



First American Title™

Subdivision Guarantee

Issued by

First American Title Insurance Company

GUARANTEE NUMBER

5033602-0209-4179040

Guarantee

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND THE CONDITIONS AND STIPULATIONS OF THIS GUARANTEE,

FIRST AMERICAN TITLE INSURANCE COMPANY

a Nebraska corporation, herein called the Company

GUARANTEES

the Assured named in Schedule A against actual monetary loss or damage not exceeding the liability stated in Schedule A, which the Assured shall sustain by reason of any incorrectness in the assurances set forth in Schedule A.

FIRST AMERICAN TITLE INSURANCE COMPANY

By: 
Kenneth D. DeGiorgio, President

By: 
Lisa W. Cornehl, Secretary

This jacket was created electronically and constitutes an original document

First American Title Insurance Company



Breanna Bovey, Title Officer

SCHEDULE OF EXCLUSIONS FROM COVERAGE OF THIS GUARANTEE

1. Except to the extent that specific assurances are provided in Schedule A of this Guarantee, the Company assumes no liability for loss or damage by reason of the following:
 - (a) Defects, liens, encumbrances, adverse claims or other matters against the title, whether or not shown by the public records.
 - (b) (1) Taxes or assessments of any taxing authority that levies taxes or assessments on real property; or, (2) Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not the matters excluded under (1) or (2) are shown by the records of the taxing authority or by the public records.
 - (c) (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims or title to water, whether or not the matters excluded under (1), (2) or (3) are shown by the public records.
2. Notwithstanding any specific assurances which are provided in Schedule A of this Guarantee, the Company assumes no liability for loss or damage by reason of the following:
 - (a) Defects, liens, encumbrances, adverse claims or other matters affecting the title to any property beyond the lines of the land expressly described in the description set forth in Schedule (A), (C) or in Part 2 of this Guarantee, or title to streets, roads, avenues, lanes, ways or waterways to which such land abuts, or the right to maintain therein vaults, tunnels, ramps or any structure or improvements; or any rights or easements therein, unless such property, rights or easements are expressly and specifically set forth in said description.
 - (b) Defects, liens, encumbrances, adverse claims or other matters, whether or not shown by the public records; (1) which are created, suffered, assumed or agreed to by one or more of the Assureds; (2) which result in no loss to the Assured; or (3) which do not result in the invalidity or potential invalidity of any judicial or non-judicial proceeding which is within the scope and purpose of the assurances provided.
 - (c) The identity of any party shown or referred to in Schedule A.
 - (d) The validity, legal effect or priority of any matter shown or referred to in this Guarantee.

GUARANTEE CONDITIONS AND STIPULATIONS

1. Definition of Terms.

The following terms when used in the Guarantee mean:

- (a) the "Assured": the party or parties named as the Assured in this Guarantee, or on a supplemental writing executed by the Company.
- (b) "land": the land described or referred to in Schedule (A)(C) or in Part 2, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule (A)(C) or in Part 2, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
- (c) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.
- (d) "public records": records established under state statutes at Date of Guarantee for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.
- (e) "date": the effective date.

2. Notice of Claim to be Given by Assured Claimant.

An Assured shall notify the Company promptly in writing in case knowledge shall come to an Assured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as stated herein, and which might cause loss or damage for which the Company may be liable by virtue of this Guarantee. If prompt notice shall not be given to the Company, then all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any Assured unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

3. No Duty to Defend or Prosecute.

The Company shall have no duty to defend or prosecute any action or proceeding to which the Assured is a party, notwithstanding the nature of any allegation in such action or proceeding.

4. Company's Option to Defend or Prosecute Actions; Duty of Assured Claimant to Cooperate.

Even though the Company has no duty to defend or prosecute as set forth in Paragraph 3 above:

- (a) The Company shall have the right, at its sole option and cost, to institute and prosecute any action or proceeding, interpose a defense, as limited in (b), or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured, or to prevent or reduce loss or damage to the Assured. The Company may take any appropriate action under the terms of this Guarantee, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this Guarantee. If the Company shall exercise its rights under this paragraph, it shall do so diligently.
- (b) If the Company elects to exercise its options as stated in Paragraph 4(a) the Company shall have the right to select counsel of its choice (subject to the right of such Assured to object for reasonable cause) to represent the Assured and shall not be liable for and will not pay the fees of any other counsel, nor will the Company pay any fees, costs or expenses incurred by an Assured in the defense of those causes of action which allege matters not covered by this Guarantee.
- (c) Whenever the Company shall have brought an action or interposed a defense as permitted by the provisions of this Guarantee, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from an adverse judgment or order.
- (d) In all cases where this Guarantee permits the Company to prosecute or provide for the defense of any action or proceeding, an Assured shall secure to the Company the right to so prosecute or provide for the defense of any action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such Assured for this purpose. Whenever requested by the Company, an Assured, at the Company's expense, shall give the Company all

GUARANTEE CONDITIONS AND STIPULATIONS (Continued)

reasonable aid in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured. If the Company is prejudiced by the failure of the Assured to furnish the required cooperation, the Company's obligations to the Assured under the Guarantee shall terminate.

5. Proof of Loss or Damage.

In addition to and after the notices required under Section 2 of these Conditions and Stipulations have been provided to the Company, a proof of loss or damage signed and sworn to by the Assured shall be furnished to the Company within ninety (90) days after the Assured shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the matters covered by this Guarantee which constitute the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the Assured to provide the required proof of loss or damage, the Company's obligation to such assured under the Guarantee shall terminate. In addition, the Assured may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Guarantee, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Assured shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the Assured provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Assured to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this Guarantee to the Assured for that claim.

6. Options to Pay or Otherwise Settle Claims: Termination of Liability.

In case of a claim under this Guarantee, the Company shall have the following additional options:

- (a) To Pay or Tender Payment of the Amount of Liability or to Purchase the Indebtedness.
The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is issued for the benefit of a holder of a mortgage or a lienholder, the Company shall have the option to purchase the

indebtedness secured by said mortgage or said lien for the amount owing thereon, together with any costs, reasonable attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of purchase.

Such purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase said indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness, together with any collateral security, to the Company upon payment of the purchase price.

Upon the exercise by the Company of the option provided for in Paragraph (a) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4, and the Guarantee shall be surrendered to the Company for cancellation.

- (b) To Pay or Otherwise Settle With Parties Other Than the Assured or With the Assured Claimant.

To pay or otherwise settle with other parties for or in the name of an Assured claimant any claim assured against under this Guarantee, together with any costs, attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of the option provided for in Paragraph (b) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4.

7. Determination and Extent of Liability.

This Guarantee is a contract of Indemnity against actual monetary loss or damage sustained or incurred by the Assured claimant who has suffered loss or damage by reason of reliance upon the assurances set forth in this Guarantee and only to the extent herein described, and subject to the Exclusions From Coverage of This Guarantee.

The liability of the Company under this Guarantee to the Assured shall not exceed the least of:

- (a) the amount of liability stated in Schedule A or in Part 2;
(b) the amount of the unpaid principal indebtedness secured by the mortgage of an Assured mortgagee, as limited or provided under Section 6 of these Conditions and Stipulations or as reduced under Section 9 of these Conditions and Stipulations, at the time the loss or damage assured against by this Guarantee occurs, together with interest thereon; or
(c) the difference between the value of the estate or interest covered hereby as stated herein and the value of the estate or interest subject to any defect, lien or encumbrance assured against by this Guarantee.

8. Limitation of Liability.

- (a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures any other matter assured against by this Guarantee in a reasonably diligent manner by

GUARANTEE CONDITIONS AND STIPULATIONS (Continued)

any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

- (b) In the event of any litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title, as stated herein.
- (c) The Company shall not be liable for loss or damage to any Assured for liability voluntarily assumed by the Assured in settling any claim or suit without the prior written consent of the Company.

9. Reduction of Liability or Termination of Liability.

All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 4 shall reduce the amount of liability pro tanto.

10. Payment of Loss.

- (a) No payment shall be made without producing this Guarantee for endorsement of the payment unless the Guarantee has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.
- (b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within thirty (30) days thereafter.

