

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

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

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

Southeast Region  
400 Willoughby, #400  
Juneau, AK 99801  
(907) 465-3400

**APPLICATION FOR EASEMENT  
AS 38.05.850**

**Non-refundable application fee: \$100\***

**ADL #** \_\_\_\_\_  
(to be filled in by state)

Applicant's Name \_\_\_\_\_ Doing business as: \_\_\_\_\_

Mailing Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

( ) \_\_\_\_\_ ( ) \_\_\_\_\_  
Message Phone Work Phone Soc. Sec. # and/or Tax ID #

Is applicant a nonprofit cooperative association? [ ] yes [ ] no. If yes, are you applying for an exemption under **AS 38.05.850(b)**? [ ] yes [ ] no. If yes, please submit proof of nonprofit status (e.g. by-laws, articles of incorporation, tax statement).

Location of activity/Legal Description: Municipality \_\_\_\_\_, Meridian \_\_\_\_\_  
Township \_\_\_\_\_, Range \_\_\_\_\_, Section \_\_\_\_\_, \_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4\_  
Township \_\_\_\_\_, Range \_\_\_\_\_, Section \_\_\_\_\_, \_\_\_\_\_ 1/4, \_\_\_\_\_ 1/4

(attach extra sheets as needed)

Total length of applied-for easement (feet): \_\_\_\_\_ Total width of applied-for easement (feet): \_\_\_\_\_

Acres encompassed by easement: \_\_\_\_\_ (43,560 square feet = 1 acre)

Specific purpose of easement (e.g. electric utility, fiber-optic conduit or cable, telecommunications tower, road, bridge, airstrip/airport, driveway, trail, drainage), and type of anticipated traffic (e.g. plane, truck, heavy equipment): Explain \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Are you applying for the Division of Mining, Land and Water to reserve a Public Easement? [ ] yes [ ] no. Are you applying to be granted a Private Easement? [ ] yes [ ] no (Annual Rental Fee Required for Private Easement)

\*See 11 AAC 05.010 regarding fees for federal, state, and local government agencies

**Date Stamp:**

State briefly the standards and methods of construction: e.g. regulated standards, winter trail, dirt trail, gravel road, paved road, etc.; clearing by hand, clearing/construction by mechanical equipment (state type of equipment to be used, e.g. J.D. 350, 944 F.E. loader, hydro-axe, D-8), or establishment by use only. \_\_\_\_\_

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Is this an existing use? [ ] yes [ ] no. If yes, provide documentation verifying existing use, such as easement atlas, affidavits attesting to use and existence, pictures, etc.

Construction to begin: \_\_\_\_\_

Construction to be completed by: \_\_\_\_\_

Other permits or authorizations applied for in conjunction with this proposed project: \_\_\_\_\_

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If this authorization is granted, I agree to construct and maintain the improvements authorized in a workmanlike manner, and to keep the area in a neat and sanitary condition; to comply with all the laws, rules, and regulations pertaining thereto; and provided further that upon termination of the easement for which application is being made, I agree to remove or relocate the improvements and restore the area without cost to the state and to the satisfaction of the Director of the Division of Mining, Land and Water.

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\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

**INSTRUCTIONS:** Attach a USGS map (scale of 1:63,360) or a state status plat showing the location of the proposed easement, and an environmental risk assessment questionnaire (form 102-4008A).

The final granting of a private easement or reservation of a public easement will be contingent upon our receipt of a plat depicting the post-construction location of the improvements. If your application is approved, instructions for the completion of the plat will be provided to you, or can be picked up at any of our offices.

AS 38.05.035(a) authorizes the director to decide what information is needed to process an application for the sale or use of state land and resources. This information is made a part of the state public land records and becomes public information under AS 09.25.110 and 09.25.120 (unless the information qualifies for confidentiality under AS 38.05.035(a)(9) and confidentiality is requested). Public information is open to inspection by you or any member of the public. A person who is the subject of the information may challenge its accuracy or completeness under AS 44.99.310, by giving a written description of the challenged information, the changes needed to correct it, and a name and address where the person can be reached. False statements made in an application for a benefit are punishable under AS 11.56.210.

