

SUBJECT: THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AUTHORIZING THE MANAGER TO ENTER INTO A LONG TERM LEASE WITH THE ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES ON STATE OWNED LAND FOR THE LAKE LOUISE RECREATIONAL SITE FOR THE OPERATIONS AND MAINTENANCE OF A PARKING AREA AND BOAT LAUNCH FACILITIES (MSB007509).

AGENDA OF: September 3, 2019

ASSEMBLY ACTION:

Adopted without objection
9-17-19
(Signature)

MANAGER RECOMMENDATION: Introduce and set for public hearing.

APPROVED BY JOHN MOOSEY, BOROUGH MANAGER: _____

Route To:	Department/Individual	Initials	Remarks
	Originator	HKU	
	Community Development Director	CP	
	Finance Director	OK	
	Borough Attorney	NS	
	Borough Clerk	Sam	8/26/19 (Signature)

ATTACHMENT (S) : Fiscal Note: YES X NO _____
Draft Lease Document (33 pp)
Alaska DOT/PF Letter (1 pp)
Ordinance Serial No. 19-106 (3 pp)

SUMMARY STATEMENT:

The Alaska Department of Transportation and Public Facilities is providing the Matanuska-Susitna Borough with a long term lease for the summer operations and maintenance of the Lake Louise Recreation Site located at the Lake Louise Airport that consists of approximately 71,714 square feet of land (lease premises).

The Matanuska-Susitna Borough has received approximately one million dollars from various sources that include the Tyone Community Association (MSB Ordinance Serial No. 17-077), Mat-Su Trails and Parks Foundation (MSB Ordinance Serial No. 18-033), United States Fish and Wildlife (MSB Ordinance Serial No. 19-011),

and the Matanuska-Susitna Borough (MSB Ordinance Serial No. 17-077 & Ordinance Serial No. 19-011) to construct and upgrade the Lake Louise Recreations Site facilities.

There is no historical record of when the original site was constructed on state land. In 2001, the Matanuska-Susitna Borough constructed the boat launch and parking area using Parks, Recreation, and Trails bond money for the site. The new lease agreement establishes the responsibilities of both parties for the new constructed facilities.

The lease is for a 20-year term, with a waiver of rent and the performance bond during the term, and all terms and obligations in the lease are "subject to annual appropriation of funds by the Matanuska-Susitna Borough Assembly."

The Matanuska-Susitna Borough contracted the services of Tutka, LLC to perform a Phase I Environmental Site Assessment report for the lease premises to establish an environmental baseline report. Tutka, LLC stated that no environmental conditions could be identified by visual observations, nor the examination of records disclosed any hazardous materials or environmental conditions exists on the lease premises. The Alaska Department of Transportation and Public Facilities accepted and approved the Environmental Site Assessment report on August 15, 2019, as the environmental baseline for the lease premises.

The newly constructed facilities on the lease premises provides public use during the summer season with an expanded dual boat launch and the upgrade, expansion, and paving of the parking lot from 12 undesignated parking spaces to 48 delineated parking spaces. Other improvements include a CXT volt toilet, signage, and a "Kids Don't Float" kiosk.

RECOMMENDATION OF ADMINISTRATION:

The Community Development Department recommends the Matanuska-Susitna Borough Assembly authorize the borough manager to enter into a long term, 20-year lease with the Alaska Department of Transportation and Public Facilities for the Lake Louise Recreation Site Land Lease.

Authorization:

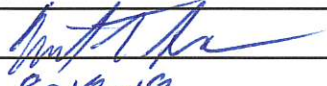
MSB 23.10.010 & MSB 23.10.030(B)

MATANUSKA-SUSITNA BOROUGH FISCAL NOTE

Agenda Date: September 3, 2019

SUBJECT: THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AUTHORIZING THE MANAGER TO ENTER INTO A LONG TERM LEASE WITH THE ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES ON STATE OWNED LAND FOR THE LAKE LOUISE RECREATIONAL SITE OPERATIONS FOR THE OPERATIONS AND MAINTENANCE OF A PARKING AREA AND BOAT LAUNCH FACILITIES (MSB007509).

ORIGINATOR: Tracy K. McDaniel, Asset Manager

FISCAL ACTION (TO BE COMPLETED BY FINANCE)	FISCAL IMPACT <u>YES</u> NO
AMOUNT REQUESTED *	FUNDING SOURCE
FROM ACCOUNT #	PROJECT #
TO ACCOUNT :	PROJECT #
VERIFIED BY: 	CERTIFIED BY:
DATE: 8-19-19	DATE:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
Personnel Services						
Travel						
Contractual						
Supplies						
Equipment						
Land/Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	*	→				

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

General Fund						
State/Federal Funds						
Other	*	→				
TOTAL	*	→				

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary) *Rent is waived; however, the MSB is responsible for operations + maintenance

PREPARED BY: _____ PHONE: _____

DEPARTMENT: Chapman Daniel DATE: _____

APPROVED BY: _____ DATE: 8/20/19

**STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

LAKE LOUISE AIRPORT

ADA-72489

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im 19-146
OR 19-106

**STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

LAND LEASE

LAKE LOUISE AIRPORT

ADA-72489

The State of Alaska, Department of Transportation and Public Facilities (Lessor), and Matanuska-Susitna Borough (Lessee), enter into this lease (Lease), including exhibit(s) and signature page(s), and agree as follows:

MAILING ADDRESS AND CONTACT INFORMATION

LESSOR

Alaska DOT&PF
Statewide Aviation Leasing, Northern Region Office
2301 Peger Road
Fairbanks, AK 99709

Phone: (907) 451-2216
Fax: (907) 458-6878

LESSEE

Matanuska-Susitna Borough
Community Development Depart.
Land & Resource Management Div.
350 E. Dahlia Avenue
Palmer, AK 99645

Phone: (907) 861-7864
Email: tracy.mcdaniel@matsugov.us

The Lessee will provide the Lessor with any change to the Lessee's mailing address, phone, fax or email contact within 30 days of the change.

1. Lessor controls land at the Lake Louise Airport via an Interagency Land Management Assignment. A boat launch and parking area currently exist on the Premises. Lessor cannot find evidence of when these facilities were constructed but believes that they were not constructed by the Lessee. The Lessee has agreed to operate the site, including trash disposal and maintenance of a vault toilet; and
2. The Lessee also desires to upgrade and expand the existing parking area, upgrade the existing boat launch, and add a vault toilet; and
3. In a letter dated June 14, 2019, the Federal Aviation Administration approved non-aeronautical use for the property, including a waiver of rent; and
4. The parties find it will be to their mutual advantage to enter into Lease ADA-72489.

**ARTICLE I
PREMISES**

- A. The Lessor leases to the Lessee, and the Lessee leases from the Lessor, the following described property (Premises), located on the Lake Louise Airport (Airport), in Section 18, Township 6 North, Range 7 West, Copper River Meridian, within the Talkeetna Recording District, Third Judicial District, Alaska:

Lake Louise Airport

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Initials _____
Lease ADA-72489

im 19-146
or 19-106

Parcel B, consisting of approximately 71,714 square feet of land as shown on Pages 31 and 32 of this Lease.

- B. Except as may be provided in this Lease, the Lessor makes no specific warranties, express or implied, concerning the title or condition of the Premises, including its survey, soils, wetlands, access, and suitability for any use including those authorized by this Lease, the application of any local, state, or federal laws or restrictions that may limit Lessee's intended use of the Premises, the Premises' environmental condition, the presence of artifacts or sites of archeological or historical significance, or the presence or absence of Hazardous Substance in, on, and under the surface. The Lessee takes the Premises on an "as is" basis and without warranty, subject to any and all of the covenants, terms, and conditions affecting the Lessor's title to the Premises.

ARTICLE II

TERM

The term of this Lease is Twenty (20) years, beginning July 1, 2019 and ending July 1, 2039. All rights and liabilities under this Lease become effective on the date this Lease is executed. The Lessor reserves the right to reduce the term of this Lease upon written notice to Lessee pursuant to Article V (Survey, Improvements and Performance Bond).

The term and all obligations under this Lease are subject to annual appropriation of funds by the Matanuska-Susitna Borough Assembly. If annual appropriation of funds is not budgeted in the succeeding fiscal year, Tenant will give the Landlord thirty (30) days' notice and the Lease is terminated by mutual agreement, without default. Upon termination Tenant will remove its improvements according to Article VI of this Lease.

ARTICLE III

USES AND RIGHTS

A. AUTHORIZED USES

1. The Lessor authorizes the Lessee to use the Premises for the following uses only:

Construction and maintenance of a parking area and vault toilet, and any part of the boat launch that is within the airport boundary.

B. RESERVED RIGHTS OF LESSOR

1. The Lessor reserves the right to grant to others privileges not specifically granted to the Lessee. The privileges granted to the Lessee in this Lease are the only privileges granted to the Lessee by this Lease.
2. The Lessor reserves the right to make grants to third parties or reserve to the Lessor easements or rights of way through, on, or above the Premises. The Lessor will not grant or reserve any easement or right of way that unreasonably interferes with the Lessee's authorized uses of the Premises.

3. The Lessor reserves the right of ingress to and egress from the Premises and the right to enter any part of the Premises, including buildings, for the purpose of inspection or environmental testing at any reasonable time. Except in the case of an emergency, all inspections and environmental testing will be coordinated with the Lessee and will not unreasonably interfere with the Lessee's authorized uses of the Premises.
4. There is hereby reserved to the Lessor, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises. This public right of flight will include the right to cause in the airspace any noise inherent in the operation of any aircraft used for navigation or flight through the airspace or landing at, taking off from, or operation on the Airport.

