

**STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER**

South Central Regional Land Office

Preliminary Decision

ADL 234625 Designated Material Site

ADL 234626 Paydirt Excavation, LLC

Negotiated Material Sale

AS 38.05.550-565

This Preliminary Decision (PD) is the State's preliminary best interest finding regarding a proposed disposal of interest in state land. The public is invited to comment on this PD. The deadline for commenting is **November 21, 2025, at 11:59 pm**. Please, see the Public Notice section of this decision for requirements related to submitting comments for consideration.

Requested Action

The Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Southcentral Regional Land Office (SCRO) has received a request from Paydirt Excavation, LLC. for a material sale contract to extract sand and gravel from a 1-acre area within the Kuskokwim River near the confluence with the Takotna River, north of McGrath, Alaska. The location of the proposed project area is further described as a 1-acre site within the Section 7, Township 33 North, Range 33 West, Seward Meridian. The applicant is applying to designate this location for material extraction and purchase 20,000 cubic yards (cy) of material to be extracted from this site at Fair Market Value (FMV), Winter 2025 through 2029.

Proposed Action

Paydirt Excavation, LLC's request has shown the need to designate the Kuskokwim River Material Site, as required by Alaska Statutes (AS) 38.05.550(b). Paydirt Excavation, LLC applied to designate a 1-acre site, however, to maximize benefit to the community the Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Southcentral Regional Office (SCRO) proposes establishing an approximately 11-acre site as designated material site ADL 234625 to allow for issuance of material sale contracts under AS 38.05.550-565. In accordance with AS 38.04.065 and AS 38.05.300, state land must be classified for surface use in areas considered proper and necessary. This site designation would carry the following constraints which are to be applied to all future contracts:

- Equipment storage and stockpiling in the material site are prohibited because it is in-river.
- Extraction may only occur when the gravel bar composing site is dry and exposed.
- Following extraction, an inlet and outlet to the depression must be made to prevent stranding fish should the water levels change rapidly.
- This site is in-river. It is advised users of this site file with ADFG Habitat Permit section prior to extraction as this is an anadromous river.

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- This site is subject to airspace analysis for any construction or alterations that may affect navigable airspace. It is advised users of site file with FAA Form 7460-1 prior to extraction.
- This site is accessible over the Kuskokwim River. It is advised users of this site file with the Southcentral Permitting team for ice-road construction prior to extraction if applicable.

Scope of Decision

The scope of this decision is to determine if it is in the State's best interest to designate this portion of the Kuskokwim River gravel bar as a material site, and what, if any, additional operating requirements should be implemented specific to this site. The scope is based on the statutes, regulations, and other facts contained in the case files for ADL 234625 and ADL 234626, and the body of this decision.

Authority

The file is being adjudicated pursuant Alaska Statutes AS 38.05.035(e) (best interest finding), AS 38.05.550-565 (material sales), AS 38.05.945 (notice), and AS 27.19 (reclamation).

The authority to execute the Preliminary Decision and the Final Finding and Decision has been delegated to the Regional Managers of DMLW. In SCRO, this authority has been further delegated to Natural Resource Manager 2's.

Administrative Record

The administrative record for the proposed action consists of the Constitution of the State of Alaska, the Alaska Land Act as amended, applicable statutes and regulations referenced here-in, classification references described therein, and the casefile for the application serialized by DNR as ADL 234625 and 234626.

Location and Legal Description

Location: The proposed material site is located on state-owned submerged land in the Kuskokwim River near the confluence with the Takotna River, north of McGrath, AK, as depicted in Attachment A, Site Map.

Legal Description: Within Section 7, Township 33 North, Range 33 West, Seward Meridian, containing 12 acres, more or less.

Borough/Municipality: The site is not located within an organized Borough.

Regional/Village Corp: The local village corporation is MTNT Limited, and the regional corporation Doyon Limited. No corporation land is involved.

Title

The land in question lies within the boundary of State-owned submerged land based on the Submerged Lands Act. Under the Alaska Statehood Act (P.L. 85-508) and the Submerged Land Act of 1953 (P.L. 31, 83rd Congress, First Session; 67 Stat. 29), the State received title to submerged lands. The Kuskokwim River in this location is navigable per AS 38.04.062. There are no pre-statehood withdrawals at this location. Title Report No. 23974, requested in response to

this application, summarizes that the State of Alaska holds fee title to the tide and submerged lands for the Title Report Project Area, as described above, under Alaska Statehood Act and the Submerged Lands Act of 1953.

Adjacent Landowners

The adjacent uplands are State owned beneath the McGrath Airport, and private lands reported as personally owned by the applicant. Public notice will be mailed to the landowners of record for these uplands, and to the local post office for public access.

Third Party Interests

There are no third-party interests within the site.

Background

DMLW records indicate material extraction activities date back to at least 1997 at this proposed material site location.

Additionally, DOT has an avigation and hazard easement over adjacent waters and shorelands (ADL 218802). The easement is comprised of an area of state submerged lands within the Kuskowkim River, approximately 111.58 Acres. The easement was issued in order to protect the approach and departure path and transitional slopes at the northern, southern, and western ends of the McGrath Airport.

The McGrath - Candle Creek Trail (RST 137), McGrath-Takotna Winter Trail (RST 138), and Kobi-McGrath Trail (RST 345) are near the project location, but do not cross the project location.

Planning and Classification

The proposed material site is on a seasonally exposed gravel bar within the Kuskokwim Area Plan (KUAP), adopted in March 1988, and the related Land Classification Order (CL) 1045.

Under KUAP, the proposed material site is in state submerged lands and falls within unit 5, with no specific subunit (KUAP, Map 2.1, or page 3-51). The management intent for this unit provides: “The state-owned beds of navigable waters in this unit will remain open to mineral entry.” (KUAP 3 – 40). The Materials section for this unit provides: “When small quantities of gravel are required (up to 50,000 yd³), sites should be selected that have only unvegetated gravel deposits...When large quantities of gravel are required (generally over 50,000 yd³), large rivers that contain sufficient gravel in unvegetated areas or terrace locations on the inactive side of the floodplain should be selected....” (KUAP 2 – 21).

The KUAP provides that “...DNR will give preference to using upland material sources in any ownership when responding to a request for a material sale or identifying a source for materials on public lands. Extracting materials from wetlands, lakes and active or inactive floodplains of rivers or streams should be avoided unless no feasible upland alternative exists. Sales of permits for sand, silt, or gravel extraction will not be permitted in fish spawning areas identified by ADF&G unless

extraction would enhance the site for rearing and if the activity is agreed to by ADF&G. The proliferation of new extraction sites in and along the Kuskokwim River will be avoided unless having more sites is determined to have fewer negative social, economic, or environmental impacts.” (KUAP 2 – 21). There are no other public, DMLW managed material sites in the vicinity of the material site location. The nearest designated public source is on state-owned tidelands at the northern end of Sleetmute, approximately 100 miles away. As discussed below, coordination and comments from the Alaska Department of Fish and Game were incorporated to preserve and protect fish habitat near the confluence of the Takotna and the Kuskokwim rivers.

Based on the above considerations, designating a material site and authorizing material extraction activities at this location would be consistent with KUAP.

Traditional Use Finding

The subject material site is not located within an organized Borough. AS 38.05.830 and 11 AAC 63.050(b)(5)(B) require consideration of whether the material site impacts traditional and existing uses of the site.