11. Subrogation Upon Payment or Settlement.

Whenever the Company shall have settled and paid a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured claimant. The Company shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to the claim had this Guarantee not been issued. If requested by the Company, the Assured shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The Assured shall permit the Company to sue, compromise or settle in the name of the Assured and to use the name of the Assured in any transaction or litigation involving these rights or remedies. If a payment on account of a claim does not fully cover the loss of the Assured the Company shall be subrogated to all rights and remedies of the Assured after the Assured shall have recovered its principal, interest, and costs of collection.

12. Arbitration.

Unless prohibited by applicable law, either the Company or the Assured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Assured arising out of or relating to this Guarantee, any service of the Company in connection with its issuance or the breach of a Guarantee provision or other obligation. All arbitrable matters when the Amount of Liability is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Assured. All arbitrable matters when the amount of liability is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Assured. The Rules in effect at Date of Guarantee shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permits a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

13. Liability Limited to This Guarantee; Guarantee Entire Contract.

- (a) This Guarantee together with all endorsements, if any, attached hereto by the Company is the entire Guarantee and contract between the Assured and the Company. In interpreting any provision of this Guarantee, this Guarantee shall be construed as a whole.
- (b) Any claim of loss or damage, whether or not based on negligence, or any action asserting such claim, shall be restricted to this Guarantee.
- (c) No amendment of or endorsement to this Guarantee can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

14. Notices, Where Sent.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to the Company at **First American Title Insurance Company, Attn: Claims National Intake Center, 1 First American Way, Santa Ana, California 92707 Claims.NIC@firstam.com Phone: 888-632-1642 Fax: 877-804-7606**



First American Title™

Schedule A

Subdivision Guarantee

ISSUED BY

First American Title Insurance Company

GUARANTEE NUMBER

4179040

Order No.: 4179040

Liability: \$1,000.00

Fee: \$300.00

Tax: \$N/A

Name of Assured: Edge Survey and Design

Date of Guarantee: August 9, 2024

The assurances referred to on the face page hereof are:

1. [Title is vested in:](#)

City of Dillingham, Alaska, as to Parcel No.1 and GreatLand Auto Parts LLC, an Alaska Limited Liability Company . As to The Leasehold Estate, as Parcel No.2

2. That, according to the Public Records relative to the land described in Schedule C attached hereto (including those records maintained and indexed by name), there are no other documents affecting title to said land or any portion thereof, other than those shown under Record Matters in Schedule B.

3. The following matters are excluded from the coverage of this Guarantee:

A. Unpatented Mining Claims, reservations or exceptions in patents or in acts authorizing the issuance thereof.

B. Water rights, claims or title to water.

C. Tax Deeds to the State of Alaska.

D. Documents pertaining to mineral estates.

4. No guarantee is given nor liability assumed with respect to the validity, legal effect or priority of any matter shown herein.

5. This Guarantee is restricted to the use of the Assured for the purpose of providing title evidence as may be required when subdividing land pursuant to the provisions of A.S. Section 38.04.045 and A.S. Chapter 40.15., and the local regulations and ordinances adopted pursuant to said statute. It is not to be used as a basis for closing any transaction affecting title to said property.

6. Any sketch attached hereto is done so as a courtesy only and is not part of any title commitment, guarantee or policy. It is furnished solely for the purpose of assisting in locating the premises and First American expressly disclaims any liability which may result from reliance made upon it.



First American Title™

Schedule B

Subdivision Guarantee

ISSUED BY

First American Title Insurance Company

GUARANTEE NUMBER

4179040

File No.: 0209-4179040

RECORD MATTERS

7. Reservations or exceptions in patents or in acts authorizing the issuance thereof.
8. Taxes and/or Assessments due The City of Bristol Bay for the year 2024 (Lot 3A):

Tax Account No.: N/A
Levied Amount: \$890.50
Balance Due: \$0.00
Due Date(s): 11/1 & 12/2/24
Land Valuation: \$68,500.00
Improvements: \$0.00
Exemption(s): \$68,500.00 City
Code Area: N/A
Mill Levy: 13.000
Assessments: No Unpaid Assessments Reported

9. Taxes and/or Assessments levied by The City of Bristol Bay for the year 2024 (Lot 2):

Tax Account No.: [000964-000](#)
Levied Amount: \$5,216.90
Balance Due: \$5,098.93
Due Date(s): 11/1 & 12/2/24
Land Valuation: \$41,700.00
Improvements: \$359,600.00
Exemption(s): \$9,075.00 None
Code Area: N/A
Mill Levy: Possessory
Assessments: No Unpaid Assessments Reported

10. Easement, including terms and provisions contained therein:
Recording Information: January 6, 2006, Serial Number [2004-000003-0](#)
In Favor of: City of Dillingham
For: Dedication For Public Easement
Affects: See instrument for exact location
11. Easements as dedicated and shown on the plat of said subdivision. (Copy Attached)
12. The effect of the notes which appear on the plat of said subdivision. (Copy Attached)



First American Title™

Schedule C

Subdivision Guarantee

ISSUED BY

First American Title Insurance Company

GUARANTEE NUMBER

4179040

File No.: 0209-4179040

The land in the Recording District of Bristol Bay, State of Alaska, described as follows:

Parcel No. 1

Lot 3A, HARBOR LEASE LOTS RESUBDIVISION , according to the official plat thereof, filed under Plat Number [2014-10](#), Records of the Bristol Bay Recording District, Third Judicial District, State of Alaska.

Parcel No.2

Lot 2, HARBOR LEASE LOTS RESUBDIVISION , according to the official plat thereof, filed under Plat Number [2012-13](#), Records of the Bristol Bay Recording District, Third Judicial District, State of Alaska.

QUITCLAIM DEED

DILLINGHAM SMALL BOAT BASIN
DILLINGHAM, ALASKA

THIS DEED, made this 14th day of June, 1999, by and between the UNITED STATES OF AMERICA, acting by and through the Secretary of the Army, whose address is U.S. Army Engineer District, Alaska, ATTN: Real Estate Division, P.O. Box 898, Anchorage, Alaska 99506-0898; under authority of the Act of Congress approved July 3, 1958, (Public Law 85-500, Section 101, Rivers and Harbors Act of 1958); hereinafter called the Grantor, and the CITY OF DILLINGHAM, ALASKA, whose address is P.O. Box 889, Dillingham, Alaska 99576-0889, hereinafter called the Grantee.

WITNESSETH THAT:

WHEREAS, pursuant to Resolution adopted November 2, 1959, by the Dillingham Public Utility District No. 1 (now the City of Dillingham), the United States of America acquired a fee simple estate in certain lands required for initial construction of the Dillingham Harbor Improvement Project by Quitclaim Deed dated April 15, 1960, recorded in Volume XI, pages 157 and 158; and Quitclaim Deed dated May 3, 1960, recorded in Volume XI, pages 163 and 164; records of the Bristol Bay Recording District; and

WHEREAS, it is in the best interest of both parties hereto that the Grantor convey and transfer its right, title and interest in and to the hereinafter described lands to the Grantee in order that the Grantee may have all necessary interest in the lands for its use and operation of the harbor improvement works;

NOW, THEREFORE, in consideration of the mutual benefit derived therefrom and of the benefits which shall accrue to the public, the Grantor does hereby remise, release and forever quitclaim unto the said Grantee, its successors and assigns, all its right, title and interest in and to the following described real property situated in the City of Dillingham, Third Judicial District, State of Alaska, to wit:

Tract No. 100

All of U.S. Survey No. 2874, located within Township 13 South, Range 55 West, Seward Meridian, Bristol Bay Recording District, Third Judicial District, State of Alaska.

Containing 23.47 acres, more or less.

Tract No. 101

A parcel of land located within U.S. Survey No. 2877, Township 13 South,

Range 55 West, Seward Meridian, Bristol Bay Recording District, Third Judicial District, State of Alaska, said parcel being more particularly described as follows:

Commencing at M.C. No. 4 of U.S. Survey No. 2877;
thence North 86°43' East 77.22 feet along meander course No. 13 of said Survey;
thence North 49°44' East 16.00 feet, more or less, along meander course No. 12
of said Survey to a point on the mean high water line of Scandinavian Slough,
being the True Point of Beginning for this description;
thence North 7°15' West 98.00 feet;
thence North 22°38' East 239.00 feet;
thence North 7°15' West 540.00 feet;
thence North 23°50' West 760.00 feet, more or less, to a point which bears North
20°08' West 62.00 feet and South 82°36' West 25.00 feet from the southerly
terminus of meander course No. 4 of said Survey;
thence North 82°36' East 25.00 feet, more or less, to a point on the mean high
water line of Scandinavian Slough;
thence tracing such mean high water line southerly 1,746.00 feet, more or less,
to the True Point of Beginning.