C. PROHIBITED USES

Unless specifically authorized by this Lease or by the Lessor in writing, the following uses of the Premises are prohibited:

1. Any use of the Premises other than those authorized in this Lease.
2. The establishment or maintenance of any kind of living quarters or residence on the Premises.
3. The outside storage on the Premises of junk, trash, solid waste, debris, salvage aircraft or vehicle parts, nonoperational support equipment, or unused or damaged equipment or material.
4. The disposal on the Airport of waste materials generated by the Lessee, including Hazardous Substance, slash, overburden and construction waste.
5. The stripping, wasting, or removing from the Premises of any soil, gravel, trees, or other state-owned material.
6. Erecting structures or allowing growth of natural objects that would constitute an obstruction to air navigation, or allowing any activity on the Premises that would interfere with or be a hazard to the flight of aircraft, or interfere with air navigation or communication facilities, serving the Airport.
7. Any activity that violates, or would cause the Lessor as owner and operator of the Airport to violate, local, state, or federal law.

ARTICLE IV
RENTS AND FEES

A. RENT

The rent for the Premises will be as follows:

In accordance with FAA's Order 5190.6B, Appendix E, Section VII (D), "Providing Property for Public Community Purposes" and 17 ACC 45.130, rent for Parcel B is waived.

ARTICLE V
SURVEY, IMPROVEMENTS AND PERFORMANCE BOND

A. SURVEY

If the Lessee, at its sole expense, causes the Premises to be surveyed by a Land Surveyor registered in the State of Alaska, and to place suitable permanent markers at the corners and at other appropriate locations, the Lessee agrees to submit a plat of survey to the Lessor. If the plat and the survey conform to the Lessor's survey plat requirements and the Lessor reviews the submitted plat and approves it, and if there is a significant difference between the approved survey plat and the lease lot description in this Lease, the Lessor and Lessee agree to supplement the Lease to conform to the approved survey plat.

B. IMPROVEMENTS

1. At no cost to the Lessor, Lessee agrees to complete site development and construction of Permanent Improvements including a boat launch, parking lot, and vault toilet, by no later than July 1, 2021. The as-built drawings required by this lease must be submitted to the Lessor within ninety (90) days of the completion of the development and improvements, but by no later than October 1, 2021.
2. If the Lessee fails to complete construction within the time allowed under Paragraph 1 of this Section, including any extensions granted, the Lessor will execute the forfeiture of any performance bond, deposit, personal guarantee or other security posted by the Lessee as required under Section C of this Article and, as applicable, Lessor will
 - a. if one-third or less of the construction or remediation has been completed, initiate cancellation of the Lease;
 - b. if at least two-thirds of the construction or remediation has been completed, reduce the term of the Lease to a period that is consistent with the portion of the construction timely completed;
 - c. if more than one-third but less than two-thirds of the construction or remediation has been completed, take the action described in either (a) or (b) of this Paragraph.
3. The Lessee must first obtain the Lessor's written approval in the form of the Lessor's approved Airport building permit before beginning any land development, construction or demolition of any improvements on the Premises, or before beginning any alterations, modifications, or renovation of existing structures on the Premises. The Lessee must submit to the Lessor drawings of the proposed development, alteration, modification, or renovation in sufficient detail for the Lessor to understand and evaluate the project and its scope. Further, the Lessee will submit to Lessor evidence of the Lessee's compliance with the FAA Code of Federal Regulation (CFR) Title 14, Part 77 (14 CFR Part 77).

4. Approval of any construction, alteration, modification, or renovation will not be withheld unless the Lessee does not demonstrate adequate financial resources to complete the project, the project plans, specifications, and agency approvals are incomplete; the proposed project would result in a violation of applicable statute or regulation; the proposed project would interfere with or is incompatible with the safety, security, maintenance, or operation of the Airport; the proposed project is inconsistent with sound airport planning; the proposed project is inconsistent with the terms of the lease; the project plans do not make sufficient provision for drainage, aircraft, vehicle, and equipment parking, or for snow storage; or the proposed project does not conform with generally recognized engineering principles or applicable fire or building codes or the project must be denied under 17 AAC 45.010(g).
5. All construction on the Premises must be neat, presentable, safe, and compatible with the use of the Premises as determined by the Lessor.
6. Prior to any demolition of any structure(s) on the Premises, Lessee will deliver to Lessor a scope of work that, at a minimum, lists the structure(s) that are to be demolished and the timeframe for demolition and removal of the debris from the Airport. Lessor will review Lessee's scope for demolition and issue Lessee written approval for the work to be done.
7. The Lessee is solely responsible for compliance with all local, state, and federal laws and requirements. The Lessor's approval of any construction, alteration, modification, renovation, or demolition shall not constitute a warranty by the Lessor that the Lessee has complied with all such laws or requirements.
8. Within ninety (90) days after completion of construction or placement of improvements upon the Premises, the Lessee will deliver to the Lessor 1) photographs (digital format preferred) of all aboveground improvements and 2) a copy of an as-built drawing, acceptable to the Lessor, showing the location and dimensions of the improvements, giving distances to all Premises' boundaries. If the Lessee constructs underground improvements, the Lessee will appropriately mark the surface of the land with adequate surface markers. The type, quantity, and distance between such markers will be subject to written approval of the Lessor.
9. If Lessee's improvements are damaged to the extent that more than 50% of the space is unusable and the damage occurs within five years of the expiration of the term of this Lease, Lessee may terminate this Lease by giving thirty (30) days written notice, after removing the damaged improvements and restoring the Premises to a clean and neat physical condition acceptable to the Lessor.

C. PERFORMANCE BOND

The Lessee may be required to submit a performance bond, deposit, personal guarantee, or other security if the Lessor determines that such security is necessary or prudent to ensure compliance with any provision of this Lease or completion of construction or remediation within the time period set under Section B of this Article or completion of any additional or subsequent construction or remediation. The Lessor will determine the form and amount of the security considering the compliance under the provision or nature and scope of the construction or remediation and the financial responsibility of the Lessee.

ARTICLE VI
OWNERSHIP AND DISPOSITION OF IMPROVEMENTS

A. OWNERSHIP OF PERMANENT IMPROVEMENTS

Permanent Improvements on the Premises, excluding Site Development Materials, constructed, placed, or purchased by the Lessee remain the Lessee's property as long as this Lease remains in effect, including any period of extension or holdover with the consent of the Lessor.

B. DISPOSITION OF SITE DEVELOPMENT MATERIALS

The Lessee acknowledges that, once placed by the Lessee, the removal from the Premises of Site Development Materials can damage the Premises, adversely affect surface water drainage patterns, and destabilize adjacent structures. When placed on the Premises by the Lessee, Site Development Materials, including building pads, parking areas, driveways, and similar structures:

- a. become a part of the realty and the property of the state;
- b. unless otherwise directed by the Lessor, must be maintained by the Lessee throughout the term of this Lease, including any extensions and periods of holdover; and
- c. may not be removed by the Lessee without the prior written approval of the Lessor.

C. DISPOSITION OF PERSONAL PROPERTY AND PERMANENT IMPROVEMENTS OTHER THAN SITE DEVELOPMENT MATERIALS

1. Unless the Lessor otherwise directs under Paragraph 5 of this Section, when this Lease expires, terminates, or is cancelled and is neither extended nor followed by a successive lease, the departing Lessee may do one or more of the following:
 - a. remove Lessee-owned Permanent Improvements from the Premises, remediate any Contamination for which the Lessee is responsible, and restore the Premises to a clean and neat physical condition acceptable to the Lessor within 60 days after the expiration, cancellation, or termination date of this Lease;
 - b. with written approval from the Lessor, sell Lessee-owned Permanent Improvements to the succeeding lessee, remove all personal property, remediate, any Contamination for which the Lessee is responsible under 17 AAC 45 and leave the Premises in a clean and neat physical condition acceptable to the Lessor within 60 days after notice from the Lessor that the Lessor has approved an application for a lease of the Premises by another person or such longer period specified in the notice, but in no event more than 180 days after the expiration, termination, or cancellation date of this Lease;

- c. elect to have the Lessor sell Lessee-owned Permanent Improvements at public auction under Paragraphs 2 and 3 of this Section, remediate any Contamination for which the Lessee is responsible under 17 AAC 45, and restore the premises to a clean and neat physical condition acceptable to the Lessor. If the Lessor sells Permanent Improvements under this Paragraph for removal from the Premises, the departing Lessee's obligation under this Paragraph continues until the Premises are remediated and restored to a clean and neat physical condition acceptable to the Lessor after the improvements have been removed.
2. If the departing Lessee elects to have the Lessor sell Lessee-owned Permanent Improvements at public auction per this Section, the Lessee shall, within 30 days after the expiration, cancellation, or termination of this Lease:
 - a. submit to the Lessor a written request and authorization to sell the Permanent Improvements by public auction;
 - b. provide to the Lessor an executed conveyance document transferring clear title to the Permanent Improvements to the successful bidder at the public auction, along with authorization to the Lessor, as agent for the Lessee for purposes of the sale only, to endorse the name of the successful bidder on the conveyance document upon receipt of payment of the successful bid price; and
 - c. before the date of the public auction, remove all personal property, remediate any Contamination for which the Lessee is responsible under 17 AAC 45 and leave the Premises in a neat and clean physical condition acceptable to the Lessor.
3. When selling Lessee-owned Permanent Improvements at public auction for the departing Lessee, the Lessor will establish the terms and conditions of the sale as provided under 17 AAC 45. The Lessor shall pay the Lessee any proceeds of the sale of the Permanent Improvements, less the administrative costs of the public auction and any financial obligation the Lessee owes to the Lessor under this Lease. Payment will be made within a reasonable time after the Lessor completes the sale transaction and receives the proceeds, but not to exceed 60 days. If all or a portion of the Permanent Improvements do not sell at public auction, the Lessee will remove those Permanent Improvements, remediate any Contamination for which the Lessee is responsible under 17 AAC 45 and restore the Premises to a clean and neat physical condition acceptable to the Lessor within 60 days after the auction.
4. If the Lessee shows good cause to the Lessor and if it is not inconsistent with the best interest of the state, the Lessor will grant an extension of time that is sufficient to allow the Lessee to remove or sell Lessee-owned Permanent Improvements, remediate any Contamination for which the Lessee is responsible and to restore the Premises to a clean and neat physical condition acceptable to the Lessor under this Section.
5. The Lessor will, by written notice, direct the departing Lessee to remove Lessee-owned Permanent Improvements from the Premises, to remediate, consistent with applicable law, any Contamination for which the Lessee is responsible under 17 AAC 45 and to restore the Premises to a clean and neat physical condition acceptable to the Lessor if the Lessor determines in writing:

