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2004-000162-0

Recording Dist: 305 - Aleutian Islands
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ALEUTIAN ISLANDS RECORDING DISTRICT

CONSERVATION EASEMENT

(for watershed protection)

THIS CONSERVATION EASEMENT (the "Conservation Easement") is made and entered into this 17 day of March, 2004, by and between **THE ALEUT CORPORATION**, an Alaskan Corporation (hereinafter referred to as the **GRANTOR**), its mailing address being 4000 Old Seward Highway, Suite 300, Anchorage, Alaska 99503, and the **CITY OF ADAK** (hereinafter referred to as the **GRANTEE**), its mailing address being PO Box 2011, Adak, Alaska 99546.

For and in consideration of ONE DOLLAR (\$1.00) and other valuable considerations in hand paid, the receipt of which is hereby acknowledged, GRANTOR grants and quitclaims to GRANTEE this Conservation Easement on the terms and conditions described below affecting the real property described below.

1. **SUBJECT PROPERTY.** This Conservation Easement affects the following real property on Adak Island, Aleutian Islands Recording District, State of Alaska:

Situated in the following sections:

Township 96 South, Range 195 West, Seward Meridian, Sections 21, 27, 28, 33, and 34.

the water reservoir known as Lake DeMarie, and also Lake Bonnie Rose, (the "Reservoir") and the watershed in which water flows or drains under or across on its way to the Reservoir (the "Watershed"). If any portion of the Reservoir or Watershed lies in any section omitted from the list contained in this description, that portion shall also be included in the Watershed affected by this Conservation Easement notwithstanding such omission.

2. **TERM OF EASEMENT.** This Conservation Easement shall be perpetual. It shall terminate only at such time, if any, as GRANTEE shall, by written instrument, abandon all intent to use the Watershed as a source of municipal water by issuance of a written instrument.

3. HEIRS, SUCCESSORS, AND ASSIGNS. The Conservation Easement shall be binding on the officers, directors, shareholders, members, partners, employees, agents, personal representatives, heirs, successors, and assigns of the parties.
4. SCOPE OF EASEMENT. The Conservation Easement granted hereunder shall allow the CITY to enter upon the Reservoir and Watershed for all municipal purposes, including without limitation for purposes of operating a municipal water supply and monitoring, maintaining, and preserving the Watershed for that purpose. GRANTOR covenants not to impair or interfere with the function and use of the Reservoir and Watershed for municipal water supply purposes, and GRANTOR further covenants to take reasonable and necessary steps to restrict access to the Reservoir and Watershed and to prohibit construction of any structures or artificial surfaces or alteration of any vegetation within the Watershed. Nothing herein shall prohibit GRANTOR from entering onto the Watershed for such purposes as GRANTOR may deem necessary or desirable in its sole discretion, so long as GRANTOR's entry does not impair or interfere with the function or use of the Reservoir and Watershed.
5. INTENT AND PURPOSE OF EASEMENT. It is the intent and purpose of this Conservation Easement that the Reservoir and Watershed be retained forever as a natural habitat for fish, wildlife, and plants for the predominant purpose of protecting the purity and quality of the water in the Reservoir and the Watershed to ensure its continued suitability as the source of water for the municipal water system supplying potable water to the City of Adak, Alaska. GRANTOR intends that this Conservation Easement will confine the use of, or activity on, the Reservoir and Watershed to such uses and activities that are consistent with these purposes.
6. ACCESS RIGHT. GRANTOR grants to the GRANTEE an easement to the Watershed across and through GRANTOR'S real property, so that the GRANTEE may have access to the Reservoir and Watershed at all reasonable times to monitor, maintain, and preserve the Reservoir and Watershed. In exercising the right of access granted in this Conservation Easement, the GRANTEE shall not unreasonably interfere with the ownership, possession, use, or enjoyment of the GRANTOR's real property insofar as such use and enjoyment is not prohibited by this Conservation Easement.
7. PROHIBITED USES OF WATERSHED. GRANTOR shall not undertake, nor cause or permit to be undertaken, any activity or use of the Watershed that is inconsistent with the purpose, scope, or intent of this Conservation Easement. Without limiting the generality of the following uses and activities are prohibited in the Watershed: residential, industrial, commercial, agricultural, construction of any building or structure, excavation, landfill or waste disposal, and mineral resource extraction (including without limitation gravel, sand, pumice, rock, and all other mineral resources).
8. RESERVED RIGHTS. GRANTOR reserves to itself all rights, title, interest, and obligations incident to ownership of the Watershed except those rights and interests expressly conveyed to the GRANTEE hereunder and those obligations expressly undertaken by the GRANTEE hereunder.