Known traditional uses in the area consist of subsistence and recreational hunting and fishing, and include the following areas and species, as regulated by the Alaska Department of Fish & Game (ADF&G) and the U.S. Fish and Wildlife Service (USFWS):

Hunting, Trapping, and Subsistence Hunting: The proposed material site falls within the ADF&G Game Management Unit (GMU) 19(D): Interior/Northeast Alaska, Upper Kuskokwim Controlled Use Area. The hunting regulations for GMU 19 list black bear, brown/grizzly bear, bison, caribou, moose, sheep, wolf, wolverine as species that can be hunted. ADF&G trapping regulations for GMU 19 list beaver, coyote, red fox, lynx, marten, mink, weasel, muskrat, river otter, squirrel, marmot, wolf, and wolverine as furbearers that can be taken. USFWS Federal Subsistence Wildlife Hunting Regulations for Unit 19: McGrath, lists black bear, brown bear, caribou, moose, sheep, coyote, fox, hare, lynx, wolf, wolverine, grouse, and ptarmigan as species that can be taken.

Subsistence Fisheries: The proposed material site falls within the ADF&G Kuskokwim River Area subsistence fishery, which includes Sockeye, Chinook, Coho, Chum, Pink, sheefish, Humpback whitefish, Round whitefish, Broad whitefish, Bearing cisco, Burbot, Arctic grayling, Northern pike, Arctic lamprey, Smelt, Char, Rainbow trout, Dolly Varden, Threespine stickleback, Ninespine stickleback, Longnose sucker, and Pacific herring. Depending on the area, salmon can be harvested with drift gillnets, set gillnets, beach seines, spears, fish wheels, and rod and reel. For non-salmon species, drift gillnets, set gillnets, beach seines, long lines, jigging, pots, fish wheels, and rod and reel are the preferred gear types to harvest. Licenses and permits have never been required for subsistence salmon fishing in the Kuskokwim area. However, statewide eligibility criteria require individuals to be Alaskan residents for the preceding 12 months before harvesting salmon for subsistence uses. Data on the harvest of salmon for subsistence uses are collected annually.

Commercial Fisheries: While subsistence salmon is the predominate fishery on the river, and subsistence salmon fishing defines the summer activities of most Kuskokwim River communities, Kuskokwim salmon have also been sold commercially since 1913.

Access

Legal access to the material site is via the navigable waters of Kuskokwim River, to which there is no road access, only seasonal access available by snowmobile, plane or boat. Physical access to the material site is either via the waters of the Kuskokwim River (State Land), or via an overland route with landowner permission. For example, access to the site for the currently requested contract is through privately owned uplands. Material extracted under ADL 234626 would be hauled south, upland to be stored on the applicant's private parcel.

During winter months, an ice road could be established under permit to haul extracted material from the gravel bar site, to an alternate upland location. The applicant does not describe an iceroad as being necessary to their proposed operation. The applicant and future applicants will need to obtain any necessary landowner authorizations, including from this office for construction and use of an ice road if located within the Kuskokwim or Takotna Rivers.

To facilitate safe public access, the operators will coordinate access and share with the community.

Waterbodies

The site is in state-owned tidelands within the Kuskokwim River. Additionally, the site is near the confluence with the Takotna River. (See Attachment A Site Map).

Access Along Navigable and Public Waters

AS 38.05.127 requires that when the department is disposing of any interest in state land, DNR identify navigable and public waters, and easements necessary to ensure access along the water is to be reserved unless regulating or limiting access is necessary for other public purposes. This site is located on the submerged land of the Kuskokwim River, which is a navigable water. While a Material Site Designation is considered a disposal of an interest in state land whereby DMLW can sell material, the underlying land will remain in State ownership.

The uplands are owned by both the State, and private parties; although private parties may allow use of their land for access purposes, public access rights are limited to state lands below mean high tide, and where permissible by DOT as the managers of the State upland.

The banks of the river in this area appear on satellite imagery to be well defined and brushy, with thick vegetation. This does not describe a shoreline that has a traversable beach, therefore, establishment of an easement may not support a traversable access route, as the state-owned land is likely frequently submerged along this portion of the Kuskokwim River. Based on this, no easement is required in the area.

Public Trust Doctrine

Pursuant to AS 38.05.126, all contracts issued pursuant to any site designation will be subject to

the principles of the Public Trust Doctrine; specifically, the right of the public to use navigable waterways and the land beneath them for: navigation, commerce, fishing, hunting, protection of areas for ecological studies, and other purposes. These rights must be protected to the maximum extent practicable while allowing for the development of this project. As such, DMLW is reserving the right to grant other authorizations to the subject area consistent with the Public Trust Doctrine.

Mineral Orders

The proposed material site is not currently closed to mineral entry, and no restrictions/closures are recommended.

Environmental Risk

The applicant submitted an Environmental Risk Questionnaire with the material sale application. No storage or authorization of hazardous materials or fuel will be authorized. The standard provisions regarding spill reporting will be included in any material sale authorizations issued from this material site.

The applicant includes in the development plan that all equipment will be fueled and stored off site.

Agency Comments

The DMLW conducted an agency review from April 22, 2025, to May 13, 2025. The following agencies were solicited for comments regarding this proposed material site designation and material sale:

Permitting, DNR SCRO
Easements, DNR SCRO
Habitat Section, Alaska Department of Fish and Game (ADFG)
Parks OHA Review Compliance, DNR
Public Access Assertion Defense (PAAD), DNR
Heather O'Claray, Department of Transportation (DOT&PF), Right of Way
US Army Corps of Engineers (CEPOA)
Statewide Abatement of Impaired Land, DNR DMLW
Land Conveyance, DNR
Realty Services Section, DNR

The following comments were received:

ADFG Comment: ADFG noted no objection to the designation location, and commented that the material will be slowly replenished where removed. ADFG also noted that material extraction must only occur at this location when the gravel bar is dry and exposed, and that following material removal an inlet and outlet to the depression must be made to ensure fish are not stranded. Finally ADFG commented that any contractor performing extraction must have a current fish habitat permit authorizing the activity.

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DMLW Response: DMLW thanked ADFG for their comments. Although no fish habitat is currently required for extraction activities, DMLW will require that ADFG approve or not object to future contract development plans. DMLW will also prohibit extraction during times when the gravel bar is not dry and exposed, unless the contractor has provided aerial photos or visual media to DFG to assess how extraction would impact anadromous fish habitat and receives approval or non-objection. DMLW will also require that inlets and outlets will be required as part of reclamation for all extraction in this area.

DOT&PF Comment: DOT&PF advised that while the proposed location appears to be outside of the airport boundary, it appears to be inside of the approach and subject to airspace analysis for any construction or alterations that may affect navigable airspace. DOT&PF commented that contractors extracting from this site must be advised to file with FAA Form 7460-1, the Notice of Proposed Construction or Alteration.

DMLW Response: DMLW thanked DOT&PF for their comments. Although no Notice of Proposed Construction or Alteration authorizations are currently required for extraction activities, DMLW will require that FAA approve or not object to future contract development plans that fall within the approach of the airport.

SCRO Easements Comment: SCRO Easements, DNR commented that an aviation easement is present in the area to DOT&PF meant to preclude construction of anything that may block air traffic arriving and departing the runway. Easements recommended the site designation not overlap with the boundaries of ADL 218802.

DMLW Response: SCRO Easements were thanked for their comment. The Site designation location will be outside of the boundary of ADL 218802.

Land Conveyance Comment: No objection.

DMLW Response: DMLW thanked Land Conveyance section for their comment.