- a. that the continued presence of the Permanent Improvements on the Premises are not consistent with either
 - i. the applicable provisions of 17 AAC 45 and of any other statute or regulation, including any relating to noise or Airport land use; or
 - ii. any written Airport program or plan required for compliance with applicable federal or state law;
 - b. that the continued presence of the Permanent Improvements on the Premises is not in the best interest of the state; or
 - c. that the Permanent Improvements present a hazard to public health or safety.
6. The departing Lessee to whom the Lessor has issued direction under Paragraph 5 of this Section shall comply with the Lessor's direction within 60 days after issuance of the direction and at no cost to the Lessor. If the departing Lessee shows good cause to the Lessor, continues to work diligently to comply with Lessor's direction, and if it is not inconsistent with the best interest of the state, the Lessor will allow in writing a longer period that is sufficient to allow the Lessee to comply with the Lessor's direction. A departing Lessee who fails to comply with a direction issued by the Lessor under Paragraph 5 of this Section, shall, within 30 days of being billed by the Lessor, reimburse the Lessor for any costs reasonably incurred by the Lessor, including legal fees and administrative costs, to enforce the Lessor's direction or to remove and dispose of unremoved Lessee-owned improvements, remediate any Contamination for which the Lessee is responsible under 17 AAC 45 and restore the Premises.
7. If the departing Lessee does not timely remove or sell the Lessee-owned Permanent Improvements on the Premises in accordance with the requirements of this Section, any remaining Permanent Improvements and any remaining personal property of the departing Lessee will be considered permanently abandoned. The Lessor may sell, lease, demolish, dispose of, remove, or retain the abandoned property for Airport use as the Lessor determines is in the best interest of the state. The departing Lessee shall, within 30 days after being billed by the Lessor, reimburse the Lessor for any costs reasonably incurred by the Lessor, including legal and administrative costs, to demolish, remove, dispose, clear title to, or sell the abandoned property and to remediate and restore the Premises.
8. After the expiration, termination, or cancellation of the Lease, including any holdover under 17 AAC 45, the departing Lessee loses all right to occupy or use the premises without the express or implied consent of the Lessor. Except as the Lessor notifies the departing Lessee otherwise in writing, the Lessor consents to the departing Lessee's continued use and occupancy of the Premises to diligently accomplish the requirements of this Section. Until the departing Lessee relinquishes possession of and completely vacates the Premises under Paragraph 9 of this Section and notifies the Lessor in writing that it has relinquished and vacated the Premises, the departing Lessee shall perform the following as if the lease were still in effect:

- a. maintain the premises;
 - b. provide the Lessor with evidence of each insurance coverage, if any, required under the Lease; and
 - c. cease using the premises other than to diligently accomplish the requirements of this Section, and to comply with the other requirements of the Lease.
9. A departing Lessee will not be considered to have relinquished possession and completely vacated the Premises until
- a. the departing Lessee has
 - i. remediated, consistent with applicable law, any Contamination for which the Lessee is responsible under this Lease; and
 - ii. restored the Premises to a clean and neat physical condition acceptable to the Lessor; and
 - b. either
 - i. removed all of the Lessee's Permanent Improvements and personal property from the premises or sold the Permanent Improvements and personal property to a succeeding Lessee under the provisions of this Lease; or
 - ii. transferred title to the Lessee's Permanent Improvements and personal property that remain on the premises to the Lessor.

ARTICLE VII
MAINTENANCE, UTILITIES AND SNOW REMOVAL

A. MAINTENANCE

- 1. Lessee will keep the Premises and all improvements on the Premises neat and presentable.
- 2. All structures on the Premises must be painted, finished, or covered with a permanent exterior surface and be maintained in good condition by the Lessee.
- 3. At no cost to the Lessor, the Lessee will provide for all maintenance and services at the Premises necessary to facilitate the Lessee's use of the Premises.
- 4. The Lessee further agrees to comply with all reasonable decisions and directions of the Lessor's Airport management personnel regarding maintenance and general use of the Airport by the Lessee.

B. UTILITIES

At no cost to the Lessor, the Lessee will provide for and maintain all utilities at the Premises necessary to facilitate the Lessee's use at the Premises.

C. SNOW REMOVAL

1. At no cost to the Lessor, the Lessee will be responsible for plowing, removing and disposing of snow from the Premises to a Lessor-approved location, or providing suitable storage within the boundaries of the Premises in accordance with all applicable federal and state laws.
2. Lessee agrees not to allow an accumulation of snow on the Premises that would
 - a. cause interference with other users of the Airport;
 - b. not comply with security or safety operations under Article VIII (Operations) of this Lease.

ARTICLE VIII
OPERATIONS

A. SECURITY AND CERTIFICATION

1. The Lessee will coordinate any Airport security matter with the Lessor. If the Airport is operated under 49 CFR Part 1542 (Airport Security) and 14 CFR Part 139 (Airport Certification), the Lessee will comply with all applicable requirements of the Lessor's Airport Security Program, Airport Certification Manual, and Airport Emergency Plan. Upon written notice from Lessor, Lessee will, at its sole expense, promptly correct any violation or omission under the Airport Security Program or Airport Certification Manual within the time specified in the notice.
2. If the Transportation Security Administration (TSA), the Federal Aviation Administration (FAA) or any other federal, state or local government agency fines or otherwise imposes a monetary penalty on the Lessor or requires the Lessor to remediate or mitigate any condition for a violation of a statute, ordinance, or regulation, and if the violation is caused by or based on, all or in part, an act or omission by the Lessee or someone acting on the Lessee's behalf, the Lessee will reimburse the Lessor for the amount of the fine or penalty, the Lessor's costs incurred to remediate or mitigate the condition, and any legal or other associated costs incurred by the Lessor in responding to the violation. The Lessee will reimburse the Lessor for fines, penalties or costs, paid within 30 days after receipt of written notice from the Lessor.

B. AIRPORT OPERATIONS

1. The Lessee shall comply with 17 AAC 45 and other applicable laws and orders that the Lessor or the Airport manager issues under AS 02.15.020(a) or under any other state or federal law; and instructions, requirements, and restrictions that the Lessor or the Airport manager has posted or indicated by sign, signal, or other control device, unless otherwise directed by an authorized person directing aircraft, vehicle, or pedestrian traffic. The Lessee shall not hinder or obstruct another person, a vehicle, or an aircraft from lawful use of Airport property.

2. The Lessee is required to coordinate the Lessee's activities on the Airport with the Lessor and to abide by the Lessor's decisions and directives regarding snow removal, maintenance, and general use of the Airport by the Lessee, the Lessee's personnel, employees, and any person acting on behalf of or under the authority of the Lessee, and by the Lessee's sublessees, contractors, and guests, including customers and vendors.
3. The Lessee is required to comply with all applicable requirements imposed on the Airport or the Lessor by federal law to ensure that the Airport's or Lessor's eligibility for federal money or for participation in a federal aviation program is not jeopardized.

C. LESSEE'S CONTROL AND RESPONSIBILITY

1. The Lessee is required to assume full control and sole responsibility as between the Lessee and the Lessor for the activities of the Lessee, the Lessee's personnel, employees, and persons acting on behalf of or under the authority of the Lessee, anywhere on the Airport and for the activities of the Lessee's sublessees, contractors, and guests, including customers and vendors, on the Premises.
2. The Lessee is required to perform all operations authorized by the Lease in a manner that ensures the safety of people and the Airport, the protection of public health and the environment, and the safety and integrity of the Premises.
3. The Lessee is required to immediately notify the Lessor of any condition, problem, malfunction, or other occurrence that threatens the safety of the Airport, the safety of persons using the Airport, the public health or the environment, or the safety or integrity of the Premises.

D. RADIO INTERFERENCE

The Lessee will discontinue the use of any machine or device that interferes with any government operated transmitter, receiver, or navigation aid until the cause of the interference is eliminated.

E. WILDLIFE

The Lessee acknowledges that a concentration of birds or other wildlife on an airport constitutes a significant hazard to aircraft operations. The Lessee agrees to keep the Premises clean of fish slime, fish waste, or any other material or item that might attract birds or other wildlife. The Lessee accepts full responsibility to take all prudent measures to prevent attracting birds or other wildlife.

F. PARKING

The Lessee is required to provide vehicle parking space, snow storage, and drainage on the premises adequate for the Lessee's activities on the premises.