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF MINING, LAND & WATER, SOUTHEAST REGION  
400 Willoughby Ave., Suite 400  
Juneau, Alaska 99801

**PUBLIC EASEMENT**

ADL\_\_\_\_\_

THIS AGREEMENT made and entered into this \_\_\_\_th day of \_\_\_\_, 20\_\_, by and between the STATE OF ALASKA, acting by and through the Department of Natural Resources, Division of Mining, Land & Water and, hereinafter referred to as the grantor and \_\_\_\_\_ hereinafter referred to as the grantee.

WITNESSETH, that in accordance with the provisions of Sec. 38.05.850, A.S. and the rules and regulations promulgated thereunder, the grantee having filed an application for a easement for: \_\_\_\_\_, with the Division together with a map showing the definite location thereon of the line of easement which the grantee has adopted and agrees to be the specific and definite location of the aforesaid easement, and

WHEREAS, it is understood and agreed by the grantee herein that, as a condition to the granting of the easement applied for, the land covered by said easement shall be used for no purpose other than the location, construction, operation and maintenance of the said easement over and across the following described State lands, to wit:

The easement area depicted on the easement diagram for ADL 106, attached hereto as Attachment 'A'. The easement area is located adjacent to: (uss, asls etc) and within Section , Township South, Range East, Copper River Meridian.

The said easement shall extend \_\_\_\_ feet in length and \_\_\_\_ feet in width, containing \_\_ acres, more or less.

TO HAVE AND TO HOLD the same until the above described land shall no longer be used for the above-mentioned purpose and subject to conditions and reservations elsewhere set forth herein and any "Special Conditions".

In the event that the easement herein granted shall in any manner conflict with or overlap a previously granted right-of-way or easement, the grantee herein shall use this easement in such a manner as not to interfere with the peaceful use and enjoyment of the previously issued right-of-way or easement and no improvements shall be constructed by the grantee herein upon the overlapping area unless the consent therefore has first been obtained from the grantee under the pre-existing right-of-way or easement.

The grantee in the exercise of the rights and privileges granted by this indenture shall comply with all regulations now in effect or as hereafter established by the Division of Mining, Land & Water and all other Federal, State or Municipal laws, regulations or ordinances applicable to the area herein granted. **\*\*IF USFS=GRANTEE, DELETE ABOVE PARAGRAPH AND REPLACE WITH THE FOLLOWING\*\*** As a condition of the grant and continuation of this easement, the U.S. Forest Service, for and on behalf of the United States and to the extent permitted by the applicable federal law, hereby agrees that in operating under this easement it will comply with all applicable state, federal, or municipal laws, regulations or ordinances.

#### SPECIAL CONDITIONS

1. The grantor reserves the right to allow other like or compatible uses of the easement and the right to require such users to enter into an equitable maintenance agreement with the holder of this easement. The equitable nature of any such agreement shall be determined by the grantor.
2. The grantor assumes no responsibility for maintenance of improvements constructed within public easements on state land nor liability for injuries or damages attributable to that construction. The State also makes no warranty that dedicated lands are suitable for the existing use.
3. Public access shall not be precluded by activities or structures allowed by this easement. All operations must be conducted in a manner that will ensure minimum conflict with other users of the area. The grantee shall not close landing areas or trails or otherwise prevent overland access commonly used by the public. The interests served by 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 the areas for ecological study, and other purposes, will be protected. Interference with the rights of the public to use a public easement is an actionable cause at law.
4. Grantee assumes all responsibility, risk and liability for all activities of Grantee, its employees, agents, invitees, contractors, subcontractors, or licensees directly or indirectly conducted in connection with this easement, including environmental and hazardous substance risks and liabilities, whether accruing during or after the term of this easement. Grantee shall defend, indemnify, and hold harmless the State of Alaska, its employees, and agents from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatever kind or nature, including all attorney's fees and litigation costs, arising out of, in connection with, or incident to any act or omission by Grantee, its employees, agents, invitees, contractors, subcontractors, or licensees, unless the sole proximate cause of the injury or damage is the negligence or willful misconduct of the State or anyone acting on the State's behalf. Within 15 days Grantee shall accept any such cause or action or proceeding upon tender by the State. This indemnification shall survive the termination of the easement.

**\*\*IF USFS=GRANTEE, DELETE ABOVE PARAGRAPH AND REPLACE WITH THE FOLLOWING\*\***

The Federal Government shall be responsible for any claim or demand for loss or damage, including property damage personal injury, wrongful death, and wage or employment claims, arising out of or in connection with the use or occupancy of the Easement in accordance with the provisions of the Federal Tort Claims Act.

