

OPERATION AND MAINTENANCE AGREEMENT VALDEZ GLACIER STREAM EWP PROJECT VALDEZ, ALASKA

This agreement made on July 15, 2017, is between the United States Department of Agriculture, Natural Resources Conservation Service, hereinafter referred to as NRCS, and the City of Valdez, hereinafter referred to as the Sponsor.

The Sponsor and NRCS agree to carry out the terms of this Agreement for the operation and maintenance (O&M) of the Valdez Glacier Stream EWP Project which was approved under the authority of Public Law 81-516 and Public Law 95-334.

The Sponsor's responsibility for O&M begins when the project is determined complete by NRCS. This responsibility shall include maintenance or repair of any component of the project or structures as needed. This O&M Agreement remains in effect for the project life of 10 years from the date of completion, as determined by NRCS (estimated expiration date of this Agreement is therefore October 8, 2027). After the expiration of this O&M Agreement, the Sponsor may still continue to be liable until the structures are removed or modified to eliminate potential hazards.

General

- A. The Sponsor shall:
- (1) Complete all maintenance, repair, or replacement activities within a reasonable time after the identification of such need;
 - (2) Obtain prior NRCS approval of all plans, designs, and specifications for any planned alterations to the project;
 - (3) Prohibit the installation of any structure or facility that will interfere with the operation and/or maintenance of the project;
 - (4) Notify NRCS of any proposed agreement with other parties for the operation and/or maintenance of all or any part of the project, and provide NRCS with a copy of the executed agreement. Such agreements will not negate the Sponsor's responsibilities as stated in this Agreement;
 - (5) Comply with the property management standards set forth in the NRCS Contracts, Grants, and Cooperative Agreements Manual, the National Emergency Watershed Protection Program Manual, and all applicable Federal, State, local, and tribal laws and regulations;
 - (6) Provide NRCS personnel or its agents the right of free access to the project site at any reasonable time for the purpose of carrying out the terms of the Agreement;
 - (7) Comply with Federal, State, local, and tribal laws and regulations in the operation and maintenance of the project, and;

- (8) Consider air and water quality, sediment control, and other environmental concerns in the operation and maintenance of the project;
- (9) Be responsible for inspecting, operating and performing, or having performed, all operation, maintenance, and replacement activities associated with the project and its components as described in the O&M Plan;
- (10) Understand that the nature of an EWP project is to provide temporary (in this case 10 years) relief from the streambank erosion at the project site. The Sponsor should be developing a plan for addressing future streambank erosion concerns in anticipation of when these temporary project works begin to degrade.

B. The NRCS shall:

Upon the request of the Sponsor, and to the extent that its resources permit, provide consultative assistance in the operation, maintenance, and replacement of the project and/or components.

Operation and Maintenance Plan

An O&M Plan for this project is attached to and incorporated as part of this Agreement.

Inspections and Reports

The Sponsor shall inspect the project as specified in the O&M Plan.

NRCS may inspect the project at any reasonable time during the period covered by this Agreement. At the discretion of the State Conservationist, NRCS personnel may assist the Sponsor while conducting the inspections, if so requested.

The Sponsor shall prepare a written report of each inspection and provide a copy to the NRCS Supervisory Soil Conservationist within 30 days from the date the inspection was conducted. The report shall include the following:

- Date(s) of inspection;
- Names of inspectors and participants;
- Features of the project that were inspected;
- Description of conditions observed;
- Maintenance work required; and
- Planned maintenance work schedule.

Any unusual circumstances observed during monitoring or inspections shall be reported immediately to the NRCS Supervisory Soil Conservationist.

Records

The Sponsor shall retain a record of all inspections and O&M performed including costs and completion dates. Records shall be made available to NRCS upon request.

Financial Plan

The O&M Plan for the project contains individual component cost estimates, along with a total amount recommended to be placed into an escrow account each year to be used for O&M activities. Sponsor is encouraged to consider inflation and other factors when saving money to address O&M needs. At the conclusion of the 10 year project life any unused O&M funds in the escrow account shall remain the property of the Sponsor.

Violations

This O&M Agreement is a legally binding instrument which shall be enforced as necessary to protect the interests of the government and the general public. If NRCS determines that the Sponsor fails to comply with the provisions of the O&M Agreement and the O&M Plan, the Sponsor will reimburse the Federal government for the full financial assistance provided by NRCS to construct the project. The Federal government shall also have the right to take any further actions it deems necessary.

Review and Revision of this Agreement

This Agreement and associated O&M Plan shall be reviewed at least once every 10 years by the Sponsor and NRCS. This O&M Agreement and associated O&M Plan may be revised by mutual consent of both the Sponsor and NRCS.

City of Valdez

By: _____ Title: City Manager
ELKE DOOM

This action was authorized at an official meeting of the Sponsor named immediately above on:

Date: _____ Location: _____

Attest: _____ Title: _____

USDA, Natural Resources Conservation Service

By: _____ Title: State Conservationist
ROBERT N. JONES

Date: _____