ARTICLE IX
ENVIRONMENTAL PROVISIONS

A. HAZARDOUS SUBSTANCES

1. Lessee will provide notification to the Lessor of any Hazardous Substance stored, dispensed or handled on the Premises.
2. If Hazardous Substances are stored, dispensed or handled on the Premises, the Lessee agrees to have properly trained personnel and adequate procedures for safely storing, dispensing, and otherwise handling Hazardous Substances in accordance with all applicable federal, state, and local laws.
3. Lessee will promptly give the Lessor notice of proceedings to abate or discussions with federal or state regulatory agencies relating to the presence or release of a Hazardous Substance on the Premises or from the Lessee's operations on the Airport. The Lessee will allow the Lessor to participate in such proceedings or discussions.
4. If Lessee provides annual reporting to the Environmental Protection Agency (EPA) as a Small or Large Quantity Hazardous Waste Generator, or if a Notification of Regulated Waste Activities form is submitted to EPA, Lessee shall provide Lessor with a copy of the EPA submission.

B. ENVIRONMENTAL LIABILITY BASELINE

1. The Lessee has the sole responsibility under this Lease to ascertain the environmental condition and presence of Hazardous Substance existing in, on, and under the surface of the Premises, and is conclusively presumed to have caused or Materially Contributed To any Contamination of or originating on the Premises except as identified in an Environmental Liability Baseline accepted by the Lessor.
2. The Lessee assumes financial responsibility to the Lessor for any Contamination in, on, and under the Premises and any Airport property affected by a release of a Hazardous Substance from the Lessee's operations (Affected Property), except for Contamination that is identified in an Environmental Liability Baseline. This is without prejudice to the Lessee's right to seek contribution or indemnity from either prior lessees of the Premises and Affected Property, or other potentially responsible parties except for the Lessor.
3. The procedures for establishing an Environmental Liability Baseline shall be as follows:
 - a. If the Lessee wants to establish an Environmental Liability Baseline for all or any portion of the Premises, the Lessee shall provide the Lessor with an Environmental Assessment for that portion of the Premises. The Environmental Assessment shall be performed according to standard industry procedures.
 - b. If the Lessee discovers Contamination in, on, or under the surface of the Premises, for any portion of the Contamination to be considered for inclusion in the Environmental Liability Baseline, the Lessee must demonstrate by clear and convincing evidence 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 assumed by the Lessee by reason of assignment. In light of the Lessee's responsibility under Article VIII (Operations), Section C (Lessee's Control and Responsibility) of this Lease for the acts of its sublessees, contractors, and guests on the Premises, Contamination caused or Materially Contributed To by activities of the Lessee's sublessees, contractors, and guests on the Premises are deemed to be Materially Contributed To by the Lessee.

- c. Only that portion of Contamination not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities, nor assumed by the Lessee by reason of assignment, shall be included in the Environmental Liability Baseline.
4. The procedures for adding to an existing Environmental Liability Baseline shall be as follows:
- a. If, after an Environmental Liability Baseline is established for any portion of the Premises, Lessee discovers Contamination in, on, or under the surface of that portion of the Premises having an Environmental Liability Baseline, which Contamination Lessee or Lessee's operations or activities did not cause or Materially Contribute To, and which Lessee did not assume by reason of assignment, Lessee may, at its own cost, submit an additional Environmental Assessment reflecting that information to Lessor for Lessor's consideration to add to the Environmental Liability Baseline. Lessee's additional Environmental Assessment must demonstrate by clear and convincing evidence to the satisfaction of Lessor which portion of the additional Contamination on the Premises was not caused or Materially Contributed To by Lessee or Lessee's operations or activities nor assumed by Lessee by reason of assignment.
 - b. Only that portion of Contamination not caused or Materially Contributed To by Lessee or Lessee's operations or activities, nor assumed by Lessee by reason of assignment, may be added to the existing Environmental Liability Baseline.
5. When the Lessor receives the Lessee's Environmental Assessment to establish the Environmental Liability Baseline, the Lessor, in its sole discretion, will do one of the following:
- a. Accept the findings of the Lessee's Environmental Assessment as the Environmental Liability Baseline for that portion of the Premises being assessed.
 - b. Reject the findings of the Lessee's Environmental Assessment for that portion of the Premises 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 develop an Environmental Liability Baseline. The Lessor's written rejection of the Lessee's submittal(s) will be based on failure of the Lessee's Environmental Assessment to either:
 - i. follow rules and regulations for site assessment in determining the environmental condition of the Premises and the presence of Contamination in, on, or under the surface of the Premises; or

- ii. demonstrate the portion of the Contamination that was not caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, nor assumed by the Lessee by reason of assignment.
 - c. Perform additional environmental testing at the Lessor's expense to verify the environmental condition of that portion of the Premises 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 for that portion of the Premises being assessed. To the extent the Lessor and Lessee are unable to agree, the Lessor's testing shall control in establishing the Environmental Liability Baseline.
6. If, after the Environmental Liability Baseline for any portion of the Premises is established, it is discovered that the presence of a Hazardous Substance identified in the Environmental Liability Baseline was caused or Materially Contributed To by the Lessee or its operations, or assumed by the Lessee by reason of assignment, the Environmental Liability Baseline shall be amended to delete that portion of the Contamination. The Lessor will have the burden of proof in establishing that the Lessee caused or Materially Contributed To this Contamination or that the Contamination was assumed by the Lessee by reason of assignment.

C. ENVIRONMENTAL INDEMNIFICATION

If Contamination of the Premises or other properties by a Hazardous Substance occurs from the Lessee's operations on the Premises that is not in Lessee's Environmental Baseline, the Lessee will indemnify, defend, and hold the Lessor harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses, including, but not limited to, sums paid in settlement of claims, attorney's fees, consultant fees, and expert fees, which arise during or after the term of this Lease as a result of such Contamination. This indemnification of the Lessor by the Lessee includes, but is not limited to, costs incurred in connection with any investigation of site conditions or any cleanup, remediation, removal, or restorative work required by any federal, state, or local governmental agency because of a Hazardous Substance being present in the soil or groundwater on or under the Premises or other properties affected by the Contamination.

D. REMEDiation

1. In the event of a Hazardous Substance spill on the Premises, the Lessee will immediately notify the Lessor and the Alaska Department of Environmental Conservation and act promptly, at its sole expense, to contain the spill, repair any damage, absorb and clean up the spill area, and restore the Premises to a condition satisfactory to the Lessor and otherwise comply with the applicable portions of Title 17 and Title 18 of the Alaska Administrative Code.
2. In addition to any notices required by this Lease, the Lessee will immediately notify and copy the Lessor in writing of any of the following:
 - a. any permit, enforcement, clean up, lien, removal or other governmental or regulatory action instituted, completed, or threatened pursuant to any Environmental Law;

- b. any claim made or threatened by any person against the Lessee or arising from the Lessee's operations authorized by this Lease, relating to damage, contribution, compensation, loss or injury resulting from, or claimed to result from, any Hazardous Substances in, on, or under the Airport; or
 - c. any report made to any environmental agency arising out of or in connection with any Hazardous Substances in, on, or removed from the Premises, including any complaints, notices, warnings or asserted violation.
3. The Lessor is under no obligation to remediate Contamination identified in an Environmental Assessment, except the Lessor agrees to remediate, or have responsible parties remediate, the Contamination identified in the Environmental Liability Baseline if the Lessee or Lessor is required to remediate by an agency with such authority. In the event of such required remediation, the Lessor will make a reasonable effort to coordinate the remediation with the Lessee to minimize disruption of the Lessee's operations and damage to the Lessee's improvements and property. The Lessee releases and holds the Lessor harmless for all costs associated with damage to, relocation and removal of, loss of use of, and the repair of Lessee's improvements and property that results from this remediation.
4. Remediation and restoration of the affected area must meet all applicable state and federal laws and regulations and must meet the requirements of all governing regulatory authorities.

E. ACTION AGAINST POTENTIALLY RESPONSIBLE PARTIES

Nothing contained in this Lease shall restrict either the Lessor or the Lessee from seeking and obtaining cleanup efforts, costs, or damages from other potentially responsible parties for Contamination identified in the Environmental Liability Baseline.

F. ENVIRONMENTAL AUDIT

Lessee will provide Lessor all investigative data, test results, or reports as part of or in relation to any Environmental Assessment, characterization or audit which Lessee performs or causes to be performed after the starting date of this Lease. The Lessee will submit the data, result, or report to the Lessor within 60 days following the date on which it becomes available to the Lessee.

G. RELEASE OF LESSEE

The Lessor releases the Lessee from liability to the Lessor for Contamination and the presence of Hazardous Substances identified by the Environmental Liability Baseline that was not caused or Materially Contributed To by the Lessee nor assumed by the Lessee by reason of assignment.

H. SURVIVAL OF OBLIGATIONS - LESSOR

The Lessor's release of the Lessee and the Lessor's covenant to remediate as discussed in this Article will survive the cancellation, termination or expiration of this Lease.

I. LESSOR'S RIGHT TO PERFORM ENVIRONMENTAL ASSESSMENT

Upon the cancellation, termination, or expiration of this Lease, or any time the Lessor has cause to believe the Premises may have been contaminated, or that Contamination of other property on the Airport may have originated on the Premises, the Lessor may perform an Environmental Assessment on the Premises or on potentially Affected Property to establish the presence and source of any Contamination and describe the environmental condition of the Premises or potentially Affected Property. If the Lessor performs such assessment before cancellation, termination, or expiration of this Lease, the Lessor shall minimize interference with the Lessee's operations while performing the assessment. The Lessor will assume the cost of the assessment if Contamination is not found on the Premises and no Contamination that originated on the Premises or caused by the Lessee or the Lessee's operations or activities is found on potentially Affected Property. If such Contamination is found on either the Premises or potentially Affected Property, the Lessee shall pay the costs of assessment and cleanup of any Contamination not included in an Environmental Liability Baseline.