5. To ensure future use of public lands as well as tide and submerged lands, fuel use and storage shall occur in a manner that avoids toxic discharge and run-off. The grantee is responsible for preventing spillage and contamination of contiguous land and water as well as

cleaning up any oil or other pollutants which result from activities associated with this easement.

The Grantee shall immediately notify the Department of Environmental Conservation (DEC) by telephone, and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail, informing DEC of: any unauthorized discharges of oil to water, any discharge of hazardous substances other than oil; and any discharge or cumulative discharge of oil greater than 55 gallons solely to land and outside an impermeable containment area. 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, and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail. Any discharge of oil, including a cumulative discharge, solely to land greater than one gallon up to 10 gallons must be reported in writing on a monthly basis. The posting of information requirements of 18 AAC75.305 shall be met. Scope and Duration of Initial Response Actions (18 AAC 75.310) and reporting requirements of 18 AAC 75, Article 3 also apply.

*The Grantee shall supply DEC with all follow-up incident reports. Notification of a discharge must be made to the nearest DEC Area Response Team during working hours: Anchorage (907) 269-7500, fax (907) 269-7648; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-2237. The DEC oil spill report number outside normal business hours is (800) 478-9300.*

6. Authorized representatives of the State of Alaska shall at all times have the right to enter on official business and inspect the easement area, including the grantee's improvements.

Upon abandonment, termination, revocation or cancellation of this indenture, the grantee shall, within 90 days, remove all structures and improvements from the area herein granted, except those owned by the grantor, and shall restore the area to the same or similar condition as the same was upon the issuance of this easement. Should the grantee fail or refuse to remove the structures or improvements, within the time allotted, they shall revert to and become the property of the grantor. However, the grantee shall not be relieved of the cost of the removal of the structures, improvements and/or the cost of restoring the area. Provided further, however, that the grantor, in his/her discretion, may alter or modify the requirements contained in this provision if it is to the best interest of the State of Alaska to do so.

The grantee shall utilize the lands herein granted consistent with the purposes of the proposed use, as revealed by the application therefore, and shall maintain the premises in a neat and orderly manner and shall adopt and apply such safety measures as shall be necessary, proper and prudent with respect to the use to which the land is subjected.

The grantee shall take all reasonable precaution to prevent and suppress brush and forest fires. No material shall be disposed of by

burning in open fire during the closed season unless a permit therefor has first been obtained from the agency empowered by law to issue such permits.

Prior to any construction or development that will use, divert, obstruct, or pollute or utilize any of the waters of the State, the grantee shall first obtain approval therefor from the Commissioner of the Department of Fish and Game and file an image copy thereof with the grantor.

Any lands included in this easement which are sold under a contract to purchase shall be subject to this easement. Upon issuance of title to the purchaser, this easement shall remain in effect until its date of expiration.

In the event that the necessity for the easement shall no longer exist, or the grantee should abandon or fail to use the same, then this easement shall terminate.

The State of Alaska shall be forever wholly absolved from any liability for damages which might result to the grantee herein on account of this easement having been canceled, forfeited, or terminated prior to the expiration of the full term for which it was issued.

NOW THEREFORE, in accordance with the provisions of Sec. 38.05.850, A.S. and the rules and regulations promulgated thereunder and in accordance with the conditions heretofore set forth or attached hereto and made a part hereof, the grantee herein is hereby authorized to locate, construct, operate and maintain said easement over and across the lands herein described.

IN WITNESS WHEREOF, the said grantor has caused these presents to be signed in duplicate and the grantee herein has hereunto affixed his signature on the day and year first above written.

GRANTOR:

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES

By: \_\_\_\_\_  
Director  
Division of Mining, Land & Water

STATE OF ALASKA )  
 ) ss  
FIRST JUDICIAL DISTRICT )

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 2004, before me, the undersigned Notary Public in and for the State of Alaska, personally appeared Ron Schonenbach known to me and known by me to be the Southeast Regional Manager of the **Division of Mining, Land & Water** of the Department of Natural Resources, and he acknowledged to me that he signed and executed the same freely and voluntarily for the uses and purposes stated therein.

\_\_\_\_\_  
Notary Public for the State of Alaska.  
My  
Commission  
expires:  
s:\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

GRANTEE:

By: \_\_\_\_\_

STATE OF ALASKA )  
 ) ss  
FIRST JUDICIAL DISTRICT )

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 2004, before me the undersigned Notary Public in and for the State of Alaska, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of \_\_\_\_\_, and he acknowledged to me that he executed the same for and on behalf of said public organization, and that he is fully authorized by said public organization to do so, and he acknowledged to me that he signed and executed the same freely and voluntarily for the uses and purposes stated therein.