Containing 2.52 acres, more or less.

SUBJECT TO valid existing rights, reservations, easements and use restrictions of record
or as now located over and across the above described lands.

FURTHER SUBJECT TO License No. DACW85-3-99-19 granted to the State of Alaska,
Department of Military and Veterans Affairs, to use and occupy certain land and improvements
located on Tract No. 100, containing 30,800 square feet, for a 5-year term ending March 31, 2004.


THIS conveyance is not subject to Title 10, United States Code, Section 2662, as amended.

TO HAVE AND TO HOLD the said premises, unto the City of Dillingham, Alaska, its
successors and assigns, forever, with all appurtenances thereunto belonging.

IN WITNESS WHEREOF, I have hereunto set my hand at the direction of the Secretary
of the Army, this 14th day of June, 1999.

Return to:
City of Dillingham
PO Box 889
Dillingham, AK 99576

FOR THE SECRETARY OF THE ARMY:

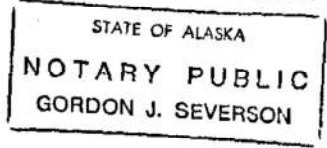
By: 
DENNIS E. KLEIN
Chief, Real Estate Division
U.S. Army Engineer District, Alaska

ACKNOWLEDGEMENTS

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

ON THIS 14th day of June, 1999, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Dennis E. Klein, known to me to be the identical person who executed the foregoing instrument, and he acknowledged to me that he executed the same with full authority so to do, for the uses and purposes therein mentioned.

WITNESS my hand and official seal.



Gordon J. Severson
Notary Public in and for the State of Alaska
My Commission Expires: June 3, 2001

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

ON THIS 21 day of July, 1999, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Chris Henrick, City Manager, acting for and on behalf of the City of Dillingham, who did depose and say:

THE FOREGOING instrument is also executed and accepted by the City of Dillingham and its seal hereunto affixed.

ATTEST:

CITY OF DILLINGHAM, ALASKA

Suzanne M. Braswell
City Clerk

By: CA Hall
City Manager

(SEAL)



Suzanne M. Braswell
Notary Public in and for the State of Alaska
My Commission Expires: 1-31-2000

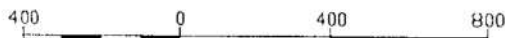


CORPS OF ENGINEERS

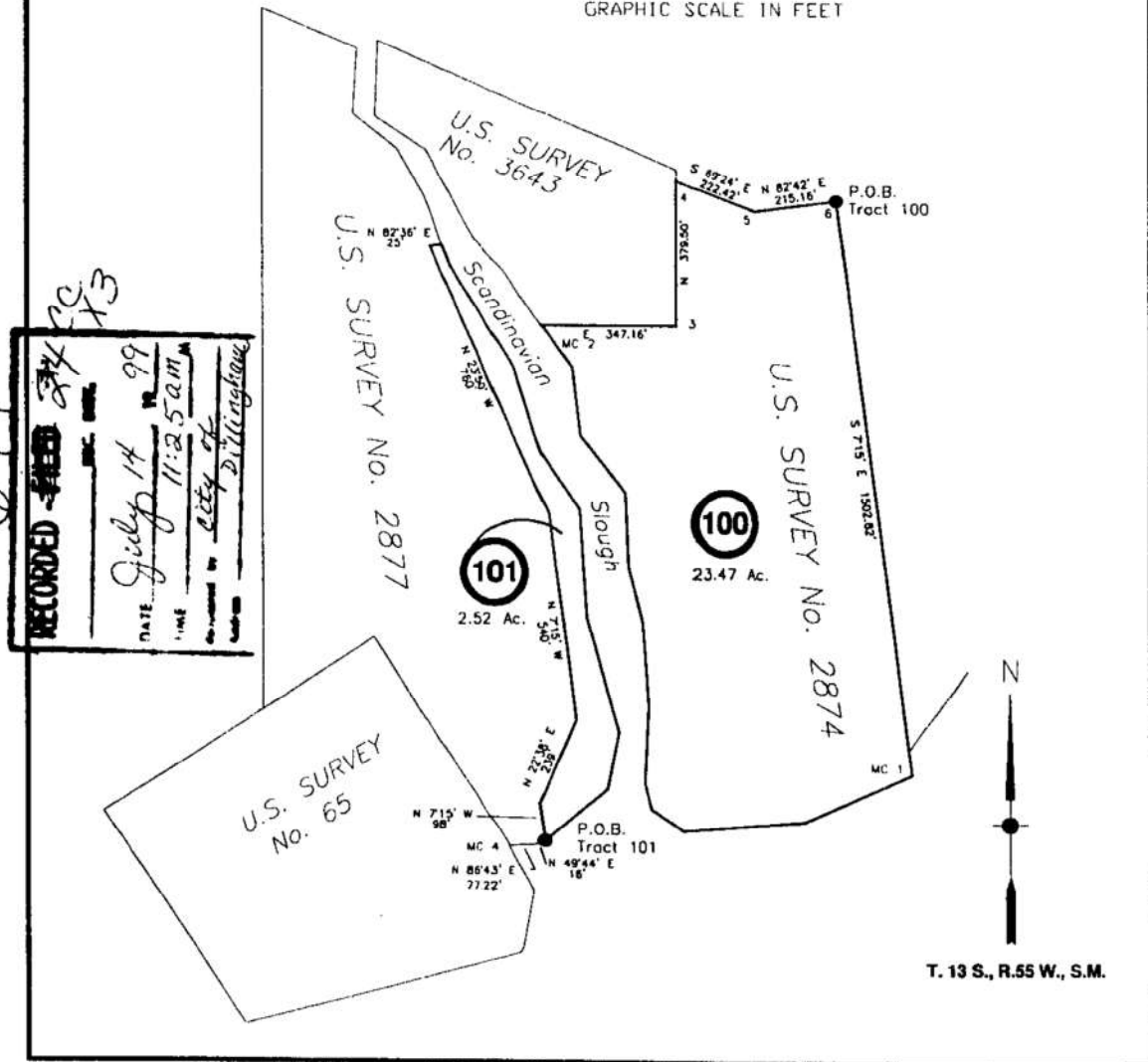
U.S. ARMY

DEPARTMENT OF THE ARMY
OFFICE OF THE ALASKA DISTRICT ENGINEER
PACIFIC OCEAN DIVISION

REAL ESTATE
DILLINGHAM SMALL BOAT BASIN
TRACTS 100 & 101



GRAPHIC SCALE IN FEET



67
129
RECORDED
DATE July 14 99
TIME 11:25 AM
BY City of Dillingham

T. 13 S., R.55 W., S.M.

A
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K
A

2021-000303-0

Recording Dist: 307 - Bristol Bay
9/8/2021 10:08 AM Pages: 1 of 31



Record in the Bristol Bay Recording District.
After recording, return to:

Michael R. Mills
Dorsey & Whitney LLP
1031 W. 4th Ave., Ste. 600
Anchorage, AK 99501

RECORDING COVER SHEET FOR:

Assignment and Assumption of Ground Lease

Grantor: DLG, LLC

Grantee: Greatland Auto Parts, LLC

Related Document Number: 2020-000055-0

Bristol Bay Recording District
After recording return to:
Dorsey & Whitney LLP
c/o Shane Kanady
1113 W. 4th Ave, Suite 600
Anchorage, Alaska 99501

ASSIGNMENT AND ASSUMPTION OF GROUND LEASE

This ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT ("Agreement") is made as of the 1st day of March, 2020 ("Effective Date"), by and among DLG, LLC, an Alaska corporation (hereinafter referred to as "Assignor"), whose mailing address is 3060 North Lazy Eight, Suite 2 #255, Wasilla, AK 99654, and Greatland Auto Parts, LLC, an Alaska limited liability company (hereinafter referred to as "Assignee"), whose mailing address is 3060 North Lazy Eight, Suite 2 #111, Wasilla, AK 99654, and the City of Dillingham (the "Ground Lessor").

