



This professional services agreement is entered into between the Petersburg Borough, P.O. Box 329, Petersburg, AK 99833, and PND Engineers, Inc. (Consultant).

Whereas, the Borough is in need of a qualified and experienced consultant to perform the professional services as identified in the Borough RFP attached to this contract; and

Whereas, the Consultant's proposal has been ranked highest out of the submitted proposal pool, according to the RFP evaluation criteria;

In consideration of the mutual terms and conditions set forth below, the parties agree as follows:

1. Scope of Work. Consultant shall perform the services as described in the RFP and the consultant's responding proposal dated January 9, 2015, both of which are hereby incorporated as part of this Agreement.

All considerations of the contracted work will be coordinated through the Borough Manager or his designee.

2. Payment. Borough shall pay Consultant for the work described, the not-to-exceed sum of \$59,974 including all materials, labor and associated work. Payment shall be made by the Borough to the Consultant within 30 days from the date of each invoice received from Consultant.

3. Completion Date. The work will be completed by August 1, 2015 unless an extension is agreed to in writing and signed by both parties.

4. Changes in the Scope of Work: No additional scope of work under this Agreement shall be performed unless Consultant and Borough have mutually agreed and have executed a written amendment to this Agreement.

5. Conflict of Interest. Consultant will not rent or purchase any equipment or materials from, or extend any loan, gratuity or gift to any employee or elected official of the Borough without express prior written approval of the Borough. Consultant warrants that no employee or elected official of the Borough, and no other person or agency, has been employed by Consultant or secured this contract upon an express or implied agreement or understanding for a bribe, kickback, commission, percentage fee, finder's fee, contingent fee, or brokerage fee.

6. Warranty. Consultant warrants and guarantees that all professional services performed under this contract shall meet the professional standards of quality and standards of care applicable to the Consultant's profession.

7. Insurance. Consultant shall purchase, at its own expense, and maintain in force at all times during the performance of services under this contract, policies of insurance with errors and omission, public liability, property damage, and comprehensive general liability insurance coverages with minimum limits of \$1,000,000 per occurrence and \$2,000,000 in aggregate, and workers compensation and employer's liability coverage as required by law. The Borough is to be named as an additional insured on Consultant's policies. **Consultant shall provide the Borough with certificates of insurance evidencing this before beginning work.** All such insurance shall be maintained in force up to the date of final payment by the Borough.

8. Sub-Consultants and Suppliers: The Consultant is responsible to the Borough for the acts and omissions of its sub-Consultants, suppliers and their employees; however, nothing contained in this paragraph shall create a contractual relationship between any sub-Consultant and supplier and the Borough, nor shall it relieve the Consultant of any liability or obligation under this contract.

9. Jurisdiction, Venue and Costs of Litigation. Consultant agrees that the Superior Court for the State of Alaska has personal and subject matter jurisdiction over Consultant and this contract, and that venue for all disputes is proper in the First Judicial District at Petersburg, Alaska. If the Borough is required to file suit to enforce the provisions of this contract and is the prevailing party, Consultant agrees that the Borough may recover its full reasonable attorney's fees and costs from Consultant.

10. Indemnification. The Consultant shall indemnify, defend, and hold harmless the Borough from and against any claim of, or liability for, negligent acts, errors, and omissions of the Consultant under this contract, including the award of attorneys' fees even if in excess of Alaska Civil Rule 82. Consultant is not required to indemnify, defend, or hold harmless the Borough for a claim of, or liability for, the independent negligent acts, errors, and omissions of the Borough. If there is a claim of, or liability for, a joint negligent act, error, or omission of the Consultant and the Borough, the indemnification, defense, and hold harmless obligation of this section shall be apportioned on a comparative fault basis. In this section, "the Consultant" and "the Borough" include the employees, agents, and contractors who are directly responsible, respectively, to each. In this section, "independent negligent acts, errors, and omissions" means negligence other than in the Borough's selection, administration, monitoring, or controlling of the Consultant, or in approving or accepting the Consultant's work. The Borough shall notify the Consultant in a timely manner of the need for indemnification, defense, and hold harmless under this section, but such notice is not a condition precedent to the Consultant's obligations and may be waived where the Consultant has actual notice.

11. Assignment. The Consultant shall not assign or transfer its right, interest, or obligations under this contract without the express prior written consent from the Borough.

12. Default. If the Consultant defaults or fails to perform in accordance with any term of this contract, the Borough may give the Consultant five (5) days written notice of the Borough's intent to terminate the work. During these five days the Consultant will have an opportunity to remedy the default. If Consultant fails to remedy the conditions constituting default within the time allowed the Borough may terminate the work. Upon termination the

Borough may take possession of the work and complete the work by whatever method the Borough selects without further notice. Consultant shall be liable to the Borough for whatever costs and expenses it incurs in completing the work, whether performed by the Borough itself or by another Consultant.

13. Ownership of Work. All written plans, specifications, drawings, draft, contracts, or other written work (collectively "Documents") prepared by Consultant pursuant to this Contract shall be owned by and become the exclusive property of the Borough except, to the extent that the Documents contain any knowledge, processes, methodologies, formats or other types of intellectual property that are possessed and owned by the Consultant at the time it begins to provide Services under this Contract ("Consultant's Knowledge"), the Consultant hereby grants to the Borough a non-exclusive, revocable license to use Consultant's Knowledge for the purposes contemplated by this Contract. Any other use or modification of the Documents by the Borough or any party obtaining them through the Borough will be at the Borough's sole risk and without liability to the Consultant. The Borough will indemnify, defend, and hold Consultant harmless from all third party claims, demands, damages or expenses (including reasonable attorney's fees, expert fees and cost of investigation and defense) arising from and in any way related to the reuse or modification of the documents by the Borough or any party obtaining them through the Borough.

14. Alaska Law Governs. This Agreement shall be enforced in accordance with the laws of the State of Alaska. In the event that any provision of this Agreement is held to be invalid, the remaining provisions will be given full force and effect.

15. Complete Agreement. This contract contains complete agreement of the parties. There are no other terms, conditions or agreements, express or implied, between the parties relating to this contract or the work to be performed under this contract. The contract may only be modified in writing, signed by the Borough and Consultant.

16. Start Date. This contract shall not be in effect until both the Consultant and the Borough Manager have signed it. The Borough shall not pay Consultant for any work performed before both parties sign this contract.

Borough and Consultant acknowledge that they are in agreement with the terms and conditions set forth above.

PETERSBURG BOROUGH

By: _____
Stephen Giesbrecht

Its: Borough Manager

Date: _____

By: _____
Dick Somerville

Its: Vice President

Date: _____