CONTRACT FOR AGGREGATE

This Agreement is entered into this 6th day of November , by and between Snag Point Trucking & Snow Removal (herein referred to as "**Contractor**") and the **City of Dillingham** (herein referred to as "**City**"). For good and valuable consideration, the receipt whereof is hereby acknowledged, Contractor and City agree as follows:

WHEREAS, City is in need of gravel for the City streets and other projects;

WHEREAS, Contractor through education and experience, possesses the requisite license and skills to perform such duties;

WHEREAS, City is therefore desirous of engaging the services of Contractor as an independent, using independent professional judgment to accomplish assigned tasks;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. **Employment of Contractor**

Contractor shall furnish gravel at the pit and / or deliver gravel to a specific City location according to the following specifications and conditions pursuant to this Agreement as listed in Appendix A "Scope of Work," incorporated herein by reference.

2. **Term of Agreement**

This agreement will extend through June 30, 2027.

3. **Fee**

City shall pay Contractor $133,300 at the bid amount of $22.00 per cubic yard for Pit-Run Gravel delivered to the landfill and $24.00 per cubic yard for Pit-Run Gravel delivered to the City Shop and Dirty Gravel 1 delivered to the City Shop. Contract ends June 30, 2027.

4. **Payments**

City agrees to make payments to Contractor as services are performed and costs are incurred, provided Contractor submits a copy of a proper invoice for each payment, in such form and accompanied by such evidence in support thereof as may be reasonably required by City.

Billing invoices can be submitted once a week. Invoices shall be accompanied by an activity report detailing work and accomplishments.

All invoices are otherwise due and payable within fifteen (15) days of receipt by the City.

5. Independent Contractor Status

In performing under this Agreement, Contractor acts as an independent and shall have responsibility for and control over the details and means for performing the services required hereunder.

6. **Indemnification**

To the maximum extent permitted by law, Contractor shall defend, indemnify and save harmless City or any agent, employee, or other representative thereof, from and against losses, damages, liabilities, expenses, claims, and demands of whatever nature, including for death, personal injury, property damage or economic loss, to the extent arising out of any negligent act or negligent omission or willful misconduct of Consultant, its agents or employees while performing under the terms of this Agreement.

7. **Assignment**

Contractor shall not assign this Agreement or any of the monies due or to become due hereunder without the prior written consent of City.

8. **Subcontracting**

Contractor may not subcontract its performance under this Agreement without prior written consent of City. Any subcontractor must agree to be bound by the terms of this Agreement applicable to the services to be performed by the subcontractor.

9. **Designation of Representatives**

The parties agree, for the purposes of this Agreement, that City shall be represented by and may act only through the City Manager or such other person as they may designate in writing or is identified in Appendix A. Contractor shall be represented by and may act only through _____.

10. **Termination**

Either party may terminate this Agreement, with or without cause, after first giving thirty (30) days written notice.

11. **Insurance**

Contractor shall, at all times, at its own expense, keep in force the following described insurance for protection against the claims of employees or other persons, insuring both the Contractor and the City against liability that may accrue against them or either of them in connection with the performance of Contractor under this agreement:

(a) Insurance in at least the required statutory amounts covering claims under workers' compensation, disability benefits and other similar employee benefit acts; and

(b) Commercial general liability (CGl) insurance covering bodily injury, death, and property damage with a combined single limit of not less than one-million-dollars per claim ($1,000,000)

(c) Additional Insured. City shall be included as an insured under the CGL using ISO additional insured endorsement CG 20 10 or a substitute providing equivalent coverage. This insurance shall apply as primary insurance with respect to any other insurance of the City. The status of City as an insured in compliance with this paragraph shall not restrict coverage under such CGL with respect to the escape or release of pollutants at or from a site owned or occupied by City.

(d) Insurance Certificate. All insurance shall be placed with an insurance carrier or carriers satisfactory to the City, and shall not be subject to cancellation or any material change except after thirty (30) days written notice to the City and shall provide that no failure of Contractor to comply with any condition or provision of this Agreement or other conduct of Contractor or those for whose conduct it is responsible, shall void or otherwise affect the protection under the policy afforded to the City. A Certificate of Insurance reflecting full compliance with these requirements shall, at all times during the term of this Agreement, be kept on deposit at the general offices of the City. Failure of the Contractor to comply with these insurance requirements may cause the City to declare the Contractor in default and may cancel the contract.

