** and/or such agencies shall be entitled to make audits and copies of all books, records, contracts, invoices, receipts, payrolls, records of personnel, and other documents or data relating to any and all matters covered by this Agreement or performance or payment for the work called for herein.

(b) The performance and administration of this program and this Agreement will be monitored by the **Owner** and such other agencies as may be required or authorized pursuant to the terms of any grant to the **Owner**. Necessary reports, in proper form, will be required as a prerequisite to any payment to the **Contractor**.

(c) All project records shall be maintained by the **Contractor** for not less than three (3) years after completion and final acceptance of all work by the **Owner** and shall be subject to inspection and copying by the **Owner** or any funding agency during said period.

**Section 18: Hold Harmless and Indemnity.** The **Owner**, its officers, employees and agents shall not be held liable for any claims, liabilities, penalties, fines or for damage to any goods, properties or effects of any person whatsoever, nor for any personal injury or death, to the extent caused by or resulting from any negligent act or omission of **Contractor**, or by any of **Contractor's** officers, employees, agents, representatives, contractors, or subcontractors in the performance or nonperformance of this Agreement, and **Contractor** further agrees to appear and defend, and to indemnify and save free and harmless the **Owner** and its officers, employees and agents from and against any of the foregoing claims, liabilities, penalties, fines or damages, and for any cost and expense, including reasonable attorney's fees, incurred by the **Owner**, its officers, employees or agents on account of any claim therefor, including claims by reasons of any negligent defects in any plans, drawings, specifications, computer programs, technical reports, or other work product of **Contractor** prepared for or submitted to the **Owner** pursuant to this Agreement provided said claim is not based upon a use of said plans, drawings, specifications or other work product for other than the purposes for which such data was prepared and submitted to the **Owner**. Notwithstanding any other provision herein contained the parties hereto agree that liability (including costs of defense and attorney's fees) for claims arising from the concurrent negligence of both parties to this agreement shall be apportioned according to the respective percentage or fault attributable to each party as determined by agreement or by the tier of fact.

**Section 19: Insurance.** (a) **Public Liability Insurance.** **Contractor** agrees to keep and maintain in full force at **Contractor's** own expense during the entire period of the project or work called for herein, broad form comprehensive public liability insurance with limits of not less than One Million Dollars (\$1,000,000) combined single limit insuring **Contractor**, and the **Owner** as an additional named insured, from any and all claims for bodily injury and death, and for property damage, that may arise out of, or in relation to, this Agreement. Such insurance shall require the insurance company give not less than thirty (30) days prior written notice to **Owner** prior to any cancellation, nonrenewal or reduction in the amount of coverage of such insurance coverage.

(b) **Contractor** shall in addition to (a) above, keep and maintain any additional policies of insurance specified on Exhibit A hereto.

(c) Each policy, or a certificate of the policy, shall be deposited with the **Owner** prior to execution of this Agreement by the **Owner**, and on renewal of the policy not less than twenty (20) days before expiration of the term of the policy.

**Section 20: Ownership of Drawings and Contract Documents.** All original documents, including but not limited to, tracings, plans, specifications, maps, basic work notes, sketches, charts, computations, photographs and original negatives thereof, and all other data prepared, obtained or received by **Contractor**, its employees, agents, or

representatives, under the terms of, or in the performance of this Agreement, shall be and become the sole and exclusive property of the **Owner**, and shall upon request be delivered to the **Owner** at no cost and without restriction or limitation on their use; and provided further, the **Owner** shall be entitled to withhold payment of any amounts otherwise due **Contractor** unless and until all of said documents and writings are delivered to **Owner** free and clear of any liens or claims of **Contractor** or any third parties relating thereto. The **Owner** shall have the sole and exclusive right to copyright, patent, license, or otherwise protect, sell, dispose of, or otherwise use any of the materials or work produced pursuant to this Agreement. Reuse, change, or alteration by the **OWNER** of drawings and contract documents without the written permission of the **CONTRACTOR** will be at the **OWNER's** sole risk.