PAAD Comment: No comments.

DMLW Response: DMLW thanked PAAD for their review.

Realty Services Section Comment: Recommended that a title report for the in river site be requested.

DMLW Response: DMLW thanked Realty Service Section for their comment, and submitted a title report request for the site location. Title Report No. 23974 was provided before issuance of this document.

Public Notice

Pursuant to AS 38.05.945, this PD will be advertised for a 30-day public comment period, starting on October 22, 2025. In addition, the McGrath post office(s) located near the proposed material site will be requested to post the notice pursuant to AS 38.05.945(b)(3)(C). The notice will also be posted on the State of Alaska Online Public Notice website pursuant to AS 38.05.945(b)(3)(B) located at: <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx>

In accordance with AS 38.05.946, Doyon, Limited, a regional corporation and MTNT Limited, a village corporation, are entitled to receive notice under AS 38.05.945(c), and may hold a hearing within 30 days after the receipt of the notice.

The public is invited to comment on this PD. All comments received during the public comment period will be considered in the FFD. A copy of the FFD, along with instructions on filing an appeal, will be sent to all persons who comment on the PD. If public comments result in significant changes to the PD, additional public notice may be given.

To be eligible to appeal, a person affected by the FFD must provide written comments during the public comment period per AS 38.05.035(i).

Written comments about this project must be received in this office no later than 11:59 PM on November 21, 2025, to be considered.

To submit comments please choose one of the following methods:

Mail: Department of Natural Resources
Division of Mining, Land and Water
South Central Regional Land Office
ATTN: Grace Newcomb
550 West 7th Ave, Suite 900c
Anchorage, Alaska 99501
Email: grace.newcomb@alaska.gov
Fax: (907) 269-8913

Questions about this project can be directed to Grace Newcomb at (907) 269-8560.

Survey and Appraisal

A survey for this material site is not required per AS 38.04.045. DMLW may require a survey in the future, should conditions arise that warrant a survey. If a survey is required, the applicant for ADL 234626 will be responsible for the costs of the survey.

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An appraisal is not required to sell materials under AS 38.05.555, and there has been no request from the applicant to perform an appraisal under AS 38.05.555(b)(2). The regional representative sale price for this site is currently \$1.50 per cubic yard.

Performance Guaranty

Performance bonds are required at the discretion of the director per 11 AAC 71.095(a). The total value of the requested material sale contract (\$1.50/cy x 20,000 cy) is \$30,000. As the total value of contract is less than \$50,000, the bond amount will be at least 10 percent of the total value of the sale rounded to the nearest \$1,000, per 11 AAC 71.095(b)(3) and (d). The performance bond required will be \$3,000.

Insurance

Consistent with AS 38.05.035(a) to protect the State from liability associated with the use of the site, all buyers from the proposed material site location shall provide and maintain a comprehensive general liability insurance policy with the State of Alaska named as an additional insured party per the terms of the executed material sale contract. The buyer shall secure or purchase at its own expense and maintain in force at all times during the term of any material sale contract issued from the proposed site, liability coverage and limits consistent with what is professionally recommended as adequate to protect the applicant and the State, its officers, agents and employees from the liability exposures of ALL the insured's operations on state land. The insurance requirement may be adjusted periodically.

Discussion

Paydirt Excavation, LLC has requested that DMLW designate material site ADL 234625 and issue a contract authorizing extraction and purchase of 20,000 cubic yards of sand and gravel over the next five years under ADL 234626. The reason for requesting materials from this material site location is that it is closer to the city of McGrath, where the materials are needed as a community resource, and to facilitate the applicants private business.

The proposed material site is in the submerged land of the Kuskokwim River.

The proposed site is within an area that may be accessed by subsistence users for fishing and hunting. As noted above, no shoreward easement is deemed necessary to facilitate access as the state land is frequently submerged here. Contracts issued from this site may be required to coordinate use with subsistence users. Flaggers may be used for traffic control along the gravel bar to ensure public and operator safety. Any request to close access along the gravel bar must be submitted in writing, and no closures may occur until express written permission is given.

The proposed site is adjacent to an aviation and hazard easement over adjacent waters and shorelands (ADL 218802). Because extraction from this site may fall within the approach or descent of the airport, users may need to file with FAA Form 7460-1, the Notice of Proposed Construction or Alteration.

Material Site Designation

The material site is being designated under disposal of material statutes AS 38.05.550 and AS 38.05.555. This decision will designate ADL 234625 as a material site for the long-term sale and extraction of materials until closed by the DMLW. Contracts for the sale of material may be issued by DMLW either by negotiated, competitive, limited, or public and charitable material sale methods. Contracts issued under AS 38.05.550-565, Material Sales, will be issued at a representative sale price per cubic yard determined by the DNR Commissioner or at fair market value determined by appraisal. Some sales under AS 38.05.565, Sale or Disposal of Materials for Special Purposes, may be without cost. Contracts issued under the authority of AS 38.05.810(a) Public and Charitable will be issued at less than fair market value.

Although DMLW may continuously sell materials without further finding or notice once the site is designated, the DMLW must also ensure that state land and natural resources be available for the maximum use consistent with the public interest. To that end, the DMLW will continue to carefully review individual sale requests and operation plans once sites have been designated, to ensure resource consideration and multiple use issues are appropriately evaluated.

No potential issues were identified in the agency review comments received in response to designating the proposed location as a material site. Any work done upland of the highwater marks of the Kuskokwim River will not be considered under the scope of this decision, and may need to be approved by the upland owners prior to proposed project commencement.

Recommendation

Based upon the information provided by the applicant, as well as review of relevant planning documents, statutes, regulations, and case files related to this application, the DNR, DMLW, SCRO proposes designating and authorizing the development of the ADL 234625 material site and subsequently issuing a 5-year contract for 20,000 cy of sand and gravel at \$1.50 per cubic yard to Paydirt Excavation, LLC, subject to the conditions described in this document, operating requirements and standard contract terms. This decision considers ownership of the site, the need for reasonable access to material sources in the region and the project site, agency concerns, and project-specific needs. The use of this material site may assist with local implementation and/or maintenance of public infrastructure by being close to McGrath. Operations in the site will be consistent with the mining and reclamation guidelines developed by DOTPF and approved by DNR.



10/2/25

Grace Newcomb
Natural Resource Specialist 3

Date

Preliminary Decision

I find that the proposed action as recommended above may be in the state's best interest and is hereby approved to proceed to public notice. Additional operating requirements identified during the public comment period may be included in the Final Finding and Decision and subsequent authorization.