13. **Claims Recovery**

Claims by City resulting from Contractors failure to comply with the terms of and specifications of this Agreement and/or default hereunder may be recovered by City by withholding the amount of such claims from compensation otherwise due Contractor for work performed or to be performed. City shall notify Contractor of any such failure, default or damage there from as soon as practicable after discovery of such event by written notice. Nothing provided herein shall be deemed as constituting an exclusive remedy on behalf of City, nor a waiver of any other rights hereunder at law or in equity.

14. **Compliance with Applicable Laws**

Consultant shall, in the performance of this Agreement, comply with all applicable federal, state and local laws, ordinances, orders, rules and regulations applicable to its performance hereunder, including, without limitation, all such legal provisions pertaining to social security, income tax withholding, medical aid, industrial insurance, worker's compensation, and other employee benefit laws. Consultant also agrees to comply with all contract provisions pertaining to grant or other funding assistance which City may choose to utilize to perform work under this Agreement. Services performed under this Agreement shall be in accordance with sound, generally accepted consulting practices and shall comply with all applicable codes and standards.

15. **Records and Audit**

Contractor agrees to maintain sufficient and accurate records and books of account, including detailed time records, showing all direct labor hours expended and all reimbursable costs incurred for at least three years after receipt of final payment and closure of all pending matters related to this Agreement. Said books shall be subject to inspection and audit by City.

16. **Notices**

Any official notice that either party hereto desires to give the other shall be delivered through the United States mail by certified mail, return receipt requested, with postage thereon fully prepaid and addressed as follows:

To City of Dillingham:	To Contractor:

Jack Savo, Jr City Manager PO Box 889 Dillingham, AK 99576	Dan Wiard Snag Point Trucking and Snow Removal PO Box 35 Dillingham, AK 99576

17. **Venue and Applicable Law**

The venue of any legal action between the parties arising as a result of this Agreement shall exclusively be laid in the Third Judicial District of the Superior Court of the State of Alaska, at Dillingham, Alaska, and this Agreement shall be interpreted in accordance with the laws of the State of Alaska.

18. **Attorney's Fees**

In the event either party institutes any suit or action to enforce its rights hereunder, the prevailing party shall be entitled to recover from the other party its reasonable attorney's fees and costs in such suit or action and on any appeal therefrom.

19. **Waiver**

No failure on the party of either City or Contractor to enforce any covenant or provision herein contained, nor any waiver of any right hereunder unless in writing and signed by the parties sought to be bound, shall discharge or invalidate such covenants or provisions or affect the right of the City or Contractor to enforce the same or any other provision in the event of any subsequent breach or default.

19. **Binding Effect**

The terms, conditions and covenants contained in this Agreement shall apply to, inure to the benefit of, and bind the parties and their respective successors.

20. **Entire Agreement**

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and all prior negotiations and understandings are superseded and replaced by this Agreement and shall be of no further force and effect. No modification of this Agreement shall be of any force or effect unless reduced to writing, signed by both parties and expressly made a part of this Agreement.

APPENDIX A

SCOPE OF SERVICES

Contractor agrees to comply with all conditions of this contract and to maintain the certifications required in the Invitation to Bid.

1. Materials: materials shall be gravel graded as Pit-Run and Dirty Gravel 1.

Pit Run	**6" minus** **0 – 6 – 200**

2. Sampling: The contractor shall submit a relative sample of the material to be supplied. The City reserves the right to have samples tested to confirm to specs prior to and during delivery. The contractor will bear all cost related to the testing. Materials failing to conform to the specifications will not be used and will cause the City to declare the contractor in default and cancel the contract.

3. Quantity: The total quantity of Pit-Run will be approximately four thousand five hundred (4,500) cubic yards. The total quantity of Dirty Gravel 1 will be approximately one thousand four hundred (1,400) cubic yards.

4. Method of Measurement: Materials shall be measured by volume, in the truck, at the point of delivery.

5. Time line: Materials must be delivered as weather permits and dumped to site no later than June 01, 2027. Contractor shall notify the Public Works Director forty-eight (48) hours prior to the initial delivery. Failure on the part of the Contractor to furnish materials within the allotted time may cause the City to declare the Contractor in default and may cancel the contract.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement on the respective date indicated below.

CITY OF DILLINGHAM

Dated:_____ By:_____
Jack Savo, Jr, City Manager
City of Dillingham

CONTRACTOR
Dated:_____ BY:_____
Representative