**Section 21: Independent Contractor; No Authority to Bind Owner.** The parties hereto agree that **Contractor** is an independent **Contractor** and is not, and shall not be construed to be a partner, joint venturer, employee or agent of the **Owner** and shall not, and is not authorized to, enter into or make any contracts, agreements, or enter into any other understanding with any other person, corporation, partnership, joint venturer, or other entity, in the name of or for the benefit of the **Owner**.

**Section 22: No Third Party Beneficiaries.** Nothing in this Agreement shall be construed to give any person other than the **Owner** and the **Contractor** any legal or equitable right, remedy or claim under this Agreement, but it shall be held to be for the sole and exclusive benefit of the **Owner** and the **Contractor**.

**Section 23: Payment of Taxes.** The **Contractor** shall timely pay all federal, state, and local sales, excise or other taxes or assessments incurred by the **Contractor**.

**Section 24: Assignment and Subletting Prohibited.** The **Contractor** shall not assign, transfer, convey, pledge, hypothecate, sublet, subcontract, or otherwise dispose of or encumber this Agreement, or the rights thereunder, nor shall the **Contractor** delegate any of his/her/its duties hereunder without the prior written consent of the **Owner**. Any such attempted assignment, transfer, conveyance, pledge, hypothecation, subletting, or other disposition, or the attempted assignment, disposition or delegation of duties or rights shall be null and void and of no force or effect and shall be grounds and cause for immediate termination of this Agreement without liability by and at the option of the **Owner**.

**Section 25: Notice.** Any notice, demand, request, consent, approval, or other communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail at the address set forth below. Either party may change its address by notifying the other party of its change of address in writing. Notice shall be deemed to have been duly made and given when delivered if served personally, or upon the expiration of twenty-four (24) hours after the time of mailing if mailed as provided in this section.



**Owner:** Karl R. Amylon, General Manager  
Ketchikan Public Utilities  
334 Front Street  
Ketchikan, Alaska 99901

**Contractor:** Floyd Damron, P.E.  
Vice President and Senior Project Manager  
Jacobs Engineering Group, Inc.  
949 East 36<sup>th</sup> Avenue, Suite 500  
Anchorage, Alaska 99508

**Section 26: Equal Employment Opportunity.** (a) The **Contractor** shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, or sex. The **Contractor** will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, national origin, ancestry, age or sex. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The **Contractor** agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(b) The **Contractor** shall state in all solicitations or advertisements for employees to work on contract jobs to be let in the performance of this Agreement, that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, age, or sex.

(c) The **Contractor** agrees to fully cooperate with the office or agency of the State of Alaska which seeks to deal with the problem of unlawful or invidious discrimination, and with all other state efforts to guarantee fair employment practices under this Agreement, and said **Contractor** will comply promptly with all requests and directions from the State Commission of Human Rights or any of its officers or against relating to prevention of discriminatory employment practice.

(d) Full cooperation as expressed in the foregoing clause (c) shall include, but not be limited to, being a witness in any proceeding involving questions of unlawful or invidious discrimination if such is deemed necessary by any official or agency of the State of Alaska, permitting employees of said **Contractor** to be witnesses or complainants in any proceeding involving questions of unlawful or invidious discrimination, if such is deemed necessary by any official or agency of the State of Alaska, or the **Owner**, participating in meetings, submitting periodic reports on the equal employment aspects of present and future employment, assisting in inspection of relevant facilities, and promptly complying with all state directives deemed essential by any office or agency of the State of Alaska, or



the **Owner**, to insure compliance with all federal and state laws, regulations, and policies pertaining to the prevention of discriminatory employment practices.

(e) Failure to perform any of the above agreements pertaining to equal employment opportunities shall be deemed a material breach of the contract and sufficient grounds for termination of this Agreement for cause without liability.

**Section 27: Worker's Compensation Coverage.** The **Contractor**, if subject to the provisions of the Alaska Worker's Compensation Act (AS 23.30), shall, upon request, provide the **Owner** and the State of Alaska with proof, furnished by the insurance carrier, of current coverage by worker's compensation with an insurance company or association authorized to transact such business in the State of Alaska, or an approved current certificate of self-insurance by the Alaska Worker's Compensation Board. The **Contractor** further acknowledges and agrees that in the event it fails to maintain proper Worker's Compensation coverage, the State will implement the provisions of AS 23.30.045(c) and the **Owner**, at its option, may terminate this Agreement for cause without liability.

