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

Southcentral Regional Land Office

Preliminary Decision

ADL 234659, Adak Arctic Port Hub, LLC
Application for Lease
AS 38.05.070(c)

ADL 234711, Adak Community Development Corporation
Application for Lease
AS 38.05.810(b-d)

ADL 234723, The Aleut Corporation
Application for Lease
AS 38.05.075(c)

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 **11:59 pm September 8, 2026**. Please see the Public Notice section of this decision for requirements related to submitting comments for consideration.

Requested Action

Adak Arctic Port Hub, LLC, Adak Community Development Corporation, and The Aleut Corporation each submitted separate applications to the Department of Natural Resources (DNR), Division of Mining, Land & Water (DMLW), Southcentral Regional Land Office (SCRO) to lease submerged land in Sweeper Cove, Adak. Details for each applicant follow:

<u>Adak Arctic Port Hub, LLC (AAPH)</u>

Approximately 16.5 acres of submerged land for a container transshipment hub in Sweeper Cove, Adak. The site is located in the Seward Meridian, Township 96 South, Range 195 West, within a portion of section 14. AAPH requested a 55-year competitive lease per AS 38.05.070(c).

Requested Improvements:

- A secure 1,300-foot open cell sheet pile pier, encompassing approximately 16.5 acres
- Two cranes with 100-foot crane rails
- Two ramps with barge capability
- 2,500 square foot office and maintenance area

- 1,000-gallon diesel fuel tank
- Accommodations for potential fuel transport and refueling
- Lighting, yard travel lifts, and associated infrastructure

Adak Community Development Corporation (ACDC)

Approximately 13.95 acres of submerged land, consisting of three non-contiguous sites of 4.65 acres each, for seafood processing and fleet support in Sweeper Cove, Adak. The site is located in the Seward Meridian, Township 96 South, Range 195 West, within a portion of section 14. ACDC requested a 10-year public and charitable lease per AS 38.05.810(b-d).

Requested Improvements:

- Three non-contiguous sites of 4.65 acres each, totaling 13.95 acres
- Mooring dolphins
- One gangway
- Two breasting dolphins
- Up to four mooring dolphins
- Four catwalks connecting the system
- Utility conduits may be added as a component of the gangway

The Aleut Corporation (TAC)

Approximately 86.2 acres of submerged land for construction and operation of a deepwater pier and associated infrastructure to support military, commercial shipping, green ammonia export, and other emerging industries in Sweeper Cove, Adak. The site is located in the Seward Meridian, Township 96 South, Range 195 West, within a portion of section 14. TAC requested a 55-year non-competitive lease per AS 38.05.075(c).

Requested Improvements:

- New deepwater pier, 620 feet long
- Existing pier, 60-foot extension
- Enhanced barge and landing craft access

Proposed Action

TAC's ownership of the adjacent uplands gives TAC lease preference under AS 38.05.75(c). Under AS 38.05.075(c) an owner of land fronting tideland, or submerged land of the State may be granted a preference right to a lease for the shoreland, tideland, or submerged land without competitive bidding pending the requirements outlined below.

Lessee preference requirements under AS 38.05.075(c) include:

- Ownership of land that fronts state-owned tideland/submerged land;
- the lease of tideland/submerged land is necessary to facilitate water transportation of goods, services, or resources to or from the owned upland;

- the proposed use of tideland/submerged land is compatible with the classification of the land and with any applicable land use plan adopted under AS 38.04.065; and
- issuance of a lease for tideland/submerged land will not interfere with prior existing rights to the leased land.

Since TAC meets these requirements and qualifies for lessee preference, the other applications from AAPH and ACDC will not be considered and will be denied.

DMLW proposes to issue a 30-year non-competitive tideland lease authorized under AS 38.05.075(c) to The Aleut Corporation for the construction, operation, and maintenance of a deepwater pier and associated infrastructure to support military, commercial shipping, green ammonia export, and other emerging industries in Sweeper Cove, Adak.

Background

DMLW's Southcentral Regional Land Office (SCRO) initially received an application from AAPH for a 55-year submerged land lease under AS 38.05.070(c) and AS 38.05.075 for the construction, use, and maintenance of a bulkhead dock encompassing approximately 16.5 acres of submerged land for a container transshipment hub in Sweeper Cove, Adak.

AAPH's proposed development would serve as a shipping container transshipment hub connecting the Great Circle Route and the Northern Sea Route (NSR) with the potential to benefit from the NSR shipping window and growing demand for Arctic trades routes. AAPH's application is serialized as ADL 234659. A Solicitation of Interest (SOI) was issued July 7, 2025, under AS 38.05.070(d) and AS 38.05.945 with a 30-day public notice period ending August 10, 2025, followed by a 30-day application period ending September 9, 2025

On July 24, 2025, ACDC submitted an application for a 10-year submerged land lease for the construction, use, and maintenance of mooring dolphins and a gangway to assist maritime economic activity such as seafood processing and fleet support, and mariculture sites. ACDC's application is serialized as ADL 234711 and consists of submerged lands adjacent to the proposed lease footprint of ADL 234659, and within the proposed lease footprint of ADL 234723. ACDC's application requested authorization under AS 38.05.810(b)-(d), however, AS 38.05.810(c) limits eligibility to "…nonprofit corporations, associations, clubs, or societies organized and operated exclusively for charitable, religious, scientific, or educational purposes, or for the promotion of social welfare, if the project for which the land is desired conforms to those objectives and not commercial development." In addition, a lease under this section may not be granted for a project closed to the use and enjoyment of the general public. ACDC's application was submitted during - but not in response to - the SOI, since it did not overlap AAPH's proposed project. Nevertheless, it is included in this decision due to the overlapping footprint with ADL 234723.

In response to the solicitation of interest, TAC submitted an application on September 9, 2025, for a 55-year non-competitive submerged land lease in accordance with AS 38.05.075(c) for the construction, use, and maintenance of a deepwater pier and associated infrastructure to support military, commercial shipping, green ammonia export, and other emerging industries. TAC's application is serialized as ADL 234723 and consists of submerged lands that encompass both ADL 234659 and ADL 234711.

Adak was originally populated by indigenous Unangax (Aleuts) as early as 9,000 years ago. As a result of Russian colonization, the U.S. purchase of Alaska and subsequent management, and forced relocation during World War II, the current Aleut population is a fraction of what it once was.

During World War II, an Army military base was developed on Adak. After the war, the base transitioned to the U.S. Air Force, and ultimately the U.S. Navy as a Cold War submarine surveillance center for nearly 50 years. The Adak base officially closed in 1997, and the federal government transferred ownership of over 47,000 acres to TAC in 2004, with the remainder controlled by the U.S. Fish and Wildlife Service or retained by the U.S. Navy. Adak and Sweeper Cove lie within the boundaries of the Alaska Maritime National Wildlife Refuge.

As a result of decades of military operations on Adak, there is extensive contamination on Adak, including within Sweeper Cove. While the U.S. military has worked to remediate much of Adak and its surrounding waters, many areas still require caution and/or prohibit certain activities due to remaining hazardous materials and unexploded ordnances.

Past industries such as commercial fishing and fish processing were heavily impacted by shipping disruptions and understaffing during the COVID-19 pandemic, as well as harvest declines for some fish stock. The lone remaining processor closed, and commercial fishing in the area no longer operates at the scale it once did. The island's economy now relies primarily on regional government and logistical services.

Scope of Decision

The scope of this decision is to determine if it is in the State's best interest to issue a lease for one or more of the requested activities. The administrative review for this authorization is defined by AS 38.05.035(e)(1)-(2) and limited to (1) reasonably foreseeable, significant effects of the uses to be authorized; (2) applicable statutes and regulations; (3) the facts pertaining to the land or resources; and (4) any issues that are material to the determination.

Under AS 38.05.075(c) an owner of land fronting tideland, or submerged land of the State may be granted a preference right to a lease for the shoreland, tideland, or submerged land without competitive bidding pending the requirements outlined below. Since TAC meets those requirements and qualifies for lessee preference, the other applications from AAPH and ACDC will not be considered and will be denied.

Lessee preference requirements under AS 38.05.075(c) include:

- Ownership of land that fronts state-owned tideland/submerged land;
- the lease of tideland/submerged land is necessary to facilitate water transportation of goods, services, or resources to or from the owned upland;
- the proposed use of tideland/submerged land is compatible with the classification of the land and with any applicable land use plan adopted under AS 38.04.065; and
- issuance of a lease for tideland/submerged land will not interfere with prior existing rights to the leased land.

Authority

The lease applications are being adjudicated pursuant to AS 38.05.035(e) Powers and Duties of the Director, AS 38.05.070 Generally, and AS 38.05.075 Leasing Procedures.

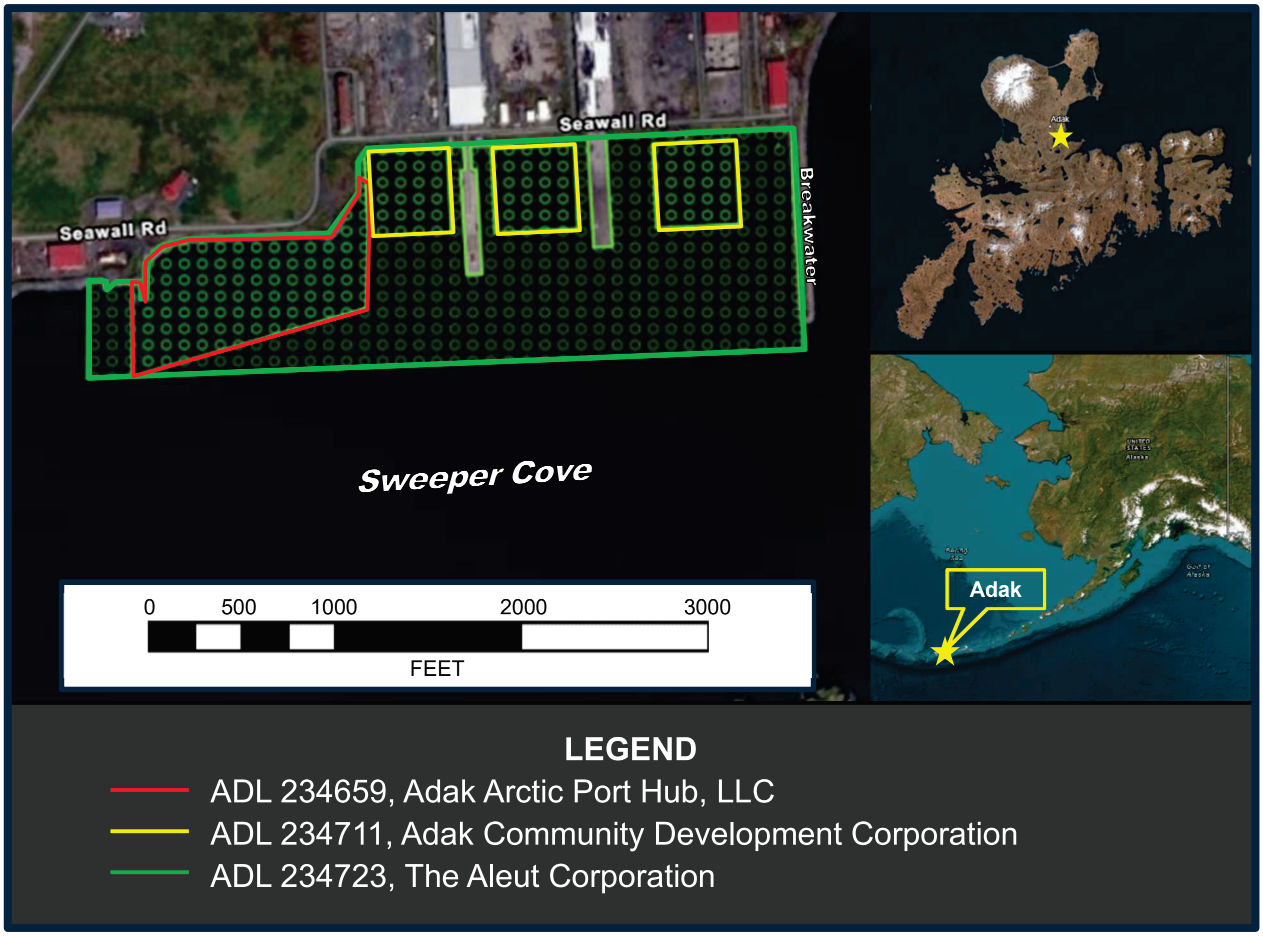
Although ACDC's application requested authorization under AS 38.05.810(b)-(d), the applicable subsections do not apply since AS 38.05.810(c) limits eligibility to "…nonprofit corporations, associations, clubs, or societies organized and operated exclusively for charitable, religious, scientific, or educational purposes, or for the promotion of social welfare, if the project for which the land is desired conforms to those objectives and not commercial development." While ACDC may be eligible as a non-profit corporation, the proposed use does not meet the purposes outlined above.

The authority to execute the PD, Final Finding and Decision (FFD), Entry Authorization (EA), and the lease has been delegated to the Regional Managers of DMLW under AS 38.05.035(b)(1).

Administrative Record

The administrative record for the proposed actions consists of the Constitution of the State of Alaska, the Alaska Land Act as amended, applicable statutes and regulations referenced here-in, the 2004 Site Specific Plan and Classification SC-04-004 and other classification references described herein, and the casefiles for the applications serialized by DNR as ADL 234659, ADL 234711, and ADL 234723.

Figure 1: Overview Map of Project Area



Legal Description, Location, and Geographical Features
The State land where this proposed lease is located is described as follows:

- **Geographical location:** Sweeper Cove, Adak, Aleutian Islands
- **Approximate Lat/Long:** 51° 51.6529' N, 176° 38.2997' W
- **Area geographical features:** Submerged lands with nearshore depths of +/- 20 feet from previous U.S. Military activity, and municipal dredging.
- **Legal description:**
    - <u>ADL 234659</u>: A portion of submerged tidelands within protracted Section 14, Township 96 South, Range 195 West, Seward Meridian, Alaska, according to the plat accepted by the United States Department of the Interior Bureau of Land Management in Anchorage, Alaska on July 21, 2008, and further depicted on the Adak Port Concepts Proposed Plan dated February 24, 2014, containing approximately 16.5 acres, more or less.

    - <u>ADL 234711</u>: Three parcels of submerged lands within the S1/2 NE1/4 in protracted Section 14, Township 96 South, Range 195 West, Seward Meridian, according to the plat accepted by the United States Department of the Interior

Bureau of Land Management in Anchorage, Alaska on July 21, 2008, and further depicted on the attached development plan for ADL 234711. Each parcel is approximately 4.65 acres, aggregating approximately 13.95 acres, more or less.

  - ADL 234723: A portion of submerged tidelands within protracted Section 14, Township 96 South, Range 195 West, Seward Meridian, according to the plat accepted by the United States Department of the Interior Bureau of Land Management in Anchorage, Alaska on July 21, 2008, and further depicted on the Aleut Purposed Tideland Lease Area diagram for ADL 234723 dated September 4, 2025, containing approximately 86.2 acres, more or less.
- **Recording district:** Aleutian Islands
- **Existing parcel survey, if applicable:** USS 13497
- **Municipality/Borough:** City of Adak / Unorganized Borough
- **Native Corporations/Federally Recognized Tribes:** The Aleut Corporation
- **Size:**
  - ADL 234659: 16.5 acres, more or less
  - ADL 234711: 13.95 acres, more or less
  - ADL 234723: 86.2 acres, more or less

Title

DNR Title Reports (RPT-23962, RPT-24233, and RPT-24093) issued on February 23, 2026, from DMLW's Realty Services Section, attest that the State of Alaska holds title to the subject tide and submerged lands under the Equal Footing Doctrine and the Submerged Lands Act of 1953.

Third Party Interests

While no third-party interests are known, the City of Adak and TAC both have upland property interests. The City of Adak owns the breakwater. TAC owns the uplands immediately adjacent to Sweeper Cove, as well as Piers 5 and 6, and the submerged land beneath the piers.

Planning and Classification

The project area is subject to the Site Specific Plan and Classification SC-04-004. The classification for the proposed lease is Wfd, Waterfront Development. A classification of Waterfront Development specifies use of tidelands, submerged lands, or shore lands for water-dependent or water-related facilities, usually for industrial or commercial purposes. Waterfront development includes: piers, wharves, harbors, mineral transfer facilities, seafood processing facilities, commercial recreation facilities, and other resource development support facilities except for activities related to forestry, which is covered by the Forestry designation. The proposed leases for all three applications are consistent with the classification.

Traditional Use Finding

The proposed lease parcel is not located within an organized borough. An additional consideration is required under AS 38.05.830 for the sale, lease or other disposal of land not located within an organized borough. The consideration must include the effect that the disposal may have on the density of the population in the vicinity, and the potential for conflicts with traditional uses that may result from the disposal. If necessary, the commissioner will develop a plan to resolve or mitigate conflicts. Additional traditional uses may be identified during the public notice period. If further traditional uses become known, they will be discussed in the final finding and decision.