ARTICLE X
LAWS, TAXES AND CLAIMS

A. COMPLIANCE WITH LAW

1. This Lease is issued subject to all applicable requirements of state statutes and regulations in effect during the term of this Lease, including those related to the leasing of lands and facilities and the granting of privileges at state airports. All references to regulations contained in this Lease shall be construed to incorporate any amendments to those regulations. In the event any regulation referred to in this Lease shall be repealed, the reference shall be construed to incorporate any contemporaneously or subsequently adopted regulation addressing the same or similar subject matter.
2. The Lessee will comply with all applicable requirements imposed on the Airport or the Lessor by federal law to ensure that the Lessor's eligibility for federal money or for participation in a federal aviation program by the Airport or the Lessor is not jeopardized and with all orders issued by the Lessor.
3. At no expense to the Lessor, the Lessee will obtain all necessary licenses and permits, pay all taxes and special assessments lawfully imposed upon the Premises, and pay other fees and charges assessed under applicable law. Nothing in this Lease prevents the Lessee from challenging any taxes or special assessments to the appropriate authority under applicable procedures.
4. The laws of the State of Alaska will govern in any dispute between the Lessee and Lessor. If a dispute continues after exhaustion of administration remedies, any lawsuit must be brought in the courts of the State of Alaska, in Fairbanks within the Fourth Judicial District.

B. CLAIMS

The Lessee will promptly notify the Lessor of any claim, demand, or lawsuit arising out of the Lessee's occupation or use of the Airport or the Premises. Upon the Lessor's request, the Lessee will cooperate and assist in the investigation and litigation of any claim, demand, or lawsuit affecting the Airport or the Premises.

ARTICLE XI
INDEMNIFICATION AND INSURANCE

A. INDEMNIFICATION

1. The Lessee will indemnify, save harmless, and defend the Lessor, its officers, agents, and employees from and against any and all liabilities, losses, suits, administrative actions, claims, awards, judgments, fines, demands, damages, injunctive relief or penalties (specifically including civil penalties assessed by the FAA, TSA or any other federal agency) of any nature or kind to the full extent of the loss or obligation for property damage, personal injury, death, violation of any regulation or grant agreement, or any other injury or harm, including sums paid in settlement of claims, attorney fees, consultant fees, expert fees, or any other costs and expenses, directly or indirectly arising from, connected to or on account of this Lease as it relates to the Lessee, the Lessee's activities at or relating to the Airport, or any act or omission by the Lessee, or by any of its officers, employees, agents, contractors or sublessees.
2. The Lessee shall give the Lessor prompt notice of any suit, claim, action or other matter affecting the Lessor to which Paragraph 1 of this Section may apply, together with a copy of any letter by an attorney on behalf of a complainant, any complaint filed in court, and any notice or complaint by any regulatory agency. Lessor shall have the right, at its option, to participate cooperatively in the defense of and settlement negotiations regarding any such matter, without relieving the Lessee of any of its obligations under this provision. These indemnity obligations are in addition to, and not limited by, the Lessee's obligation to provide insurance, and shall survive the expiration or earlier termination of this Lease.
3. Paragraph 1 notwithstanding, the Lessee shall not be obligated to indemnify the Lessor for liability for personal injury or property damage legally caused by the Lessor's own negligence, recklessness or intentional misconduct.

B. INSURANCE

The Lessee is not required to provide insurance coverage at the commencement of this Lease. However, if the Lessor determines the activity, construction, or operation of the Lessee under this Lease will expose the State of Alaska to a liability risk greater than the risk typically posed by the activity, construction, or operation of lessees that are not required to obtain insurance, the Lessor may require the Lessee to provide proof of insurance coverage in amounts determined by the Lessor.

ARTICLE XII
GENERAL PROVISIONS

A. LIENS

The Lessee will keep the Premises and improvements placed on the Premises free of all liens for any obligations incurred by Lessee. The Lessee will pay all costs for labor and materials arising out of any construction or improvements by the Lessee on the Premises, and hold the Lessor harmless from liability for any liens, including costs and attorney fees. The Lessor does not recognize that it is in any way liable for any liens on the Premises or improvements placed on the Premises. This restriction does not prohibit the assignment of interest for security purposes if the Lessor approves the assignment in writing.

B. CONDEMNATION AND RELOCATION

If all or any part of the Premises is condemned by any authority or person vested with the power of Eminent Domain, including Lessor, the term of this Lease will end on the date the Lessee is required to surrender possession of the Premises under 17 AAC 45. The Lessor shall be entitled to all compensation from the condemning authority for the taking of the Premises. Nothing within this Lease will diminish Lessee's rights, if any, to receive compensation for improvements or personal property belonging to the Lessee and located on the Premises under applicable relocation laws.

C. NOTICES

All notices by either party required or permitted under this Lease shall be in writing sent by first class or higher priority mail, electronic transmission, or hand delivery, to the contact details set out on page one of this Lease or any other contact details that the parties subsequently designate in writing. Unless otherwise agreed to in writing, the parties will also supply to the other party, as promptly as possible, and in any event, within 15 days after the involved party first receives or sends the same, copies of all claims, reports, complaints, notices, liens or warnings, or asserted violations relating in any way to the Premises or the Lessee's use of the Airport.

D. MODIFICATION

Upon written notification to Lessee, the Lessor may modify this Lease to meet the revised requirements of federal or state grants or to conform to the requirements of any revenue bond covenant to which the Lessor is a party; provided that a modification may not cause the Lessee financial loss, or reduce the rights or privileges granted to the Lessee by this Lease, except that any such modification may substitute rights or privileges that are substantially similar or of comparable value.

E. VALIDITY OF PARTS

If any provision of this Lease is declared to be invalid by a court of competent jurisdiction, the remaining provisions will continue in full force.

F. INTERRELATIONSHIP OF PROVISIONS

All provisions of this Lease including exhibits, supplements, and addenda are essential parts of this Lease and are intended to be cooperative, provide for the use of the Premises, and describe the respective rights and obligations of the Lessor and Lessee. In case of a discrepancy, written dimensions govern over scaled dimensions unless obviously incorrect.

G. INTEGRATION AND MERGER

This Lease sets out all the terms, conditions, and agreements of the parties and supersedes any previous understandings or agreements regarding the Premises whether oral or written. No modification or amendment of this Lease is effective unless in writing and signed by both the parties.

H. EXECUTION BY THE PARTIES

This Lease is of no effect until the Lessee or a duly authorized representative of Lessee and the Commissioner of the Department of Transportation and Public Facilities or the Commissioner's designated representative has signed it.

I. CAPTIONS

The captions of the provisions of this Lease are for convenience only and do not define, limit, describe, or construe the contents of any provision.

J. ADDITIONAL INFORMATION

The Lessor may, from time to time, require the Lessee to provide such documentation as the Lessor may reasonably require establishing the Lessee's continuing qualification for this Lease.

K. RIGHTS OF CONSTRUCTION

This Lease is intended to make public property available for private use, while at all times protecting the public interest to the greatest extent possible. Following the rule that transfers of interest in public property are to be strictly construed in favor of the Lessor, all rights granted to the Lessee under this Lease will be strictly construed, and all rights of the Lessor and protections of the public interest will be liberally construed.

L. LESSEE ACKNOWLEDGEMENT

The Lessee acknowledges that the Lessee has read this Lease and fully understands its terms, that the Lessee has been fully advised or has had the opportunity of advice by separate legal counsel, and voluntarily executes this Lease. Lessee also acknowledges and agrees that the rule of interpretation under which a document is construed against the drafter will not apply to this Lease.

M. APPROVAL BY LESSOR

Any approval required of the Lessor by this Lease will not be unreasonably withheld. The Lessor's approval does not waive the Lessee's legal responsibility or liability to comply with all applicable federal and state laws and regulations.

N. DISCRIMINATION

The Lessee will not discriminate on the grounds of race, color, religion, national origin, ancestry, age, or sex against any patron, employee, applicant for employment, or other person or group of persons in any manner prohibited by federal or state law. The Lessee recognizes the right of the Lessor to take any action necessary to enforce this provision, including actions required pursuant to any federal or state law.

O. AFFIRMATIVE ACTION

If required by 14 CFR Part 152, subpart E, the Lessee will undertake an affirmative action program to insure that no person will be excluded from participating in any employment activities offered by the Lessee on the grounds of race, creed, color, national origin, or sex. No person may be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by subpart E. The Lessee further agrees that it will require its suborganization(s) provide assurance to the Lessor to the same effect that they will also undertake affirmative action programs and require assurances from their suborganization(s) as required by 14 CFR, Part 152, subpart E.

P. QUIET ENJOYMENT & RIGHT OF INSPECTION

The Lessee is entitled to quiet enjoyment of the Premises subject to the terms of this agreement and the Lessor's right of ingress to and egress from the Premises, including buildings, and the right to enter any part of the Premises for the purpose of inspection at any reasonable time, subject only to the Lessor's best efforts, except in the case of an emergency, to coordinate its inspection with the Lessee to minimize interference with the Lessee's activities on the Premises.