**Section 28: Pay Requests, Statement Concerning Claims and Final Release.**  
(a) All pay requests, whether for a progress payment or final payment, shall be made upon the form attached hereto as Exhibit B and shall be accompanied by an executed statement concerning claims on the form attached hereto as Exhibit C.

(b) Upon satisfactory completion of all of the work to be performed hereunder, and prior to final payment under this Agreement for such work, or prior to payment of any amounts upon termination of the agreement, and as a condition precedent thereto, the **Contractor** shall execute and deliver to the **Owner** a release of all claims against the **Owner** arising under or by virtue of this Agreement on the form attached hereto as Exhibit D.

**Section 29: Miscellaneous.** (a) **Relationship of the Parties.** Nothing herein contained shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being understood and agreed that neither method of computation of payment nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of **Owner** and an independent contractor.

(b) **Terminology.** Whenever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders.

(c) **Nonwaiver.** No delay or omission of the right to exercise any power by either party shall impair any such right or power, or be construed as a waiver of any default or as acquiescence therein. One or more waivers of any covenant, term or condition of this Agreement by either party shall not be construed by the other party as a waiver of a subsequent breach of the same covenant, term or condition. The consent or approval by

either party to any act by the other party of a nature requiring consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

(d) **Law Applicable.** The laws of the State of Alaska shall govern the construction, validity, performance and enforcement of this Agreement. Venue as to any action, claim, or proceeding arising out of, or based upon this Agreement, including, but not limited to, any action for declaratory or injunctive relief, shall be the appropriate court sitting in the City of Ketchikan, First Judicial District, Alaska.

(e) **Paragraph Headings.** The headings of the several sections and subsections contained herein are for convenience only and do not define, limit or construe the contents of such sections and subsections.

(f) **Successors and Assigns.** Except as otherwise provided herein, the covenants, agreements and obligations herein contained shall extend to bind and inure to the benefit not only of the parties hereto but their respective personal representatives, heirs, successors and assigns.

(g) **Compliance with Laws and Regulations.** Contractor shall, at Contractor's sole cost and expense, comply with all of the requirements of all local, state, or federal laws, ordinances, or regulations now in force, or which may hereafter be in force, pertaining to this Agreement, or the project or work to be performed, and shall faithfully observe in the performance of this Agreement, all local, state, and federal laws, ordinances and regulations now in force or which may hereafter be in force.

(h) **Terms Construed as Covenants and Conditions.** Every term and each provision of this Agreement performable by Contractor shall be construed to be both a covenant and a condition.

(i) **Time of the Essence.** Time is of the essence of each term, condition, covenant and provision of this Agreement.

(j) **Entire Agreement.** This Agreement and any schedules, appendices or exhibits attached hereto sets forth all the covenants, promises, agreements, conditions and understandings between the parties hereto, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as herein set forth. Except as herein otherwise expressly provided, no contemporaneous or subsequent agreement, understanding, alteration, amendment, change or addition to this Agreement, or any schedule, appendix, exhibit or attachment thereto shall be binding upon the parties hereto unless reduced to writing and signed by both parties. This Agreement constitutes a final, complete, and exclusive statement of the agreement between the parties.

(k) **Severability.** In the event any provision of this Agreement is adjudicated or held to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

(l) **Corporate Authority.** If **Contractor** is a corporation **Contractor** shall deliver to the **Owner** at the time of execution of this Agreement a certified copy of a resolution of its board of directors authorizing the execution of this Agreement and naming the officers that are authorized to execute this Agreement on behalf of the corporation.

**Section 30: Additional Terms and Conditions.** This Agreement is subject to each of the additional terms, covenants, conditions and provisions attached hereto as Exhibit(s) A through D which are hereby expressly referred to and incorporated herein as though set forth in full.