While all three proposed uses could increase population density on Adak, it is unlikely to approach population levels during Adak's military era.

Fishing in Sweeper Cove is currently limited for some species due to polychlorinated biphenyl (PCB) levels.

Access
Practical and legal public access to the proposed leaseholds are via watercraft in Sweeper Cove, and the City of Adak breakwater. TAC also has direct access to their proposed leasehold via their privately-owned uplands and two existing docks on the north side of Sweeper Cove.

Access Along Navigable and Public Waters
The sites are located on navigable tide and submerged lands of Sweeper Cove. Pursuant to AS 38.05.126(a), the public has a constitutional right to free access to, and use of, navigable or public waters of the State of Alaska.

Access to TAC's proposed leasehold is provided across TAC's adjacent uplands and two existing docks on the north side of Sweeper Cove.

Public access to and along state waters is typically required under 11 AAC 51.045 and AS 38.05.127, through the reservation of specific public-access easements on state land. Since the uplands do not belong to the State, a public access easement to the water is not statutorily required, but the proposed lease will be subject to a 50-foot public access easement along the water, seaward of the preconstruction line of mean high water. This easement must be depicted on any required survey.

In addition, public access may be blocked when lease activity would make public use unsafe.

Public Trust Doctrine
Pursuant to AS 38.05.126, all authorizations for this site 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.

Reservation of Mineral Estate

In accordance with section 6(i) of the Alaska Statehood Act and AS 38.05.125, the state, in this decision, reserves unto itself the mineral estate, including oil and gas, and the rights expressed in the reservation clause of the statute, that being the right to reasonable access to the surface for purposes of exploring for, developing and producing the reserved mineral resources. Exploration and development, if any, which could occur, would be consistent with AS 38.05.130 and other applicable statutes and regulations.

Mineral Orders

Mineral entry within the proposed leasehold is not currently restricted. It is not necessary to restrict entry to leasehold locations only or to close the area to mineral entry.

Hazardous Materials and Potential Contaminants

Hazardous materials, as specifically noted below, will be stored within the proposed leasehold. Stipulations will be included in the lease to ensure proper handling and storage.

- ADL 234723: Use, storage, and transfer of hydrocarbons and other potentially hazardous materials such as fuel and wastewater, in support of fueling operations, vessel servicing, and industrial processes.

The use and storage of all hazardous substances must be done in accordance with existing federal, state, and local laws. Debris (such as soil) contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous substance, and must be removed from the leasehold and disposed of in accordance with state and federal law.

<u>Environmental Liability Stipulation</u>

DMLW acknowledges the existence of both active and closed (with institutional controls) contaminated sites within the proposed leasehold areas. These contaminated sites are associated with previous military activities and will require the applicant to coordinate with both the Department of Environmental Conservation (DEC) and the U.S. Navy to ensure that proposed development occurs in a manner that is safe with current environmental contaminant and munition concerns. Any associated authorizations must be forwarded to DMLW's Statewide Abatement of Impaired Land (SAIL) section at dnr.dmlw.sail@alaska.gov.

Due to the preexisting contamination at this site, a copy of the environmental liability stipulation has been provided to the applicant. This stipulation includes requirements for the lessee to have an environmental liability baseline assessment completed by an independent, third party prior to lease issuance. If the lessee conducts an environmental baseline, they will not be presumed to have caused or contributed contamination identified in the environmental liability baseline during a clearance assessment conducted prior to lease termination or expiration.

Agency Review

Information and comments received from sections within DMLW prior to and during agency review have been considered and included in the preparation of this preliminary decision. The initial 20-day Agency Review was erroneously sent out on July 7, 2025, prior to issuing a Solicitation of Interest. The error was immediately corrected with a SOI issued the same day. After the SOI process, a second Agency Review was issued November 5, 2025, with a deadline for agency comments of November 25, 2025.

The following agencies were included in the review:

- DNR Division of Agriculture
- DNR Division of Forestry & Fire Protection
- DNR Division of Geological & Geophysical Surveys
- DNR Division of Oil and Gas / State Pipeline Coordinator Service
- DNR Division of Parks and Outdoor Recreation / Office of History and Archaeology – State Historic Preservation Office
- DNR Natural Resource Conservation and Development Board
- Department of Commerce, Community and Economic Development
- Department of Environmental Conservation
- Department of Fish & Game
- Department of Transportation & Public Facilities
- U.S. Army Corps of Engineers
- U.S. Bureau of Land Management
- U.S. Coast Guard
- U.S. Environmental Protection Agency
- U.S. Fish and Wildlife Service
- U.S. Forest Service
- U.S. National Park Service
- U.S. Natural Resources Conservation Service
- U.S. National Oceanic and Atmospheric Administration - National Marine Fisheries Service

Comments:

U.S. Army Corps of Engineers (USACE): While USACE did not have any specific comments, they note that a Department of the Army authorization is required if the proposed activity occurs in U.S. waters and includes placing dredged and/or fill material (33 U.S.C. 1344) and/or performing work in navigable waters (33 U.S.C. 403). USACE notes that the applicant may submit a preapplication meeting request, a jurisdictional determination request, or a permit application directly to USACE's general mailbox (regpagemaster@usace.army.mil) and they will be assigned a project manager to assist them.

Additional USACE resources may be found online at:
Permit applications: www.poa.usace.army.mil/Missions/Regulatory
Sample drawings: www.poa.usace.army.mil/Portals/34/docs/regulatory/guidetodrawings2012.pdf

Response: SCRO acknowledges USACE's comment and informs the applicant that this comment serves as notice of USACE requirements.

U.S. National Oceanic and Atmospheric Administration - National Marine Fisheries Service (NOAA-NMFS): NOAA-NMFS offered the following comments: Essential Fish Habitat (EFH) regulations under the Magnuson-Stevens Act (MSA) promote EFH protection during review of federal and state actions that may affect it. Although the MSA does not require state agencies to consult with us, preparing an EFH assessment supports permitting when federal action agencies are involved. A complete EFH assessment includes (50 CFR 600.920(e)):

1. Description of the action;
2. Analysis and conclusions of potential adverse effects on EFH and managed species;
3. Proposed mitigation, if applicable.

If appropriate, the assessment should also contain additional information, including:

1. On-site inspection and evaluation of habitat and site-specific project effects;
2. Expert review of affected habitat or species;
3. Relevant literature and related information review;
4. Analysis of alternatives that includes options to avoid or minimize adverse effects; and
5. Other relevant information.

EFH assessment detail should correspond to the complexity and magnitude of potential adverse effects. Supporting information should be clearly identified.

Additional information and potential conservation recommendations may be found in Our Impacts to Essential Fish Habitat from Non-Fishing Activities in Alaska (Limpinsel et al. 2023), specifically in sections:

4.4.4 (Harbor Infrastructure, Docking Facilities, and Vessel Operations)
4.4.3 (Discharge of Fill Material)
4.4.5 (Pile Driving)

Recommendations to minimize adverse effects to EFH for similar projects in the past have included:

1. Increase ambient light transmission under piers and docks.
2. Include best management practices for reducing, containing, and cleaning up petroleum spills.
3. Conduct in-water work when managed species and prey species are least likely to be impacted.
4. Use a vibratory hammer when driving hollow steel piles. When impact hammers are required due to seismic stability or substrate type, drive the pile as deep as possible with a vibratory hammer first and then use the impact hammer to drive the pile to its final destination.
5. Do not install creosote treated piles.

Final recommendations will be provided based on your EFH assessment and conclusion of effects. Also consider the following EFH resources while determining effects of your proposed project: a one-page EFH Fact Sheet and our Regional website, where you can find FAQs. The Alaska EFH Mapper provides EFH maps for fish species and life stages where available, the Nearshore Fish Atlas of Alaska has additional information for nearshore fish assemblages (NMFS 2021), and freshwater EFH for Pacific salmon life stages is accessible through the Anadromous Waters Catalog.

Response: SCRO acknowledges NMFS's comment and informs the applicant that this comment serves as notice of NMFS requirements.

Department of Transportation & Public Facilities (DOT&PF): DOT&PF noted that any use of airport property requires a separate land use contract with DOT&PF. No use of airport property will be authorized without an executed contract. Additionally, the proposed uses are within airport airspace, and a FAA 7460 Airspace Study would be required. Finally, the proposed uses lie within an area regulated by FAA Part 77 Horizontal Surface regulations. This means any infrastructure or equipment with the potential to be higher than 170 feet above ground level would need to fill out a 7460-1 form to obtain FAA approval.

Response: SCRO acknowledges DOT&PF's comment. While TAC’s proposed use will not occur on DOT&PF-managed land, the use does lie within an area regulated by the FAA to prevent obstructions in navigable airspace. SCRO informs the applicant that this comment serves as notice of DOT&PF and FAA requirements.

DNR Division of Geological & Geophysical Surveys (DGGS): DGGS provided comments on Geologic Hazards, Hydrology and Surficial Geology:

Physiography: Within the Aleutian Islands section of the Alaska-Aleutian Physiographic Province, an arcuate belt of active volcanic mountains marking a submarine ridge crest. Islands may include wave-cut platforms bordered by sea cliffs and intensely glaciated mountains 600–3,000 feet high, indented with fjords and bordered by cliffs. Broad, intertidal platforms border some islands.

Geology: Surficial geology in the review area was mapped by Waythomas (1995). Although much of the area is offshore, his work indicates that the adjacent onshore area is mostly composed of disturbed deposits filling a shallow glacial trough north of Sweeper Cove and east of Sweeper Creek. Coats (1956) and Judson (1946) made early observations and described geomorphology of the area. The northern part of Adak Island is characterized by eolian deposits (Judson, 1946). Much of the area also includes glacial till deposits, and the coastal regions include wave-cut platforms (Coats, 1956).

Materials: The potential of construction materials is unknown, but glaciofluvial deposits may be adequate, depending on the content of fine materials. Eolian sand in close proximity could be an additional source of material, depending on quality and quantity.

Permafrost: Permafrost in the area is absent.

Seismic Hazards: Adak is part of the Aleutian Arc, where the Pacific Plate is subducting under the North American Plate. This movement creates thousands of earthquakes every year, including some major megathrust earthquakes with magnitudes between 7.8 and 8.7. As such, this has moderate to moderately high seismic potential (Shumway, 2019). Standard best building practices should be used to accommodate the regional seismic hazard.

Tsunami Hazards: Large earthquakes along the Alaska-Aleutian megathrust have previously generated tsunamis resulting in widespread damage and loss of life in Alaska and throughout the Pacific. According to the National Geophysical Data Center Global Historical Tsunami Database (doi.org/10.7289/V5PN93H7), about 50 tsunamis with wave heights ranging from 0.4 inches to 8.9 feet have reached Adak in recorded history. The tsunami produced by the 1957 Mw 8.6 earthquake caused severe damage in Adak, including all structures at the fuel and oil dock washed away up to 13 feet in elevation and damaging oil pipelines (Lander, 1996). Adak is also vulnerable to tsunamis generated by circum-Pacific earthquakes. Tsunami modeling efforts by Suleimani and others (2019) for Adak show many scenarios with inundation levels higher than 30 feet for the proposed dock area, and that some inundation could occur with only minutes of warning, although other scenarios would have more time. Consider placing tsunami warning signage on the dock, along with mapped evacuation routes in the event of a large felt earthquake or tsunami warning.

Volcanic Hazards: Volcanic ash is the primary hazard from eruptions in Alaska. The small, abrasive particles of glass can impact transportation, health, and utilities. The community of Adak is proximal to several active Aleutian volcanoes, including Kanaga, about 35 miles to the west, and Great Sitkin, about 45 miles to the northeast. However, volcanic ash can be carried long distances by prevailing winds, and so eruptions farther away may also impact Adak. The 2008 eruption of Kasatochi resulted in several cancelled commercial flights for Adak. Adak is also about 10 and 15 miles south of Mount Moffett volcano and Mount Adagdak volcano. These volcanoes have not erupted in recent times, but any future eruption from these volcanoes could produce pyroclastic flows and mudflows that may impact Adak.

Radon Hazards: Radon, a naturally occurring cancer-causing radioactive gas, has not been tested in this vicinity (https://maps.dggs.alaska.gov/radon/). The Environmental Protection Agency's (EPA) Action Level for radon is 4 pCi/L; the EPA suggests homeowners consider radon mitigation for test results of 2–4 pCi/L. Any home, school, or building can have high levels of radon and should be tested.

In summary, DGGS stated that with the understanding that there are significant volcanic and seismic-related hazards, appropriate precautions need to be taken should the lease be approved.

Response: SCRO acknowledges DGGS's comment and informs the applicant that this comment serves as notice of DGGS recommendations.

Alaska Department of Fish & Game (ADF&G): ADF&G has no objection to these leases, but has provided the following information for DNR and the applicant:

1) Dredging & Fisheries Considerations
   a) Dredging is proposed in the applications for ADL 234659 and 234723. There are no subsistence or commercial groundfish/shellfish concerns for the initial project sites or proposed lease areas in Sweeper Cove, as those areas have existing advisories to not consume fish from these locations due to past development and contamination. Subsistence and sportfishing harvests occur in greater Kuluk Bay adjacent to Sweeper Cove, so any new dredging/disturbance of contaminated sediment from this project should be done in a way that limits transport of contaminated fill outside of Sweeper Cove
   b) Although they are not directly adjacent to the lease, three streams within Sweeper Cove support anadromous fish species. The applicants must understand the need to protect these streams and maintain access for both sport and subsistence fisheries. Although detailed information about these specific runs is limited, they are known to support coho salmon,

Dolly Varden, and pink salmon. Most salmon runs in Adak experience some fishing pressure during strong years; however, this pressure is generally minimal due to the small local population.

2) Marine Mammal Considerations
   a) There is marine mammal critical habitat designated within the project area for northern sea otters as well as designated critical habitat within Sweeper Cove adjacent to the project area for Steller sea lions. There are several marine mammals with ranges overlapping with the project area, including sperm whale, Baird's whale, Dall's porpoise, harbor porpoise, killer whale, minke whale, northern fur seal, Pacific white-sided dolphin, ribbon seal, Stejneger's beaked whale, Steller sea lion, and northern sea otter.
3) Additionally, several other species have ranges adjacent to the project area, including blue whale, fin whale, humpback whale, North Pacific right whale, gray whale, and harbor seal. We suggest consulting with the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) about marine mammal presence in the area, and how to mitigate for potential disturbances. For inquiries regarding the NMFS consultation process email AKR.PRD.Section7@noaa.gov. For information about sea otters in the project area, email FW7_AK_Marine_Mammals@fws.gov or call 800-362-5148.
   a) As soon as possible, please report an injured, entangled, or dead marine mammal to the NOAA Fisheries Alaska Statewide 24-hour Stranding Hotline: (877) 925-7773. If the stranded animal is a sea otter, please call the USFWS (1-800-362-5148, business hours) or the Alaska SeaLife Center Hotline (1-888-774-7325, 24-hours).
   b) If the lessee documents any negative marine mammal interactions, we request to be kept informed of them. Please direct any relevant information to the Alaska Department of Fish and Game Marine Mammal Program at dfg.dwc.mmcomments@alaska.gov.
   c) To reduce risks:
      i. Keep lines used to tether vessels taut and out of the water whenever possible to reduce the risk of entanglement.
      ii. Dispose of food waste and garbage properly to avoid attracting marine mammals to the area.
      iii. Store fuel securely to prevent entry into the marine environment. A spill kit should be kept on-site for any potential spills.
4) Pile Driving and Construction Timing Recommendations
   a) Due to the limited construction detail provided in the application, it is currently difficult to offer specific recommendations to protect fish and wildlife.
   b) ADF&G recommends the use of a vibratory hammer to the extent practicable, and that pile driving activities occur for no more than 12 hours per day to facilitate fish passage.
5) Potential Impacts on Birds and Waterfowl
   a) The project may affect local seabirds and waterfowl by altering habitat use, causing disturbance, and impacting food availability. ESA-listed species like the short-tailed albatross, which are sensitive to habitat changes and pollution, could be at risk.

Coordination with the U.S. Fish and Wildlife Service is recommended to assess impacts and ensure ESA compliance. Seasonal monitoring may help guide mitigation.

b) Artificial lighting associated with dock infrastructure may disorient birds, particularly during migration or in low-visibility conditions. As noted in ADF&G's review of similar infrastructure, birds are known to be attracted to and disoriented by artificial lights, increasing the risk of collision and behavioral disruption. To minimize these impacts, the use of downward-shielded, motion-activated, and low-intensity lighting is recommended. There is evidence demonstrating that birds are disoriented by red or white lights and less disoriented by green or blue lights (Poot et al. 2008). Flashing lights are also significantly less disorienting than steady-burning lights and are therefore preferred.