\_\_\_\_\_  
Notary Public for the State of Alaska.  
My Commission expires:\_\_\_\_\_

Attachments: "A" Easement Diagram



After recording in the \_\_\_\_\_ Recording District, return this document to the Division of Mining, Land and Water, 400 Willoughby Ave., Suite 400, Juneau, Alaska 99801.

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF MINING, LAND & WATER, SOUTHEAST REGION  
400 Willoughby Ave., Suite 400  
Juneau, Alaska 99801

PRIVATE NON-EXCLUSIVE EASEMENT

ADL 106

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between the STATE OF ALASKA, acting by and through the Department of Natural Resources, Division of Mining, Land & Water, hereinafter referred to as the grantor and \_\_\_\_\_, hereinafter referred to as the grantee.

WITNESSETH, that in accordance with the provisions of Sec. 38.05.850, A.S. and the rules and regulations promulgated thereunder, the grantee having filed an application for a easement for: \_\_\_\_\_, with the Division together with a map showing the definite location thereon of the line of easement which the grantee has adopted and agrees to be the specific and definite location of the aforesaid easement, and

WHEREAS, it is understood and agreed by the grantee herein that, as a condition to the granting of the easement applied for, the land covered by said easement shall be used for no purpose other than the location, construction, operation and maintenance of the said easement over and across the following described State lands, to wit:

The easement area is depicted on the easement diagram for ADL \_\_\_\_\_, attached hereto as Attachment 'A'. The easement area is located in \_\_\_\_\_, within Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ East, Copper River Meridian.

The said easement shall extend \_\_\_\_\_ feet in length and \_\_\_\_\_ feet in width, containing \_\_\_\_\_ acres, more or less.

TO HAVE AND TO HOLD the same until the above described land shall no longer be used for the above-mentioned purpose and subject to conditions and reservations elsewhere set forth herein and any "Stipulations".

In the event that the easement herein granted shall in any manner conflict with or overlap a previously granted right-of-way or easement, the grantee herein shall use this easement in such a manner as not to interfere with the peaceful use and enjoyment of the previously issued right-of-way or easement and no improvements shall be constructed by the grantee herein upon the overlapping area unless the consent therefore has first been obtained from the grantee under the pre-existing right-of-way or easement.

The grantee in the exercise of the rights and privileges granted by this indenture shall comply with all regulations now in effect or as hereafter

established by the Division of Mining, Land & Water and all other federal, State or municipal laws, regulations or ordinances applicable to the area herein granted.

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#### STIPULATIONS

1. This Easement is issued for a period of \_\_\_\_ years and will be cancelable if the State has a higher and better use for the land. The cost of relocating any improvements shall be borne by the grantee. This easement shall expire on \_\_\_\_.
2. The use fee for this easement is \$    .00 per year. The annual use fee is due on or before \_\_\_\_ each year. This fee is subject to adjustment by the grantor at the commencement of the sixth year of the term and every fifth year thereafter (the "adjustment date"). The adjustment shall be based on the Division's fee schedule. The compensation adjustment takes effect on the applicable adjustment date, regardless of whether the adjustment determination occurs before or after that date.
3. Penalty Charges: The grantee shall pay a fee for any late payment or returned check issued by the grantee as follows:
  - (a) Late Payment Penalty: The greater of either the fee specified in 11 AAC 04.010 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 State.
  - (b) Returned Check Penalty: A returned check fee as provided in 11 AAC 04.010 will be assessed for any check on which the bank refuses payment.
4. This easement is private and non-exclusive. The grantor reserves the right to allow other like or compatible uses of the easement and the right to require such users to enter into an equitable maintenance agreement with the holder of this easement. The equitableness of any such agreement shall be determined by the grantor.
5. Public access shall not be precluded by activities or structures allowed by this easement. All operations must be conducted in a manner that will ensure minimum conflict with other users of the area. The grantee shall not close landing areas or trails or otherwise prevent overland access commonly used by the public. The interests served by 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 the areas for ecological study, and other purposes, will be protected.
6. The grantor assumes no responsibility for maintenance of improvements constructed on State land nor liability for injuries or damages attributable to that construction. The State also makes no warranty that dedicated lands are suitable for the existing use.
7. Grantee assumes all responsibility, risk and liability for all activities of grantee, its employees, agents, invitees, contractors, subcontractors, or licensees directly or indirectly conducted in connection with this easement, including environmental and hazardous substance risks and liabilities, whether accruing during or after the term of this easement. Grantee shall defend, indemnify, and hold harmless the State of Alaska, its employees, and agents from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatever kind or nature, including all attorney's fees and litigation costs, arising out