WHEREAS, in connection with a sale of substantially all of Assignor's assets of the Dillingham NAPA Auto Parts store, Assignor desires to assign to Assignee all of its right, title and interest under the Ground Lease Agreement dated April 6, 2012 and attached hereto as Exhibit "A" and incorporated herein by reference (the "Ground Lease"), and Assignee desires to accept the assignment of the Ground Lease from and after the Effective Date, in accordance with its terms.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Assignor hereby transfers, assigns and conveys to Assignee, and its successors and assigns, all of Assignor's right, title and interest in, to and under the Ground Lease from and after the Effective Date. Assignor warrants and represents that it is the current tenant under the Ground Lease and has full right, power, and authority to assign the same as herein provided and that its interests in the Ground Lease is free from all encumbrances. Assignor further warrants and represents that the Ground Lease is in full force and effect; has not been modified or amended; and is not in default.
2. Assignee shall defend, indemnify and hold Assignor fully harmless with respect to any liabilities pursuant to the Ground Lease arising from events occurring after the Effective Date. Assignor shall defend, indemnify and hold Assignee fully harmless with respect to any liabilities pursuant to the Ground Lease arising from events occurring on or before the Effective Date. Furthermore, Assignor agrees to remain liable to Ground Lessor on the Ground Lease until Assignee exercises its obligation to purchase the
3. Building (as defined in the Lease Agreement between Assignor and Assignee). Upon exercise of the obligation, Assignor shall receive a full release under the Ground Lease from Ground Lessor, which release shall not be unreasonably withheld by Ground Lessor.



4. Assignee assumes the Ground Lease as of the close of business on the Effective Date, and Assignee promises to perform and observe all of those covenants and conditions therein contained on the Assignor's part to be performed and observed which shall accrue after the Effective Date.
5. Section 30 of the Lease shall be modified to provide notice to the Tenant at the following address:

Greatland Auto Parts, LLC
Attn: Robert Cambron
3060 N. Lazy Eight Ct. STE 2 #111
Wasilla, AK 99654
Phone: 907-529-7867
Email: robert@greatlandnapa.com
6. This Agreement may be executed in counterparts, all of which shall be deemed originals and constitute one instrument, and signatures may be exchanged by facsimile or other electronic means.

IN WITNESS WHEREOF, the parties have duly executed or caused these presents to be executed as of the date first written above.


ASSIGNOR:

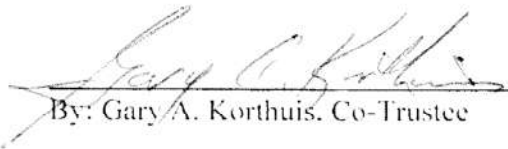
ASSIGNEE:


DLG, LLC

GREATLAND AUTO PARTS, LLC

By: GHT TRUST, July 21, 2000, an Alaska
Trust
Its: Sole Member

By: 
Robert Cambron, Manager


By: Gary A. Korthuis, Co-Trustee


By: Helen F. Korthuis, Co-Trustee



STATE OF ALASKA)
) SS.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 27 day of August, 2021, by ROBERT CAMBRON, the Manager of Greatland Auto Parts LLC, an Alaska limited liability company, on behalf of the company.



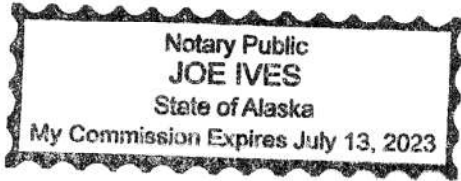
[Handwritten Signature]
Notary Public in Alaska
My commission expires: 8/20/23



Acknowledgments

STATE OF ALASKA)
) SS.
THIRD JUDICIAL DISTRICT)

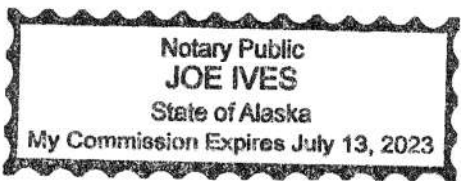
The foregoing instrument was acknowledged before me this 3rd day of ^{September} ~~August~~, 2021, by GARY A. KORTHUIS, Co-Trustee of the GH Trust, July 21, 2000, an Alaska Trust, sole member of DLG, LLC, on behalf of the company.



Notary Public in Alaska
My commission expires: 7/13/23

STATE OF ALASKA)
) SS.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 3rd day of ^{September} ~~August~~, 2021, by HELEN F. KORTHUIS, Co-Trustee of the GH Trust, July 21, 2000, sole member of DLG, LLC, on behalf of the company.



Notary Public in Alaska
My commission expires: 7/13/23



EXHIBIT A

Lease

Assignment of Lease

Page 5 of 5



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2021-000303-0

LAND LEASE AGREEMENT

THIS LAND LEASE AGREEMENT (this "Lease") is entered on the later date signed below ("Effective Date"), by and between the CITY OF DILLINGHAM ("Lessor"), an Alaska municipal corporation, having a mailing address of P.O. Box 889, Dillingham AK 99576, and DLG LLC, or assignee ("Lessee"), an Alaska limited liability company, having a mailing address of 3060 N. Lazy Eight Ct., Ste. 2-255, Wasilla, Alaska 99654.

1. **PREMISES.** Lessor hereby leases to Lessee that certain premises consisting of approximately 24,500 square feet located at the Dillingham Harbor, Dillingham, AK 99576, together with access thereto (the "Premises" or "Land"), which is a portion of U.S. Survey 2874, Bristol Bay Recording District, Third Judicial District and is more precisely identified as Lot 2 on the preliminary plat survey dated January 11, 2012 and attached hereto as Exhibit A.

2. **TERM; RENEWAL TERMS.** The initial term of this Lease (the "Initial Term") will be for three (3) years, commencing on April 6, 2012, and terminating at midnight on April 5, 2015. Lessee will have the option to extend the Initial Term for four (4) consecutive periods of five (5) years each and the option to extend the Initial Term for a final period of seven (7) years if the first four options have been exercised (the "Option Periods") provided that Lessee notifies Lessor at least sixty (60) days prior to the expiration of the Initial Term or the applicable Option Period for a total possible Term of thirty (30) years. The applicable Option Period shall be upon the same terms and conditions set forth herein other than the Rent established pursuant to paragraphs 3 and 4 below. The Initial Term and any Option Period during which Lessee occupies the Premises shall be collectively referred to as the "Term".

3. **RENT.** Lessee shall pay Lessor a monthly rental payment in the amount of **Four Hundred Fifty Dollars (\$450.00)** per month for the Initial Term ("Rent").



All Rent will be due and owing in advance on the first day of each month during the Term. Unless otherwise notified by Lessor, Lessee shall remit Rent to Lessor at Lessor's address listed in Section 29.

4. **RENT ADJUSTMENT.**

- A. First Option Period. The annual rental amount (of which Lessee shall pay 1/12 each month) that is payable pursuant to this lease shall be subject to adjustment effective at the end of the Initial Term,. The annual rental amount shall be an amount equal to the total annual payment that results from the application of a 10 percent capitalization rate to the fair market value of the Land leased hereunder (and without respect to the separate value of any building or improvements on the Land); provided, however, that the rent shall be recalculated using a 12% capitalization rate immediately upon the availability of water and sewer hook up to the City's water and sewer system from the Premises, with such new monthly rental amount to be effective the first day of the next month following completion of the water and sewer hook up. Such Land value shall be determined by an appraisal made by the city assessor or a certified appraiser hired by Lessor. As an example, if the appraised value of the Land is \$50,000, then the annual total based upon a capitalization rate of 12% would be \$6,000-- $\$50,000 \times .12 = \$6,000$ --and the monthly rent would be \$500 and the annual total based upon a capitalization rate of 10% would be \$5,000.
- B. Subsequent Option Periods. Beginning with the second Option Period and continuing for each subsequent Option Period, the Rent will be adjusted upwards or downwards in an amount equal to the percentage increase or decrease in the tax assessed value of the Land from the tax assessed value of the Land since the beginning of the previous Term; provided, however, that if the change in tax assessed value of the Land is more than 10% either upwards or downwards, then the Rent for the initial year of the new Option Period shall be adjusted not more than 10% from



the base amount with subsequent adjustments of not more than 10% in subsequent years of the new Option Period until the total of all adjustments for the new Option Period equals the total percentage increase or decrease in the tax assessed value of the land at the beginning of the new Option Period from the tax assessed value of the land at the beginning of the previous Term. (e.g. if the tax assessed value at the beginning of the new Option Period for the Land has increased 9% from the beginning of the old Option Period, then the Rent for the new Option Period shall increase by 9%; if the tax assessed value at the beginning of the new Option Period for the Land has increased 12% from the beginning of the old Option Period, then the Rent for the first year of the new Option Period shall increase by 10% from the Rent for the first year of the previous Term and the Rent for the second year of the new Option Period shall increase by an additional 2% from the Rent for the first year of the previous Term)

5. **ALLOWED USES.** Lessee may use the Premises for any harbor-related commercial purpose allowed by the zoning laws, including any changes in zoning laws, provided, however, that residential use of the Premises shall be allowed only if such use is ancillary to a non-residential use. Lessee shall actively and continuously use and operate the Premises, except for failure to so use caused by wars, strikes, riots, civil commotion, acts of civil authorities, acts of public enemies, and acts of God.