6) USFWS Resources

a) Project activities may affect species listed under the Endangered Species Act (ESA) and other sensitive resources, such as migratory birds, which are managed by the U.S. Fish and Wildlife Service (USFWS). We recommend using the Information for Planning and Consultation (IPaC) tool (https://ipac.ecosphere.fws.gov/) to identify USFWS trust resources that may be present within the project boundary, including the likelihood of presence during project activities. For further details, contact the Southern Alaska Fish & Wildlife Field Office at 907-271-2888 (phone) or 907-271-2786 (fax).

Response: SCRO acknowledges ADF&G's comment and informs the applicant that this comment serves as notice of ADF&G recommendations.

Department of Environmental Conservation (DEC): All of the proposed projects are located in Sweeper Cove, a contaminated site that has been closed with institutional controls. Several other contaminated sites exist within the general vicinity, including both active sites and sites closed with institutional controls and subject to land use restrictions.

Because there is a high potential for encountering contaminated media, DEC requests that a contaminated soil and groundwater management plan be submitted for regulatory review and approval. This management plan(s) should include specific details about location(s) and depth(s) of excavations, soil disturbances, and dewatering activities. Additionally, it should describe how any generated contaminated media will be properly managed, sampled, and disposed of. Note that some contaminated media may have to be shipped off the island.

<u>Contamination:</u>
Residual contamination is known to be present in soil and groundwater. If any contamination is encountered, it must be reported in accordance with 18 AAC 75.300. Reporting information can be found at the following website:
https://dec.alaska.gov/spar/ppr/spill-information/reporting

Additionally, it should describe how any generated contaminated media will be properly managed, sampled, and disposed of. Please note that PFAS contamination has not been fully delineated, but it is known to have been used across the downtown Adak area. Also note that some contaminated media may have to be shipped off the island.

Excavation:
If excavations or dredging – at any depth – will be completed as part of this project, the location and other details should be included as part of the development plan. DEC requests that a contaminated soil and groundwater management plan be submitted for regulatory review and approval. This management plan(s) should include specific details about location(s) and depth(s) of excavations, soil disturbances, and dewatering activities.

Excavations or disturbance of soil at any depth in the downtown Adak area require a dig permit issued by the Navy. Additional information may be found at:
https://www.bracpmo.navy.mil/BRAC-Bases/Other-West/Former-Naval-Air-Facility-Adak/Dig-Permit/

Monitoring Wells:
The Navy may have actively used monitoring wells within the proposed project area(s). The applicants must coordinate with the Navy and DEC for any activities that could affect the current monitoring network. Details about nearby contaminated sites can be viewed on DEC's Contaminated Sites Database at:
https://dec.alaska.gov/Applications/SPAR/PublicMVC/CSP/Search/
and Web Map:
https://www.arcgis.com/apps/mapviewer/index.html?webmap=315240bfbaf84aa0b8272ad1cef3cad3

Response: SCRO acknowledges DEC's comments and informs the applicant through DEC's comments and requirements outlined above.

Discussion
The proposed lease will be subject to the terms of DMLW's standard lease document effective at the time the lease is signed. The current standard lease document is available for review upon request. The lease will also be subject to additional stipulations based, in part, upon the following considerations.

The Aleut Corporation is one of 12 Alaska Native regional corporations created through the Alaska Native Claims Settlement Act of 1972 with a diverse holding of companies in Alaska and the lower 48. TAC applied for a tideland lease in Adak's Sweeper Cove for the construction and operation of a deepwater pier and associated infrastructure to support military, commercial shipping, green ammonia export, and other emerging industries.

Although two other applicants, Adak Arctic Port Hub, LLC and Adak Community Development Corporation applied for overlapping tideland leases, TAC's ownership of the adjacent uplands gives TAC lease preference under AS 38.05.75(c). Under AS 38.05.075(c) an owner of land fronting tideland, or submerged land of the State may be granted a preference right to a lease for the shoreland, tideland, or submerged land without competitive bidding pending the requirements outlined below.

Lessee preference requirements under AS 38.05.075(c) include:

- Ownership of land that fronts state-owned tideland/submerged land;
- the lease of tideland/submerged land is necessary to facilitate water transportation of goods, services, or resources to or from the owned upland;
- the proposed use of tideland/submerged land is compatible with the classification of the land and with any applicable land use plan adopted under AS 38.04.065; and
- issuance of a lease for tideland/submerged land will not interfere with prior existing rights to the leased land.

Since TAC meets these requirements and qualifies for lessee preference, the other applications from AAPH and ACDC will not be considered and will be denied.

The substantial infrastructure proposed at this site makes a long-term lease appropriate. However, SCRO recommends a 30-year lease rather than a 55-year lease due to evolving climate, policy, and market environments.

A long-term lease is in the best interest of the State as it provides long-term, stable income through the collection of annual fees. The proposed use also has the potential to stabilize and expand the regional economy, improving overall financial health and resilience by investing in multiple industries.

Development Plan

The Development Plan (DP) attached to this decision (Attachment A) and dated September 9, 2025 is under consideration by DMLW. Should a proposed lease be granted, it is anticipated that the corresponding DP will need to be updated throughout the life of the lease as activities and/or infrastructure are added or subtracted. All updates must be approved, in writing, by DMLW before any construction, deconstruction, replacement of infrastructure, or change in activity will be authorized. DMLW reserves the right to require additional agency review and/or public notice for changes that are deemed by DMLW to be beyond the scope of this decision.

Performance Guaranty
In accordance with AS 38.05.035 and AS 38.05.860, the applicant will be required to submit performance guaranties for the lease to incentivize performance of the conditions of the EA (if applicable) and the lease and to provide a mechanism for the state to ensure that the lessee shares in financial burden in the event of noncompliance for site cleanup, restoration and any associated costs after termination or expiration of the leases, the following bonds will be required.

$900,000 Performance Guaranty Performance guaranties provide a means to pay for corrective action if the lessee fails to comply with the lease requirements. In accordance with AS 38.05.035(a)(4), the applicant will be required to submit a performance guaranty. The amount of the performance guaranty is based on the scope and the nature of the activity and the potential cost of restoring the site. Performance guaranties are subject to periodic adjustments being made during the term of the authorization to address increases or decreases in the costs of rectifying problems and rehabilitating state land due to inflation, changes in the level or nature of development, or other appropriate factors.

The Lessee must post a performance guaranty in the amount of $900,000 to secure faithful performance with all terms and condition of the lease and to ensure site restoration of the leasehold. The performance guarantee must remain in effect for the duration of the lease term or until released in writing by the AO.

Failure by the Lessee to provide replacement security, upon notice of non-renewal of an existing form of security, shall be grounds for the AO to make a claim upon the existing security to protect the Lessor's interests.

The guaranty amount will be subject to periodic adjustments and may be adjusted upon approval of any amendments to the lease, assignments, re-appraisals, changes in the development plan, approval of a reclamation plan, any change in the activities conducted or performance of operations conducted on the leased premises and as a result of any violations to the lease agreement.

The guaranty may be utilized by the AO to cover actual costs incurred by the State of Alaska to pay for any necessary corrective actions in the event the Lessee does not comply with the site utilization, restoration requirements and/or other stipulations contained in the lease agreement. If the Lessee fails to perform the obligations under the lease agreement within a reasonable timeframe, the AO may perform the Lessee's obligations at the Lessee's expense. The Lessee agrees to pay within 20 days following demand, all costs and expenses reasonable incurred by the State of Alaska as a result of the failure of the Lessee to comply with the terms and conditions of the lease agreement. The provisions of these authorizations shall not prejudice the State's right to obtain a remedy under any law or regulation.

The performance guaranty will be released upon expiration of the lease provided that all terms and conditions of the lease have been met, including complete removal and restoration of the leased area leaving the site in a safe and clean condition.

Reclamation Bond The State will reserve the right to require a reclamation bond due to noncompliance issues during the term of the lease or near the end of the life of the project.

Insurance
To protect the State from liability associated with the use of the site, the applicant shall provide and maintain a comprehensive general liability insurance policy with the State of Alaska named as an additional insured party per the stipulations of the authorization. The applicant shall secure or purchase at its own expense and maintain in force at all times during the term of this lease, 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.

Survey
If development requires fill to be placed on state tidelands, the line of mean high water must be determined by a survey. This pre-construction survey must be conducted in accordance with instructions from DMLW Surveys Section.

In addition, and in accordance with AS 38.04.045, the applicant must complete an approved Alaska Tidelands Survey (ATS) according to the requirements and standards of DMLW's Survey Section prior to lease issuance. If the submitted survey is accepted by DMLW, the measurements identified will be used to accurately calculate the total acreage. The survey must be performed by an Alaskan registered Land Surveyor under survey instructions issued by the DMLW Land Survey Section. The applicant is responsible for the cost of the survey The applicant shall submit an initial draft of the survey at least one year prior to the expiration of the EA. Prior to issuance of the EA, the applicant must contact the DMLW survey section at (907) 269-8523 to obtain a request for survey instructions form and provide subsequent written confirmation that a request for survey instructions was made from the DMLW Survey Section. An additional fee for survey instructions may be required.

Compensation and Appraisal
In accordance with AS 38.05.840, State-owned land may only be leased if it has been appraised within two years before lease issuance. The applicant will be required to provide an appraisal of the proposed leasehold before the lease will be issued. Once the appraisal has been approved by DMLW, the annual lease fee will be set at the fair market value of the proposed leasehold.

Furthermore, in accordance with AS 38.05.105, the proposed EA and Lease will be subject to reappraisal at five-year intervals after the issuance of the proposed authorization.

Entry Authorization (EA)
In accordance with AS 38.05.840, State-owned land may only be leased if it has been appraised within two years before lease issuance. The applicant will be required to provide an appraisal of the proposed leasehold before the lease will be issued. Once the appraisal has been approved by DMLW, the annual lease fee will be set at the fair market value of the proposed leasehold. Furthermore, in accordance with AS 38.05.105, the proposed EA will be subject to reappraisal at five-year intervals after the issuance of the proposed authorization.

Subleases
Subleasing is permissible through AS 38.05.095, if the proposed lease is approved. A sublease is defined to include any lease, rental, storage, or accommodation agreement between the Lessee and another individual, business or corporation utilizing or benefiting from the lease parcel. Sublessee shall be defined to mean any individual or business entity executing an agreement, as above, with the Lessee. A sublease pertaining to the proposed lease includes but is not limited to, user agreements, license agreements, communication site agreements, or any contracts between the lessee and other commercial entities. All potential subleases must first be approved in writing by DMLW. DMLW may conduct further agency review and/or public notice before making a determination on the appropriateness of the proposed sublease. The sublease fee will be 25% of the annual fee paid to the lessee by the sublessee. All sublessees and activities must meet the statutory qualifications under which this original lease was issued.

Assignment
The proposed lease, if issued, may be assigned to another individual or corporation only with written approval from the State of Alaska. A lease will not be assigned to an entity if that entity does not meet the statutory qualifications or requirements of the lease, or if the lessee is considered not to be in “good standing” with this or any other agency authorization.

Reclamation
In accordance with AS 38.05.090, the leasehold must be restored to a “good and marketable condition” within 120 days after termination of the lease.

In accordance with AS 38.05.090(b), all lessees must restore their lease sites to a “good and marketable condition” within 120 days after termination of the lease. What level of reclamation constitutes as being “good and marketable” is at the discretion of DMLW. DMLW reserves the right to require a reclamation bond due to non-compliance issues during the term of the lease or near the end of the life of the project.

Due to the preexisting contamination at this site, the lessee is required to have an environmental liability baseline assessment completed by an independent, third party prior to lease issuance. If the lessee conducts an environmental baseline, they will not be presumed to have caused or contributed contamination identified in the environmental liability baseline during a clearance assessment conducted prior to lease termination or expiration. Environmental liability assessment requirements are included in the Additional Stipulations.

Public Notice
Pursuant to AS 38.05.945, this PD will be noticed for a 30-day public comment period, starting on August 7, 2026. The Adak, Atka, Nikolski post office(s) located near the proposed leasehold 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. Additionally, Public Notice will be sent to all third party interests, adjacent/nearby landowners and authorization holders, the mayor of the City of Adak, and agencies included on the initial agency review list.

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.

Written comments about this project must be received in this office no later than 11:59 PM on September 8, 2026 to be considered.

To submit comments please choose one of the following methods:

Mail: Department of Natural Resources
Division of Mining, Land and Water
Southcentral Regional Land Office
ATTN: Bren McIver
550 W. 7th Avenue, Suite 900C
Anchorage, AK 99501
Email: bren.mciver@alaska.gov
Fax: (907) 269-8913

DNR-DMLW complies with Title II of the Americans with Disabilities Act of 1990. Individuals with disabilities who may need auxiliary aids, services or special modifications to comment should contact Alaska Relay at 711 or 1-800-770-8973 for TTY services.

Signature page follows.

Recommendation

DMLW has completed a review of the information provided by the applicants, examined the relevant land management documents, agency comments, and land ownership, and has found that The Aleut Corporation qualifies for a preference right under AS 38.05.075(c) without competitive bidding. As a result, DMLW is denying the applications of Adak Arctic Port Hub, LLC and Adak Community Development Corporation.

TAC's project is consistent with all applicable statutes and regulations. DMLW considered both direct and indirect benefits to the State. TAC's proposed development will provide benefit to the State through the collection of annual fees, and diversification and development of regional industry opportunities. DNR finds granting of the proposed lease provides the greatest benefit to the State.

I recommend proceeding to public notice for the purpose of providing the members of the public and those entities identified in AS 38.05.945 an opportunity to review and submit comments.

BMcI 8/7/2026

Bren McIver, Natural Resource Specialist 3 Date

Preliminary Decision

It is the determination of the Division of Mining, Land and Water that it may be in the State's best interest to issue a tideland lease for 30 years to The Aleut Corporation, as described above. This Preliminary Decision shall now proceed to public notice.

Kate Dufault 8/7/2026

Kate Dufault, Natural Resource Manager 2 Date

Southcentral Regional Land Office, Division of Mining, Land and Water

Attachments

- Attachment A – Development Plan
- Attachment B – Sample Entry Authorization
- Attachment C – Sample Lease
- Attachment D – Sample Additional Stipulations

Attachment A
Development Plan

ALEUT

ADAK PORT DEVELOPMENT PLAN

Prepared by The Aleut Corporation

I. PROJECT TITLE

Adak Port Expansion

II. PROJECT JUSTIFICATION – WHY THIS PROJECT?

The Adak Port Expansion project represents a critical opportunity to catalyze long-term economic growth in the Aleutian region while supporting national defense readiness and sustainable energy development. At its core, this project is about creating economic opportunities for The Aleut Corporation (Aleut) shareholders by creating jobs, increasing revenue streams, and leveraging Adak's existing strengths to secure a more resilient and prosperous future for the region.

Adak is one of the westernmost deepwater ports in the United States, uniquely positioned in the North Pacific. Its geographic location offers significant advantages for both commercial and military operations. As Arctic and Indo-Pacific trade routes continue to open and evolve, Adak is poised to serve as a vital hub for container traffic, fuel transfer, and maritime logistics. The port provides congestion-free access to key Asian markets, including a seven-day transit to Japan and eight days to South Korea. This makes Adak a strategically valuable location not only for shipping and export but also for the development of advanced energy projects, and other emerging industries.

Aleut is the largest private landowner on Adak Island. As part of the Alaska Native Claims Settlement Act (ANCSA) (43 U.S.C. § 1601 et seq.), Aleut received 1.572 million acres of subsurface estate and 70,789 acres of surface lands in the Aleutian and Pribilof Island region. In 2004, Aleut received 47,150 additional acres of land and many repurposed facilities on Adak Island as the result of a land transfer agreement with the United States federal government.

Aleut respectfully requests the State of Alaska's consideration of AS § 38.05.75(c) for Aleut's Adak Port Development Plan application, which would grant Aleut, as the owner of the upland immediately adjacent to state shoreland, tideland, or submerged land, a preference right to lease such land without competitive bidding. This is an important consideration as Aleut has a long connection to the lands and will play a significant role in development in the future.

Benefits to the State of Alaska, include, but are not limited to Aleut's long-term care and investment in its lands, region, and Unangax̂ people. Aleut will be committed to responsible development of new and existing infrastructure and stewardship of the lands. Additionally, as more fully described below, Aleut already has a significant presence on the island with its ownership and management of port-related infrastructure, and a noncompetitive lease would be an expansion on work Aleut is already doing in the region.

Recently, Aleut signed two major ground lease agreements with Pacific H2 and SpinLaunch on Adak Island, which will substantially develop business opportunities and improve infrastructure on the island. Aleut's strategic partnerships with these two organizations are a principal factor in the port expansion.