**Section 31: Maximum Amount of Contract.** **Contractor** acknowledges and agrees **Owner's** funding is of a limited nature and source and **Owner** shall in no event be liable for payment of any amounts under this Agreement, or otherwise, in excess of the total amount of Forty Thousand Dollars (\$40,000), and at such times as the total amount paid or due, or claimed by **Contractor**, reaches a total of Forty Thousand Dollars (\$40,000), **Contractor** shall forthwith notify **Owner** thereof. It shall be the **Contractor's** obligation to notify **Owner** and to assure no work in excess of said total sum of Forty Thousand Dollars (\$40,000) is done and any work done in excess thereof shall not entitle **Contractor** to any payment and **Contractor** expressly waives any claim therefor, unless such additional work was separately authorized in writing as a written change order or amendment to this Agreement prior to commencement and performance of any such additional work.

**WHEREFORE** the parties have entered into this Agreement the date and year first above written at the City of Ketchikan, Alaska.

**Owner:**

**CITY OF KETCHIKAN, ALASKA**

By: \_\_\_\_\_  
Karl R. Amylon  
KPU General Manager

ATTEST:

\_\_\_\_\_  
Kim Stanker, MMC  
City Clerk

Reviewed and Approved as  
to Content

Certified Funds Available

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
**Contractor: Jacobs Engineering Group, Inc.**

\_\_\_\_\_  
(type in name)

By: \_\_\_\_\_  
(signature of authorized officer)

\_\_\_\_\_  
(title of person signing)

(Corporate Seal)

**CITY ACKNOWLEDGMENT**

STATE OF ALASKA            )  
  ) **ss.**  
FIRST JUDICIAL DISTRICT    )

**THIS IS TO CERTIFY** that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared **KARL R. AMYLON** and **KIM STANKER**, to me known to be the **KPU GENERAL MANAGER** and the **CITY CLERK** of the **CITY OF KETCHIKAN**, a municipal corporation, the corporation which executed the above and foregoing instrument; who on oath stated that they were duly authorized to execute said instrument and affix the corporate seal thereto on behalf of said corporation; who acknowledged to me that they signed and sealed the same freely and voluntarily on behalf of said corporation for the uses and purposes therein mentioned.

**WITNESS** my hand and official seal the day and year in the certificate first above written.

\_\_\_\_\_  
**NOTARY PUBLIC FOR ALASKA**  
My Commission Expires: \_\_\_\_\_

**CORPORATE CERTIFICATE**

I, \_\_\_\_\_, certify that I am the Secretary of the Corporation named as Contractor in the foregoing instrument; that \_\_\_\_\_, who signed said instrument on behalf of the Contractor, was then \_\_\_\_\_ of said Corporation; that said instrument was duly signed for and in behalf of said Corporation by authority of its governing body and is within the scope of its corporate powers.

\_\_\_\_\_ (Corporate Seal)



**CORPORATE ACKNOWLEDGMENT**

STATE OF ALASKA                    )  
  ) ss.  
FIRST JUDICIAL DISTRICT        )

**THIS IS TO CERTIFY** that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, a Notary Public in and for the State of \_\_\_\_\_, duly commissioned and sworn, personally appeared \_\_\_\_\_ known to be the Secretary of \_\_\_\_\_, the corporation which executed the above and foregoing instrument, and who on oath stated he/she was duly authorized to execute said instrument and affix the corporate seal thereto on behalf of said corporation, and that the seal affixed thereto is the corporate seal thereof, and acknowledged that he/she signed the same freely and voluntarily on behalf of said corporation for the purposes therein mentioned.

**WITNESS** my hand and official seal the day and year in this certificate above written.

\_\_\_\_\_  
**NOTARY PUBLIC FOR** \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**Exhibit A**

Jacobs Engineering Group, Inc.

entitled "Scope of Services Proposal for Cyber Evaluation"  
dated February 24, 2021 (4 pages)



February 24, 2021

Attention: Mr. John Kleinegger  
Ketchikan Public Utilities  
2930 Tongass Avenue  
Ketchikan, AK 99901

**Subject: Scope of Services Proposal for Cyber Evaluation**

Dear Mr. Kleinegger,

As requested by Ketchikan Public Utilities (KPU), we are proposing a scope of services to support KPU in complying with the requirements of the 2018 American Water Infrastructure Act (AWIA), specific to cyber security. KPU is using the Vulnerability Self-Assessment Tool (VSAT) tool and must certify completion of the RRA to the U.S. Environmental Protection Agency (EPA) by June 30, 2021. KPU has requested Jacobs provide an evaluation of cyber security risks for the water system and financial infrastructure. Jacobs has worked on over 50 RRA projects for utilities across the United States and we are looking forward to lending our expertise to help improve the resiliency of the KPU cyber security relative to the water system. In addition, Jacobs shall provide support KPU complete the VSAT evaluation regarding assumptions and interpretations as needed.

