

Eklutna Construction & Maintenance, Inc.

CONDITIONAL WAIVER AND RELEASE ON SUBCONTRACT PROGRESS PAYMENT

Project: **Eklutna River Lower Dam Removal**
Owner: **Eklutna, Inc.**
ECM Job No.: **16-204**

Pursuant to the Subcontract between _____
("Subcontractor") and Eklutna Construction & Maintenance, LLC. ("Contractor") for the referenced Project, Subcontractor requested payment for work performed through _____ (the "Release Date"). Accordingly, Subcontractor and Contractor acknowledge and agree to the following:

Conditional Waiver and Release.

The waiver and release ("Release") shall become effective upon Subcontractor's receipt of a check in the sum of \$ _____ (the "Current Payment").

Once effective, this Release shall completely and forever waive and release Contractor, Contractor's Surety and Owner from any liability whatsoever for any and all claims of Subcontractor arising out of or relating to work Subcontractor performed on the Project or the real property known as **Township 16 North, Range 1 East, Seward Meridian, Section 30, the North 1/2 of the Northeast 1/4 and the Southeast 1/4 of the Northeast 1/4 Seward Meridian**, through the Release date. Without limiting the foregoing, this Release shall include claims based on mechanic's lien statutes, any state or federal statutory bond right, any private bond right, and any claim for or right to additional payment that Subcontractor may have or claim as a result all labor, services, equipment or material furnished to the jobsite or for Owner or Contractor on the referenced Project up to and including the date of this Release. However, this Release shall not waive or release:

1. Subcontractor's right to the payment of amounts actually retained, if any, on the work performed, but only until such time as Subcontractor receives payment on the retained amounts.
2. Pending change orders, if any, that Contractor has not paid and for which Subcontract has previously given or received proper written notice.
3. Properly reserved claims (Subcontractor shall list all pending claims previously submitted to Contractor and properly reserved in writing, if any). If blank, then no claims are reserved:
 - a. _____
 - b. _____

Certification and Warranty of Payment and Indemnification.

Subcontractor affirms, certifies, and warrants that it has paid, or will use the Current Payment to pay, in full all labor charges (including wages, benefits, taxes, contributions and other charges), material costs, equipment costs, all contract obligations, and all other payment obligations of whatever nature and by whomsoever performed in connection with Subcontractor's performance on the referenced Project or on the property on which the Project is located. Subcontractor agrees to save, defend, indemnify and hold the Contractor harmless for all such claims by subcontractor or any other third party.

IN WITNESS WHEREOF, say that I am the agent for and executed the foregoing under authority of said company to do so; that I have read the same, know the contents thereof, and the matters set forth therein are as I truly believe, the seal of the undersigned Contractor has been hereunto set this date.

Date: _____

By: _____
(signature)

Title: _____

Subscribed and sworn to before me this ____ day of _____, 20__, at _____

Notary Public for Alaska _____

My Commission Expires _____