Pacific H2

Aleut has entered into a potential one hundred and two (102)-year ground lease agreement with Pacific H2, for leased Aleut-owned land on Adak Island, to develop its energy production and operations. Pacific H2 is a U.S.-based energy company developing a pioneering green ammonia project on Adak Island. Using renewable energy sources like wind and geothermal, Pacific H2 plans to produce hydrogen via electrolysis and synthesize green ammonia, a zero-carbon fuel, positioning Adak as a key player in the global transition to clean energy. This project includes the potential deployment of P2XFloater, Pacific H2's innovative ship-based modular ammonia production platform that minimizes onshore construction and offers scalable, flexible production.

SpinLaunch

Aleut has also entered into a potential ninety-nine (99)-year ground lease agreement with SpinLaunch, for leased Aleut-owned land on Adak Island, to develop its space launch operations. SpinLaunch is a U.S.-based spaceflight technology development company that is revolutionizing access to space by building a ground-based, kinetic launch system to launch vehicles (small satellites) into space. SpinLaunch has identified Adak Island as a key strategic location for the future of spaceflight development, while fostering economic opportunities for the region.

What makes this opportunity particularly meaningful is Aleut's central role. Aleut is not only the immediate upland adjacent landowner but also the owner and operator of the majority of existing port-related infrastructure in the area. This includes office space, warehouse facilities, pier infrastructure, bulk fuel storage and distribution systems, and roads, all of which are critical components for supporting expanded port activities. Additionally, Aleut, through its subsidiary Aleut Ventures LLC, operates lodging services on Adak at the Adak Island Inn, and serves as the manager of the port itself. This ownership and operational control provide Aleut with the ability to directly shape and benefit from the port's redevelopment and growth.

The port expansion also supports growing national defense interest in Adak. The U.S. Navy and U.S. Air Force have conducted recent site visits and assessments, underscoring the island's potential to serve as a strategic logistics and refueling hub for military operations in the Pacific. Expanding and modernizing port facilities would enhance readiness, provide mission flexibility, and align with broader national security objectives.

Finally, the project capitalizes on existing infrastructure from the former military base, including a 7,800-foot runway at the state-owned airport. These assets significantly reduce capital development costs and accelerate implementation.

In short, the Adak Port Expansion is not just a maritime infrastructure project. It is a strategic investment in regional economic revitalization, shareholder value creation, and national interests. It aligns Aleut's unique position as both landowner and operator with emerging global trends in defense, trade, green energy, and space technology, making it a compelling and timely endeavor.

To support this development and enable the planned expansion, Aleut is seeking a tideland lease for approximately 82 acres from the State of Alaska. The lease area is legally described using the Public Land Survey System (PLSS) as located within T096S R195W Sec. 14 SM within the geographic region of the Aleutian Islands.

III. PROJECT PHASES AND SCOPE

Phase I: Pier 5 Improvement Project (In Progress; Anticipated Completion 2026)

Phase I of the Adak Port Expansion focuses on critical upgrades to **Pier 5**, an existing Aleut-owned and operated infrastructure located in Sweeper Cove, and central to current and future marine operations. Phase I is already underway and is partially funded by an approximately $10 million-dollar **USDOT MARAD Port Infrastructure Development Program (PIDP) Grant.** Construction is anticipated to be completed in 2026.

These improvements represent the foundational work necessary to support increased vessel traffic, reduce long-term maintenance costs, and enhance safety and functionality at the port.

This phase is not only essential for restoring Pier 5's structural integrity, but also for positioning it as a reliable, multi-purpose asset that supports the region's growing strategic value. Upgrades are designed to serve both commercial logistics and defense operations while reinforcing Aleut's commitment to safe, sustainable, and resilient infrastructure.

Scope of Work:

Demolition and Removal
These efforts clear deteriorating and obsolete components that pose safety and environmental risks, paving the way for modernization:

- 371 aging timber fender piles
- Abandoned containers, under-dock catwalks, and outdated utilities
- Damaged bullrail debris
- Decommissioned crane electrical unit

New Installations
The replacement elements represent durable, modern marine construction practices designed to support high-traffic commercial and government vessel operations:

- 79 steel fender piles (18-inch diameter)
- Steel waler beams to connect and reinforce fender systems
- 78 rubber fender units for vessel impact protection
- 3 full fender panel systems (piles, panels, foam fenders)
- 10 marine access ladders for crew safety
- 1 steel bearing pile and pile cap at the southwest corner to strengthen the pier edge
- 93 sacrificial anodes on new piles for corrosion protection
- Treated water and dry fire standpipe systems for onboard firefighting access
- Pipe supports and protection bollards for utility and equipment safeguarding

Attachment A
Development Plan

Structural Repairs
Targeted concrete work extends the lifespan of critical components and ensures compliance with modern safety and engineering standards:

• Repair of 1 concrete cap and pile at the southwest corner

• Repair of 1 concrete cap at Grid Line 11D

Compliance and Funding Considerations
As noted above, the Pier 5 Improvement Project is partially funded by a **U.S. Department of Transportation Maritime Administration (MARAD) PIDP Grant**. All construction activities will comply with **Build America, Buy America (BABA)** requirements, ensuring that federal investments support domestic manufacturing and labor while delivering lasting benefits to the Aleutian region.

Phase II: New Deepwater Pier, Barge Access Improvements, and Pier 5 Extension

The second phase of the Adak Port Expansion focuses on a comprehensive buildout of marine infrastructure to support both military readiness and commercial growth. At the core of this effort is a new deepwater pier, enhanced barge and landing craft access, and the extension of existing Pier 5. This infrastructure investment is designed not only to accommodate larger vessels and increased shipping traffic but also to drive sustainable economic development in the Aleutian region, specifically for the benefit of Aleut shareholders.

As the immediate upland landowner and operator of existing infrastructure, Aleut is uniquely positioned to deliver this expansion efficiently and strategically. This includes ownership and management of pier facilities, storage areas, port operations, lodging, and fuel systems. The project builds on this strong foundation to create jobs, attract new revenue, and reinforce Adak's position as a key logistics and energy hub in the North Pacific.

Deepwater Pier Features:
The planned 620-foot reinforced pier will serve dual-use purposes, with capabilities tailored to meet both commercial and defense-related needs. It will support wastewater offloading, freshwater provisioning, fire suppression systems, fueling stations, container crane operations, shore power connection, and robust fendering and mooring systems. This modern infrastructure will greatly enhance Adak's capacity to support larger vessels and more complex operations.

Barge and Landing Craft Access Improvements:
To expand operational flexibility, the project also includes dedicated improvements for barge and landing craft shore access. These upgrades will feature a stabilized landing area and the installation of mooring bollards and mooring dolphins to ensure secure vessel tie-up and efficient cargo handling. These elements are essential to supporting both heavy logistics and

scalable industrial development, including modular projects like Pacific H2's green ammonia platform.

Pier 5 Extension:
A 60-foot extension of the existing Pier 5 will further increase berthing capacity, enabling simultaneous vessel operations and supporting military, commercial, and energy-sector users. This extension maximizes the utility of existing infrastructure while minimizing new environmental or permitting impacts.

Marine Access:
All of this is supported by a proposed dredging operation to reach a depth of 40 feet, allowing the port to accommodate large commercial and military vessels year-round.

IV. SUPPORTING INFRASTRUCTURE AND LAND ASSETS

Aleut provides more than just strategic location for this project. It offers ownership, experience, and proven operational capacity. The adjacent uplands are fully Aleut-owned and available for container storage, equipment staging, and future expansion. Clear easements and access routes are already in place, streamlining logistics and permitting processes.

Supporting shore services, including lodging, fuel delivery, warehousing, food services, and logistics coordination, are provided by Aleut Ventures LLC, a wholly owned subsidiary of Aleut. This vertical integration ensures operational continuity, reduces project risk, and maximizes local economic benefit.

V. OPERATIONS PLAN

Aleut Ventures LLC will serve as the operator for the expanded facility, drawing on its deep experience managing Adak's existing fuel systems, port logistics, and lodging services. Aleut retains full ownership of the facilities, ensuring that opportunities remain in the region and directly benefit Aleut shareholders. With a long-standing presence and operational knowledge of Adak, Aleut is uniquely capable of overseeing complex, multi-sector activities in this remote location.

VI. TIDELANDS LEASE JUSTIFICATION

Aleut is seeking an 82-acre tideland lease from the State of Alaska to implement this expansion. The requested lease area is located within T096S R195W Sec. 14 SM situated within the geographic region of the Aleutian Islands. This lease is a critical component of the overall development, enabling cohesive planning and long-term stewardship of the project area.

The proposed lease aligns with the State of Alaska's constitutional and statutory goals by activating underutilized public tidelands for their highest and best use. It supports infrastructure investment, trade expansion, and leadership in clean energy, all while driving meaningful economic development in a historically underserved region. The lease will also simplify governance and coordination because of Aleut's existing, extensive land ownership and port management responsibilities.

VII. COMPETITIVE APPLICATIONS

As outlined above, Aleut respectfully requests the State of Alaska's consideration of AS § 38.05.075(c) regarding its Adak Port Development Plan application. Aleut is the owner of the uplands immediately adjacent to the subject tidelands, as well as the tideland beneath existing piers and associated port infrastructure. Given this significant ownership and the central role these assets play in any viable development, competitive bidding may not be appropriate.

Aleut's proposal reflects a comprehensive, realistic, and long-term vision for port development in Adak. It is grounded in economic feasibility, environmental stewardship, and decades of operational experience in the region. In contrast, other applications appear narrower in scope and rely on access to Aleut-owned uplands for storage and connectivity to the tidelands. No agreements exist authorizing such use. Proposals dependent on unauthorized access introduce legal and operational uncertainties that call into question their viability.

Aleut is uniquely positioned to deliver an integrated and implementable development plan. Its existing infrastructure, legal control of key lands, and demonstrated commitment to Adak's sustainable growth support the conclusion that a noncompetitive award under AS § 38.05.075(c) would best serve the State's and community's long-term interests.

VIII. CONCLUSION

The Adak Port Expansion project is a powerful example of strategic alignment between public interest and private initiative. It leverages Aleut's existing infrastructure, land ownership, and operational capacity to deliver a scalable, shovel-ready project that meets urgent needs in defense readiness, commercial shipping, and clean energy.

At the same time, it directly supports Aleut's mission to provide economic opportunity for its shareholders through job creation, business development, and revenue generation. By expanding infrastructure, enabling global energy exports, and reactivating a strategic port, the project ensures that future growth flows through local hands and anchors long-term prosperity in the Aleutian region.

Attachment A
Development Plan

Project Location

*Sources: USFWS

Legend

- Aleut Purposed Tideland Lease Area 66.2 Acres
- Pier 5 Extension 60 feet
- Light Barge Access
- Bollards
- Dolphins
- New 620 Ft. Pier
- Temporary Secured Pier Storage Yard *
- Primary Secured Pier Storage Yard *
- SecondarySecured Pier Storage Yard *

*Note-Upland property owned by The Aleut Corporation to include storage areas

Project Description:

The Adak Port Expansion project is designed to drive long-term economic growth in the Aleutian Region while supporting national defense readiness and sustainable energy development. It aims to create jobs, generate new revenue streams, and capitalize on Adak's strategic position as one of the westernmost deepwater ports in the United States. This location offers unique advantages for both commercial and military operations, including direct access to key Asian markets and the potential for advanced energy infrastructure. A central element of the project is the partnership with Pacific H2, which plans to produce green ammonia on Adak Island using renewable energy sources. This initiative positions Adak as a key player in the global transition to clean energy. The project also aligns with national defense priorities, with both the U.S. Navy an Air Force recognizing Adak's value as a strategic logistics and refueling hub. Overall, the Adak Port Expansion represents a strategic investment in regional economic revitalization, long-term shareholder value, and U.S. national interests.

Aleut Purposed Tideland Lease Area

Date:9/4/2025
Spatial Reference
Datum: WGS 1984

Credits: BLG

ALEUT | 907-561-4300 | aleutcorp.com

GENERAL NOTES:
1. UPLAND PROPERTY OWNED BY THE ALEUT CORPORATION TO INCLUDE STORAGE AREAS.

SHEET NOTES:
1. ALEUT PURPOSED TIDELAND LEASE AREA, 66.2 ACRES.
2. EXTEND PIER 5 60 FT.
3. LIGHT BARGE ACCESS.
4. PROPOSED 620 FT PIER.
5. TEMPORARY SECURED PIER STORAGE YARD.
6. PRIMARY SECURED PIER STORAGE YARD.
7. SECONDARY SECURED PIER STORAGE YARD.

Aleut Purposed Tideland Lease Area

Date:9/4/2025
Spatial Reference
Datum: WGS 1984

Credits: BLG

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A1 ADK-C1 01 TIDELAND LEASE AREA SITE PLAN AND SCOPE OF WORK

Attachment B
Sample Entry Authorization

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

[ ] Northern Region 3700 Airport Way Fairbanks, AK 99709 (907) 451-2705	[X] Southcentral Regional Land 550 W 7th Avenue, Ste 900C Anchorage, AK 99501-3577 (907) 269-8552	[ ] Southeast Region 400 Willoughby, #400 Juneau, AK 99801 (907) 465-3400

Entry Authorization
AS 38.05.850 and AS 38.05.075(f)

Lease No. **ADL XXXXXX**

NAME AND ADDRESS OF LESSEE, herein known as the Lessee, is issued this Entry Authorization (EA) to use xxx acres, more or less, of State-owned land located within the:

XXX of **Section XX**, **Township XX North**, **Range XX East**, **XX Meridian**

This pre-lease authorization is effective beginning **DATE** and ending **DATE**, unless sooner terminated at the State's discretion. This EA is not valid until it has been executed by the Division of Mining, Land and Water (DMLW), Southcentral Regional Land Office (SCRO).

This EA is issued for the purpose of authorizing:

The Lessee's temporary entry onto State land for the construction and use of XXX in accordance with the approved Development Plan (Attachment A) while the Lessee completes the required survey, appraisal, and *other* before lease issuance.

All activities authorized under the EA shall be conducted in accordance with the following stipulations:

1. **Authorized Officer (AO):** The Authorized Officer (AO) for the State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), is the Regional Manager or designee.

2. **Compliance with Requirements:** The Lessee shall, at its expense, comply with all federal, state, and local laws, regulations, and ordinances directly or indirectly related to this authorization. The Lessee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees. The issuance of this EA does not relieve the Lessee from securing any other authorizations required by Federal, State, or local law.

3. **Development Plan:** Development shall be limited to the authorized area and improvements specified in the approved development plan or subsequent modifications approved by the AO. The Lessee is responsible for accurately siting development and operations within the authorized area. Any proposed revisions to the development plan must be approved in writing by the AO before the change in use or development occurs.

4. **Annual Fee:** In accordance with 11 AAC 58.410 and for the purpose of this EA, the annual fee will be **$XXXX.00**, which must be paid on or before **DATE** of every year during the term of this authorization. Payment for the first year of the EA, and any other fees owed, shall be required prior to issuance of the authorization. The Lessee shall pay a fee for any late payment. The amount is the greater of either $50.00 or interest accrued daily at the rate of 10.5% per annum and will be assessed on each past-due payment until paid in full.

5. **Returned Check Penalty:** A returned check penalty of $50.00 will be charged for any check on which the bank refuses payment. Late payment penalties shall continue to accrue.

6. **Failure to Pay:** Failure to pay annual fees when due is a default of the terms and conditions of this EA. Failure to cure such a default within the 60-day period following the receipt of a "Notice of Default" will, at the AO's discretion, result in termination of this authorization.

7. **Visitor Day Use Fee:** All commercial recreation authorizations are subject to a "Visitor Day" fee, As defined in 11 AAC 96.250(18), Visitor Day means "all or any part of a calendar day during which a commercial recreation client is present, with each client representing a separate visitor day if multiple clients are present at any time during a calendar day." This fee, as established in 11 AAC 05.180(d)(2)(D) or (G), is collected once a year and due on the same day as the annual fee.

8. **Moving or Damaging Markers:** The Lessee shall protect all survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed corner posts against relocation, damage, destruction, or obliteration. The Lessee shall notify the AO of any relocated, damaged, destroyed, or obliterated markers and shall reestablish the markers at the lessee's expense in accordance with accepted survey practices of the DMLW.

9. **Survey:** The Lessee is responsible for completing an **Alaska State Land Survey (ASLS)/Alaska Tidelands Survey (ATS)** of the proposed lease site. **The survey must be submitted to DMLW's Survey Section for approval no later than one year after issuance of the survey instructions.** Failure to do so will cause the forfeiture of the performance guaranty as outlined in the Penalties stipulation listed below. The survey must properly locate the lease boundaries, all infrastructure, and easements. If the submitted survey is accepted by DMLW, the measurements identified will be used to accurately calculate the total acreage.

10. **Appraisal:** The Lessee is responsible for obtaining and submitting the required Fair Market Value appraisal for this site. Once the survey has been submitted to DMLW for review, please

contact DMLW's Appraisal Unit at (907) 269-8512 to begin the appraisal process. The final appraisal report must be submitted to DMLW for approval no later than **DATE**.