of, in connection with, or incident to any act or omission by grantee, its employees, agents, invitees, contractors, subcontractors, or licensees, unless the sole proximate cause of the injury or damage is the negligence or willful misconduct of the State or anyone acting on the State's behalf. Within 15 days grantee shall accept any such cause or action or proceeding upon tender by the State. This indemnification shall survive the termination of the easement.

8. To ensure future use of public lands as well as tide and submerged lands, fuel use and storage shall occur in a manner that avoids toxic discharge and run-off. The grantee is responsible for preventing spillage and contamination of contiguous land and water as well as cleaning up any oil or other pollutants which result from activities associated with this easement.

The Grantee shall immediately notify the Department of Environmental Conservation (DEC) by telephone, and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail, informing DEC of: any unauthorized discharges of oil to water, any discharge of hazardous substances other than oil; and any discharge or cumulative discharge of oil greater than 55 gallons solely to land and outside an impermeable containment area. 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, and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail. Any discharge of oil, including a cumulative discharge, solely to land greater than one gallon up to 10 gallons must be reported in writing on a monthly basis. The posting of information requirements of 18 AAC75.305 shall be met. Scope and Duration of Initial Response Actions (18 AAC 75.310) and reporting requirements of 18 AAC 75, Article 3 also apply.

*The Grantee shall supply DEC with all follow-up incident reports. Notification of a discharge must be made to the nearest DEC Area Response Team during working hours: Anchorage (907) 269-7500, fax (907) 269-7648; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-2237. The DEC oil spill report number outside normal business hours is (800) 478-9300.*

9. Authorized representatives of the State of Alaska shall at all times have the right to enter on official business and inspect the easement area, including the grantee's improvements.
10. Assignment of Interest. The Grantee may not assign any interest held under this easement, including a security interest, Sublet or Rental agreements without the prior written approval of the Grantor. The Grantor may approve such assignment if the Grantor finds it to be in the best interest of the state. No such assignment will be effective until approved by the Grantor in writing, and the assignee agrees to be subject to and governed by the provisions of this easement, any subsequent amendments to this easement, any additional stipulations, or rent adjustment as deemed appropriate by the Grantor, and all applicable laws, regulations, and ordinances in the same manner as the original Grantee. No assignment of the easement parcel, or any portion thereof, by the Grantee will annul the Grantee's obligation to pay the compensation required for the full term of this easement. Grantor approval for any sublet or rental agreement shall at the

discretion of the Grantor, be subject to an increased annual compensation as a condition of agreement approval. Said increase shall be determined by negotiation between the Grantee and Grantor, but shall not be less than 25% of all compensation paid annually to the Grantee by the renter. Neither the terms of this sublet or rental agreement provision nor any actual compensation derived from a sublet or rental agreement shall have any effect upon a determination of appraised market value or director's estimate of market value for this easement parcel. Sublet or rental agreement shall be defined to include any lease, rental, storage or accommodation agreement between the Grantee and another individual, business or corporation utilizing or benefiting from the easement parcel. Renter shall be defined to mean any individual, business or corporation executing a sublet or rental agreement, as described above, with the Grantee. The amount of sublet or rental agreement compensation shall be subject to change at the same time as the easement compensation adjustment discussed in easement condition 2 (b), and whenever the terms or conditions of the agreement between the Grantee and renter change. Approval of a sublet or rental agreement shall also be conditioned upon:

(1) submission by the Grantee of a signed copy of the agreement(s) which govern the relationship and compensation provisions between the Grantee and the renter; (2) submission by the Grantee of a complete "plan of operations and development" for the area rented and if changed, an amended plan to replace the approved "plan of operations and development" for the entire easement area; (3) a Grantor decision and amendments to the easement as necessary, if significant changes to the use and development are proposed.