ARTICLE XIII
ASSIGNMENT OR SUBLEASE

All provisions in this Lease extend to and bind the legal representatives, successors, and assigns of the parties. The Lessor's consent to one assignment, sublease, assignment of sublease or security interest will not waive the requirement of obtaining the Lessor's consent to any subsequent assignment or sublease. In the event of a conflict between this Lease and an assignment or a sublease, the terms of this Lease govern; a provision stating this priority must be included in each assignment or sublease, but is implied in all assignments whether stated or not.

A. ASSIGNMENT

1. Lessee shall obtain and follow Lessor's written assignment guidance and the requirements in 17 AAC 45.260, as amended.

2. The Lessee may not assign all or a portion of this Lease, including improvements, without the prior written consent of the Lessor. An assignment made contrary to the requirements of this section is void.
3. A request for consent to an assignment must be submitted to the department in writing.
4. Any proposed assignment must be submitted to the Lessor for approval in three (3) copies, each bearing the original notarized signature of all parties.
5. An assignment must include a provision stating that the assignee accepts responsibility for all of the assignor's obligations under this Lease, including environmental liability and responsibility.
6. An assignee may not occupy the Premises before the Lessor consents to the assignment in writing.
7. Any single or cumulative transfer of more than 50 percent interest in a joint venture, partnership, limited liability company, corporation, or other dual or multi-party entity which is a Lessee under this Lease is an assignment of an interest subject to written approval by the Lessor.

B. ASSIGNMENT FOR SECURITY PURPOSES

1. The Lessee may not assign for security purposes all or a portion of or any interest in this Lease, including improvements, without the prior written consent of the Lessor. An assignment for security purposes made contrary to the requirements of this section is void.
2. Lessee shall obtain and follow Lessor's written security assignment guidance and the requirements in 17 AAC 45.265, as amended.
3. A request for consent to an assignment for security purposes must be submitted in writing to the Lessor for approval.
4. A security assignment document must include provisions stating that:
 - a. If the security assignee takes possession or control of the Lease, either directly or through a sub-tenant, by foreclosure or otherwise, under the security assignment,
 - i. The security assignee accepts responsibility for all of the Lessee's obligations under the Lease, including environmental liability and responsibility, commencing as of the date the security assignee succeeds to the Lessee's interest under the Lease, and
 - ii. Except as provided in subsection (c) below, those obligations terminate as to the security assignee upon further transfer of the Lease by the security assignee;
 - b. The security assignee has an affirmative duty to notify the state in writing upon the reconveyance or release of the security interest; and

- c. Unless the security assignee "participates in management" of the Lessee (as defined in 42 U.S.C. 9601(20)(F)), the security assignee does not have environmental liability or responsibility for the period pre-dating the time when it took possession or control of the Leasehold. The security assignee does not have environmental liability or responsibility following a subsequent transfer of its entire interest in the Lease unless, by its direct actions, negligence, or failure to use due care, the security assignee
 - i. caused or contributed to a violation of any of the Lease terms relating to environmental law or hazardous substances;
 - ii. violated 17 AAC 45.045 or 17 AAC 45.050; or
 - iii. caused or contributed to actual financial damages to the Lessor due to the security assignee's breach of any environmental law.
- 5. Exercise by a security assignee of a power of sale or further assignment under a security assignment is subject to the consent of the Lessor with respect to any purchaser or assignee and shall be conditioned upon the purchaser or assignee accepting responsibility for all of the lessee's obligations under this Lease, including environmental liability and responsibility.

C. SUBLEASE

- 1. Each provision of this section applies to a sublease of all or a portion of the Premises, as well as to a further sublease of a sublease. A sublease made contrary to the requirements of this section is void.
- 2. The Lessee may not sublease all or a portion of the Premises without the prior written consent of the Lessor. The consent of the Lessor under this section is required for each sublease of all or any portion of the Premises.
- 3. Lessee shall obtain and follow Lessor's written sublease consent guidance and the requirements in 17 AAC 45.270, as amended.
- 4. A sublease must include a provision that it is subject to all of the terms and conditions of this Lease governing the property being subleased. The Lessor reserves the right and authority to enforce the obligations of Article IV (RENTS AND FEES) of this Lease with respect to the sublessee's operations against either the sublessee directly, or against the Lessee.
- 5. A sublessee may not occupy the Premises before the Lessor consents to the sublease in writing.
- 6. A sublease may not and does not relieve the Lessee of responsibility for providing the Lessor with evidence of any required insurance (if applicable) that meets the requirements of this Lease, including coverage of the sublessee's operations on the Premises.

7. Consent to a sublease by the Lessor does not relieve or otherwise alter the obligations of the Lessee under this Lease.
8. A sublessee may not assign all or a portion of a sublease, including improvements, without the prior written consent of the Lessor and the Lessee under Section A (ASSIGNMENT) of this article. An assignment made contrary to the requirements of Section A (ASSIGNMENT) is void.

ARTICLE XIV **DEFAULT BY LESSEE**

A. EVENTS OF DEFAULT

The occurrence of any of the following events shall constitute a default by Lessee under the terms of this Lease:

1. Lessee uses or authorizes the use of the Premises for any purpose not authorized by this Lease.
2. Lessee fails to fully perform and comply with any provision in this Lease.
3. A court enters a judgment of insolvency against Lessee.
4. A trustee or receiver is appointed for Lessee's assets in a proceeding brought by or against Lessee.
5. Failure by Lessee to comply with any of the terms of this Lease, including, but not limited to land development and Permanent Improvement requirements under Article V (Survey, Improvements and Performance Bond) of this Lease.

B. REMEDIES

In addition to any other remedy allowed by law, if any default by Lessee is not cured within 30 days of Lessee's receipt of written notice from Lessor, Lessor shall be entitled to pursue any or all of the following remedies:

1. Terminate this lease, in which case Lessee shall immediately vacate the Premises;
2. Without further notice to Lessee and without prejudice to any other remedies Lessor may have, enter and take possession of the Premises;
3. Commence legal proceedings to evict Lessee from the Premises; and
4. Recover from Lessee, by any legal means, all amounts owed by Lessee to Lessor under the terms of this Lease, with interest thereon at the rate provided for in AS 45.45.010(a).

C. COSTS AND ATTORNEY'S FEES

Lessee will pay all reasonable actual expenses, costs, and attorney's fees Lessor may incur, with or without formal action, to enforce, defend, or protect this Lease or Lessor's rights under this Lease, including any expense incurred with respect to environmental compliance, bankruptcy or any proceeding that involves Lessee, the Lease, the Premises, improvements or personal property on the Premises. Lessee will make payment within 30 days of the date of each notice from Lessor of any amounts payable under this provision.

D. REASONABLE CURE

1. In the case of a default that cannot be reasonably cured within 30 days, a notice of default issued by Lessor to Lessee under this Article is stayed if, within the 30-day notice period, Lessee begins and continues expeditious action to cure the violation. Lessor will determine if a violation cannot be reasonably cured within 30 days and what constitutes expeditious action.
2. In the case where, in Lessor's sole determination, Lessee's default is considered an imminent threat to the Airport, public health or safety, or the environment, Lessor will direct Lessee to stop the activity immediately and may reduce the period to cure the default, or Lessor may correct the default pursuant to Section E of this Article.

E. RIGHT OF LESSOR TO PERFORM

1. If, after 30 days following issuance of notice, Lessee fails or refuses to perform any action required by this Lease, Lessor will have the right, but not the obligation, to perform any or all such actions required by this Lease at the sole expense of Lessee. Lessor will not take action if Lessee begins and continues expeditious action to perform any action required by this Lease that cannot be reasonably completed within 30 days. Lessor will, at its sole discretion, determine what constitutes expeditious action and if an action cannot be reasonably performed in 30 days.
2. Lessee is required to pay, within 30 days of the billing date, any cost or damage that Lessor incurs to enforce or protect Lessor's rights under the Lease or due to any failure of Lessee to comply with a provision of the Lease, including a cost to correct a violation under 17 AAC 45; in this paragraph "cost" includes legal fees and administrative costs.
3. If Lessee fails or refuses to perform any action that has been deemed an imminent threat Lessor will have the right, but not the obligation, to perform any or all such actions required to expeditiously correct the imminent threat. If Lessor acts to correct a violation or omission by Lessee, Lessor may seek reimbursement from Lessee of all costs, plus interest at the rate provided in AS 45.45.010(a), that Lessor incurs in acting to correct the violation or omission, including site assessment costs, clean-up costs, collection costs, legal and administrative costs, applicable fines, and costs resulting from interference with or delay of Airport projects or operations.

F. WAIVER

A waiver by the Lessor of any default by the Lessee of any provision of this Lease will not operate as a waiver of any subsequent default. If the Lessor waives a default, the Lessor is not required to provide notice to the Lessee to restore or revive any term or condition under this Lease. The waiver by the Lessor of any provision in this Lease cannot be enforced or relied upon unless the waiver is in writing and signed on behalf of the Lessor. The Lessor's failure to insist upon the strict performance by the Lessee of any provision in this Lease is not a waiver or relinquishment for the future and the provision will continue in full force.

ARTICLE XV
HOLDOVER AND CONTINUED OCCUPANCY

A. HOLDOVER

If the Lessor has not directed the Lessee to vacate the premises upon expiration of the Lease, then if the Lessee continues to occupy the premises in holdover after the expiration of the Lease, the holdover ends on the earliest of the following, regardless of any rents or fees accepted by the Lessor:

1. the date on which the Lessor and the Lessee execute a term extension for the Lease or a new Lease for the Premises; or
2. the date on which the Lessor or the Lessee terminates the holdover upon not less than 30 days' notice; or
3. the 180th day after the expiration of the Lease.