11. **Performance Guaranty:** As per 11 AAC 96.060 the following bond is required:

   a. **$XXXX.00 Performance Guaranty** *(Cash, CD, or Surety):* This bond shall remain in place throughout the life of this EA and the subsequent lease (if granted) to assure the Lessee's compliance with the terms and conditions of both authorizations. Should the Lessee fail to abide by the terms of this EA, this bond may be used by the AO to pay for any corrective actions the AO deems necessary.

   b. Failure by the Lessee to provide replacement security for a CD or surety upon notice of non-renewal shall be grounds for the AO to make a claim upon the existing security to protect the State's interests.

   c. The Performance Guaranty amounts are subject to periodic adjustments (every 5 years) and may be adjusted upon approval of any amendments, assignments, modifications to the DP, and as a result of any violations of this authorization.

   d. If a bond is taken as part of a penalty, either whole or in part, that bond must be replenished by the replacement deadline contained within the penalty notification letter. Failure to replace the bond is, at the discretion of the AO, grounds for termination of the EA and possible denial of the subsequent lease.

   e. The Performance Guaranty will be released upon expiration or closure of the lease provided that all terms and conditions of the lease have been met, including removal of infrastructure and restoration of the area to the satisfaction of the AO.

12. **Indemnification:** The Lessee shall indemnify, defend, and hold the State harmless from and against all claims, demands, judgments, damages, liabilities, penalties, and costs, including attorney's fees, for loss or damage, including but not limited to property damage, personal injury, wrongful death, and wage, employment, or worker's compensation claims, arising out of or in connection with the use or occupancy of the authorized site by the Lessee or by any other person holding under the Lessee, or at the Lessee's sufferance or invitation; and from any accident or fire on the site; and from any nuisance made or suffered on the site; and from any failure by the Lessee to keep the site in a safe and lawful condition consistent with applicable laws, regulations, ordinances, or orders; and from any assignment, sublease, or conveyance, attempted or successful, by the Lessee of all or any portion of the site or interest therein contrary to the covenants and conditions of this EA. The Lessee holds all goods, materials, furniture, fixtures, equipment, machinery, and other property whatsoever on the parcel at the sole risk of the Lessee, and shall defend, indemnify and hold the State harmless from any claim of loss or damage by any cause whatsoever, including claims by third parties.

13. **Insurance:** The Lessee shall secure or purchase at its own expense, and maintain in force at all times during the term of this contract, liability coverages and limits consistent with what is professionally recommended as adequate to protect the buyer (the insured) and seller (the State, its officers, agents and employees) from the liability exposures of ALL the insured's operations on state land. Certificates of Insurance must be furnished to the AO prior to the issuance of this lease and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. The Lessee must provide for a 60-day prior notice to the AO before they cancel, not renew or make material changes to conditions to the policy. Failure to furnish satisfactory evidence of insurance, or lapse of the policy, are material breaches of this lease and shall be grounds, at the option of the AO, for termination of the lease. All insurance policies shall comply with, and be issued by, insurers licensed to transact the business of insurance under Alaska Statute, Title 21. 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, Department of Administration. The State of Alaska must be named as an additional named insured on the policy. Case number **ADL XXXXXX** is to be referenced on the policy and the certificate of insurance.

14. **Subleasing:** The AO reserves the right to require an additional annual compensation as a condition of a sublease approval. Said increase shall be determined by negotiation between the Lessee and AO but shall not be less than 25% of all compensation paid annually to the Lessee by the Sublessee. Neither the terms of this sublease provision nor any actual compensation derived from a sublease shall have any effect upon a determination of the annual lease fee for the lease parcel pertaining to AS 38.05.075(a) or its appraised market value pertaining to AS 38.05.840. Sublease shall be defined to include any lease, rental, storage, or accommodation agreement between the Lessee and another individual, business or corporation utilizing or benefiting from the lease parcel. Sublessee shall be defined to mean any individual or business entity executing an agreement, as above, with the Lessee. The amount of sublease compensation shall be subject to change at the same time as the lease compensation adjustment and whenever the terms or conditions of the agreement between the Lessee and Sublessee change. Approval of a sublease shall also be conditioned upon:

    a. The Lessee is in full compliance with lease conditions and is in good standing with all other authorization per 11 AAC 96.145;

    b. Sublessee must meet the statutory requirement of the Lease.

    c. Submission by the Lessee of a draft copy of the agreement(s) which will govern the relationship and compensation provisions between the Lessee and the Sub-Lessee;

    d. Submission by the Lessee of a proposed plan of operations and development for the subleased area and, if necessary, an amended plan of operations and development for the entire lease area; and

e. A Lessor best interest finding and amendments to the lease contract as necessary, if significant changes to the use and development are proposed.

15. **Loss of Improvements:** The Lessee assumes all risk of loss of improvements resulting from natural or catastrophic events.

16. **Incurred Expenses:** The Lessor shall in no way be held liable for expenses incurred by the Lessee connected with the activities directly or indirectly related to this authorization.

17. **Request for Information:** The AO, at any time, may require the Lessee to provide any information directly or indirectly related to this authorization, in a manner prescribed by the AO.

18. **Alaska Historic Preservation Act:** Under the Alaska Historic Preservation Act, AS 41.35.200, it is unlawful to appropriate, excavate, remove, injure, or destroy any historic, prehistoric, or archaeological resources of the State without a permit from the DNR Commissioner. Should any such resources or sites be discovered, the lessee shall cease any activities that may cause damage and immediately contact the AO and the Office of History and Archaeology in DNR's Division of Parks and Recreation.

19. **Inspections:** The AO shall have reasonable access to the authorized area for inspection, which may be conducted without prior notice. If the lessee is found to be in noncompliance the authorized area may be subject to reinspection. The lessee may be charged for actual expenses of any inspection or the fee in 11 AAC 05.160.

20. **Public Access:** The construction, operation, use, and maintenance of the authorized area shall not interfere with public use of roads, trails, waters, landing areas, and public access easements. The ability to use or access state land or public waters may not be restricted in any manner. However, if a specific activity poses a safety concern, the AO may allow the restriction of public access for a specific period of time. The Lessee is required to contact the AO in advance for approval. No restriction is allowed unless specifically authorized in writing by the AO.

    This EA is subject to the following public access easement reservations:

    a. To and Along easements; RS2477 trails, issued easements

    b. ETC.

21. **Concurrent Usage:** The AO reserves the right to grant additional authorizations to third parties for compatible uses on or adjacent to the land covered under this authorization. Authorized users of state land, their agents, employees, contractors, subcontractors and licensees shall not interfere with the operation or maintenance activities of other authorized concurrent users. Any future concurrent permit, lease or sub-lease will be subject to the

conditions and stipulations contained in the lease, including the additional collection of fees or rents by the AO from any subordinate Lessee or Sublessee.

22. **Site and Improvements Maintenance:** The authorized area shall be maintained in a neat, clean, and safe condition, free of any solid waste, debris, or litter, except as specifically authorized. The Lessor is not responsible for maintenance of authorized improvements or liable for injuries or damages related to those improvements. No action or inaction of the Lessor is to be construed as assumption of responsibility.

23. **Site Disturbance:**

    a. Site disturbance shall be kept to a minimum to protect local habitats. All activities at the site shall be conducted in a manner that will minimize the disturbance of soil and vegetation and changes in the character of natural drainage systems. Any ground disturbances that may occur shall be contoured to blend with the natural topography to protect human and wildlife health and safety. Particular attention must be paid to preventing pollution and siltation of any waterways and to preventing disturbances to fish and wildlife populations and habitats.

    b. Brush clearing is allowed only to the extent necessary to maintain the present development. The Lessee may use dead timber that is down. The Lessee shall not cut standing timber within the leased area unless specifically authorized by DNR's Division of Forestry.

    The removal of vegetation shall be kept to a minimum and areas requiring disturbance should be seeded or planted as soon as possible after disturbance. To the extent possible, associated vegetation should be left intact to enhance stability, control erosion and enhance scenic qualities.

24. **Hazardous Substances, Explosives:**

    a. No storage of hazardous material/substances or explosives is authorized within the leased area.

    b. The use of hazardous substances or explosives must be done in accordance with existing federal, state and local laws, regulations and ordinances. Debris (including soil) contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous substance and must be removed from the sites and managed and disposed of in accordance with state, federal and local laws, statutes and regulations.

25. **Use and Storage of Fuel:** All fuel storage container(s) with a total combined capacity larger than 55 gallons shall not be placed within 100 feet from the high or ordinary water mark of any waterbody. When fuel storage container(s) exceed a total combined capacity of 110 gallons, the containers must be stored within a double-walled tank, an impermeable diked area,

or a portable impermeable containment structure capable of containing 110% of the capacity of the largest independent container. All containers must be approved by the Department of Environmental Conservation (DEC) and clearly marked with the contents and the Lessee's name and authorization number. Drip pans and other spill response materials, such as sorbent pads, must be on hand to contain and clean up any spills.

26. **Spill Response:** The Lessee is responsible for preventing fuel spills, hydraulic fluid spills, and oil spills that could result in contamination of contiguous land and water. Petroleum product spills shall be cleaned up immediately, and any contaminated earth or vegetative materials shall be disposed of as required by DEC regulations. To facilitate rapid spill response, adequate sorbent materials (i.e., material that collects or absorbs petroleum products while at the same time repels water) will be kept onsite to be used in the event a spill should occur. Should any unlawful discharge, leakage, spillage, emission, or pollution of any type occur due to Lessee activities, the Lessee shall, at their expense, be obligated to clean the area to the reasonable satisfaction of the State.

27. **Notification of Discharge:** The Grantee shall immediately notify the Department of Environmental Conservation (DEC) and AO 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 Grantee 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 Grantee shall supply the AO with all incident reports submitted to DEC.

    Should any unlawful discharge, leakage, spillage, emission or pollution of any type occur due to the Lessee's actions or failure to act, the Lessee, at its expense, shall be obligated to clean the area to the reasonable satisfaction of the State of Alaska.

28. **Waste and Debris Disposal:** Onsite refuse disposal is prohibited. All waste generated during construction, operation, and termination activities under this EA shall be removed and disposed

of at an offsite DEC-approved disposal facility. Until the waste can be removed from the site, it must be stored in a manner to prevent attracting wildlife.

29. **Lease Issuance:** Upon completion and fulfillment of all conditions and stipulations of this EA, a lease will be issued to the Lessee containing approximately xx acres, more or less, of State land/tidelands.

30. **Termination:** This authorization may be terminated upon violation of any of its terms, conditions, stipulations or upon failure to comply with any applicable laws, statutes and regulations (state and federal).

31. **Agents:** The lease provisions and stipulations apply with equal force upon an agent, employee, contractor or subcontractor designated by the Lessee to perform any lease or lease-related operations. The Lessee is liable for noncompliance caused by any such agent, employee, contractor, or subcontractor.

32. **Additional Authorizations or Permits:** If activities other than those authorized by the lease provisions and stipulations are needed, additional written authorizations or permits and their associated additional fees may be required.

33. **Access and Road Construction:** The Lessee is responsible for providing access to the leasehold. Before constructing any road across state land, the Lessee shall obtain prior approval and authorization from DMLW for the location and construction standards of the road.

Definitions:

a) “AO” means the Authorized Officer, who is the Regional Manager, Southcentral Region
b) "DEC" means the Alaska Department of Environmental Conservation
c) “DMLW” means the Division of Mining, Land and Water
d) "DNR" means the Alaska Department of Natural Resources
e) "DP" means the approved Development Plan
f) "EA" means this Entry Authorization
g) “Lessee” means Applicant name or their officers, agents, contractors, subcontractors, and their employees.
h) “SCRO” means the Southcentral Region Office

Any correspondence concerning this EA may be directed to the Department of Natural Resources, Division of Mining, Land and Water, Southcentral Regional Land Office, 550 W. 7th Ave., Suite 900C, Anchorage, AK 99501-3577, or by telephone to (907) 269-8503. All correspondence sent by the Division of Mining, Land and Water (DMLW), Southcentral Regional Land Office (SCRO) in regards to this authorization will be sent to the below listed contact information.

Attachment B
Sample Entry Authorization

Signature page follows

Attachment B
Sample Entry Authorization

I, the Lessee, have read the foregoing EA and I agree to comply with all the conditions included within this authorization.

____
Signature of Lessee or Authorized Representative | Date

____
Printed Name and Title

____
Lessee's Address

____
City | State | Zip

Phone Numbers: Main: ____________________________

Work: ____________________________

Fax: ____________________________

Email: ____________________________

____
FIRST, LAST | Date
Regional Manager, Southcentral Regional Land Office
Division of Mining, Land and Water

Entry Authorization
ADL XXXXXX
Page 10 of 10

Attachment C
Sample Lease

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
550 W. 7th Avenue, Suite 900C
Anchorage, Alaska 99501-3577

LESSEE
ADL No. XXXXXX
LEASE AGREEMENT
AS 38.05.XXX

Effective this **Xst** day of **MONTH YEAR**, this lease agreement is entered into by the State of Alaska, hereafter referred to as "lessor," and **LESSEE**, hereafter referred to as "lessee," whether one or more, whose sole addresses for purposes of notification under this lease agreement are listed in section 28.

The lessor and the lessee agree that this lease, including all attachments and documents that are incorporated in this lease by reference, contains the entire agreement between the parties, and each of the covenants and conditions in this lease including any attachments will be binding upon the parties and upon their respective successors and assigns. The lessor and the lessee further agree that this lease is conditioned upon satisfactory performance by the lessor and the lessee of all covenants and conditions contained in this lease. The lessee is aware of the provisions of Title 38, Alaska Statutes, Title 11, Alaska Administrative Code, and other applicable laws, regulations, and ordinances, and fully understands the duties and obligations of the lessee under this lease, and the rights and remedies of the lessor.

This lease is subject to all applicable state, federal, and municipal statutes, regulations, and ordinances in effect on the effective date of this lease, and insofar as is constitutionally permissible, to all statutes, regulations, and ordinances placed in effect after the effective date of this lease. A reference to a statute, regulation, or ordinance in this lease includes any change in that statute, regulation, or ordinance, whether by amendment, repeal and replacement, or other means. This lease does not limit the power of the State of Alaska, its political subdivisions, or the United States of America to enact and enforce legislation or to adopt and enforce regulations or ordinances affecting, directly or indirectly, the activities of the lessee or its agents in connection with this lease or the value of the interest held under this lease. In case of conflicting provisions, statutes, regulations, and ordinances take precedence over this lease. This lease shall not be construed as a grant or recognition of authority for promulgation or adoption of municipal ordinances that are not otherwise authorized.

1. Grant. This lease is issued under the authority of **AS 38.05.XXX** for a term of **X** years beginning on the **Xst** day of **MONTH YEAR**, and ending at 11:59PM on the **Xth** day of **MONTH YEAR**, unless sooner terminated, subject to: compensation as specified in section 2; the attached Additional Stipulations (Attachment A); and the attached development plan approved by the State on **MONTH DAY, YEAR** (Attachment B); and if any, that are incorporated in and made a part of this lease, for the following, hereafter referred to as the "leasehold":

LEGAL DESCRIPTION

Excepting and reserving any general reservations to the lessor that are required by law and that may be stated elsewhere in this lease, and the following, which the state reserves for itself and others:

Subject to:

Platted easements and restrictions.

The conditions and stipulations in Attachment A, Additional Stipulations.

Attachment B, Approved Development Plan, attached and made part of this lease agreement.

2. Compensation. (a) The lessee shall pay to the lessor compensation as follows, without the necessity of any billing by the lessor: **$X,XXX.00** due on or before **MONTH DAY** every year. The lessor may, upon 10 days' notice, review and copy any records of the lessee that are necessary to verify the lessee's compliance with this paragraph.

(b) In accordance with AS 38.05.105, the lease compensation is subject to adjustment by the lessor at the commencement of the sixth year of the term and every fifth year thereafter (the "adjustment date"). The compensation adjustment takes effect on the applicable adjustment date, regardless of whether the adjustment determination occurs before or after that date. All reasonable costs of the adjustment, including reappraisal if required by the lessor, will be borne by the lessee.

3. Denial of Warranty. The lessor makes no warranty, express or implied, nor assumes any liability whatsoever, regarding the social, economic, or environmental aspects of the leasehold, including, without limitation, the soil conditions, water drainage, access, natural or artificial hazards that may exist, or the profitability or fitness of the leasehold for any use. The lessee represents that the lessee has inspected the leasehold and determined that the leasehold is suitable for the use intended, or has voluntarily declined to do so, and accepts the leasehold "as is" and "where is."