## Summary of Key Assumptions

In development of this scope, Jacobs assumes that:

- Remote working conditions continue due to the pandemic. Meetings shall be conducted either by phone with a teleconference call-in number or via other web-based conferencing platform, such as Microsoft Teams. No on-site activities such as site visits are expected.
- Jacobs shall prepare and submit to KPU via email or other file-sharing software all deliverables as electronic PDF or Word documents. No hardcopies of deliverables shall be prepared or distributed by Jacobs. It is understood that KPU shall print any hardcopies that it deems necessary for its internal review or other use.
- KPU shall furnish hardcopies or PDF copies of any and all applicable and relevant existing documentation, such as network diagrams, to the development of the cyber security evaluation, as requested by Jacobs.
- Quantitative approaches will not be developed or performed as part of project evaluations and analyses. Instead, qualitative assessments and analyses will be used based on available published data, engineering or professional judgement, and subject matter expert (SME) evaluations and opinion on relative risk factors and profiles.
- The level of work and effort associated with project tasks to be completed by Jacobs under this Scope of Services shall be limited to that which is commensurate with and can be completed within

associated project contractual budget allowances and limits. To the extent additional Jacobs services are required beyond those which can be accommodated under established project contractual budgets, additional scope and budget may be negotiated, added, and contracted subject to mutual agreement and authorizations between Jacobs and KPU.

- KPU shall provide one consolidated, internally consistent, clear, and non-conflicting set of review comments for all draft deliverables.
- The cyber security TM will focus solely on the results of the cyber security evaluation. Jacobs will not develop other content for the RRA.

## Scope of Services

The following details the tasks that will be completed as a part of this scope of services.

### Task 1: Cyber Security Evaluation

Section 2013 of the America's Water Infrastructure Act (AWIA) of 2018 includes requirements for conducting a Risk and Resiliency Assessment (RRA). The RRA includes resilience of electronic/computer (including their security) systems and financial infrastructure.

Jacobs shall conduct the cyber security evaluation using the currently accepted industry standard for risk analysis, the American Water Works Association (AWWA) Risk and Resilience Management of Water and Wastewater Systems J100-10 standard (2010). The J100-10 standard provides a method for community water systems to assess risk and resilience associated with cyber threats. In conjunction with J100-10 methodology, Jacobs shall base evaluations off industry standard tools like the "Department of Homeland Security/Industrial Control System - Computer Emergency Response Team (DHS/ICS-CERT) Cyber Security Evaluation Tool (CSET v8.1)" to evaluate the risk to Information Technology (IT) networks and to ICS/SCADA networks (cyber security monitoring practices).

The CSET evaluation utilizes network diagram assessment combined with a series of security standards-based questions to provide understanding and context, which enables the assessor in identifying security shortfalls and identifying best practices for programs and processes. Jacobs shall employ this tool for CSET analysis with input from KPU's key IT staff. The CSET produces a Cyber Risk Score, which Jacobs shall align to Department of Energy (DoE) Cybersecurity Capability Maturity Model (C2M2) to provide a relative understanding of the assessed level of operational and infrastructure cyber risk. This enables a pathway forward for mitigation of the identified risk. This approach does not include penetration testing or active network probing.

To complete the cyber security evaluation for the RRA, it is necessary for Jacobs to conduct an interview and two workshops with KPU.