B. CONTINUED OCCUPANCY

If the Lessee continues to occupy the Premises in Holdover under this Article, the Lessee will continue to pay the Lessor rents and fees after the expiration, termination, or cancellation of this Lease and to abide by the Lease obligations, including providing any required proof of insurance coverage, through the date Lessee relinquishes possession of and completely vacates the Premises. Lessor will consider the Premises vacated if:

1. The Lessee has remediated any environmental Contamination for which the Lessee is responsible; and
2. The Lessee has removed or otherwise disposed of any Lessee-owned permanent or removable improvements and personal property; and
3. The Lessee has restored the Premises to a neat and clean physical condition acceptable to Lessor.

C. AIRPORT CLOSURE

Pursuant to AS 02.15.070(b) and 17 AAC 45, the Lessor may abandon or temporarily or permanently close the Airport for aircraft operations if the Lessor finds that is in the best interest of the state.

1. If Lessor closes the Airport for aircraft operations for sixty (60) days or less, this Lease will remain in full force and effect without adjustment.
2. If Lessor closes the Airport for aircraft operations for more than sixty (60) days, but not permanently, and the Lessee's Lease is for aeronautical uses, the Lessee may either terminate the Lease in writing or retain the Lease and receive a fifty percent (50%) rent reduction or credit for that portion of the closure that exceeds sixty (60) days.
3. If Lessor permanently closes the Airport for aircraft operations the Lessee may terminate this agreement by written notice to Lessor or retain the Lease subject to any obligation of the Lessor to return management of the affected land to the State of Alaska Department of Natural Resources, any obligation of the state to return the affected land to the federal government or other public or private person or entity under a deed restriction, federal grant assurance, or other binding requirement, or any decision of the Lessor to sell or exchange the land or to put the land to other use.

D. DISASTERS

The Lessee or Lessor may cancel this Lease upon written notice to the other party if:

1. the Premises becomes unusable through no fault of either party and performance under this Lease becomes impossible; or
2. the Airport becomes unusable through no fault of either party and the performance under this Lease becomes impossible.

If the Lessee elects in writing that it will continue to operate after notice from Lessor to Lessee that the Airport has become unusable, the Lessee's obligations under the Lease will continue but Lessor is under no obligation to continue to perform. Causes for termination of the Lease under this provision include acts of God, the public enemy, and the United States.

E. NATIONAL EMERGENCY

If the federal government declares a national emergency, neither party may hold the other liable for any inability to perform any part of this Lease as a result of the national emergency.

ARTICLE XVI **FUELING OPERATIONS AND FUEL STORAGE**

A. SELF FUELING

Except as may be provided in this Lease, the Lessee shall not conduct Fueling operations on the Airport except Self-fueling, which shall be conducted only on the Premises or on the premises of a commercial fueling facility.

B. FUEL STORAGE

1. If Fuel is stored on the Premises, the Fuel storage facility must be in compliance with 17 AAC 45 and installed and plumbed according to all Environmental Laws, 13 AAC 50, 14 CFR Part 139 (if applicable), and all comply with all applicable federal and state laws.
2. The Lessee will keep all equipment used in conjunction with the Lessee's Fueling operations on the Airport in a safe and properly functioning condition.
3. At any time, the Lessor has the right to inspect all Fueling equipment used by the Lessee on the Airport to determine if the Lessee's Fueling equipment and operations conform to the applicable laws, regulations, and codes. The Lessee, prior to any further Fueling operations, will accomplish any corrective action deemed necessary by the Lessor.
4. All Fueling operations must be in compliance with 17 AAC 45 and will meet current requirements for Fueling and fire safety as described in applicable federal and state laws and regulations.
5. If required under 40 CFR 112, Lessee agrees that before performing any Fueling function on the Airport, Lessee will maintain and submit to the Lessor a copy of the operator's Spill Prevention, Control, and Countermeasures Plan prepared under 40 CFR 112.

ARTICLE XVII **SPECIAL PROVISIONS**

A. Lease Cancellation if Premises Needed For Aviation Use

1. The Lessee acknowledges and accepts that the Lessor retains the right to cancel this Lease with 180 days written notice if the Premises are needed for Aviation purposes.

B. Maintenance of Site

1. The installation, operation, and maintenance of the facilities authorized herein shall be carried out at the sole cost, expense, and liability of the Lessee.
2. The Lessee shall be responsible for all maintenance of the Premises, including, but not limited to, trash pickup, cleaning and maintenance of the vault toilet, and ensuring the Premises remain in a clean, presentable, sanitary, and safe condition subject to the approval of the Lessor.
3. This Lease agreement is subject to cancellation with 180 days written notice in the event the Lessee fails to maintain the Premises and vault toilet to the satisfaction of the Lessor.

ARTICLE XVIII

DEFINITIONS

For the purposes of this Lease the following terms are defined as follows:

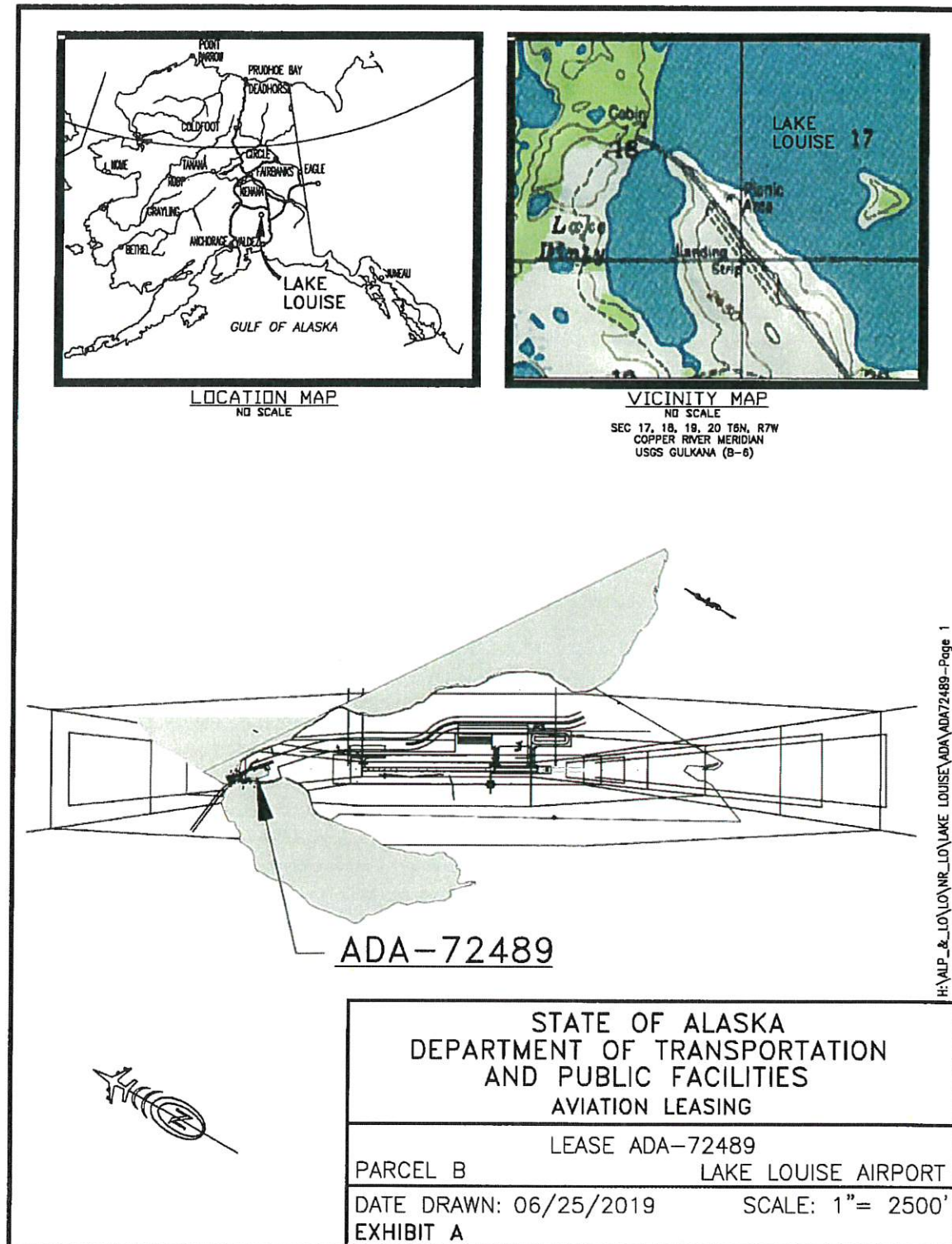
1. Contamination -- the unpermitted presence of any released Hazardous Substance.
2. Environmental Assessment -- means an assessment of property, prepared in a manner consistent with generally accepted professional practices, that is supported by reports and tests that determine the environmental condition of property and the presence, type, concentration, and extent of any Hazardous Substance in, on, and under the surface of the property.
3. Environmental Law --any federal, state, or local statute, regulation, ordinance, code, permit, order, decision, or judgment from a governmental entity relating to environmental matters, including littering and dumping, including 42 USC 7401-7671q (Clean Air Act); 33 USC 1251-1387 (Federal Water Pollution Control Act); 42 USC 6901-6992k (Resource Conservation and Recovery Act); 42 USC 9601-9657 (Comprehensive Environmental Response, Compensation, and Liability Act); 49 USC 5101-5127 (Hazardous Materials Transportation Act); 15 USC 2601-2692 (Toxic Substances Control Act); AS 46 (Alaska Water, Air, Energy, and Environmental Conservation Acts); and the provisions of 18 AAC (Environmental Conservation), implementing AS 46.
4. Environmental Liability Baseline -- a document based on an Environmental Assessment that identifies Contamination in, on, or under the surface of the Premises that was neither caused nor Materially Contributed To by the Lessee, nor assumed by the Lessee by reason of assignment. If an Environmental Assessment determines the presence of Contamination in, on, or under the surface of the Premises that was Materially Contributed To by the Lessee, the Environmental Liability Baseline will include only that portion of the Contamination not caused or Materially Contributed To by the Lessee or the Lessee's operations, nor assumed by the Lessee by reason of assignment.
5. Fuel -- any motor fuel or liquid heating fuel including gasoline, aviation gasoline, jet fuel, diesel fuel, kerosene, propane, and liquid natural gas.
6. Fueling -- delivering or dispensing Fuel, defueling and refueling, or any other transfer of Fuel on Airport property.
7. Hazardous Substance -- a substance that is defined under an Environmental Law as hazardous waste, Hazardous Substance, hazardous material, toxic, pollutant, contaminant, petroleum, petroleum product, or oil.
8. Lessor -- The State of Alaska, Department of Transportation and Public Facilities' employee or other person designated by the commissioner or a regional director to act for the department, including an Airport manager.