4. Use of Leasehold. Prior to execution of this lease and to commencing use or development of the leasehold, the lessee shall submit a development plan for the leasehold to the lessor and obtain the lessor's approval of the plan. Any use or development of the leasehold must be consistent with the development plan approved by the lessor. Any proposed revisions to the development plan must be submitted to the lessor for approval before any change in use or development occurs. The lessee shall use and occupy the leasehold in compliance with the approved development plan and all applicable laws, regulations, ordinances, and orders that a public authority has put into effect or may put into effect, including those of a building or zoning authority and those relating to pollution and sanitation control. The lessee may not permit any unlawful occupation, business, or trade to be conducted on the leasehold. The lessee shall properly locate all activities and improvements on the leasehold, and may not commit waste of the parcel. The lessee shall maintain and repair the leasehold including improvements in a reasonably neat and clean condition, and shall take all necessary precautions to prevent or suppress grass, brush, or forest fires, and to prevent erosion, unreasonable deterioration, or destruction of the land or improvements. The lessee agrees not to place any aboveground or underground fuel or chemical tanks on the leasehold without the prior written approval of the lessor.

5. Encumbrance of Leasehold. The lessee may not encumber or cloud the lessor's title to the leasehold, or any portion of the leasehold, nor enter into any lease, easement, or other obligation of the lessor's title without the prior written approval of the lessor.

6. Assignment of Interest. The lessee may not assign or sublet any interest held under this lease, including a security interest, without the prior written approval of the lessor. The lessor may approve such assignment or subletting if the lessor finds it to be in the best interest of the state. No such assignment or subletting will be effective until approved by the lessor in writing, and the assignee agrees to be subject to and governed by the provisions of this lease, any subsequent amendments to this lease, any additional stipulations, or reappraisal as deemed appropriate by the lessor, and all applicable laws, regulations, and ordinances in the same manner as the original lessee. No assignment or subletting of the leasehold, or any portion thereof, by the lessee will annul the lessee's obligation to pay the compensation required for the full term of this lease. Except as provided in this lease, no subdivision of the leasehold interest may occur without the prior written approval of the lessor.

7. Conditional Lease. If all or part of the leasehold has been tentatively approved, or approved, but not yet

patented, by the United States to the lessor, then this lease will be conditioned upon receipt by the lessor of such patent. If for any reason the lessor does not receive patent, any compensation paid to the lessor under this lease will not be refunded. Any prepaid compensation for land to which patent is denied the lessor will be refunded to the lessee of record in the amount of the pro-rata portion of the unexpired term. The lessor will have no further liability to the lessee for the termination of the lease.

8. Payment of Taxes and Assessments. The lessee shall pay prior to delinquency all taxes and assessments accruing against the leasehold.

9. Section Line Rights-of-Way. If the leasehold borders on or includes one or more section lines, the lessor hereby expressly reserves unto itself and its successors and assigns a right-of-way or rights-of-way pursuant to AS 19.10.010.

10. Navigable and Public Waters. (a) Pursuant to AS 38.05.127 and 11 AAC 53.330, the lessor reserves a public access easement to and along all public or navigable water bodies that border on or are included in this leasehold. No public access easement may be obstructed or otherwise rendered incapable of reasonable use for the purposes for which it was reserved. No public access easement may be vacated, abandoned, or extinguished without the prior written approval of the lessor.

(b) The Public Trust Doctrine guarantees public access to, and the public right to use, navigable and public waters and the land beneath them for navigation, commerce, fishing, and other purposes. This lease is issued subject to the principles of the Public Trust Doctrine regarding navigable or public waters. The lessor reserves the right to grant other interests to the leasehold consistent with the Public Trust Doctrine.

11. Condemnation of Leasehold or Improvements. If the whole or any part of the leasehold is taken by any authorized body or person vested with the power of eminent domain, by negotiation, court action, or otherwise, the following provisions control:

(1) Taking of the entire leasehold. If all of the leasehold is taken by condemnation, this lease and all rights of the lessee will immediately terminate, and the compensation will be adjusted so that it is due only until the date the lessee is required to surrender possession of the leasehold. The lessor is entitled to all the condemnation proceeds, except that the lessee will be paid the portion of the proceeds attributable to the fair market value, as determined in the condemnation proceedings, of any buildings or improvements taken that were placed on the condemned leasehold by the lessee in accordance with the approved development plan.

(2) Taking of substantial part of the leasehold. If the taking is of a substantial part of the leasehold, the following rules apply:

(A) If the taking by condemnation reduces the ground area of the leasehold by at least 30 percent or materially affects the use being made by the lessee of the leasehold, the lessee has the right to elect to terminate the lease by written notice to the lessor not later than 180 days after the date of taking.

(B) If the lessee elects to terminate, the provisions in subsection (1) of this section govern the condemned portion of the leasehold and the covenants and conditions of the lease govern disposal of the remainder of any buildings or improvements made by the lessee in accordance with the approved development plan.

(C) If the lessee does not elect to terminate, the lease continues and the lessor is entitled to the full condemnation proceeds except the portion attributable to the fair market value, as determined in the condemnation proceedings, of any buildings or improvements taken that were placed on the condemned portion of the leasehold by the lessee in accordance with the approved development plan. Compensation at the existing rate will terminate on the date the lessee is required to surrender possession of the condemned portion of the leasehold. Except as it may be adjusted from time to time under the covenants and conditions of the lease and applicable statutes, compensation for the balance of the term will be adjusted by the lessor to reflect the taking.

(3) Taking of insubstantial part of the leasehold. If the taking by condemnation reduces the ground area of the leasehold by less than 30 percent and the lessor determines that the taking is of such an insubstantial portion that the lessee's use of the leasehold is not materially affected, the lessee may not elect to terminate the lease and the compensation provisions of subsection 2(C) of this section will govern.

12. Valid Existing Rights. This lease is subject to all valid existing rights, including easements, rights-of-way, reservations, or other interests in land in existence on the date of execution of this lease.

13. Inspection. The lessor will have reasonable access to the leasehold for purposes of inspection.

14. Mineral Reservations. This lease is subject to the reservations required by AS 38.05.125 and the rights and obligations imposed by AS 38.05.130.

15. Concurrent Use. This lease is subject to reasonable concurrent uses as provided under Article VIII, Section 8 of the Constitution of the State of Alaska. The concurrent user who is found to be at fault for damage or injury arising from noncompliance with the terms governing the user's concurrent use is liable for damages and the user's interest is subject to forfeiture or termination by the lessor. In this context, the term "concurrent user" includes the lessee and any other person or entity who lawfully uses the land subject to this lease, but does not include the State of Alaska.

16. Surface Resources. Unless otherwise provided by this lease or other written authorization, the lessee may not sell or remove from the leasehold any timber, stone, gravel, peatmoss, topsoil, or any other material valuable for building or commercial purposes. Material required for the development of the leasehold may be used only in compliance with the approved development plan.

17. Appropriation or Disturbance of Waters. During the term of this lease, the lessee will have the right to apply for an appropriation of ground or surface water on the leasehold in accordance with AS 46.15 and 11 AAC 93.060.

18. Acquisition of Rights or Interests. Any right or interest acquired during the term of this lease and accruing to the benefit of the leasehold will remain appurtenant to the leasehold, and may not be severed or transferred from the leasehold without the prior written approval of the lessor. In the event of termination or forfeiture of this lease, any such right or interest will vest in the lessor.

19. Land Alterations Due to Natural or Artificial Causes. The interest described in this lease constitutes the entire leasehold. If, through natural or artificial causes, accretion or reliction of land occurs contiguous to the leasehold, the Lessee has no right to occupy or use the accreted land unless a separate lease is entered with the Lessor with respect to such lands. The rules of law usually applicable to accretion or reliction of land do not apply to this lease, nor to the interest described in this lease.

20. Waiver or Forbearance. The receipt of compensation by the lessor, with or without knowledge of any default on the part of the lessee, is not a waiver of any provision of this lease. No failure on the part of the lessor to enforce a covenant or condition of this lease, nor the waiver of any right under this lease by the lessor, unless in writing, will discharge or invalidate the application of such covenant or condition. No forbearance or written waiver affects the right of the lessor to enforce any covenant or condition in the event of any subsequent default. The receipt of compensation by the lessor after termination or any notice of termination will not reinstate, continue, or extend this lease, or destroy, or in any manner impair the validity of any notice of termination that may have been given prior to receipt of the compensation, unless specifically stated by the lessor in writing.

21. Default and Remedies. (a) Time is of the essence in this lease. If the lessee defaults on the performance of

any of the covenants or conditions of this lease, and the default is not remedied within 60 days after the lessor issues written notice of such default to the lessee and to the holder of a security interest in the leasehold approved by the lessor, or within any additional period the lessor allows for good cause, the lessee will be subject to legal or any other administrative action deemed appropriate by the lessor, including termination of this lease. The lessor may, in the notice of the default or in a separate written notice, state that if the default is not remedied, this lease shall terminate on a date certain, which shall be at least 60 days after issuance of the notice of default. Upon the date specified in such notice, unless the default has been remedied, the lease shall expire automatically without further notice or action by the lessor and this lease and all rights of the lessee under the lease shall terminate. Upon termination of the lease the lessor shall have an immediate right to possession of the leasehold and any possession by the lessee shall be unlawful. It is specifically agreed that no judicial action shall be necessary to terminate this lease or to allow the lessor to retake possession in the event of default by the lessee. No improvements may be removed from the leasehold while the lease is in default except with the lessor's prior written approval. If this lease is terminated for default, all compensation paid by the lessee is forfeited to the lessor. The lessor is not liable for any expenditures made or undertaken by the lessee under this lease. Any costs or fees, including attorney's fees, reasonably incurred by the lessor for the enforcement of this lease, shall be added to the obligations due and payable by the lessee.

(b) The rights, if any, of third-party security interest holders or lienholders are controlled solely by AS 38.05.103 and 11 AAC 58.590. If the lessee fails to remedy the default within the time allowed in subsection (a) of this section, the holder of an approved security interest who has received notice under subsection (a) of this section may remedy the default. The holder shall act within 60 days from the date of receipt of notice under subsection (a) of this section, or within any additional period the lessor allows for good cause.

(c) The lessor may, at the lessor's option, following the lessee's default and failure to remedy, or after termination of this lease due to such default and failure to remedy, accelerate the unpaid compensation for the remainder of the term of this lease. The lessee's obligation to pay such accelerated rent to the lessor survives termination of this lease.

(d) If this lease is terminated, or all or any portion of the leasehold is abandoned by the lessee, the lessor may immediately enter, or re-enter and take possession of the leasehold, and without liability for any damage, remove all persons and property from the leasehold and may, if necessary, use summary proceedings or an action at law. The words "enter" and "re-enter" as used are not restricted to their technical legal meaning. Any entry, re-entry, possession, repossession, or dispossession by the lessor, whether taken with or without judicial action, does not absolve, relieve, release, or discharge the lessee, either in whole or part, of any liability under the lease.

(e) The lessor, upon or at any time after giving written notice of any default, may enter or re-enter the leasehold to remedy any default by the lessee or exercise any right given under this lease, all without the intervention of any court being required. The curing of such default shall not be deemed for any purpose to be for the benefit of the lessee.

(f) At any time after termination of this lease, the lessor may re-let the leasehold, or any part thereof, in the name of the lessor for such term and on such conditions as the lessor may determine, and may collect and receive the compensation therefor. The lessor shall not be responsible or liable for failure to re-let the leasehold or for any failure to collect any compensation due upon such re-letting, nor shall the lessor be required to account for or pay to the lessee any excess compensation received as a result of such re-letting. The lessee shall be liable for any deficiency, and for all costs, expenses, and fees incurred by the lessor arising out of the default, including the lessor's efforts to re-let the leasehold.

(g) No right or remedy conferred upon or reserved to the lessor in this lease or by statute, or existing in law or equity, is intended to be exclusive of any other right or remedy, and each and every right shall be cumulative.

22. Disposition of Improvements and Chattels After Termination. AS 38.05.090 will govern disposition of any lessor-approved chattels or improvements left on the leasehold after termination. At the lessor's sole option,

improvements not approved by the lessor shall be removed from the leasehold and the site restored to its original condition at the lessee's sole expense, or be forfeited to the lessor. The lessee shall be liable to the lessor for any costs, expenses, or damages arising out of the disposition of improvements not approved by the lessor, and may be required to pay rent on any improvements or chattels left on the parcel in accordance with 11 AAC 58.680.

23. Indemnity to Lessor. The lessee shall indemnify, defend, and hold the lessor harmless from and against all claims, demands, judgments, damages, liabilities, penalties, and costs, including attorney's fees, for loss or damage, including but not limited to property damage, personal injury, wrongful death, and wage, employment, or worker's compensation claims, arising out of or in connection with the use or occupancy of the leasehold by the lessee or by any other person holding under the lessee, or at the lessee's sufferance or invitation; and from any accident or fire on the leasehold; and from any nuisance made or suffered on the leasehold; and from any failure by the lessee to keep the leasehold in a safe and lawful condition consistent with applicable laws, regulations, ordinances, or orders; and from any assignment, sublease, or conveyance, attempted or successful, by the lessee of all or any portion of the leasehold or interest therein contrary to the covenants and conditions of this lease. The lessee holds all goods, materials, furniture, fixtures, equipment, machinery, and other property whatsoever on the parcel at the sole risk of the lessee, and shall defend, indemnify and hold the lessor harmless from any claim of loss or damage by any cause whatsoever, including claims by third parties.

24. Insurance. If required by the lessor, the lessee shall obtain insurance in an amount determined by the lessor to be sufficient. The lessor shall be named as an additional insured party of any such insurance. The types and amount of insurance shall be specified in the attached stipulations made a part of this lease agreement and may be adjusted periodically. The lessee shall maintain that insurance as long as required by the lessor. Any insurance acquired by the lessee for the purpose of providing insurance coverage under this lease must be issued by an insurer authorized to do business in the State of Alaska under the provisions of AS 21.09.010 and AS 21.27.010 for the type of policy being written.

25. Bonding. If required by the lessor, the lessee shall furnish a bond, cash deposit, certificate of deposit, or other form of security acceptable to the lessor in an amount determined by the lessor to be sufficient to ensure faithful performance of the covenants and conditions of this lease, and to cover the cost of site cleanup and restoration and any associated costs after termination of the lease. The amount and conditions of the bond shall be specified in the attached stipulations made a part of this lease agreement. The lessee shall maintain the bond as long as the lessor deems necessary, and in the amount required by the lessor, which amount may be adjusted periodically.

26. Environmental Compliance. (a) The lessee shall, at the lessee's own expense, comply with all existing and hereafter enacted environmental responsibility laws ("Environmental Laws"). The lessee shall, at the lessee's own expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Authority") under the Environmental Laws.

(b) Should the Authority require that a remedial action plan be prepared and that a remedial action be undertaken because of the presence of, or any disposal, release, spill, or discharge, or threatened disposal, release, spill, or discharge of or contamination by hazardous materials at the leasehold that occurs during the term of this lease or arises out of or in connection with the lessee's use or occupancy of the land described in section 1 of this lease, then the lessee shall, at the lessee's own expense, prepare and submit the required plans and financial assurances and carry out the approved plans. The lessee's obligations under this section shall arise if there is any event or occurrence at the leasehold during the term of this lease, or arising out of or in connection with the lessee's use or occupancy of the land described in section 1 of this lease, that requires compliance with the Environmental Laws.

(c) At no expense to the lessor, the lessee shall promptly provide all information requested by the lessor for preparation of affidavits or other documents required by the lessor to determine the applicability of the Environmental Laws to the leasehold, and shall sign the affidavits promptly when requested to do so by the lessor.

(d) The lessee shall indemnify, defend, and hold harmless the lessor from all fines, penalties, suits, judgements, procedures, claims, demands, liabilities, settlements, and actions of any kind arising out of or in any way connected with the presence of or any disposal, release, spill, or discharge or any threatened disposal, release, spill, or discharge of or contamination by hazardous materials at the leasehold that occurs during the term of the lease or arises out of or in connection with the lessee's use or occupancy of the land described in section 1 of this lease; and from all fines, penalties, suits, judgements, procedures, claims, demands, liabilities, settlements, and actions of any kind arising out of the lessee's failure to provide all information, make all submissions, and take all steps required by the Authority under the Environmental Laws or any other law concerning any spill, discharge, or contamination that occurs during the term of this lease or arises out of or in connection with the lessee's use or occupancy of the land described in section 1 of this lease.

(e) The lessee agrees that it will not discharge or dispose of or suffer the discharge or disposal of any petroleum products, gasoline, hazardous chemicals, or hazardous materials into the atmosphere, ground, wastewater disposal system, sewer system, or any body of water.

(f) In any court action or administrative proceeding, in addition to all other applicable presumptions, it shall be rebuttably presumed that any environmental contamination of the leasehold (i) has been released on the leasehold; (ii) has resulted from acts or omissions of the lessee or its agents; and (iii) has occurred during the term of this lease. The lessee has the burden of rebutting the presumptions by clear and convincing evidence.

(g) This section of this lease does not in any way alter the State of Alaska's powers and rights or the lessee's duties and liabilities under Title 46 (or its successor) of the Alaska Statutes or other state, federal, or municipal statutes, regulations, or ordinances. For example, notwithstanding the provisions of this lease, the State of Alaska shall not be precluded from claiming under AS 46.03.822 that the lessee is strictly liable, jointly and severally, for damages and costs incurred by the state for clean up of contamination on the leasehold. The obligations and provisions of this section 26 shall survive the termination of this lease.

