

STATE DISASTER PUBLIC ASSISTANCE GRANT

Kenai Peninsula Borough

GRANT NUMBER AK12-237

ASSURANCES AND AGREEMENTS

As a condition of receiving state disaster assistance, as indicated by the signature of the duly authorized representative of the applicant below, the applicant certifies and agrees as follows:

1. **Legal Authority.** The applicant possesses legal authority to apply for the grant, and to finance and construct the proposed facilities; that a resolution, motion, or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
2. **Eligible Work.** To the best of the applicant's knowledge and belief, the disaster relief work described on each Project Worksheet for which State financial assistance is requested is eligible. Repair work will not begin on projects that result in a significant change from pre-disaster configuration (i.e. different location, footprint, function or size) without State pre-authorization for proposed changes. **Failure to obtain pre-authorization may result in a loss of funding for the entire project.**
3. **No Duplication of Assistance.** The disaster assistance will not duplicate assistance or benefits received for the same loss from another source including insurance.
4. **Regularly Appropriated Monies.** If the applicant is a State or local agency, the applicant certifies that any regularly appropriated and legally available monies will be exhausted before accepting and using disaster relief funds.
5. **Insurance.** The Applicant accepts responsibility for acquiring any necessary liability insurance. The applicant also agrees to provide workers' compensation insurance as required by AS 23.30 for all employees engaged in work funded by the grant. The applicant shall require any contractor to provide and maintain workers' compensation insurance for its employees as required by AS 23.30.
6. **Lands Easements, Rights-of-way, Permits.** The applicant agrees to provide without cost to the State all lands, easements, and rights-of-way necessary for accomplishment of the approved work and to obtain all necessary permits.
7. **Floodplain Management.** The applicant will comply with the provisions of: Executive

DHS&EM Form 30-57 State Assurance And Agreements

Order 11988, relating to Floodplain Management and Executive Order 11990, relating to Protection of Wetlands.

8. **Equal Opportunity Employment.** The applicant may not discriminate against any employee of applicant for employment because of race, religion, color, national origin, age, physical handicap, sex, marital- status, changes in marital status, pregnancy or parenthood.
9. **Wage Rates.** The applicant will comply with the applicable wage and hourly provisions of A.S.3605.010-110 (Alaska Little Davis-Bacon Act).
10. **Audit Requirements.** State law mandates: An entity that receives State financial assistance with a cumulative total of \$500,000.00 or more during the entity's fiscal year, shall submit to the State coordinating agency, within one year after the end of the audit period, an annual audit report covering the audit period. (See A.S.37.05.030 and 2 AAC 45.010 Audit Requirements).
11. **FICA Exempt.** The applicant understands that under a State declaration of disaster emergency employees (temporary employees) hired for disaster projects are exempt from FICA withholding and that the employer is exempt from FICA contributions for these employees under 42 USC Section 410.
12. **Grant Administration Procedures:** The applicant agrees to follow grant administration and accounting procedures required by the Department of Military and Veteran's Affairs, Division of Homeland Security and Emergency Management (DHS&EM) as set out in guidance and forms provided by DHS&EM.
13. **Project Cost Eligibility.**
 - A. The eligibility of Project costs to be paid by state disaster assistance monies shall be determined solely by DHS&EM upon review of supporting documentation. Eligible costs must be reasonable and directly related to the approved project.
 - B. Ineligible costs include but are not limited to: Bad debts and expenses of collection, lobbying expenses, organization membership fees, life insurance premiums, payment of fines or penalties, bonuses and commissions, entertainment expenses, travel expenses for activities not directly connected with the project, any litigation expenses, counsel fees and settlements arising from the project, interest-including the cost of financing or refinancing.
 - C. The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used. Project contracts must be competitively bid.
14. **Project Operation and Maintenance.** The applicant will operate and maintain the facility in accordance with the minimum standards as may be required or prescribed by the

applicable State and local agencies for maintaining and operating such facility.