Upon abandonment, termination, revocation or cancellation of this indenture, the grantee shall, within 90 days, remove all structures and improvements from the area herein granted, except those owned by the grantor, and shall restore the area to the same or similar condition as the same was upon the issuance of this easement. Should the grantee fail or refuse to remove the structures or improvements, within the time allotted, they shall revert to and become the property of the grantor. However, the grantee shall not be relieved of the cost of the removal of the structures, improvements and/or the cost of restoring the area. Provided further, however, that the grantor, in his/her discretion, may alter or modify the requirements contained in this provision if it is to the best interest of the State of Alaska to do so.

The grantee shall utilize the lands herein granted consistent with the purposes of the proposed use, as revealed by the application therefore, and shall maintain the premises in a neat and orderly manner and shall adopt and apply such safety measures as shall be necessary, proper and prudent with respect to the use to which the land is subjected.

The grantee shall take all reasonable precaution to prevent and suppress brush and forest fires. No material shall be disposed of by burning in open fire during the closed season unless a permit therefore has first been obtained from the agency empowered by law to issue such permits.

Prior to any construction or development that will use, divert, obstruct, or pollute or utilize any of the waters of the State, the grantee shall first obtain approval therefore from the Commissioner of the Department of Fish and Game and file an image copy thereof with the grantor.

Any lands included in this easement which are sold under a contract to purchase shall be subject to this easement. Upon issuance of title to the purchaser, this easement shall remain in effect until its date of expiration.

In the event that the necessity for the easement shall no longer exist,

or the grantee should abandon or fail to use the same, then this easement shall terminate.

The State of Alaska shall be forever wholly absolved from any liability for damages which might result to the grantee herein on account of this easement having been canceled, forfeited, or terminated prior to the expiration of the full term for which it was issued.

NOW THEREFORE, in accordance with the provisions of Sec. 38.05.850, A.S. and the rules and regulations promulgated there under and in accordance with the conditions heretofore set forth or attached hereto and made a part hereof, the grantee herein is hereby authorized to locate, construct, operate and maintain said easement over and across the lands herein described.

IN WITNESS WHEREOF, the said grantor has caused these presents to be signed in duplicate and the grantee herein has hereunto affixed his signature on the day and year first above written.

GRANTOR

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES

By: \_\_\_\_\_  
Director  
Division of Mining, Land & Water

STATE OF ALASKA )  
 ) ss  
FIRST JUDICIAL DISTRICT )

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 2004, before me, the undersigned Notary Public in and for the State of Alaska, personally appeared Ron Schonenbach known to me and known by me to be the Southeast Regional Manager of the **Division of Mining, Land & Water** of the Department of Natural Resources, and he acknowledged to me that he signed and executed the same freely and voluntarily for the uses and purposes stated therein.

\_\_\_\_\_  
Notary Public for the State of Alaska.  
My Commission expires

GRANTEE: .

By: \_\_\_\_\_  
.

STATE OF ALASKA )  
 ) ss  
FIRST JUDICIAL DISTRICT )

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 2004, before me the undersigned Notary Public in and for the State of Alaska, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of \_\_\_\_\_, the **[Corporation or Association]** which executed the forgoing instrument, and he acknowledged to me that he executed the same freely and voluntarily for the uses and purposes stated therein for and on behalf of said **[Corporation or Association]**, and that he is fully authorized by said association to do so.

\_\_\_\_\_  
Notary Public for the State of Alaska.  
My Commission expires

After recording in the \_\_\_\_\_ Recording District, return this document to the Division of Mining, Land and Water, 400 Willoughby Ave., Suite 400, Juneau, Alaska 99801.

Attachments: "A" SPECIAL STIPULATIONS, "B" EASEMENT DIAGRAM

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF MINING, LAND & WATER, SOUTHEAST REGION  
400 Willoughby Ave., Suite 400  
Juneau, Alaska 99801

PRIVATE NON-EXCLUSIVE EASEMENT

ADL 106

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between the STATE OF ALASKA, acting by and through the Department of Natural Resources, Division of Mining, Land & Water, hereinafter referred to as the grantor and \_\_\_\_\_, hereinafter referred to as the grantee.