10/06/2025

Cinnamon Micelotta
Acting Natural Resource Manager 2

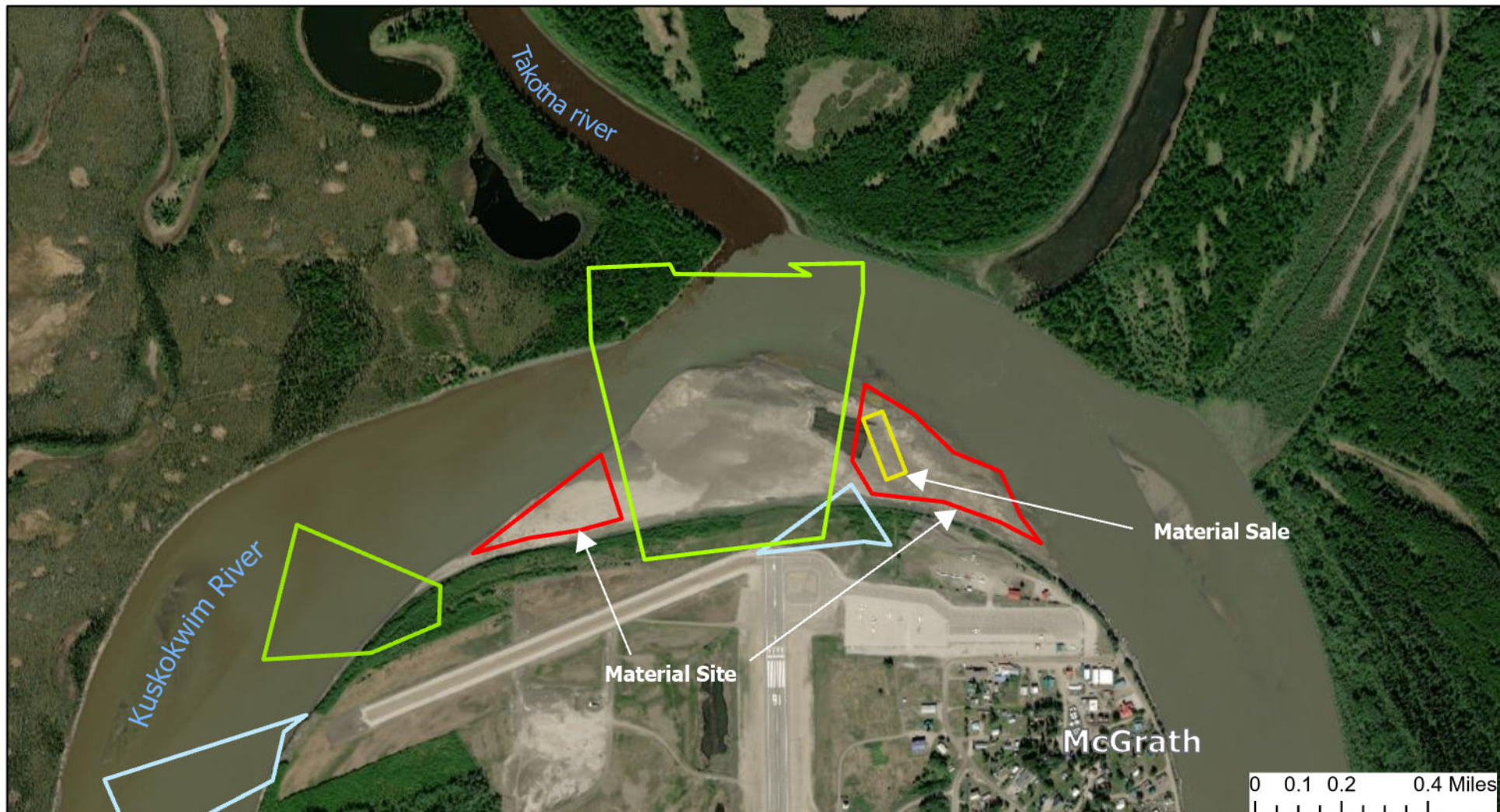
Date

Attachments

Attachment A – Site Maps

Attachment B – Example Material Sale Contract, ADL 234626

Attachment A



Proposed Location Map

Material Site ADL 234625

Material Sale ADL 234626

- Material Site Boundary
- Material Sale Boundary
- Easement ADL 218802
- Management Agreement ADL 231027

Proposed Material Site ADL 234625 is located north of McGrath, Alaska, and near the confluence of the Takotna and Kuskokwim rivers, on a gravel bar present within the Kuskokwim River. This site encompasses approximately 11 acres, but depends on the exposed gravel bar. The proposed area within Material Sale ADL 234626 is approximately 1 acre. This site is further described as being located within Section 7, Township 33 North, Range 33 West, Seward Meridian.

Note: This is a planning document only. Boundaries shown on this drawing are approximate. This does not convey property interest, as such, is used only as a representation of the project. World Imagery.



Date: 10/2/2025

Attachment B

**STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER**

☐ **Northern Region**
3700 Airport Way
Fairbanks, AK 99709
(907) 451-2740

☒ **Southcentral Region**
550 W 7th Ave., Suite 900C
Anchorage, AK 99501-3577
(907) 269-8552

☐ **Southeast Region**
400 Willoughby, #400
P.O. Box 111020
Juneau, AK 99801
(907) 465-3400

MATERIAL SALE CONTRACT
AS 38.05.550-565

Issuance Date: _____, 2025

Expiration Date: **December 31, 2029**

ADL # 234626

Federal Tax I.D.:

Under Alaska Statutes (AS) 38.05.550-565 (Material Sales), other applicable statutes, and the regulations implementing these statutes, the State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land and Water, the SELLER, whose address is 550 West 7th Ave., Suite 900C, Anchorage, AK 99501-3577, agrees to sell and the BUYER, Paydirt Excavation, LLC, doing business as Paydirt Excavation, LLC, whose address is PO Box 101, McGrath, AK 99627 agrees to buy the material designated in this contract, subject to the provisions that follow.

1. Description: Location, Material, Quantity, and Price.

(a) The material sale area covered by this contract consists of approximately one (1) acre, more or less. The sale area is depicted on the attached map, which is made a part of this contract, or as designated on the ground by the SELLER. The material sale is within designated material site ADL 234625, located on a seasonally available gravel bar at the confluence of the Takotna and Kuskokwim Rivers, near McGrath, Alaska. The site is further described as being within Section 7, Township 33 North, Range 33 West, Seward Meridian.

(b) The material to be removed and the price are:

<u>Type of Material</u>	<u>No. of Units (cubic yards)</u>	<u>Unit Price</u>	<u>Total Price</u>
Sand/Gravel	20,000	\$1.50	\$30,000.00

2. Payments, Deposits, and Reports. No part of the materials sold under this contract may be extracted from the sale area by the BUYER except in accordance with the following terms:

(a) The BUYER shall remit an initial deposit in the amount of **\$3,000.00** (consistent with 11 AAC 71.045 or 11 AAC 71.065, and no less than \$250) along with the bid for a competitive sale contract or at the time a negotiated sale BUYER signs this contract. The SELLER will retain the deposit to

cover administrative costs incurred in offering the material sale, except that if the BUYER removes and pays for at least 75% of the material volume covered by this contract, the deposit may be applied, in whole or in part, to the final payment that becomes due under this contract.

(b) Additional periodic installment payments as required in paragraph 2(c) must be made for material extracted as of the date payment becomes due but may not exceed the total purchase price.

(c) Each periodic installment payment becomes due and payable on December 31 of each year, without prior notice to the BUYER, for the value of material extracted during the calendar year of January 1 through December 31. The installment must be based on records required in paragraph 3 of this contract and must be submitted to the SELLER no later than the fifth working day after December 31.

(d) An annual report is due by December 31 of each year, without prior notice to the BUYER, that details the volume of material removed during the calendar year of January 1 through December 31, based on records required in paragraph 3 of this contract and must be submitted to the SELLER no later than the fifth working day after December 31. This report shall be filed regardless of whether material was removed during the reporting period.

(e) A final accounting and payment for material removed and a completion report, as required under paragraph 4(k)(21) of this contract, must be submitted no later than 30 days following contract expiration, or when the contractor has completed removal under the contract, or following termination of the contract by the SELLER or by operation of law. Whether completion is satisfactory will be decided by the Director of the Division of Mining, Land and Water within 45 days after receiving the final accounting report and completion report.