9. Materially Contributed To -- to play a substantial role in causing or increasing the release or migration of a Hazardous Substance in a reportable quantity as defined under an applicable Environmental Law.
10. Permanent Improvement -- a fixed addition or change to land that is not temporary or portable, including a building, building addition, a well associated with a building, and a Fuel tank of not less than 1,000 gallons capacity and affixed to a permanent foundation, but not site development work, Site Development Materials and items of ordinary maintenance, such as glass replacement, painting, roof repairs, door repairs, plumbing repairs, floor covering replacement, or pavement patching.
11. Self-fueling -- the dispensing of Fuel to an aircraft or vehicle for use by the aircraft or vehicle using fueling apparatus owned or leased by the owner or operator of the aircraft or vehicle.
12. Site Development Materials -- materials used for site development, including geotextile, fill, gravel, paving, and pavement reinforcement materials.

ARTICLE XIX
EXHIBITS

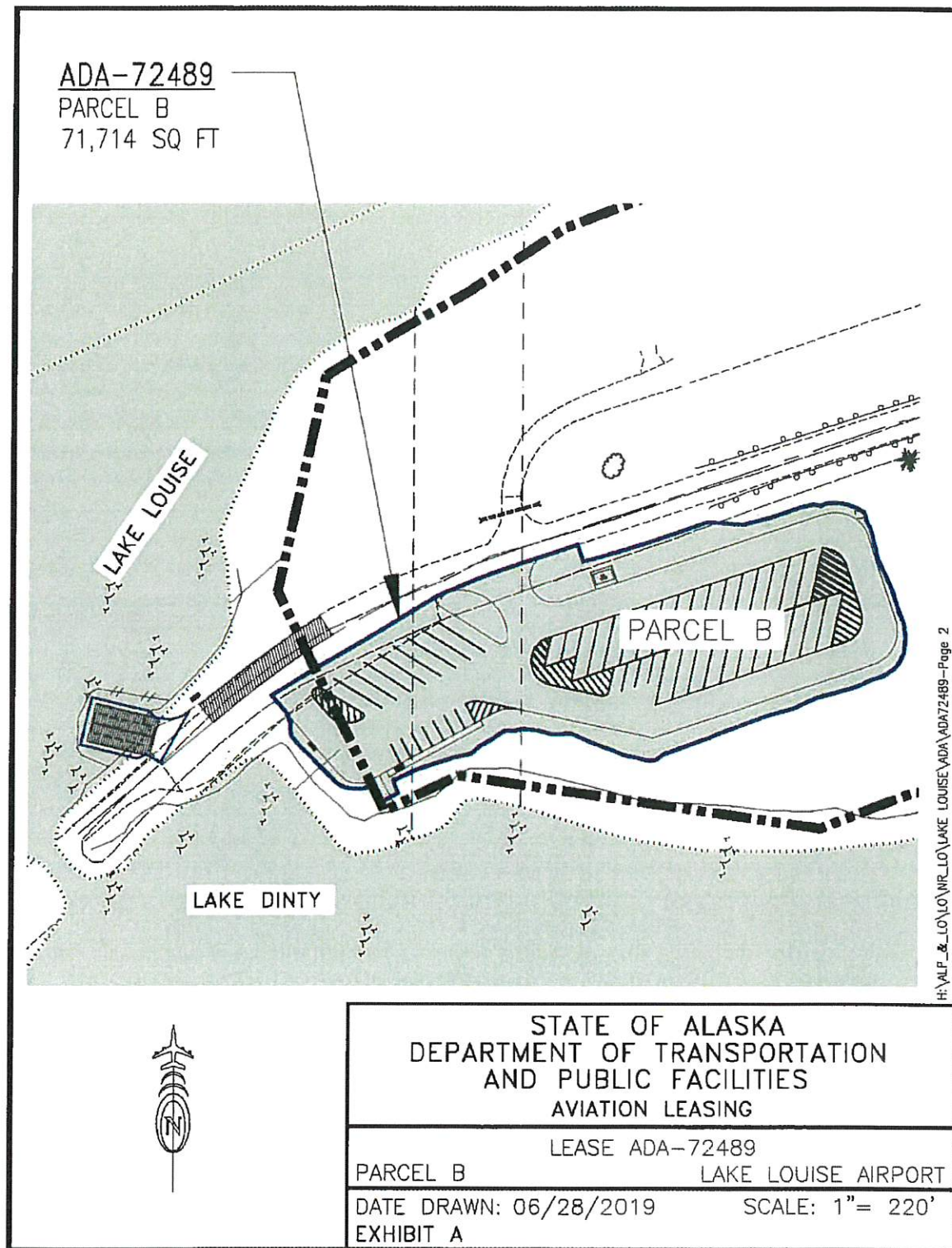
Exhibit A Leased Premises (2 pages)

EXHIBIT A:



1m 19-146
OR 19-106

EXHIBIT A (continued):



1m 19-146
OR 19-106

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year stated in the acknowledgments below.

LESSEE: Matanuska-Susitna Borough

BY: _____
(Signature)

(Typed/Printed Name & Title of Signer)

STATE OF _____)
_____ JUDICIAL DISTRICT OR COUNTY) ss.

THIS IS TO CERTIFY that on this _____ day of _____, 2019, before me, the undersigned Notary Public, duly commissioned and sworn as such, personally appeared _____, known to me, and to me known, to be the _____, and s/he acknowledged to me that s/he executed the foregoing instrument freely and voluntarily on behalf of the Borough, for the uses and purposes therein set forth and that s/he is authorized by said Borough so to do.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

(Typed name and signature)
My Commission Expires: _____

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

BY: _____

STATE OF ALASKA)
FOURTH JUDICIAL DISTRICT) ss.

THIS IS TO CERTIFY that on this _____ day of _____, 2019, before me, the undersigned Notary Public, duly commissioned and sworn as such, personally appeared _____, known to me and to me known to be the _____, Northern Region Office, Statewide Aviation Leasing, Department of Transportation and Public Facilities, and s/he acknowledged to me that s/he executed the foregoing instrument freely and voluntarily on behalf of the State of Alaska, Department of Transportation and Public Facilities, for the uses and purposes therein set forth and that s/he is authorized by said State of Alaska so to do.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

(Typed name and signature)
My Commission Expires: _____ with office

1M 19-146
OR 19-106



THE STATE
of **ALASKA**

GOVERNOR MICHAEL J. DUNLEAVY

Department of Transportation
and Public Facilities

STATEWIDE AVIATION
Northern Region Aviation Leasing

2301 Peger Road
Fairbanks, Alaska 99709-5399
Main: 907-451-2216
TDD: 907-451-2363
FAX: 907-458-6878
dot.alaska.gov

August 15, 2019

Matanuska-Susitna Borough
Community Development Department
Land and Resource Management Division
Attn: Tracy McDaniel, SRWA
350 E. Dahlia Ave
Palmer, Alaska 99645

Re: Lake Louise Airport
Lease ADA-72489 (Pending)/ Parcel B
Phase I Environmental Site Assessment (ESA)

Dear Ms. McDaniel:

This letter acknowledges receipt of the Phase I Environmental Site Assessment of Parcel B, at the Lake Louise Airport, dated August 12, 2019. It is our understanding that the Matanuska-Susitna Borough request that the document be approved as an environmental liability baseline study for Parcel B.

After review by our Environmental Specialist, the Department of Transportation & Public Facilities (DOT&PF) finds that the Phase I Environmental Site Assessment submitted is sufficient to accept as an environmental baseline document; and is approved as an Environmental Liability Baseline Study pursuant to Article IX, Subsection B of Lease ADA-72489, which is pending assembly approval.

Please note that DOT&PF has no knowledge of contamination that occurred on property adjacent to DOT&PF land. Approval of the Environmental Liability Baseline Study is for Parcel B only. No other airport land or adjacent property is included.

Sincerely,

A handwritten signature in blue ink that reads "Penelope Adler".

Penelope Adler, SRWA, C.M.
Chief, Northern Region Office
Statewide Aviation Leasing

jks

cc: John Hoffman, Airport Manager
Tracy McDaniel, via email at Tracy.McDaniel@matsugov.us

"Keep Alaska Moving through service and infrastructure."

1M 19-146
OR 19-106