6. **QUIET ENJOYMENT.** Lessor covenants and agrees that Lessee, upon performing all of its obligations under this Lease, will have the right to lawfully, quietly and exclusively hold, occupy and enjoy the Premises during the Term without disturbance by anyone. Lessor will not use, nor will Lessor permit any employees, tenants, licensees, invitees or agents to use, any portion of the Premises in any way which interferes with the Lessee's operations at, and use of, the Premises. Lessor will use commercially reasonable efforts to



cause any such interference to cease within twenty-four (24) hours after receipt of notice of interference from Lessee.

7. **EASEMENTS.** 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 for the purpose of providing water, sewer or electric services to the Premises or to adjacent properties, or for the purpose of providing reasonable public access to public waters, provided that no such easement or right-of-way may be granted or reserved which unreasonably interferes with the Lessee's use of the Premises.
8. **LESSOR'S RIGHT OF ENTRY.** Lessor has the right to enter the Premises during non-business hours only in the case of emergency or other urgent public need such as police pursuit of a criminal. Any such entry shall be conducted in accordance with all laws, statutes, regulations and other limitations.
9. **SURVEY.** Lessor shall, at Lessor's sole expense complete a final survey and plat including the Land, within one (1) year of the date of approval of this lease by the City Council. Said survey and plat upon completion shall be attached hereto as Exhibit B. Exhibit B shall be conclusive as to the location of the Land. If the Land changes in size as a result of said survey, Rent shall be adjusted pro rata.
10. **UTILITIES AND FEES.** Lessee will pay for all utilities and services used or consumed by it on the Premises. Lessor shall arrange for relocating the current electric meter base to a location mutually agreed upon by Lessor and Lessee. Lessee shall reimburse Lessor for one-half of all reasonable expenses incurred by Lessor in relocation of the existing electric meter base, but Lessee shall not be liable to reimburse Lessor more than \$2,530.
11. **TAXES AND ASSESSMENTS.** Lessee shall be liable for payment of any tariffs or similar fees, real and personal property taxes or assessments that



may be levied on the Land or on Lessee's fixtures, improvements, equipment or other Lessee property on the premises, additional costs or other levies imposed by the City of Dillingham on all similar uses. Such additional fees are subject to change from time to time according to the city ordinances then in effect, and nothing contained herein shall be construed as creating a contract right in favor of Lessee as to any such tax or fee, other than the obligation to pay Rent hereunder. Lessee shall strictly comply with all sales tax provisions of the City of Dillingham pertaining to sales or purchases made by Lessee on which a City sales tax is levied.

12. IMPROVEMENTS.

- A. On or before December 31, 2012, Lessee shall commence and diligently proceed to completion of the following improvements to the Premises:
- B. Lessee shall, as a condition of this Lease, make an investment for the improvements to be constructed on the Premises in an amount which shall exceed two hundred thousand dollars (\$200,000). Such investment is a condition for Lessee continuing to occupy the Premises, and is not to be credited to any other obligations contained in this Lease. Within sixty (60) days following substantial completion of any improvement to the Property, Lessee shall furnish Lessor with a certificate verifying that Lessee invested more than \$200,000 in improvements using the form of certificate attached hereto as Exhibit B.
- C. Lessee shall, throughout the Term of this Lease, at its own cost, and without any expense to Lessor, keep and maintain the Premises, including all Lessee's improvements of any kind which may be or become a part thereof, in good, neat, clean, safe and sanitary order, condition, including replacements of any kind, nature or description whatsoever, to the Premises or to any improvements thereon.



- D. Such improvements shall be subject to any building, zoning or similar code requirements or restrictions, and to other laws, regulations or permit requirements as may be imposed by any governmental agency.
- E. The damage, destruction or partial destruction of any improvement on the Premises shall not release Lessee from any obligation hereunder, except as hereinafter expressly provided. In the event the improvements on the Premises are destroyed to such an extent as to be rendered untenable by fire, storm, earthquake or other casualty for which Lessee is not responsible hereunder, Lessee may elect to terminate this lease by providing Lessor with a written notice within thirty (30) days of the destruction of the improvements. Should Lessee elect to so terminate this lease, such termination shall be effective thirty (30) days after such notice.
- F. Unless otherwise directed by Lessor, Lessee shall, within eighteen (18) months after termination of this Agreement remove all improvements and chattels from the Premises (Land) provided that Lessor first determines that such removal will not cause injury or damage to the Land or seriously impair its redisposal.
1. Any chattels or improvements having an appraised value exceeding \$20,000 not removed from the Premises (Land) within the time allowed, or not removable without causing injury or damage to the Premises, shall, upon 60 days prior written notice to the Lessee, be sold at a duly noticed public auction in which the Lessor may participate as a bidder. The proceeds of such sale shall be paid to the Lessee, after deduction for the benefit of the Lessor of all monies due and owing by the Lessee to the Lessor under this Lease, and all expenses incurred in administering and conducting the sale. The Lessor may offer a lease of the Premises to any bidder who purchases the remaining chattels or improvements on the Premises upon substantially the same terms and conditions as



are provided in this Lease. The Lessor may retain all such chattels and improvements that are not removed by Lessee and not purchased by another bidder at such public auction sale.

2. Lessee shall reimburse Lessor for damages to the Premises (Land) caused by its removal of any buildings or improvements to the Premises.

13. MUTUAL INDEMNITY.

A. Lessee's Indemnity. Lessee shall indemnify, defend and hold harmless Lessor, its agents, parent, affiliates, subsidiaries, officers, directors and employees from and against:

- (i) any and all liability for loss, damage, expenses, claims or fees which arise out of, or are related to, any act or omission by Lessee; and
- (ii) any and all liability (including voluntary response costs, penalties, fines and attorney's fees) arising from the presence of Hazardous Substances upon, about or beneath the Premises or any of the easement and access areas used by Lessee under this Agreement or migrating from the Premises and access areas used by Lessee under this Lease arising in any manner whatsoever out of the activities of Lessee, whether or not Lessee has been negligent. This obligation shall include, but not be limited to, the expense of defending all third-party claims, suits or administrative proceedings, even if such claims, suits and proceedings are groundless, false or fraudulent, and conducting all negotiations of any description, and paying and discharging, when and as the same become due, any and all judgments, penalties or other sums due against Lessor.

B. Lessor's Indemnity. Lessor shall indemnify, defend and hold harmless Lessee, its agents, parent, affiliates, subsidiaries, officers, directors and employees from and against; (a) any breach of a representation or



warranty under Paragraph 20, and (b) any and all liability for loss, damage, expenses, claims or fees which arise out of, or are related to any activity of Lessor (or agents, contractors, employees, or any other representative of Lessor) occurring on the Premises prior to the date of the Lease, including any liability related to Hazardous Substances or Petroleum Products. This obligation shall include, but not be limited to, the expense of defending all third-party claims, suits or administrative proceedings, even if such claims, suits and proceedings are groundless, false or fraudulent, and conducting all negotiations of any description, and paying and discharging, when and as the same become due, any and all judgments, penalties or other sums due against Lessee.

C. As used in this Section 13 and in this Agreement; the following terms have the following meanings:

(i) "Hazardous Substance" means one or more of (A) any hazardous or toxic substance, material or waste, including but not limited to (1) those substances, materials and waste listed in the U.S. Department of Transportation Hazardous Materials Table at 49 C.F.R. 172.101, (2) those substances listed by the U.S. Environmental Protection Agency as hazardous substances at 40 C.F.R. Part 302, or (3) those substances listed by the State of Alaska as hazardous substances at AS 46.03.826(5), (B) amendments to those collective provisions of (A) above of state and federal law, or such substances, materials and wastes that are or become regulated under any applicable local, state or federal law, or (C) Petroleum Products.