9. NON-WAIVER OF BREACH. No omission or failure by either party to exercise or enforce any of its rights under this Conservation Easement or to enforce any breach hereof, nor any forbearance granted by either party shall be deemed or construed as a waiver of such rights or a discharge of liability for any breach by the other party of the terms hereof. Nor shall any delay by either party in the exercise or enforcement of its rights and remedies limit or impair such right or remedy, or be construed as a waiver of that party's right to pursue its remedies.
10. STANDARD COVENANTS. This Conservation Easement is subject to the Standard Covenants dated March 17, 2004, and recorded in the real property records of the Aleutian Islands Recording District. Those Standard Covenants are incorporated by reference as though fully set forth herein.
11. INTERIM CONVEYANCE. The interest conveyed hereby is subject to the Provisions in the Interim Conveyance dated March 17, 2004, recorded in the Aleutian Islands Recording District, Third Judicial District, State of Alaska, in favor of, and enforceable by, the United States.
12. AFTER ACQUIRED INTERESTS. By this grant of easement GRANTOR intends to grant an easement in not only its present interest in the Reservoir and Watershed, but also in any interest therein that GRANTOR may acquire in the future.
13. CONSTRUCTION. This Conservation Easement shall be liberally construed to effect the purpose and intent hereof.
14. SEVERABILITY. If any provision of this Conservation Easement is ruled invalid or unenforceable for any reason by a court of competent jurisdiction, the remaining provisions hereof shall remain in force and effect.

IN WITNESS WHEREOF, the parties have executed this Conservation Easement, effective as of the date first written above.

THE ALEUT CORPORATION

By: Martha B. Melarney

Its: President

CORPORATE ACKNOWLEDGMENT



STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

ON THIS 17th day of March, 2004, before me, the undersigned, a Notary Public in and for the said State of Alaska, personally appeared MANZUK MALVANSKY, the President of THE ALEUT CORPORATION, known to me to be the identical individual who executed the foregoing instrument and he acknowledged to me that he executed the same as the free and voluntary act of said company, with full authority so to do and with full knowledge of its contents, for the uses and purposes therein mentioned.

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

[Signature]
Notary Public in and for the State of Alaska My
Commission Expires: 2-14-06

CERTIFICATE OF ACCEPTANCE

THIS IS TO CERTIFY that the CITY OF ADAK, grantee herein, acting by and through its City Manager, hereby accepts for public purposes the real property, or interest therein, described in this instrument, and acknowledges receipt of a copy of the Interim Conveyance to which it is subject.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of March 2004

CITY OF ADAK

By: [Signature]

Its: City Manager

ACKNOWLEDGMENT

ON THIS 17th day of March, 2004, before me, the undersigned, a Notary Public in and for the said State of Alaska, personally appeared _____, the City Manager of the City of Adak, a municipal corporation, known to me to be the identical



individual who executed the foregoing instrument and he acknowledged to me that he executed the same as the free and voluntary act of said municipal corporation, with full authority so to do and with full knowledge of its contents, for the uses and purposes therein mentioned.

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

Dave Nevzuroff

Notary Public in and for the State of Alaska My
Commission Expires: 2-14-06

AFTER RECORDING RETURN TO:

City of Adak
PO Box 2011
Adak, Alaska 99546