(f) If the BUYER fails to make a payment provided for in this contract, the SELLER may, under paragraph 10(b) of this contract, order all material extraction suspended immediately. Materials extracted by the BUYER during any period of suspension are considered taken in trespass and are to be charged to and paid for by the BUYER at triple the unit contract price. Resumption of the lawful taking of materials may be authorized, in writing, by the Division of Mining, Land and Water (DMLW) only after the payments in arrears plus the penalty provided for in paragraph 2(g) have been paid.

(g) Late Payment Penalty Charges: The BUYER shall pay a fee for any late payment. The amount is the greater of either \$50.00 or interest accrued daily at the rate set of 10.5% per annum and will be assessed on each past due payment until paid in full.

(h) All payments and deposits must be remitted to the Division of Mining, Land and Water and must be made payable to the State of Alaska and include the identifying **ADL 234626** number.

(i) Special Provisions. The following special provisions also apply to payments and deposits under this contract:

- 1) Should the administrative base price, representative regional sales price, or fair market value be changed during the term of this contract, the new price will be effective and apply to the

material remaining to be extracted under this contract as of the effective date of the price adjustment.

- 2) Material extraction in excess of 25% of the material volume covered by this contract is considered taken in trespass and to be charged to and paid for by the BUYER at triple the unit contract price or triple the current unit representative regional sales price, or triple the pecuniary gain realized by the BUYER as a result of the trespass. Said trespass penalties are in addition to other administrative or legal proceedings imposed by State law.
- 3) Material extraction outside of an active contract term is considered taken in trespass and is to be charged to and paid for by the BUYER at triple the unit contract price.

3. Method of Volume Determination.

(a) The method of volume determination for purposes of payment under this contract, along with any special provisions applicable to volume determination, is:

- 1) Volume shall be measured in cubic yards of truck load capacity of a gravel truck(s) multiplied by the number of loads removed; or
- 2) Volume shall be measured by weight of the extracted material converted to cubic yards. The standard of density and conversion rate must be provided to the SELLER; or
- 3) Another volume accounting method may be approved by the SELLER.

(b) The BUYER shall keep daily, accurate and up-to-date records of all materials extracted. These records are subject to verification by check measure and inspection of the BUYER's books by the SELLER at any time without notice. **Accounting vouchers detailing the dates and amounts of material removed are due to the Department of Natural Resources (DNR) by December 31 of each year the contract is in effect.** Whether or not material was removed during a reporting period, the BUYER agrees to submit an accounting voucher to the SELLER.

(c) All measurements are to be made by or under the direct supervision of BUYER personnel acceptable to the SELLER, including a qualified engineer where the SELLER deems appropriate, with quantities certified by that person.

4. Operating Requirements.

(a) Boundary Lines and Survey Monuments. No boundary mark of the sale area nor any survey line or witness tree for any survey corner or monument may be severed or removed, nor may any survey corner or monument be damaged or destroyed. Any violation of this clause requires the BUYER to bear the expense of re-establishing the line, corner, or monument by a registered surveyor in a manner approved by the SELLER.

(b) Standard of Operations. The BUYER shall properly locate the BUYER's operations and BUYER's improvements within the sale area, and may not commit waste, whether ameliorated or

otherwise. In addition to complying with all laws, regulations, ordinances, and orders, the BUYER shall maintain the land in a reasonably neat and clean condition and shall take all prudent precautions to prevent or suppress grass, brush, or forest fires, and to prevent erosion or destruction of the land. No construction material, fill, waste asphalt, damaged culverts or any other debris shall be stockpiled within site boundaries. Stockpiled material and/or overburden shall not be placed in wetlands.

(c) Erosion Control and Protection of Waters. Road construction or operations in connection with this contract must be conducted so as to avoid damage to streams, lakes, or other waters and land adjacent to them. Vegetation and materials may not be deposited into any stream or other waters. Locations and improvements necessary for stream crossings for haul roads must be approved in advance by the SELLER. All roads to be abandoned must be treated with measures necessary to prevent erosion in a manner acceptable to the SELLER. Any damage resulting from failure to perform these requirements must be repaired by the BUYER to the satisfaction of the SELLER. Waters include waters defined in 5 AAC 95.011, Waters important to anadromous fish.

(d) Fire Prevention, Protection and Liability. The BUYER shall take all necessary precautions for the prevention of wildfires and is responsible for the suppression, and must bear the suppression costs, of all destructive or uncontrolled fires occurring in or outside the sale area resulting from any of the BUYER's operations under this contract. The BUYER shall comply with all laws, regulations, and ordinances promulgated by all governmental agencies responsible for fire protection in the area.

(e) Roads. Before constructing any main haul, secondary or spur road across state land, the BUYER shall obtain written approval of the proposed location and construction standards of the road from the SELLER.

(f) Supervision. The BUYER shall maintain adequate supervision at all times when operations are in progress to ensure that the provisions of this contract and all applicable federal, state, and local laws, regulations, and ordinances governing the operations are enforced. At all times when operations are in progress, the BUYER, or a person authorized by the BUYER to assume the responsibilities imposed by this contract, shall be present on the sale area.

(g) Agents, Contractors or Subcontractors. The provisions of this contract apply with equal force upon an agent, employee, or contractor designated by the BUYER to perform any of the operations relating to extraction of the materials sold under this contract. The BUYER is liable for noncompliance caused by any such agent, employee, or contractor. The BUYER shall notify the SELLER when a contractor or subcontractor has been selected to perform work in the material site on behalf of the BUYER. The notice must include the name and contact information for the contractor or subcontractor, the project name or number, the expected time period for the contractor or subcontractor to be working in the material site, and the estimated volume of material to be extracted by the contractor or subcontractor.

(h) Location. The BUYER is responsible for the accurate location of operations under this contract, including any survey that may be necessary for accurate location unless otherwise specified in this contract.

(i) Access. The SELLER makes no representations that it will construct or maintain access to the land. Access over any route not under the SELLER's control is the responsibility of the BUYER. The BUYER agrees that any permanent access or right-of-way obtained over privately-owned property will provide a permanent easement to the SELLER.

(j) Mining Reclamation. This contract is subject to the attached approved reclamation plan and/or attached letter of intent under AS 27.19.

(k) Special Provisions. The following special provisions also apply to operations under this contract:

- 1) Survey. An as built survey of the material site is not required at this time. Any survey(s) that may be necessary or requested by the regional manager shall be submitted within nine months of the date of the regional manager's request.
- 2) Extraction Area. This contract authorizes removal of material only from the area defined in this contract. All work will be confined within the site boundaries. The BUYER is responsible for properly locating the material site and the working limits within the material sale area, as shown on the attached map.
- 3) Site Development. Overburden and topsoil shall be stockpiled separately and must be placed in a stable location, protected from contamination by acidic or toxic materials, and in a manner which will prevent erosion and preclude runoff from contaminating adjacent waterways. Topsoil is not permitted to be removed from site unless written authorization is received from the SELLER.
- 4) Reclamation. Upon completion, expiration, or termination of the contract, the site will be left in and cleaned to a condition that is acceptable to DMLW and reclaimed in accordance with the DMLW approved Reclamation Plan. Reclamation shall be to the standards of DMLW and shall include repair of access roads to and within the site, disposal of remaining stockpiles, and other procedures used to stabilize and reclaim the area and any other site-specific measures that may be necessary. The BUYER shall leave all slopes in a safe and stable condition and less than 2:1 at the end of each season.
- 5) Other Authorizations. The issuance of this contract does not alleviate the necessity of the BUYER to obtain any necessary state, federal, or local authorizations required for this activity. Failure to do so shall be considered a breach of the terms and conditions of this contract and may be cause for contract revocation or suspension.
- 6) Water Quality. The BUYER shall comply with the State of Alaska water quality standards pursuant to 18 AAC 70, including discharge standards when conducting material washing operations. Disposal of grey or black water waste into the ground surface or nearby water sources from any operation associated with this authorization is specifically prohibited.
- 7) Stream Crossings. Location and improvements necessary for stream crossings for haul roads must be approved in advance by DNR. Road construction or operations in connection with this project must be conducted so as to avoid damage to streams, lakes, or other water

areas and land adjacent to them.