(ii) "Petroleum Products" means crude oil, petroleum, diesel fuel, marine fuel, heating oil, gasoline, kerosene, aviation fuel, jet fuel, motor oil, lubricants, hydraulic fluids and other petroleum-based substances, by-products, additives and derivatives.



14. **LEGAL REQUIREMENTS.** Lessee will comply with all applicable laws, statutes, ordinances, rules, and regulations of all federal, state, and municipal departments and agencies (collectively, "Legal Requirements") insofar as they pertain to Lessee's operations at, and use of, the Premises. Lessee will comply with all Legal Requirements in every other case, including cases where Legal Requirements mandate repairs, alterations, changes or additions to the buildings and improvements that are placed on the Premises.

15. **INSURANCE; WAIVER OF SUBROGATION.**

A. During the Term, Lessee will maintain a policy of commercial general liability insurance in a customary form and with underwriters with at least an A rating and qualified to issue insurance in the State of Alaska in the amount of \$1,000,000 combined single limit per occurrence. The insurance policy must name Lessor as an additional insured, but only with respect to Lessor's liability arising out of its interest in the Premises. The coverage shall include Premises Operations, Bodily Injury and Property Damages, Completed Operations and Personal Injury, and a Broad Form Comprehensive General Liability endorsement.

B. Lessee shall file with Lessor certificates of insurance for all insurance Lessee is required to maintain under this Lease, and the policy or policies shall contain a provision(s) that Lessor shall be notified in writing at least twenty (20) days in advance of any cancellation, non-renewal or termination of the insurance policy or policies.

C. All insurance policies shall be non-assessable and shall contain language, to the extent commercially obtainable, that (a) any loss shall be payable notwithstanding any act or negligence of Lessor that might otherwise result in a forfeiture of the insurance; and (b) the policies are primary with any insurance that may be carried or self-insurance program maintained by Lessor.



D. If Lessee fails or refuses to procure, to maintain, or to provide proof of insurance as required by this Lease, and fails to obtain such insurance within twenty (20) days of written notice from Lessor, Lessor shall have the right, on ten (10) days notice to Lessee, to procure and maintain such insurance. The premiums paid by Lessor shall be treated as added rent due from Lessee, to be paid on the first day of the month following the date the premiums were paid. Lessor shall give prompt notice of payment of insurance premiums, stating the amounts paid and the names of the insurer or insurers and shall provide Lessee with a copy of each premium. This remedy is in addition to any other remedy at law or equity or under this Lease for default.

The insurance shall carry a provision dealing with "separation of the insureds" (without any exclusions), which constitutes what in the past was called a cross liability clause.

E. Lessee shall provide and maintain workers' compensation insurance for its employees as required by Alaska and other applicable law.

16. DEFAULT; TERMINATION.

A. If Lessee fails to perform any obligations under this Lease, Lessor shall, prior to exercising any right or remedy provided by law or equity, give Lessee written notice specifying the nature of the default. If Lessee fails to cure such default within thirty (30) days after receipt of written notice from Lessor to Lessee, or, if such default cannot be cured within such thirty (30) day period, if Lessee fails to commence to cure such default within the thirty (30) day period and proceed diligently thereafter to effect such cure, Lessor shall have all rights and remedies available at law or in equity, including the right to terminate this Lease. If Lessor elects to so terminate this Lease, it shall provide Lessee with sixty (60) days written notice of its intent to do so.

B. If Lessor fails or refuses to observe or perform any covenant, agreement, condition or provision of this Lease, Lessee shall, prior to exercising any right or



remedy provided by law or equity, give Lessor written notice specifying the nature of the default. If Lessor fails to cure such default within the thirty (30) days after receipt of written notice from Lessee to Lessor, or, if such default cannot be cured within such thirty (30) day period, if Lessor fails to commence to cure such default within the thirty (30) day period and proceed diligently thereafter to effect such cure, Lessee shall have all rights and remedies available at law or in equity, including the right to cure the default and assert a recovery right against Lessor, including set off against Rent due to Lessor in order to cure the default.

17. LIENS.

A. Provided Lessee is not in default under this Lease, Lessor hereby consents to the grant of a deed of trust or other security interest to a lender ("Secured Party") who provides (a) funds to Lessee to allow Lessee to construct the building, fixtures, improvements and chattels permissibly erected pursuant to paragraph 12, (b) funds to repair, expand or enhance a building on the Land, or (c) funds that are otherwise used by Lessee in connection with Lessee's business ventures.

B Lessee shall keep Lessor's reversionary estate in and to the Property ("Reversionary Estate") free and clear of all security interests, liens and encumbrances Unless such security interests, liens or encumbrances are either: 1) allowed under subparagraph (A) of this paragraph; or 2) expressly consented to by Lessor

18. SECURED PARTIES RIGHTS AS AGAINST LESSOR.

A. Upon notice of termination being given due to a default by Lessee under the terms of this Lease, the Secured Party shall have the following rights and no others:



- (1) In the event that notice of default is given to Lessee under paragraph 16, Secured Party shall be mailed a copy of said notice.
- (2) In the event that the Lease is to be terminated due to a default by Lessee, Secured Party shall be mailed a copy of the termination notice.
- (3) Secured Party has sixty (60) days from receipt of notice under (a) or (b) of this paragraph to cure a default by Lessee of its obligations under this Lease. Lessee's right to cure its own default is limited to the provisions of paragraph 16.

B. Secured Party takes a security interest in this Lease subject to the provisions of this Lease, including but not limited to its termination provisions, and enjoys no greater rights under it than does Lessee. If this Agreement is terminated or naturally expires pursuant to its terms, secured party's security interest in the Lease is immediately extinguished; however, Secured Party's security interest in the building, fixtures, improvements, and chattels is preserved notwithstanding termination of the Lease, and subject to the right of removal and auction under paragraph 12.F.

C. If the Lease is terminated due to a default by Lessee, or expires and Lessee has failed to remove the building, fixtures, improvements or chattels permissibly erected by Lessee in which the Secured Party holds a security interest, then the Secured Party may exercise its rights, if any, under AS 45.29.609. Secured Party does not have the right to enter and remove the building, fixtures, improvements or chattels, if any, granted to it by AS 45.29.609 until it gives to Lessor such reasonable security as may be demanded by Lessor to reimburse Lessor for damages to the Premises (Land) which may be incurred in the course of removal pursuant to AS 45.29.604(d).

19. **DAMAGE AND DESTRUCTION.** If, in Lessee's good faith judgment, the Premises shall be so damaged by fire, casualty, acts of God, or other



elements (a "Casualty") to the extent that it cannot be restored or made suitable for Lessee's business operations and use within ninety (90) days from the date of the Casualty, Lessee may terminate this Lease by written notice given to Lessor within thirty (30) days after the date of the Casualty. If Lessee terminates the Lease, the termination shall be effective as of the date of the Casualty and the Rent shall abate from that date, and any Rent paid for any period beyond such date shall be promptly refunded to Lessee.

20. **CONDITION AND ACCEPTANCE OF PROPERTY.** Lessor represents and warrants that Lessor has no actual knowledge of any Hazardous Waste or Petroleum Products on the Premises or of any condition on the Premises in violation of any federal, state or local environmental laws. Other than the above warranty and representation, Lessor makes, no warranties or representations, express or implied, regarding the suitability or physical condition of the Premises. Lessee represents and warrants that it has independently inspected the Premises and made all investigations necessary to satisfy itself that the Premises are sufficient to accommodate the use for which Lessee intends the Premises under paragraph 5. Lessee shall and is relying solely on such independent inspection investigations and observations in entering into this Lease. Other than the representations found in the first sentence of this paragraph, Lessee holds Lessor harmless for any defects in the Premises that would prevent Lessee from using the Premises for the intended use pursuant to paragraph 5.
21. **NUISANCE AND WASTE PROHIBITED.** Lessee shall occupy the Property quietly and not commit or allow any waste or nuisance on the Property.
22. **CONDEMNATION.** In the event Lessor receives notification of any condemnation proceeding affecting the Premises, Lessor will provide notice of such proceeding to Lessee within forty-eight (48) hours. If a condemning authority takes all of the Premises, or a portion sufficient, in Lessee's sole determination, to render the Premises unsuitable for Lessee, this Lease will



terminate as of the date the title vests in the condemning authority. The parties will each be entitled to pursue their own separate awards in the condemnation proceeding, which for Lessee will include, as applicable and commensurate with its interest in the Premises, the value of its building, fixtures, improvements, chattels, and personal property, moving expenses, prepaid Rent, business dislocation expenses, and/or the ongoing concern value of Lessee's business conducted on the Premises, provided that any award to Lessee will not diminish Lessor's recovery. Lessee will be entitled to reimbursement for any prepaid Rent on a pro-rata basis. If this Lease is not terminated, the Rent will be reduced on a pro-rata basis to reflect the reduction of the Premises.