WITNESSETH, that in accordance with the provisions of Sec. 38.05.850, A.S. and the rules and regulations promulgated thereunder, the grantee having filed an application for a easement for: \_\_\_\_\_, with the Division together with a map showing the definite location thereon of the line of easement which the grantee has adopted and agrees to be the specific and definite location of the aforesaid easement, and

WHEREAS, it is understood and agreed by the grantee herein that, as a condition to the granting of the easement applied for, the land covered by said easement shall be used for no purpose other than the location, construction, operation and maintenance of the said easement over and across the following described State lands, to wit:

The easement area is depicted on the easement diagram for ADL \_\_\_\_\_, attached hereto as Attachment 'A'. The easement area is located in \_\_\_\_\_, within Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ East, Copper River Meridian.

The said easement shall extend \_\_\_\_\_ feet in length and \_\_\_\_\_ feet in width, containing \_\_\_\_\_ acres, more or less.

TO HAVE AND TO HOLD the same until the above described land shall no longer be used for the above-mentioned purpose and subject to conditions and reservations elsewhere set forth herein and any "Stipulations".

In the event that the easement herein granted shall in any manner conflict with or overlap a previously granted right-of-way or easement, the grantee herein shall use this easement in such a manner as not to interfere with the peaceful use and enjoyment of the previously issued right-of-way or easement and no improvements shall be constructed by the grantee herein upon the overlapping area unless the consent therefore has first been obtained from the grantee under the pre-existing right-of-way or easement.

The grantee in the exercise of the rights and privileges granted by this indenture shall comply with all regulations now in effect or as hereafter



established by the Division of Mining, Land & Water and all other federal, State or municipal laws, regulations or ordinances applicable to the area herein granted.

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#### STIPULATIONS

1. This Easement is issued for a period of \_\_\_\_ years and will be cancelable if the State has a higher and better use for the land. The cost of relocating any improvements shall be borne by the grantee. This easement shall expire on \_\_\_\_\_.
2. The use fee for this easement is \$    .00 per year. The annual use fee is due on or before \_\_\_\_ each year. This fee is subject to adjustment by the grantor at the commencement of the sixth year of the term and every fifth year thereafter (the "adjustment date"). The adjustment shall be based on the Division's fee schedule. The compensation adjustment takes effect on the applicable adjustment date, regardless of whether the adjustment determination occurs before or after that date.
3. Penalty Charges: The grantee shall pay a fee for any late payment or returned check issued by the grantee as follows:
  - (a) Late Payment Penalty: The greater of either the fee specified in 11 AAC 04.010 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 State.
  - (b) Returned Check Penalty: A returned check fee as provided in 11 AAC 04.010 will be assessed for any check on which the bank refuses payment.
4. This easement is private and non-exclusive. The grantor reserves the right to allow other like or compatible uses of the easement and the right to require such users to enter into an equitable maintenance agreement with the holder of this easement. The equitableness of any such agreement shall be determined by the grantor.
5. Public access shall not be precluded by activities or structures allowed by this easement. All operations must be conducted in a manner that will ensure minimum conflict with other users of the area. The grantee shall not close landing areas or trails or otherwise prevent overland access commonly used by the public. The interests served by 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 the areas for ecological study, and other purposes, will be protected.
6. The grantor assumes no responsibility for maintenance of improvements constructed on State land nor liability for injuries or damages attributable to that construction. The State also makes no warranty that dedicated lands are suitable for the existing use.
7. Grantee assumes all responsibility, risk and liability for all activities of grantee, its employees, agents, invitees, contractors, subcontractors, or licensees directly or indirectly conducted in connection with this easement, including environmental and hazardous substance risks and liabilities, whether accruing during or after the term of this easement. Grantee shall defend, indemnify, and hold harmless the State of Alaska, its employees, and agents from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatever kind or nature, including all attorney's fees and litigation costs, arising out

of, in connection with, or incident to any act or omission by grantee, its employees, agents, invitees, contractors, subcontractors, or licensees, unless the sole proximate cause of the injury or damage is the negligence or willful misconduct of the State or anyone acting on the State's behalf. Within 15 days grantee shall accept any such cause or action or proceeding upon tender by the State. This indemnification shall survive the termination of the easement.

8. To ensure future use of public lands as well as tide and submerged lands, fuel use and storage shall occur in a manner that avoids toxic discharge and run-off. The grantee is responsible for preventing spillage and contamination of contiguous land and water as well as cleaning up any oil or other pollutants which result from activities associated with this easement.