- 8) Erosion. The BUYER shall conduct all operations in a manner, which will prevent unwarranted erosion. Any such erosion shall be repaired in a manner satisfactory to DNR at the BUYER's expense.
- 9) Alaska Historic Preservation Act. Historic, archeological and paleontological objects are part of Alaska's cultural heritage and are protected under AS 41.35. The BUYER will consult the Alaska Heritage Resources Survey (907-269-8721) so that known historic, archeological and paleontological sites may be avoided. If the BUYER, its officers, agents, employees, contractors, subcontractors, or their personnel encounter any paleontological, archeological or historic sites or artifacts, the BUYER shall suspend all field activities on the affected portion of the parcel and shall immediately notify the State Historic Preservation Officer (SHPO) at 907-269-8721. The BUYER shall not resume field activities within the affected portion of the parcel until obtaining authorization from the SHPO.
- 10) Equipment or Vehicle Maintenance. Equipment or vehicle maintenance will be performed over an effective impermeable barrier.
- 11) Fuel, Hazardous Substances, and Explosives. No fuel, hazardous substances, or explosives are to be stored on the subject parcel without a Land Use Permit or other written approval by the SELLER. All petroleum, oil and lubricants (POL) (e.g., motor oil and fuel) will be stored in double walled tanks or a lined bermed area designed to contain at least 110 percent of the total amount of POL stored. The use and storage of hazardous substances and explosive material by the contractor must be in accordance with existing federal, state, and local laws, regulations and ordinances. Debris (such as soil) contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous waste and must be removed from the site and managed and disposed of in accordance with state and federal law. Sorbent material in sufficient quantity to handle operational spills must be on site at all times for use in the event of a spill. Oil and fuel spills shall be cleaned up immediately and contaminated ice, snow or earth material shall be disposed of as required by the Alaska Department of Environmental Conservation (DEC) regulations. Failure to carry out this stipulation may lead to contract suspension.
- 12) Notification of Discharge. The BUYER shall immediately notify the Department of Environmental Conservation (DEC) and SELLER of any unauthorized discharge of any amount of oil to water, a discharge of any amount of a hazardous substances (other than oil), and any discharge of oil greater than 55 gallons on land. All fires and explosions must also be reported immediately.
If a discharge, including a cumulative discharge, of oil is greater than 10 gallons but less than 55 gallons, or a discharge of oil greater than 55 gallons is made to an impermeable secondary containment area, the BUYER shall report the discharge within 48 hours. Any discharge of oil greater than one gallon up to 10 gallons, including a cumulative discharge, solely to land, must be reported in writing on a monthly basis.

Notification of discharge must be made to DEC online at ReportSpills.alaska.gov or by phone at 1-800-478-9300. Notification of discharge must be made to the appropriate DNR Office, preferably by e-mail: Anchorage email dnr.scro.spill@alaska.gov, (907) 269-8528; Fairbanks email dnr.nro.spill@alaska.gov, (907) 451-2739; Juneau email dnr.sero.spill@alaska.gov, (907) 465-3513. The BUYER shall supply the SELLER with all incident reports submitted to DEC.

- 13) SWPPP and APDES. The BUYER shall comply with the requirement of DEC's Alaska Pollutant Discharge Elimination System (APDES), and if applicable, to maintain and operate the site in accordance with an approved Storm Water Pollution Prevention Plan (SWPPP).
- 14) Invasive Species. The BUYER shall implement best management practices for minimizing the introduction and proliferation of invasive plant species, including thoroughly washing equipment prior to use on the material site. This is particularly important for work at material sites adjacent to rivers, where introduced species can be transported downstream and spread throughout areas that would not otherwise be exposed to invasive species.
- 15) Coordination. The BUYER shall coordinate all operations with the Alaska Department of Transportation and Public Facilities (DOTPF) and other contractors in the site prior to and during mobilization to ensure access and safety is maintained for all users. If necessary, to support the continuation of public or private projects, DNR may provide additional guidance or limitations related to the location and/or timing of extraction activities during the construction season.
- 16) Stockpiles. Leaving stockpiles on site once the contract has expired is prohibited, unless the BUYER receives written approval from the SELLER. All stockpiles must be regraded flat or removed from site. The BUYER shall not disturb or remove material from existing stockpiles. Any stockpiles left in the pit by the BUYER are the property of the SELLER unless the BUYER receives prior written approval from the SELLER and, upon approval, purchases the material.
- 17) Equipment Storage. The BUYER shall remove all machinery, equipment, and other items at the end of each construction season. Prior written approval from the SELLER is required for a change in this restriction.
- 18) Waste. All waste generated during operation and termination activities under this authorization shall be removed or otherwise disposed of as required by state and federal law. No waste shall be deposited or buried on the authorized site of this contract. Waste in this subparagraph means all discarded matter, including, but not limited to, human waste, trash, garbage, refuse, litter, oil drums, petroleum products, ashes, scrap steel or used culverts and discarded equipment.
- 19) Fill. No fill shall be deposited or stored within the material site from outside the boundaries of the material site, without prior written approval from the SELLER. Fill in this subparagraph means but is not limited to overburden, topsoil, recycled asphalt pavement

(RAP), trash, garbage, refuse, litter, oil drums, petroleum products, ashes, scrap steel, used culverts, machinery parts, or discarded equipment.

- 20) Access. No material of any type, including excavated material or vegetation, shall be placed, stockpiled, discarded, or otherwise disposed of in such a way as to block access to the material site.
- 21) Completion Report. A final accounting and payment for material removed and a completion report must be submitted no later than 30 days following contract expiration, or when removal has been completed under the contract, or following termination of the contract by the SELLER or by operation of law. Whether completion is satisfactory will be decided by the Director of the Division of Mining, Land and Water within 45 days after receiving the final accounting report and completion report.

The completion report shall consist of a series of ground level or aerial photographs taken before, during, and after the extraction along with a statement confirming:

- i) compliance with stipulations requiring the removal of personal property, restoration and reclamation of the extraction area; and
- ii) the photographs accompanying the report accurately depict the site before extraction, during operations, and the condition of the vacated and restored site after completion and reclamation at the end of each contract period.

Failure to submit a satisfactory report and/or required photographs subjects the site to a field inspection requirement of which the BUYER may be assessed, at the Director's discretion, either the actual cost incurred by the Division of Mining, Land & Water or the fee under 11 AAC 05.130(d)(1)(F). Reimbursement for costs for the field inspection under this section may be taken from the performance guaranty.