23. **FORCE MAJEURE.** If either party is delayed or hindered in or prevented from performing any act required under this Lease by an act of: God; fire; earthquake; flood; explosion; action of the elements; inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market; failure of transportation; or any other cause, whether similar or dissimilar to the foregoing, not within the reasonable control of such party, then performance of any such required act will be excused for the period of delay, and the period for the performance of any such act will be extended for a period equivalent to the period of such delay.
24. **ASSIGNMENT.** Lessee may not assign this Agreement or sublet any interest in the premises without the prior written consent of Lessor which shall not be unreasonably withheld; provided, however, that Lessee may freely assign this Lease or sublet any interest in the Premises without Lessor's consent to any parent, subsidiary, or affiliate of Lessee. An approved assignment or sublease shall be subject to all of the terms and conditions of the Lease and the assignor shall not be relieved of the assignor's obligations as Lessee thereunder. An approved sublease shall be in writing and be subject to the terms and conditions of the original lease. A copy of the sublease shall be filed with the city clerk's office. If the Lessee assigns or sublets the premises,



or attempts to assign or sublet the premises, without the consent of the Lessor, then Lessee shall be in default under this Lease and Lessor shall have the rights set forth in paragraph 16.

25. **BINDING ON SUCCESSORS.** This Lease will bind the parties and their heirs, executors, administrators, successors, representatives, and permitted assigns.
26. **HOLDOVER.** Should Lessee remain in possession of the Premises after the expiration of the Term of this Lease, Lessee will be deemed a month-to-month tenant under all of the terms and conditions of this Lease. Such month-to-month tenancy may be terminated by either party as of the end of any calendar month upon at least thirty (30) days prior written notice.
27. **ATTORNEY FEES.** In the event of any suit or action to enforce any provision of this Lease, the prevailing party will be entitled to recover from the other party its reasonable attorneys' fees, both at trial and on appeal, in addition to all other sums provided by law.
28. **SEVERABILITY; INTERPRETATION.** Whenever possible, each provision of this Lease will be interpreted in such manner as to be effective and valid under applicable law. Should any portion of this Lease be declared invalid for any reason, such declaration will have no effect on the remaining portions of this Lease, which will continue in full force and effect. Unless otherwise specified herein, the following rules of construction and interpretation apply: (a) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (b) use of the term "including" will be interpreted to mean "including but not limited to"; (c) whenever a party's consent is required under this Lease, except as otherwise stated in the Lease or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (d) to the extent there is any issue with respect to any alleged, perceived or actual ambiguity in this Lease, the ambiguity shall not be resolved on the basis of the drafter of the Lease;



and (e) all terms imparting the singular shall also include the plural and vice versa.

29. **RECORDING.** Lessee may record a memorandum of lease to make this lease of public record.
30. **NOTICES.** All notices, requests, demands, and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

If to Lessee:

DLG LLC
Attn: Gary Korthuis
3060 N. Lazy Eight Ct., ste 2-255
Wasilla, AK 99654

if to Lessor:

City of Dillingham
Attn: City Manager
P.O. Box 889
Dillingham AK 99576
Fax: 907-842-2060

Either party may change its address for notice by giving notice to the other party in accordance with this Section.

31. **WAIVER.** No delay or omission by either party to exercise any right or power under this Lease is to be construed as a waiver of such right or power. No party shall be deemed to have waived any rights under this Lease unless such waiver is in writing and signed by the party waiving such rights.



32. **GOVERNING LAW.** This Lease will be construed in accordance with and governed by the laws of the State of Alaska, without giving effect to its conflict of laws principles. Venue for any action under this Lease shall be the Third Judicial District at Dillingham, Alaska.
33. **ENTIRE AGREEMENT.** This Lease and any exhibits attached hereto contain the entire understanding of Lessor and Lessee with respect to the transaction contemplated herein. This Lease shall not be modified orally or in any manner other than by written agreement signed by Lessor and Lessee.
34. **WARRANTIES.**
- (a) Lessor and Lessee each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Lease and bind itself hereto through the party set forth as signatory for the party below.
- (a) Lessor represents and warrants that: (i) Lessor solely owns the Premises as a legal lot in fee simple; (ii) the Premises is not encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, which would adversely affect Lessee's use and enjoyment of the Premises under this Lease; and (iii) Lessor's execution and performance of this Lease will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on the Lessor.
35. **INTEREST ON DELINQUENT PAYMENTS.** All unpaid rents and fees shall accrue interest at the rate of ten and one-half per cent (10.5%) per annum beginning thirty (30) days after payment is due.
36. **COUNTERPARTS.** This Lease may be executed in two (2) or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties it being understood that all parties need not sign the same counterpart.



IN WITNESS WHEREOF, the Lessor and Lessee have each caused this Lease to be duly executed as of the date first written above.

LESSOR:

LESSEE:

CITY OF DILLINGHAM

DLG LLC.

an Alaska Municipal Corporation

an Alaska Limited Liability Company

By: _____

BY: _____

Name: Dan Forster

Gary Korthuis

Title: City Manager

Member

DATED: April 6 , 2012

DATED: March 1 , 2012




LESSEE ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

ON THIS DAY, before me, the undersigned Notary Public, personally appeared Gary Korthuis known to me to be a Member of DLG LLC on behalf of DLG LLC, the entity described in the foregoing instrument, and he acknowledged to me that he signed the same on behalf of said corporation by authority of its operating agreement, as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

WITNESS my hand and official seal this 30 day of March, 2012.



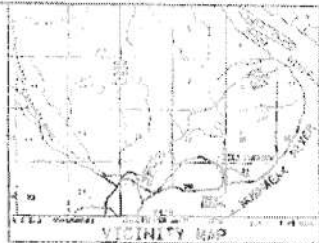
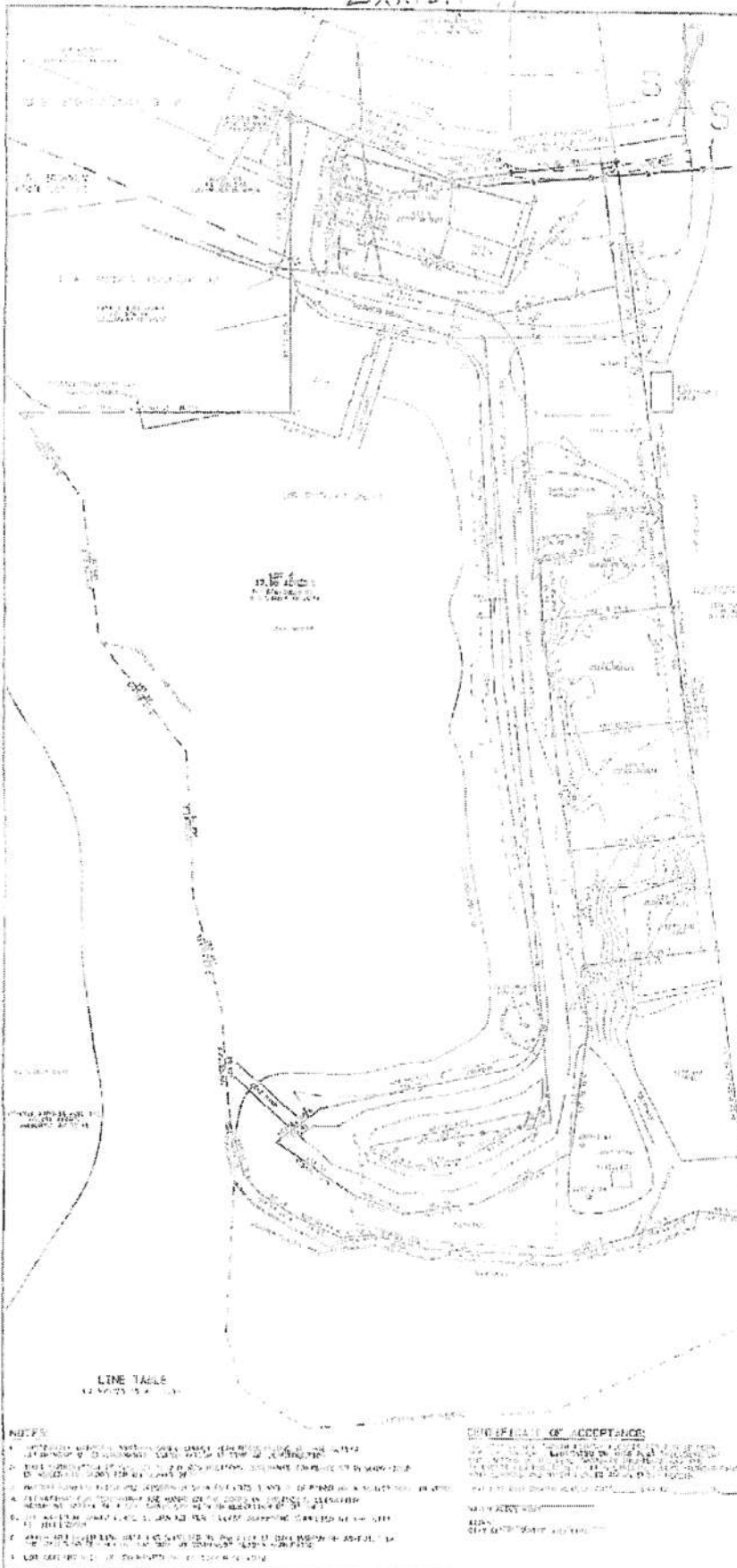
Notary Public In and For Alaska
My Commission Expires: 03/31/2012