- Interview (2 hours):** Jacobs shall interview KPU regarding the IT networks and ICS/SCADA networks to identify threats, security measures in place, etc.
- Preliminary Findings Workshop (2 hours):** Jacobs to present preliminary cyber security findings and follow up on any gaps with KPU. Upon completion of the interview and cyber security evaluation, Jacobs shall develop a technical memo (TM) including a schematic of the networks, CSET evaluation and results, list of identified risks sorted by priority, and recommended risk reductions.
- Draft TM Review Workshop (1 hour):** Jacobs to present final draft TM prior to workshop. Jacobs shall facilitate a teleconference workshop with KPU to review the draft TM.

Jacobs shall complete a final draft of the Cyber Security Evaluation TM and submit to KPU for review and comment. A Word file of the main body of the TM shall be submitted to facilitate tracked-changes-review. KPU shall internally adjudicate review comments from KPU staff and compile to a single file the

final review comments for submission to Jacobs. Jacobs shall revise and finalize the TM based on KPU's review comments. The final TM shall be a Word file and a bookmarked PDF file. KPU to certify the RRA on the EPA website.

Deliverables:

- Draft (final draft) Cyber Security Evaluation TM (Microsoft Word)
- Final Cyber Security Evaluation TM (Microsoft Word and PDF format)

**Task 2: VSAT Support**

KPU is using VSAT, a standard industry tool, to conduct their risk and resilience assessment.

Jacobs will provide up to 28 hours of support in the form of review of information provided by KPU, teleconference calls to provide input to KPU as requested until completion of the RRA.

**Task 3: Project Management**

Jacobs project manager shall manage the Jacobs project team, overall execution of the project, and accurate accounting of the project budget. Jacobs project manager shall work with Jacobs project accountant to prepare and submit invoices on a monthly basis along with a monthly project status memo addressing and describing work covered by the invoice. Any significant project budget or accounting issues shall be addressed in the monthly status memo for KPU's review and consideration. Jacobs shall prepare all of Jacobs internal, standard, required work-execution, quality control, and budget control work products necessary to effectively execute the work.

Deliverables:

- Monthly invoice and budget summary spreadsheet
- Monthly status memo accompanying the invoice

**Schedule**

The project is anticipated to run from March through June 2021, which is 4 months, to complete the cyber security evaluation to certify the RRA. The proposed schedule and milestones are shown in Table 1.

**Table 1. Proposed Schedule**

Activity	Date
Interview	4/1/21
Preliminary Findings Workshop	4/19/21
Submit Cyber TM Draft for KPU Review	5/5/21
KPU to Review Cyber TM	5/5/21-5/14/21
Draft Cyber TM Review Workshop	5/17/21
Submit Final Cyber TM for KPU Review	5/24/21
KPU to Review Final Cyber TM	5/24/21-5/28/21
KPU to Certify RRA	6/30/21



# Budget

The total proposed budget is \$40,000 Lump Sum Amount for the identified 3 subtasks and scope. The budget is broken out by subtasks as follows:

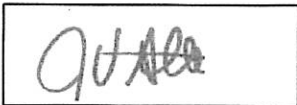
**Table 2. Proposed Lump Sum Task Budget**

Task	Budget
Task 1: Cyber Security Evaluation	\$30,000
Task 2: VSAT Support	\$5,000
Task 3: Project Management	\$5,000
<b>Total</b>	<b>\$40,000</b>

# Team

Key team members will include Floyd Damron as Project Manager, Josh Thompson as cyber security lead, Enoch Nicholson as VSAT support lead, and Esther Chang as project engineer.

Please contact me if you would like to discuss our proposal. We are ready to begin work immediately.  
Sincerely,



Jalmer (Bud) Alto

Manager of Projects

c: Floyd Damron/Jacobs  
Kim Ervin, Jacobs

KETCHIKAN PUBLIC UTILITIES  
 2930 Tongass Avenue  
 Ketchikan, Alaska 99901

PROGRESS PAYMENT SUMMARY

Project: Evaluation KTN Cyber Security Risks  
 Emergency Response Plan  
 Contract No.: 21-03  
 Date:  
 Purchase Order: 2021-00XXX

Contractor: Jacobs Engineering Group, Inc.  
 949 E. 36th Avenue, Suite 500, Anchorage, Alaska 99508  
 Invoice Number(s):  
 For Period Of: Ending