- 22) Contract. The permittee or their agent shall carry a copy of the executed contract while operating in the material site. No material will be removed without the issued contract in hand.
- 23) Rights. Exclusive use of the material site is not granted by the issuance of this contract. There shall be no interference with other operators in the material site. DNR retains the right of use and ingress to and egress from any portion of the material site.
- 24) Permits. Storage of equipment and materials as well as processing and staging operations may require a Land Use Permit from DNR.
- 25) Quarry Operations. Material preparation and extraction shall always be carried out adhering to sound engineering principles.
- a) Any rock larger than one cubic yard may be required to be redrilled, blasted, and removed from the quarry.

- b) Any misfired holes shall be deactivated before resuming operations.
- c) The operator is responsible for giving notice of blasting to all individuals in residence of one (1) mile of the blast area at least one day prior to blasting. If the operator does not adhere to this provision this contract may be terminated.
- d) A blasting plan must be provided to DMLW, with all blasting occurring only during the times and dates listed on the blasting schedule. If the operator does not adhere to this provision this contract may be terminated.
- e) The working area may be extended uphill maintaining vertical face cuts not to exceed 40 feet with intervening benches not less than 15 feet in width. Benches must be widened before lower faces may be extended to preserve the benches at all times.
- f) Loosened rock in face shall be scaled down to provide safe working conditions.
- g) Access ramps to upper levels shall be constructed and shall be located as approved by DMLW. Said ramps shall remain as fixed features providing permanent access to the upper levels unless authorized to be relocated by DMLW.
- h) After excavation is complete, the Buyer shall leave the pit wall in a stable condition so that it will not collapse, nor will loose rock that presents a safety hazard fall from it. The remainder of oversized other loose rock shall be pushed up against the pit wall to keep people and vehicles away from the wall.

26) Project Specific Operating Requirements.

- a) Equipment storage and stockpiling in the material site are prohibited to preserve quality of this in-river site and nearby resources.
- b) Extraction may only occur when the gravel bar composing site is dry and exposed.
- c) Following extraction, an inlet and outlet to the depression must be made to prevent stranding fish should the water levels change rapidly.
- d) An ADFG Habitat Permit and/or FAA Form 7460-1 may need to be filed and presented to DMLW prior to extraction.

5. Indemnity of SELLER.

(a) The BUYER shall indemnify and hold the SELLER harmless from:

- 1) all claims and demands for loss or damage, including property damage, personal injury, wrongful death, and wage or employment claims, arising out of or in connection with the use or occupancy of the land or operations by the BUYER or the BUYER's successors, or at the BUYER's invitation; and
- 2) any accident or fire on the land; and
- 3) any nuisance on the land; and
- 4) any failure of the BUYER to keep the land in a safe and lawful condition consistent with applicable laws, regulations, ordinances, or orders; and
- 5) any assignment, sublease, or conveyance attempted or successful, by the BUYER that is

contrary to the provisions of this contract.

The BUYER will keep all goods, materials, furniture, fixtures, equipment, machinery, and other property on the land at the BUYER's sole risk and will hold the SELLER harmless from any claim of loss or damage to them by any cause.

6. Bonding.

(a) Performance Bond. At the SELLER's discretion, a BUYER may be required to file a bond designed to ensure the BUYER's performance and to help protect the SELLER against any liability that may arise as a result of the activities of the BUYER. A bond acceptable to the SELLER in the amount of **\$3,000.00** must be filed with the SELLER at the time of execution of this contract to ensure the BUYER's performance and financial responsibility. A \$3,000.00 bond is consistent with 11 AAC 71.095 and the total value of the material sale.

(b) Reclamation Bond. The BUYER shall remit a reclamation bond in the amount of **\$N/A** (consistent with AS 27.19 and 11 AAC 97) to ensure performance of the reclamation plan requirements. The BUYER's Material Site Reclamation Letter of Intent, submitted with their application, is attached to, and made a part of, this contract. The reclamation bond may be released upon the Division of Mining, Land and Water's approval of the reclamation. A BUYER may be exempt from the reclamation bond requirement because either the BUYER (1) has filed a Letter of Intent, or (2) is an agency of the State of Alaska, the federal government, or a municipality.

7. Insurance.

The BUYER is required to carry commercial liability insurance with the State of Alaska listed as an **"additional insured party"**. The case number **ADL 234626** is to be referenced on the policy.

Insurance is required and is subject to annual review and adjustment by the Division of Mining, Land and Water. The Division of Mining, Land and Water may require a reasonable increase based on a change in the BUYER's Development Plan or with increased risk. The insurance policy(s) must be written by a company(s) on the Division of Insurance's "admitted list" and the broker/agent must be licensed to do business in the State. If surplus lines insurance is provided, the broker must have a surplus broker license and be listed on the "surplus lines insurance list". Additional information regarding the admitted and surplus lines lists may be obtained from the Division of Insurance at (907) 269-7900.

Consult, as appropriate, with an insurance professional licensed to transact the business of insurance under Alaska Statute, Title 21, to determine what types and levels of insurance are adequate to protect the BUYER and lessor (the State, its officers, agents and employees) relative to the liability exposures of the BUYER's commercial operations.

Secure or purchase at BUYER's own expense and maintain in full force at all times during the term of the contract, adequate insurance policies and coverage levels recommended by an insurance professional, licensed to transact the business of insurance under Alaska Statute, Title 21, and

acceptable to the State of Alaska. The State will expect to see at a minimum, the following types of coverage:

- **Commercial General Liability Insurance:** The policy shall be written on an "occurrence" form and shall not be written as a "claims-made" form unless specifically reviewed and agreed to by the Division of Risk Management, Alaska Department of Administration.
- **Workers' Compensation Insurance:** The BUYER shall provide and maintain, for all its employees, Workers' Compensation Insurance as required by AS 23.30.045. Where applicable, coverage must comply with any other statutory obligations, whether Federal (i.e. U.S.L. & H or Jones Act) or other State laws in which employees are engaged in work on the premises. The insurance policy must contain a waiver of subrogation clause in favor of the State of Alaska.

Provide proof of insurance to the Division of Mining, Land and Water on a yearly basis. The certificate must provide for a 30-day prior notice to the State of Alaska in the event of cancellation, nonrenewal, or material change of conditions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of the contract and shall be grounds, at the discretion of the Division of Mining, Land and Water, for termination of the contract. Generally, the Division of Mining, Land and Water will rely upon the best professional judgment of the licensed insurance agent and, at renewal, the agent's annual reassessment of the insured's liability exposure for determination of adequate levels of coverage. The Division of Mining, Land and Water reserves the right to require additional coverage if, in its discretion, it determines that it may be warranted.

In the event the BUYER becomes aware of a claim against any of its liability coverage, the BUYER shall notify and provide documentation and full disclosure of the claim to the Division of Mining, Land and Water within 20 days.

8. Improvements and Occupancy.

(a) Any improvements or facilities including crushers, mixing plants, buildings, bridges, roads, etc., constructed by the BUYER in connection with this sale and within the sale area must be in accordance with plans approved by the SELLER.

(b) The BUYER must, within 60 days after contract completion or termination of the contract by the SELLER or by operation of law, remove the BUYER's equipment and other personal property from the sale area. After removal, the BUYER must leave the land in a safe and clean condition that is acceptable to the SELLER. If the BUYER can demonstrate undue hardship, the time for removal of the improvements under this paragraph may be extended at the SELLER's discretion.

(c) If any of the BUYER's property having an appraised value in excess of \$10,000, as determined by the SELLER, is not removed within the time allowed, that property may, upon 30 days' notice to the BUYER, be sold at public auction under the direction of the SELLER. The proceeds of the sale will inure to the BUYER after satisfaction of the expense of the sale and deduction of all amounts then owed to the SELLER. If there are no other bidders at the sale, the SELLER may bid on the

property, and the SELLER will acquire all rights, both legal and equitable, that any other purchaser could acquire through a sale and purchase.