The Grantee shall immediately notify the Department of Environmental Conservation (DEC) by telephone, and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail, informing DEC of: any unauthorized discharges of oil to water, any discharge of hazardous substances other than oil; and any discharge or cumulative discharge of oil greater than 55 gallons solely to land and outside an impermeable containment area. 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, and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail. Any discharge of oil, including a cumulative discharge, solely to land greater than one gallon up to 10 gallons must be reported in writing on a monthly basis. The posting of information requirements of 18 AAC75.305 shall be met. Scope and Duration of Initial Response Actions (18 AAC 75.310) and reporting requirements of 18 AAC 75, Article 3 also apply.

*The Grantee shall supply DEC with all follow-up incident reports. Notification of a discharge must be made to the nearest DEC Area Response Team during working hours: Anchorage (907) 269-7500, fax (907) 269-7648; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-2237. The DEC oil spill report number outside normal business hours is (800) 478-9300.*

9. Authorized representatives of the State of Alaska shall at all times have the right to enter on official business and inspect the easement area, including the grantee's improvements.

Upon abandonment, termination, revocation or cancellation of this indenture, the grantee shall, within 90 days, remove all structures and improvements from the area herein granted, except those owned by the grantor, and shall restore the area to the same or similar condition as the same was upon the issuance of this easement. Should the grantee fail or refuse to remove the structures or improvements, within the time allotted, they shall revert to and become the property of the grantor. However, the grantee shall not be relieved of the cost of the removal of the structures, improvements and/or the cost of restoring the area. Provided further, however, that the grantor, in his/her discretion, may alter or modify the requirements contained in this provision if it is to the best interest of the State of Alaska to do so.

The grantee shall utilize the lands herein granted consistent with the purposes of the proposed use, as revealed by the application therefore, and shall maintain the premises in a neat and orderly manner and shall adopt and apply such safety measures as shall be necessary, proper and prudent with respect to the use to which the land is subjected.

The grantee shall take all reasonable precaution to prevent and suppress brush and forest fires. No material shall be disposed of by burning in open fire during the closed season unless a permit therefore has first been obtained from the agency empowered by law to issue such permits.

Prior to any construction or development that will use, divert, obstruct, or pollute or utilize any of the waters of the State, the grantee shall first obtain approval therefore from the Commissioner of the Department of Fish and Game and file an image copy thereof with the grantor.

Any lands included in this easement which are sold under a contract to purchase shall be subject to this easement. Upon issuance of title to the purchaser, this easement shall remain in effect until its date of expiration.

In the event that the necessity for the easement shall no longer exist, or the grantee should abandon or fail to use the same, then this easement shall terminate.

The State of Alaska shall be forever wholly absolved from any liability for damages which might result to the grantee herein on account of this easement having been canceled, forfeited, or terminated prior to the expiration of the full term for which it was issued.

NOW THEREFORE, in accordance with the provisions of Sec. 38.05.850, A.S. and the rules and regulations promulgated there under and in accordance with the conditions heretofore set forth or attached hereto and made a part hereof, the grantee herein is hereby authorized to locate, construct, operate and maintain said easement over and across the lands herein described.

IN WITNESS WHEREOF, the said grantor has caused these presents to be signed in duplicate and the grantee herein has hereunto affixed his signature on the day and year first above written.

GRANTOR

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES

By: \_\_\_\_\_  
Director  
Division of Mining, Land & Water

STATE OF ALASKA )  
 ) ss  
FIRST JUDICIAL DISTRICT )

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 2004, before me, the undersigned Notary Public in and for the State of Alaska, personally appeared Ron Schonenbach known to me and known by me to be the Southeast Regional Manager of the **Division of Mining, Land & Water** of the Department of Natural Resources, and he acknowledged to me that he signed and executed the same freely and voluntarily for the uses and purposes stated therein.

\_\_\_\_\_  
Notary Public for the State of Alaska.  
My Commission expires

GRANTEE: .

By: \_\_\_\_\_  
.

STATE OF ALASKA )  
 ) ss  
FIRST JUDICIAL DISTRICT )

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 2001, before me the undersigned Notary Public in and for the State of Alaska, personally appeared \_\_\_\_\_, known to me to be the person named and who signed the foregoing easement and acknowledged doing so voluntarily and for the uses and purposes stated therein.

\_\_\_\_\_  
Notary Public for the State of Alaska.  
My Commission expires

After recording in the \_\_\_\_\_ Recording District, return this document to the Division of Mining, Land and Water, 400 Willoughby Ave., Suite 400, Juneau, Alaska 99801.

Attachments: "A" SPECIAL STIPULATIONS, "B" EASEMENT DIAGRAM