In accordance with the attached schedule, the Contractor is entitled to payment of the amount set forth below. The present status of the account for this Contract is as follows:

**FOR OWNER USE ONLY**

Reg. PO# 2021-	Vendor #	
		Amount
Petty PO#	Rec'd By	Dept. Head

Original Contract Amount	40,000.00
Change Orders:	
Additions	
Deductions	
Total Change Orders	0.00
Revised Contract Amount	
Less:	
Total Contract Completed to Date	
Balance To Complete	
Total Billed To Date, Including This Request	0.00
Less:	
Previous Payments	
Subtotal	0.00
Adjustments	
Due This Pay Request	0.00
Final Payment: Yes <input type="checkbox"/> No <input type="checkbox"/>	
Shaded Area To Be Completed By The Owner	

Comments:

By: \_\_\_\_\_ Date: \_\_\_\_\_

CONTRACTOR'S Certification: The undersigned CONTRACTOR certifies that (1) all previous progress payments received from OWNER on account of Work done under the Contract referred to above have been applied to discharge in full all obligations of CONTRACTOR incurred in connection with Work covered by prior Requests for Payment numbered 1 through inclusive; and (2) title to all materials and equipment incorporated in said Work or otherwise listed in or covered by this Request for Payment will pass to OWNER at time of payment free and clear of all liens, claims, security interests and encumbrances. The undersigned CONTRACTOR further certifies, represents and agrees that there are no claims for additional work or other claims not put in writing prior to this date.

Subscribed and Sworn to before me this \_\_\_\_\_ day  
 of \_\_\_\_\_, 20\_\_

Contractor: \_\_\_\_\_

Notary Public for the State of \_\_\_\_\_,  
 My Commission Expires: \_\_\_\_\_

By: \_\_\_\_\_

Must be signed by Principal of Firm

Dated: \_\_\_\_\_

Payment of the above amount due this Request is recommended.

Contract Administrator \_\_\_\_\_

Date \_\_\_\_\_



**EXHIBIT D**

**RELEASE, WAIVER AND DISCHARGE OF ALL CLAIMS AND LIENS**

This Certificate and Affidavit is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ ("Releasor"), the CONTRACTOR under that certain Agreement for the performing and/or furnishing of work, labor, services, materials and/or equipment in connection with an Agreement and Project known as **Evaluation of Cyber Security Risks to KPU's Water System and Financial Infrastructure**

For and in consideration of the total sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), and other good and valuable consideration, which sum is acknowledged as being the FINAL AND TOTAL AMOUNT due or alleged to be due or owing from the City of Ketchikan d/b/a Ketchikan Public Utilities (hereinafter referred to as "Releasee"), the receipt and payment of which sum is hereby acknowledged, the Releasor for and on behalf of itself and all parties claiming any interest in or through it, and for its successors and assigns, does hereby waive, release and discharge the Releasee from any and all causes of action, suits, debts, accounts, bonds, contracts, promises, damages, liens, encumbrances, judgment, claims and demands whatsoever, in law or equity, which against the Releasee, jointly or separately, Releasor ever had, now has, or might hereinafter have, relating directly or indirectly to the aforesaid Agreement and/or Project, except as set forth on the attached Statement Concerning Claims.

The Releasor further hereby agrees to appear and defend and to indemnify and hold the Releasee harmless from any and all damages, costs, expenses, demands, suits, liens and legal fees, directly or indirectly relating to any claim for compensation by any other party for work, labor, services, materials and/or equipment which directly or indirectly relates to that which was performed or should have been performed by the Releasor, and from and against any claim relating to any work, labor, services, materials and/or equipment allegedly performed, supplied or provided by the Releasor.

The Releasor further hereby represents, certifies and warrants that it has fully paid for any and all work, labor, services, materials and/or equipment provided to it in connection with the Agreement and/or the Project. The Releasor hereby grants to the Releasee and its authorized representatives the right to review and audit any and all books and records of the Releasor at any time for verification of such payments.

IN WITNESS WHEREOF, this Release, Waiver and Discharge of Claims and Liens has been executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_.

\_\_\_\_\_  
Releasor  
  
By: \_\_\_\_\_  
  
Title: \_\_\_\_\_