(d) If any of the BUYER's property having an appraised value of \$10,000 or less, as determined by the SELLER, is not removed within the time allowed, title to that property automatically vests in the SELLER.

(e) Special provisions, if any, applicable to improvements and occupancy under this contract are listed in paragraph 4(k) of this contract.

9. Inspection.

(a) The SELLER must be accorded access, at all times, to the sale area and to the books and records of the BUYER, the BUYER's contractors, and any sub-contractors relating to operations under this contract for purposes of inspection to assure the faithful performance of the provisions of this contract and other lawful requirements.

(b) At all times when construction or operations are in progress, the BUYER shall have a representative readily available to the area of operations who is authorized to receive, on behalf of the BUYER, any notices and instructions given by the SELLER in regard to performance under this contract, and to take appropriate action as is required by this contract.

10. Termination and Suspension.

(a) The SELLER may terminate the BUYER's rights under this contract if the BUYER breaches the contract and fails to correct this breach within 30 days after written notice of the breach and an opportunity to be heard.

(b) If the BUYER fails to comply with any of the provisions of this contract, the SELLER may shut down the BUYER's operations upon issuance of written notice, until corrective action, as specified by the SELLER in its notice, is taken. If this corrective action is not taken within 30 days after written notice is served upon the BUYER, the SELLER may terminate the contract under paragraph 10(a) of this contract. The BUYER's failure to take immediate corrective action when ordered to remedy dangerous conditions or unwarranted damage to natural resources may be corrected by the SELLER to prevent danger or additional damage. Any cost incurred by the SELLER as a result of this corrective action, or by the BUYER's failure to take corrective action, must be paid by the BUYER.

(c) This contract may also be terminated by mutual agreement of both parties on terms agreed to in writing by both parties.

11. Reservations. The SELLER reserves the right to permit other compatible uses, including the sale of materials, on the land in the sale area if the SELLER determines that those uses will not unduly impair the BUYER's operations under this contract. Under AS 38.05.125 the SELLER further expressly reserves to itself, and its successors, forever,

- (a) all oil, gas, coal, ores, minerals, fissionable materials, geothermal resources, and fossils of every kind, that may be in or upon the land described above, or any part of it; and
- (b) the right to explore the land for oil, gas, coal, ores, minerals, fissionable materials, geothermal resources, and fossils; and
- (c) the right to enter by itself or its agents, attorneys, and servants on the land, or any part of it, at any time for the purpose of opening, developing, drilling, and working mines or wells on this or other land and taking out and removing from it all oil, gas, coal, ores, minerals, fissionable materials, geothermal resources, and fossils; and
- (d) the right by itself or its agents, attorneys, and servants at any time (1) to construct, maintain, and use all buildings, machinery, roads, pipelines, powerlines, and railroads; (2) to sink shafts, drill wells, and remove soil; and (3) to occupy as much of the land as may be necessary or convenient for these purposes; and
- (e) generally all rights to and control of the land, that are reasonably necessary or convenient to make beneficial and efficient the complete enjoyment of the property and rights that are expressly reserved.

12. Inclusion of Applicable Laws and Regulations. The BUYER shall comply with all laws and regulations applicable to operations under this contract, including the provisions of AS 27.19 and 11 AAC 97 regarding mining reclamation, the provisions of AS 41.15 for wildfire prevention and control, the provisions of AS 38.05.550-.565, material sale regulations 11 AAC 71, state fish and game regulations pertaining to the protection of wildlife and wildlife habitat, and state regulations pertaining to safety, sanitation, and the use of explosives. These laws and regulations are, by this reference, made a part of this contract, and a violation of them is cause for termination or suspension of this contract in addition to any penalties prescribed by law. These laws and regulations control if the terms of this contract are in conflict with them in any regard.

13. Assignment. This contract may not be assigned by the BUYER without the SELLER's prior written consent to the assignment.

14. Permits. Any permits necessary for operations under this contract must be obtained by the BUYER before commencing those operations.

15. Passage of Title. All right, title and interest in or to any material included in the contract shall remain in the State until it has been paid for; provided, however, that the right, title and interest in or to any material that has been paid for but not removed from the sale area by the BUYER within the period of the contract or any extension thereof as provided for in this contract shall vest in the SELLER.

16. Expiration and Extension. This contract expires on the date stated at the top of the contract unless an extension is granted by the SELLER in accordance with 11 AAC 71.210.

17. Warranties. This sale is made without any warranties, express or implied, as to quantity, quality, merchantability, profitability, or fitness for a particular use of the material to be extracted from the area under contract.

18. Valid Existing Rights. This contract is entered into and made subject to all valid existing rights, including easements, rights-of-way, reservations, or other interests in land, in existence on the date the contract is entered into.

19. Notices. All notices and other writings required or authorized under this contract must be made by certified mail, postage prepaid, to the parties at the following address:

To the SELLER: State of Alaska
Department of Natural Resources
Division of Mining, Land and Water
550 West 7th Avenue, Suite 900C
Anchorage, AK 99501-3577

To the BUYER: Paydirt Excavation, LLC
Attn: Renita Magnuson
P.O. Box 101
McGrath, AK 99627

20. Integration and Modification. This contract, including all laws and documents that by reference are incorporated in it or made a part of it, contains the entire agreement between the parties.

This contract may not be modified or amended except by a document signed by both parties to this contract. Any amendment or modification that is not in writing, signed by both parties, and notarized is of no legal effect.

21. Severability of Clauses of Sale Contract. If any provision of this contract is adjudged to be invalid, that judgment does not affect the validity of any other provision of this contract, nor does it constitute any cause of action in favor of either party as against the other.

22. Construction. Words in the singular number include the plural, and words in the plural number include the singular.

23. Headings. The headings of the numbered paragraphs in this contract shall not be considered in construing any provision of this contract.

24. "Extracted," "Extraction". In this contract, use of the terms "extracted" and "extraction" encompasses the severance or removal, as well as extraction, by the BUYER of any materials covered by this contract.

25. Waiver. No agent, representative or employee of the SELLER has authority to waive any provision of this contract unless expressly authorized to do so in writing by the director of the Division of Mining, Land and Water.

Signature page follows:

DRAFT

BY SIGNING THIS CONTRACT, the State of Alaska, as SELLER, and the BUYER agree to be bound by its provisions as set out above.

BUYER:

Paydirt Excavation, LLC
Attn: Renita Magnuson
P.O. Box 101
McGrath, AK 99627

SELLER:

State of Alaska
Department of Natural Resources
Southcentral Regional Land Office
550 W. 7th Ave. Suite 900C
Anchorage, AK 99501

Date: _____

Date: _____

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on _____, 202__ before me appeared _____, known by me to be the person named in and who executed this Material Sale Contract and acknowledged voluntarily signing it as BUYER.

Notary Public in and for the State of Alaska
My commission expires: _____

STATE OF ALASKA)
) ss.
_____ Judicial District)

THIS IS TO CERTIFY that on _____, 202__ before me appeared _____ known by me to be the representative of the Division of Mining, Land and Water, Department of Natural Resources, who executed this Material Sale Contract on behalf of the State of Alaska, and who is fully authorized by the State to do so.

Notary Public in and for the State of Alaska
My commission expires: _____