(h) As used in this lease, the term "hazardous materials" means any hazardous or toxic substance, material, or waste that is or becomes regulated by any municipal governmental authority, the State of Alaska, or the United States government.

27. Surrender of Leasehold. Upon the expiration, termination, or cancellation of this lease, the lessee shall peacefully leave and deliver up all of the leasehold in good, sanitary, and marketable condition, order, and repair.

28. Notices. (a) Any notice or demand by the lessee will be made by hand delivery to the Director, Division of Mining, Land and Water, or by certified mail, postage prepaid, addressed as follows (or to a new address that the lessor designates in writing), with delivery occurring upon receipt by the lessor:

To the Lessor:

Division of Mining, Land and Water
550 W. 7th Avenue, Suite 900C
Anchorage, Alaska 99501-3577

(b) Any notice or demand by the lessor will be issued as provided in 11 AAC 02.040(c). If issuance is by mail, the notice or demand will be addressed as follows (or to a new address that the lessee or its successor in interest designates in writing):

To the Lessee:

LESSEE
ADDRESS
CITY, STATE ZIP

The lessor will issue a copy of any such notice or demand to each holder of a security interest in the leasehold whose assignment has been approved by the lessor under section 6 of this lease. Any security interest not approved as provided in section 6 is insufficient to require notice by the lessor under AS 38.05.103.

(c) Any notice or demand regarding the lease must be in writing and will be complete if given as set out above.

29. Penalty Charges. The lessee shall pay a fee for any late payment or returned check issued by the lessee as follows:

(1) Late Payment Penalty: The greater of either the fee specified in 11 AAC 05.010 or interest at the rate set by AS 45.45.010(a) will be assessed on a past-due account until payment is received by the lessor. Acceptance of a late payment or of a service charge for a late payment is subject to the lessor's rights under sections 20 and 21 of this lease.

(2) Returned Check Penalty: A returned check fee as provided in 11 AAC 05.010 will be assessed for any check on which the bank refuses payment. If the bank refuses payment, the default termination date remains the same. Late penalties under subsection (1) of this section shall continue to accumulate.

30. Modification. This lease may be modified or amended only by a document signed by both parties. Any purported amendment or modification has no legal effect until placed in writing and signed by both parties.

31. Choice of Law. This lease shall be construed under the laws of the State of Alaska. The lessee confers personal jurisdiction on the courts of the State of Alaska for any litigation under this lease.

32. Severability of Clauses of Lease Agreement. If any clause or provision of this lease is, in a final judicial proceeding, determined illegal, invalid, or unenforceable under present or future laws, then the lessor and the lessee agree that the remainder of this lease will not be affected, and in lieu of each clause or provision of this lease that is illegal, invalid, or unenforceable, there will be added as a part of this lease a clause or provision as similar in terms to the illegal, invalid, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.

Attachment C
Sample Lease

By signing this lease, the lessor and the lessee agree to be bound by its provisions.

LESSEE:

____
LESSEE

LESSOR:

____
FIRST LAST, Regional Manager
Southcentral Regional Land Office

STATE OF ALASKA)
) ss.
_____Judicial District)

THIS IS TO CERTIFY THAT ON THIS ________ day of ____________________, ______, before me personally appeared ______________________________, known to me to be the person named and who signed the foregoing lease and acknowledged voluntarily signing the same.

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

STATE OF ALASKA)
) ss.
Third Judicial District)

THIS IS TO CERTIFY THAT ON THIS ________ day of ____________________, ______, before me personally appeared ________________________, of the Division of Mining, Land and Water of the Department of Natural Resources of the State of Alaska, who executed the foregoing lease 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: ______________________

Approved as to form February 9, 1994, and September 25, 2001.
____
/s/ Elizabeth J. Barry, Assistant Attorney General

Recorder's Office: Return the recorded document to:
DNR DMLW, SCRO
ATTN: ADJUDICATOR
550 W 7th Ave., Suite 900C
Anchorage AK, 99501

Attachment D
Sample Additional Stipulations

Additional Stipulations

1. **Authorized Officer:** The Authorized Officer (AO) for the State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), is the Regional Manager or designee.

2. **Preference Right:** No preference right to a sale of this leasehold is granted or implied by the issuance of this Lease. Any renewal of this Lease will be subject to current statutes and regulations at the time of Lease expiration.

3. **Valid Existing Rights:** This authorization is subject to all valid existing rights and reservations in and to the authorized area. The State makes no representations or warranties, whatsoever, either expressed or implied, as to the existence, number, or nature of such valid existing rights.

4. **Change of Contact Information**: The Lessee shall maintain current contact information with the AO. Any change of contact information must be submitted in writing to the AO.

5. **Request for Information:** The AO, at any time, may require the Lessee to provide any information directly or indirectly related to this authorization, in a manner prescribed by the AO.

6. **Compliance with Government Requirements:** The Lessee shall, at its expense, comply with all federal, state, and local laws, regulations, and ordinances directly or indirectly related to this authorization. The Lessee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.

7. **Development Plan:** Development shall be limited to the authorized area and improvements specified in the approved development plan or subsequent modifications approved by the AO. The Lessee is responsible for accurately siting development and operations within the authorized area. Any proposed revisions to the development plan must be approved in writing by the AO before the change in use or development occurs.

8. **Penalty Charges: Late Payment Penalty Charges**: The Lessee shall pay a fee for any late payment. The amount is the greater of either $50.00 or interest accrued daily at the rate of 10.5% per annum and will be assessed on each past-due payment until paid in full.
   Returned Check Penalty: A returned check penalty of $50.00 will be charged for any check on which the bank refuses payment. Late payment penalties shall continue to accrue.

9. **Visitor Day Use Fee:** All commercial recreation authorizations are subject to a "Visitor Day" fee. As defined in 11 AAC 96.250(18), Visitor Day means "all or any part of a calendar day during which a commercial recreation client is present, with each client representing a separate visitor day if multiple clients are present at any time during a calendar day." This fee, as established in 11 AAC 05.180(d)(2)(D) or (G), is collected once a year and due on the same day as the annual fee.

Attachment D
Sample Additional Stipulations

Additional Stipulations

10. **Assignment:** Stipulation 6 of the Lease Agreement is hereby amended to include the following: In the event the Lessee desires to transfer their interest in the lease to another party the Lessee shall submit to the AO a request for assignment and a copy of a draft agreement which identifies the provisions of the assignment between the parties. The AO reserves the right to require/renegotiate new terms or conditions for the lease prior to approving any assignment. The AO reserves the right to require an assignment between the Lessee and another party in the event of a change in corporate ownership, LLC/LLP membership or name change involving the leased site.

11. **Performance Guaranty:** Per section 25 of the Lease agreement: The Lessee previously posted a performance guaranty in the amount of **$X,XXX.00** to secure faithful performance with all terms and conditions of the Lease and to insure site restoration of the leasehold. This performance guaranty must remain in effect for the duration of the Lease term or until released in writing by the AO. Failure by the Lessee to provide replacement security shall be grounds for the AO to make a claim upon the existing security to protect the Lessor's interests.

12. **Insurance:** The Lessee shall secure or purchase at its own expense, and maintain in force at all times during the term of this contract, liability coverages and limits consistent with what is professionally recommended as adequate to protect the buyer (the insured) and seller (the State, its officers, agents and employees) from the liability exposures of ALL the insured's operations on state land. Certificates of Insurance must be furnished to the AO prior to the issuance of this lease and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. The Lessee must provide for a 60-day prior notice to the AO before they cancel, not renew or make material changes to conditions to the policy. Failure to furnish satisfactory evidence of insurance, or lapse of the policy, are material breaches of this lease and shall be grounds, at the option of the AO, for termination of the lease. All insurance policies shall comply with, and be issued by, insurers licensed to transact the business of insurance under Alaska Statute, Title 21. 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, Department of Administration. The State of Alaska must be named as an additional named insured on the policy.

13. **Specific Land Use:** Stipulation 4 of the Lease Agreement is hereby amended to include the following: This lease is issued for a specific use and land classification, use of the area for purposes other than those specified constitutes a breach of the lease agreement and may result in revocation. The lease may be terminated upon a finding by the AO that the land or a part of it has not been used by the Lessee for the purpose specified in the lease for a period of two years. The lease cannot be assigned or subleased except with the consent of the AO. A Lessee may not change the use specified in the lease to another or additional use except with the consent of the AO. Any attempts to depart from these conditions without the consent of the AO will cause the lease to be automatically terminated.

Attachment D
Sample Additional Stipulations

Additional Stipulations

14. **Concurrent Usage:** The AO reserves the right to grant additional authorizations to third parties for compatible uses on or adjacent to the land covered under this authorization. Authorized users of state land, their agents, employees, contractors, subcontractors and licensees shall not interfere with the operation or maintenance activities of other authorized concurrent users. Any future concurrent permit, lease or sub-lease will be subject to the conditions and stipulations contained in the lease, including the additional collection of fees or rents by the AO from any subordinate Lessee or Sublessee.

15. **Subleasing**: The AO reserves the right to require an additional annual compensation as a condition of a sublease approval. Said increase shall be determined by negotiation between the Lessee and AO but shall not be less than 25% of all compensation paid annually to the Lessee by the Sublessee. Neither the terms of this sublease provision nor any actual compensation derived from a sublease shall have any effect upon a determination of the annual lease fee for the lease parcel pertaining to AS 38.05.075(a) or its appraised market value pertaining to AS 38.05.840. Sublease shall be defined to include any lease, rental, storage, or accommodation agreement between the Lessee and another individual, business or corporation utilizing or benefiting from the lease parcel. Sublessee shall be defined to mean any individual or business entity executing an agreement, as above, with the Lessee. The amount of sublease compensation shall be subject to change at the same time as the lease compensation adjustment and whenever the terms or conditions of the agreement between the Lessee and Sublessee change. Approval of a sublease shall also be conditioned upon:

    a) The Lessee is in full compliance with lease conditions and is in good standing with all other authorization per 11 AAC 96.145;

    b) Sublessee must meet the statutory requirement of the Lease;

    c) Submission by the Lessee of a draft copy of the agreement(s) which will govern the relationship and compensation provisions between the Lessee and the Sub-Lessee;

    d) Submission by the Lessee of a proposed plan of operations and development for the subleased area and, if necessary, an amended plan of operations and development for the entire lease area; and

    e) A Lessor best interest finding and amendments to the lease contract as necessary, if significant changes to the use and development are proposed.

16. **Alaska Historic Preservation Act:** Under the Alaska Historic Preservation Act, AS 41.35.200, it is unlawful to appropriate, excavate, remove, injure, or destroy any historic, prehistoric, or archaeological resources of the State without a permit from the DNR Commissioner. Should any such resources or sites be discovered, the lessee shall cease any

Additional Stipulations

activities that may cause damage and immediately contact the AO and the Office of History and Archaeology in DNR's Division of Parks and Recreation.

17. **Inspections:** Stipulation 13 of the Lease Agreement is hereby amended to include the following: The AO shall have reasonable access to the authorized area for inspection, which may be conducted without prior notice. If the lessee is found to be in noncompliance the authorized area may be subject to reinspection. The lessee may be charged for actual expenses of any inspection or the fee in 11 AAC 05.160.

18. **Incurred Expenses:** The Lessor shall in no way be held liable for expenses incurred by the Lessee connected with the activities directly or indirectly related to this authorization.

19. **Public Access:** The construction, operation, use, and maintenance of the authorized area shall not interfere with public use of roads, trails, waters, landing areas, and public access easements. The ability to use or access state land or public waters may not be restricted in any manner. However, if a specific activity poses a safety concern, the AO may allow the restriction of public access for a specific period of time. The Lessee is required to contact the AO in advance for approval. No restriction is allowed unless specifically authorized in writing by the AO.

20. **Site and Improvements Maintenance:** The authorized area shall be maintained in a neat, clean, and safe condition, free of any solid waste, debris, or litter, except as specifically authorized. The Lessor is not responsible for maintenance of authorized improvements or liable for injuries or damages related to those improvements. No action or inaction of the Lessor is to be construed as assumption of responsibility.

21. **Site Disturbance:** Stipulation 4 of the Lease Agreement is hereby amended to include the following:

    a) Site disturbance shall be kept to a minimum to protect local habitats. All activities at the site shall be conducted in a manner that will minimize the disturbance of soil and vegetation and changes in the character of natural drainage systems. Any ground disturbances that may occur shall be contoured to blend with the natural topography to protect human and wildlife health and safety. Particular attention must be paid to preventing pollution and siltation of any waterways and to preventing disturbances to fish and wildlife populations and habitats.

    b) Brush clearing is allowed only to the extent necessary to maintain the present development. The Lessee may use dead timber that is down. The Lessee shall not cut standing timber within the leased area unless specifically authorized by DNR's Division of Forestry.

Attachment D
Sample Additional Stipulations

Additional Stipulations

The removal of vegetation shall be kept to a minimum and areas requiring disturbance should be seeded or planted as soon as possible after disturbance. To the extent possible, associated vegetation should be left intact to enhance stability, control erosion and enhance scenic qualities.

22. **Hazardous Substances, Explosives:**

    a) No storage of hazardous material/substances or explosives is authorized within the leased area.

    b) The use of hazardous substances or explosives must be done in accordance with existing federal, state and local laws, regulations and ordinances. Debris (including soil) contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous substance and must be removed from the sites and managed and disposed of in accordance with state, federal and local laws, statutes and regulations.

23. **Proper Location:** This authorization is for activities on state lands or interests managed by DMLW. It does not authorize any activities on private, federal, native, or municipal lands, or lands which are owned or solely managed by other offices and agencies of the State of Alaska. The Lessee is responsible for proper location within the authorized area.

24. **Moving or Damaging Markers:** The Lessee shall protect all survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed corner posts against relocation, damage, destruction, or obliteration. The Lessee shall notify the AO of any relocated, damaged, destroyed, or obliterated markers and shall reestablish the markers at the lessee's expense in accordance with accepted survey practices of the DMLW.

25. **Use and Storage of Fuel:** Section 26 of the Lease document is hereby amended to include the following: All fuel storage container(s) with a total combined capacity larger than **55 gallons** shall not be placed within 100 feet from the ordinary/mean high water mark of any water body. When fuel storage container(s) exceed a total combined capacity of **110 gallons**, the containers must be stored within an Alaska Department of Environmental Conservation (ADEC)-approved double-walled tank, or an impermeable diked area, or a portable impermeable containment structure capable of containing 110% of the capacity of the largest independent container. All containers must be clearly marked with the contents and the Lessee's name and ADL number. Drip pans and materials, such as sorbent pads, must be on hand to contain and clean up all spills.

26. **Notification of Discharge:** The Grantee shall immediately notify the Department of Environmental Conservation (DEC) and AO 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

Additional Stipulations

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 Grantee 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 Grantee shall supply the AO with all incident reports submitted to DEC.

27. **Waste disposal:** On-site refuse disposal is prohibited, unless specifically authorized. All waste generated during operation, maintenance, and termination activities under this authorization shall be removed and disposed of at an off-site ADEC approved disposal facility. Waste, in this paragraph, means all discarded matter, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and discarded equipment.

28. **Fire Prevention, Protection and Liability:** The Lessee shall take all reasonable precautions to prevent and suppress forest, structure, brush and grass fires, and shall assume full liability for any damage to state land and structures resulting from the negligent use of fire. The State is not liable for damage to the Lessee’s personal property. To report a wildfire, call 911 or 1-800-237-3633.

29. **Waiver of Forbearance:** Any failure on the part of the AO to enforce the terms of this authorization, or the waiver of any right under this authorization by the Lessee, unless in writing, shall not discharge or invalidate the authorization of such terms. No forbearance or written waiver affects the right of the AO to enforce any terms in the event of any subsequent violations of terms of this authorization.

    The receipt of compensation by the AO, with or without knowledge of any default on the part of the Lessee, is not a waiver of any provision of this authorization. The receipt of compensation by the AO after termination or any notice of termination will not reinstate, continue, or extend this authorization, or destroy or in any manner impair the validity of any notice of termination, unless specifically stated by the AO in writing.

30. **Severability Clause:** If any clause or provision of this authorization is, in a final judicial proceeding, determined illegal, invalid, or unenforceable under present or future laws, then the grantor and the Lessee agree that the remainder of this authorization will not be affected, and in lieu of each clause or provision of this authorization that is illegal, invalid, or unenforceable, there will be added as a part of this authorization a clause or provision as similar in terms to the

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illegal, invalid, or unenforceable clause or provision as may be possible, to be legal, valid, and enforceable.

31. **Lease Expiration and Site Reclamation:** No later than one (1) year prior to the lease expiration, the Lessee shall file with the Lessor:

    a) A request for a new lease, and/or

    b) A reclamation plan for the leasehold lands, which must be approved in writing by the AO. The Lessee is responsible for site reclamation within the leasehold.