15. Project Standards.

- A. The applicant will provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to ensure that the completed work conforms to the approved plans and specifications.
- B. The applicant will require the facility to be designed to comply with the “American Standard Specifications for Making Buildings and Facilities Accessible to, and usable by the Physically Handicapped,” Number A117.1-1961, as modified (41CFR §101-17-7031). The applicant will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.
- C. The applicant will, for any repairs or construction financed herewith, comply with applicable standards of safety, decency and sanitation.
- D. The applicant will evaluate the natural hazards in areas in which the proceeds of the grant or loan are to be used in conformity with applicable codes, specifications and standards and take appropriate action to mitigate such hazards, including safe land use and construction practices.

16. Project Completion Timelines Progress Reports. The applicant will commence work on the project within a reasonable time after receiving notification from the Division of Homeland Security & Emergency Management that the project worksheet(s) have been approved and will ensure that work on the project proceeds to completion with reasonable diligence. The applicant will furnish quarterly progress reports for all large and small projects and any other reports as required by DHS&EM.

- A. The applicant must complete all work associated with the Project Worksheet. If work is not completed, the applicant will be required to return all State funding.
- B. Failure to submit required reports and documentation will result in deobligation of the Project worksheet, and the applicant will be required to return all State funding.

17. Documentation. The State requires that applicant/subgrantee to submit all back-up documentation (timesheets, pay stubs, invoices, etc.) to substantiate all costs associated with the Project Worksheet.

18. Access To Records The applicant will give DHS&EM access and the right to examine all books, records, papers, or documents related to the state disaster assistance money for a period of not less than three years after project completion or until the resolution of any final audit findings whichever is longer.

19. State Right of Enforcement. These assurances and agreements are given in consideration of, and for the purpose of obtaining any and all state grants, loans, reimbursements, advances, contracts, property, discounts, or other disaster related financial assistance. The applicant acknowledges and agrees that such State financial assistance is extended in reliance on the representations and agreements made in this assurance and that the State shall have the right to seek judicial enforcement of these assurances and agreements.

20. **Assurances and Agreements Binding on Applicant's Successors, Transferees, and Assignees:** These Assurances and Agreements are binding on the applicant, its successors, transferees and assignees.
21. **Applicable Law.** This agreement is to be construed according to the laws of the State of Alaska. Any civil action arising from this Agreement shall be brought in the Superior Court for the Third Judicial District of the State of Alaska at Anchorage.
22. **Hold Harmless.** The applicant agrees to indemnify and hold harmless the State of Alaska and the United States and their officers, agents, and employees from any and all claims, damages, losses and expenses, including attorney's fees and costs, arising directly or indirectly out of any aspect of the projects and funding set forth and described in this application. The application is not required to indemnify the State of Alaska or the United States for their sole negligence.
23. **Compliance with Laws.** The applicant agrees to comply with all federal, state, and local laws and regulations applicable to this grant or the projects funded by the grant including but not limited to statutes, policies, guidelines and requirements, as applicable.
24. **Nonwaiver.** The failure of the State at any time to enforce a provision of this agreement shall in no way constitute a waiver of the provision, nor in any way affect the validity of this Agreement or any part hereto or the right of the State to enforce each and every provision hereof.
25. **Severability.** If any article, section, provision, or clause of this agreement should be adjudicated by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the agreement shall remain in full force and effect as if such article, section, provision, or clause, or any part so adjudicated to be invalid had not been included herein.
26. **Amendments.** Amendments to approved project amounts, project scope, or to the other provisions of this agreement are required to be in writing and shall be executed by the authorized representatives of the parties. **Prior written approval is required for (1) Any budget revision which would result in the need for additional funds, (2) A change in the scope of the approved project.**
27. **Retention of Records.** The applicant agrees to retain records and supporting documentation for three years after closeout of the disaster.

As the authorized representative of Kenai Peninsula Borough, I have reviewed this agreement and agree to comply with its provisions as a condition of receiving disaster grant assistance.

Mike Navarre, Mayor
Printed name and title of Authorized Representative

Signature

Date

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2012.

Notary Public in and for
the State of Alaska

My _____ Commission

Expires: _____

ATTEST:

Borough Clerk