       The reclamation plan must include a description of the methods and techniques that the Lessee will use to rehabilitate all sites affected by construction and intensive use activities. Under the lease, the Lessee retains all ownership rights to site improvements. In the plan, the Lessee shall describe its intention to remove improvements. The plan must also include a schedule that sets forth the steps required for surface rehabilitation, and a specific time line showing when the Lessee will accomplish each step.

32. **Violations:** Pursuant to 11 AAC 96.145, the Lessee must be in compliance with provisions of this and other authorizations granted under AS 38.05 or 11 AAC 96 before a new authorization may be granted by DMLW.

33. **Lease Termination**: This lease authorization may be terminated upon violation of any of its terms, conditions, stipulations or upon failure to comply with any applicable laws, statutes and regulations (state and federal).

34. **Lease Utilization**: Per 11 AAC 58.510, leases must be utilized for purposes within the scope of the lease and the land classification. Utilization or development for other than the allowed uses or failure to substantially utilize or develop the lease is a violation of the lease. A development plan may be required on all leases. Failure to make substantial use of the land, consistent with the development plan, within five years, will, in the director's discretion, constitute grounds for cancellation.

35. **Agents:** The lease provisions and stipulations apply with equal force upon an agent, employee, contractor or subcontractor designated by the Lessee to perform any lease or lease-related operations. The Lessee is liable for noncompliance caused by any such agent, employee, contractor, or subcontractor.

36. **Additional Authorizations or Permits:** If activities other than those authorized by the lease provisions and stipulations are needed, additional written authorizations or permits and their associated additional fees may be required.

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37. **Access and Road Construction:** The Lessee is responsible for providing access to the leasehold. Before constructing any road across state land, the Lessee shall obtain prior approval and authorization from DMLW for the location and construction standards of the road.

38. **Environmental Issues:**
Definitions:

Affected Property – Any property adjacent to the Leasehold that contains Contamination in, on, or under the surface, including groundwater.

Contamination – The unpermitted presence of any Released Hazardous Substance.

Environmental Assessment – An assessment of property, prepared in a manner consistent with generally accepted professional practices, that is supported by reports and tests that determine the environmental condition of a property and the presence, type, concentration, and extent of any Contamination in, on, and under the surface of the property.

Environmental Law – Any federal, state, or local statute, law, regulation, ordinance, code, permit, order, decision, or judgment from a governmental entity relating to environmental matters. It includes, but is not limited to, AS 46 (Alaska Water, Air, Energy, and Environmental Conservation Acts); 18 AAC (Environmental Conservation) implementing AS 46; 42 U.S.C. §§ 7401-7671 (Clean Air Act); 33 U.S.C. §§ 1251-1387 (Federal Water Pollution Control Act); 42 U.S.C. §§ 6901-6992 (Resource Conservation and Recovery Act); 42 U.S.C. §§ 9601-9657 (Comprehensive Environmental Response, Compensation, and Liability Act); and 15 U.S.C. §§ 2601-2692 (Toxic Substances Control Act).

Environmental Liability Baseline – A description, accepted by the Lessor and documented by one or more Environmental Assessments and any other relevant documents, of the existence, location, level, and extent of Contamination in, on, or under the surface of the Leasehold that was neither caused nor Materially Contributed To by the Lessee, nor otherwise assumed by the Lessee.

Hazardous Substance – Any substance that is defined under an Environmental Law as hazardous waste, hazardous substance, hazardous material, toxic, pollutant, contaminant, petroleum, petroleum product, or oil.

Leasehold – The real property defined in Section 1 of this lease.

Materially Contribute To – To significantly add to or make worse, including by inaction, the Release or migration of a Hazardous Substance.

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<u>Release</u> – means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, but excluding

a) Any release that results in exposure to a person solely within a workplace, with respect to a claim that those persons may assert against the persons' employer; and

b) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, or vessel.

A. Compliance with Laws. Lessee shall comply with all Environmental Laws relating to the handling, use, generation, accumulation, storage, transportation, disposal, release, treatment or sale of Hazardous Substances in, on or under the Leasehold.

B. Lease Site Condition/Potential Contaminants. Lessee has the sole responsibility under this lease to ascertain the environmental condition and presence of Contamination in, on, or under the surface of the Leasehold. Lessor makes no representations and no warranties, express or implied, concerning the existence or absence of any Hazardous Substances or Contamination on the Leasehold. Lessor does not assume any liability for the removal of Hazardous Substances, nor for the remediation of the Leasehold and any Affected Property should such substances be found.

C. Environmental Liability Baseline. Lessee is conclusively presumed to have caused or to have Materially Contributed To any Contamination of, or originating on, the Leasehold. Lessee may establish an Environmental Liability Baseline that will serve as a benchmark for the condition of the Leasehold as of the effective date of the lease and as a reference for the Clearance Assessment in Subsection H, below. Lessee will not be presumed to have caused or to have Materially Contributed To any Contamination of, or originating on, the Leasehold identified in the Environmental Liability Baseline. Lessee is responsible for the acts or omissions of its employees, agents, invitees, sublessees, contractors and guests on the Leasehold, and Contamination caused or Materially Contributed To by activities of the Lessee's employees, agents, invitees, sublessees, contractors and guests on the Leasehold are deemed to be caused by or Materially Contributed To by the Lessee. Lessee shall be solely responsible for any and all costs associated with conducting the Environmental Assessment and/or establishment of the Environmental Liability Baseline.

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<u>1. Notice of Environmental Assessment.</u> If the Lessee decides to add to or establish an Environmental Liability Baseline for all or any portion of the Leasehold or Affected Property during the term of the lease, or any renewal or assignment, if applicable, thereof, the Lessee shall notify the Lessor of the intent to conduct an Environmental Assessment for that portion of the Leasehold or Affected Property. The Lessee shall provide a description of activities for conducting the Environmental Assessment. The Lessee shall provide Lessor with the final Environmental Assessment report.

<u>2. Establishing an Environmental Liability Baseline.</u>

a. If the Lessee discovers Contamination in, on, under the surface of or emanating from the Leasehold, for any portion of the Contamination to be considered for inclusion in the Environmental Liability Baseline, the Lessee must demonstrate to the satisfaction of the Lessor that the Contamination proposed for inclusion was not caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, nor otherwise assumed by the Lessee. Contamination caused or Materially Contributed To by activities of the Lessee's employees, agents, invitees, sublessees, contractors and guests on the Leasehold are deemed to be Materially Contributed To by the Lessee.

b. Only that portion of Contamination not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities, nor otherwise assumed by the Lessee, shall be included in the Environmental Liability Baseline.

c. Lessee is responsible for inspecting the Leasehold and reporting, in writing, any evidence of conditions on the Leasehold as of the effective date of the lease, which differ from the conditions reported in the Environmental Liability Baseline. By entering into the lease, Lessee expressly accepts the Leasehold and acknowledges that notwithstanding the provisions of the Environmental Liability Baseline, the Leasehold may contain Hazardous Substances not mentioned in the Environmental Liability Baseline.

<u>3. Adding to an Existing Environmental Liability Baseline.</u>

a. If, after an Environmental Liability Baseline is established for any portion of the Leasehold or Affected Property, the Lessee discovers Contamination in, on, under the surface of, or emanating from, that portion of the Leasehold having an Environmental Liability Baseline, which Contamination the Lessee or the Lessee's

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operations or activities did not cause or Materially Contribute To, and which the Lessee did not otherwise assume, the Lessee may, at its own cost, submit an additional Environmental Assessment reflecting that information to the Lessor for the Lessor's consideration to add to the Environmental Liability Baseline. The Lessee's additional Environmental Assessment must demonstrate to the satisfaction of the Lessor which portion of the additional Contamination on the Leasehold or Affected Property was not caused or Materially Contributed To by the Lessee or the Lessee's operations or activities nor otherwise assumed by the Lessee.

b. Only that portion of Contamination not caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, nor otherwise assumed by the Lessee, may be added to the existing Environmental Liability Baseline.

4. Lessor's Acceptance or Rejection of Lessee's Environmental Assessment. When the Lessor receives the Lessee's Environmental Assessment to establish an Environmental Liability Baseline or to add to an existing Environment Liability Baseline, the Lessor, in its sole discretion, will do one of the following:

a. Accept the findings of the Lessee's Environmental Assessment and any other relevant documents to establish an Environmental Liability Baseline for that portion of the Leasehold or Affected Property being assessed or to add to the existing Environmental Liability Baseline;

b. Reject the findings of the Lessee's Environmental Assessment for that portion of the Leasehold being assessed and offer the Lessee the opportunity to perform additional environmental testing if the Lessor determines, in writing, that the findings of the Environmental Assessment are inadequate to establish an Environmental Liability Baseline or to add to an existing Environmental Liability Baseline. The Lessor's written rejection of the Lessee's Environmental Assessment will be based on failure of the Lessee's Environmental Assessment to either:

i. follow generally accepted professional practices in determining the environmental condition of the Leasehold or the Affected Property and the presence of Contamination in, on, under the surface of, or emanating from, the Leasehold; or

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ii. demonstrate to Lessor's satisfaction the portion of the Contamination that was not caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, nor otherwise assumed by the Lessee; or

c. Perform additional environmental testing at the Lessor's expense to verify the environmental condition of that portion of the Leasehold being assessed. If the results of the Lessor's tests conflict with the Lessee's Environmental Assessment, the Lessor and the Lessee will negotiate in good faith an Environmental Liability Baseline or an addition to the existing Environmental Liability Baseline for the portion of the Leasehold or Affected Property being assessed.

5. Amending the Environmental Liability Baseline to Delete Contamination Caused, Materially Contributed To or Assumed by Lessee. If, after the Environmental Liability Baseline for any portion of the Leasehold or Affected Property is established, it is discovered that the presence of Contamination identified in the Environmental Liability Baseline was caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, or otherwise assumed by the Lessee, the Environmental Liability Baseline will be amended to delete that portion of the Contamination that was caused or Materially Contributed To by the Lessee or the Lessee's operations or activities or otherwise assumed by the Lessee.

D. Notice of Hazardous Substance Release. Lessee shall give notice to Lessor promptly after learning of any Release of any Hazardous Substance on or at the Leasehold or surrounding environment. This notice shall include a description of the Release, measures taken or proposed to be taken by Lessee to contain and/or remedy the Release, and any resulting damage to property, persons or the environment. At Lessee's own expense, Lessee shall promptly take all steps necessary to contain and remedy any Release of Hazardous Substances in, on or under the Leasehold or surrounding environment, and all resultant damage or injury to property, persons and the environment (the "Response Action"). Lessee shall be responsible for reporting and coordinating the Response Action with the Alaska Department of Environmental Conservation and/or any other federal, state, or local agency with jurisdiction (collectively, the "Regulator"). Lessee shall provide Lessor with not less than seven days to review and comment on any submittal to a Regulator made as part of a Response Action prior to submission. Upon request by Lessor, Lessee shall provide Lessor copies of any and all documents arising from or related to the Response Action including, but not limited to, any and all communications by Lessee to a Regulator.

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E. Lessor's Right to Perform Testing. At any time, and from time to time, prior to the expiration of the Lease, Lessor shall have the right, but not obligation, to conduct appropriate tests of the Leasehold or any portion thereof to determine whether Contamination has occurred provided, however, that (a) all such testing shall be conducted at Lessor's sole cost and expense except as set forth in the next sentence, (b) Lessor shall coordinate testing activities with the Lessee and shall, to the extent practicable, minimize the impact of testing on the Lessee, (c) Lessor shall promptly repair any physical damage caused by such testing and restore the Leasehold to substantially the same physical condition it was in immediately prior to such testing, and (d) the Lessor shall not be held liable for any damages, whether direct or indirect, incurred by Lessee as part of the testing. Lessee shall pay all reasonable costs of such tests if such tests reveal that Hazardous Substances exist on the Leasehold due to the acts or omissions of Lessee in violation of state or federal Environmental Laws.

F. Financial Responsibility for Contamination on the Leasehold and on Any Affected Property. The Lessee assumes financial responsibility to the Lessor for any Contamination in, on, and under the Leasehold and any Affected Property, except for Contamination that is identified in an Environmental Liability Baseline. Lessee shall be responsible for all costs incurred by Lessor to enforce these environmental provisions, including but not limited to action(s) to force Lessee to address a Release of Contamination at the Leasehold or Affected Property, and all attorneys' fees and other costs of such action(s). This is without prejudice to the Lessee's right to seek contribution or indemnity from either prior lessees of the Leasehold and Affected Property, or other potentially responsible parties except for the Lessor.

G. Environmental Indemnification. Lessee shall indemnify, defend and hold Lessor harmless from any and all claims, demands, damages, costs, fees, penalties, and charges asserted against, imposed upon, and incurred by Lessor (including fees and costs of attorneys, consultants, laboratory testing charges and personal injury claims) as a result of (a) the handling, use, generation, accumulation, storage, transportation, disposal, treatment and/or sale of Hazardous Substances at or from the Leasehold; (b) the release of any Hazardous Substance on, at or from the Leasehold which is attributable to any act or omission of Lessee, or its employees, agents, invitees, sublessees, contractors and guests; (c) the failure of Lessee, or its employees, agents, invitees, sublessees, contractors and guests, to comply with any Environmental Laws; (d) Lessee's failure to remove all Hazardous Substances or decontaminate, decommission, or, if appropriate, sterilize all areas in the Leasehold and any Affected Property in which any of Hazardous Substances were generated, stored, handled, accumulated, or released; and (e) Lessee's failure to

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comply with any other requirement of this Section. This environmental indemnification is in addition to the indemnification provided for under Section 23 of the Lease.

H. Environmental Report Upon Expiration or Termination of Lease. Two months prior to Lessee's surrender of possession of any part of the Leasehold, or the expiration or termination of this Lease, Lessee shall provide Lessor with copies of all environmental reports necessary for Lessor to determine whether the Leasehold may contain any Hazardous Substances other than those, if any, that were identified in the Environmental Liability Baseline. If reports indicate the presence of Hazardous Substances, then Lessee shall also provide Lessor with (a) a written assessment addressing any potential releases of Hazardous Substances handled on the Leasehold during the term of the Lease to the workplace, soils, sewers, drywells, surface water, or groundwater, and any threats to human health or the environment posed by Lessee's operations (the "Clearance Assessment"); the scope of the Clearance Assessment must be approved by Lessor, such approval not to be unreasonably withheld, and will include provisions complying with the standards for Phase I and II Environmental Site Assessment as specified by the ASTM standard in effect at the time or any successor standards published by ASTM International (formerly known as the American Society for Testing and Materials) or any successor organization (or, if ASTM International and its successors no longer exist, a similar entity publishing similar standards); (b) written evidence that all appropriate governmental notifications have been made or releases requested as may be required by laws in effect at that time, including laws pertaining to Releases of Hazardous Substances and the surrender of the Leasehold; and (c) a plan to address any further lease requirements or Contamination which are Lessee's responsibility under this Section. In addition, Lessee agrees to remain responsible after the surrender of the Leasehold for the remediation of any Contamination that Lessee is otherwise responsible for pursuant to this lease, to comply with any recommendations regarding such Contamination, and to continue to pay rent and insurance until the Lessee provides evidence acceptable to Lessor that all Contamination, if any, then present on the Leasehold and any Affected Property are below reportable levels under state and federal laws. Lessee's obligations under this Article shall survive the expiration or earlier termination of the lease.

I. Removal of Hazardous Substances prior to Expiration or Termination of Lease. At least 10 days prior to termination of this lease, Lessee shall remove all Hazardous Substances which have been stored, or released onto or from, the area to be vacated and shall decontaminate vacated areas in the Leasehold in which Hazardous Substances were generated, stored, accumulated, released, or otherwise present. If Hazardous Substances were stored in tanks or containers, Lessee shall decommission such equipment.

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Documentation of this removal and decommissioning shall be included in the Clearance Assessment.

J. Action Against Potentially Responsible Parties. This article does not restrict either the Lessor or the Lessee from seeking and obtaining cleanup efforts, costs, or damages from other potentially responsible parties.

K. Authorities of the Alaska Department of Environmental Conservation. These provisions do not in any way alter the State of Alaska, Department of Environmental Conservation's powers and rights under AS 46.03 or 18 Alaska Administrative Code (implementing AS 46.03) (or their successors) and specifically AS 46.03.822. It also does not affect Lessee's duties and liabilities under Title 46 (or its successor) of the Alaska Statutes or other state, federal, or municipal statutes, regulations, or ordinances. For example, notwithstanding the provisions of this lease, the State of Alaska shall not be precluded from claiming under AS 46.03.822 that Lessee is strictly liable, jointly and severally, for damages and costs incurred by the State for cleanup of Contamination on the Leasehold and any Affected Property. The obligations and provisions of this Section shall survive the termination of this lease.