Exhibit A

[PLAT TO BE INSERTED]





VICINITY MAP
 STATE OF CALIFORNIA
 COUNTY OF SAN DIEGO
 CITY OF SAN DIEGO

FEDERAL GOVERNMENT OF OWNERSHIP AND REGULATION
 STATE OF CALIFORNIA
 COUNTY OF SAN DIEGO
 CITY OF SAN DIEGO

OWNER'S ACKNOWLEDGMENT
 I, the undersigned, being the owner of the above described property, do hereby acknowledge that the above described property is being offered for sale to the State of California, County of San Diego, City of San Diego, for the purpose of the Harbor Lease Lots.

TAX CERTIFICATION
 I, the undersigned, being the owner of the above described property, do hereby certify that the above described property is not subject to any taxes or assessments of any kind.

RELEVANT REGULATIONS
 The above described property is subject to the following regulations:
 1. The Harbor Lease Lots shall be used for the purpose of the Harbor Lease Lots.
 2. The Harbor Lease Lots shall be subject to the Harbor Lease Lots Act.
 3. The Harbor Lease Lots shall be subject to the Harbor Lease Lots Ordinance.



PLAT APPROVAL
 I, the undersigned, being the City Engineer of the City of San Diego, do hereby approve the above described plat for recording in the public records of the County of San Diego, California.

CURVE DATA

Station	Curve Length	Radius	Chord	Chord Bearing
1+00.00	100.00	100.00	100.00	90.00
2+00.00	200.00	200.00	200.00	90.00
3+00.00	300.00	300.00	300.00	90.00

LEGEND
 1. Harbor Lease Lots
 2. Dredging Area
 3. Harbor Lease Lots
 4. Harbor Lease Lots
 5. Harbor Lease Lots
 6. Harbor Lease Lots
 7. Harbor Lease Lots
 8. Harbor Lease Lots
 9. Harbor Lease Lots
 10. Harbor Lease Lots

LINE TABLE

Line No.	Description
1	Harbor Lease Lots
2	Dredging Area
3	Harbor Lease Lots
4	Harbor Lease Lots
5	Harbor Lease Lots
6	Harbor Lease Lots
7	Harbor Lease Lots
8	Harbor Lease Lots
9	Harbor Lease Lots
10	Harbor Lease Lots

NOTES
 1. THE HARBOR LEASE LOTS SHOWN ON THIS PLAN ARE SUBJECT TO THE HARBOR LEASE LOTS ACT AND THE HARBOR LEASE LOTS ORDINANCE.
 2. THE HARBOR LEASE LOTS SHOWN ON THIS PLAN ARE SUBJECT TO THE HARBOR LEASE LOTS ACT AND THE HARBOR LEASE LOTS ORDINANCE.
 3. THE HARBOR LEASE LOTS SHOWN ON THIS PLAN ARE SUBJECT TO THE HARBOR LEASE LOTS ACT AND THE HARBOR LEASE LOTS ORDINANCE.
 4. THE HARBOR LEASE LOTS SHOWN ON THIS PLAN ARE SUBJECT TO THE HARBOR LEASE LOTS ACT AND THE HARBOR LEASE LOTS ORDINANCE.
 5. THE HARBOR LEASE LOTS SHOWN ON THIS PLAN ARE SUBJECT TO THE HARBOR LEASE LOTS ACT AND THE HARBOR LEASE LOTS ORDINANCE.
 6. THE HARBOR LEASE LOTS SHOWN ON THIS PLAN ARE SUBJECT TO THE HARBOR LEASE LOTS ACT AND THE HARBOR LEASE LOTS ORDINANCE.
 7. THE HARBOR LEASE LOTS SHOWN ON THIS PLAN ARE SUBJECT TO THE HARBOR LEASE LOTS ACT AND THE HARBOR LEASE LOTS ORDINANCE.
 8. THE HARBOR LEASE LOTS SHOWN ON THIS PLAN ARE SUBJECT TO THE HARBOR LEASE LOTS ACT AND THE HARBOR LEASE LOTS ORDINANCE.
 9. THE HARBOR LEASE LOTS SHOWN ON THIS PLAN ARE SUBJECT TO THE HARBOR LEASE LOTS ACT AND THE HARBOR LEASE LOTS ORDINANCE.
 10. THE HARBOR LEASE LOTS SHOWN ON THIS PLAN ARE SUBJECT TO THE HARBOR LEASE LOTS ACT AND THE HARBOR LEASE LOTS ORDINANCE.

OFFICIAL OF ACCEPTANCE
 I, the undersigned, being the City Engineer of the City of San Diego, do hereby accept the above described plat for recording in the public records of the County of San Diego, California.

HARBOR LEASE LOTS
 DREDGING LOTS 1 THROUGH 6
 CONTAINING 20.00 ACRES
 CITY OF SAN DIEGO, CALIFORNIA
 SAN DIEGO, CALIFORNIA
 2021-000303-0



EXHIBIT B

CERTIFICATE OF COMPLIANCE

On behalf of Lessee, DLG LLC, I hereby certify that Lessee invested in excess of \$200,000 in improvements on the Premises as required under that Lease dated April 6, 2012 between the City of Dillingham as Lessor and DLG LLC as Lessee.

DLG LLC


Gary Korthans, Member

Dated: 11/30, 2012

4834-6462-11 (01/18/86) (0.00)



AMENDMENT NO. 1 TO LAND LEASE AGREEMENT

This Amendment No. 1 to Land Lease Agreement ("Amendment") is made on the day executed by the last signatory hereto, by and between the DLG, LLC ("Lessee"), an Alaskan limited liability corporation, whose mailing address is 3060 N. Lazy Eight Ct., Ste. 2-255, Wasilla, Alaska 99654, and the CITY OF DILLINGHAM ("Lessor"), whose mailing address is P.O. Box 889, Dillingham AK 99576.

Recitals

- A. The Lessor is the lessor of real property located in the City of Dillingham, Bristol Bay Recording District, Third Judicial District, State of Alaska under that certain lease dated March __, 2012.
- B. The parties desire to amend the Lease to reflect that the Lessee has exercised the initial option to extend the lease term and that Lessor has completed installation of water and sewer lines to the leased premises thereby resulting in an increase to the rent.

Agreement

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the parties agree that the Lease is hereby amended as follows:

1. Section 2 of the Lease is hereby amended to reflect that Lessee has exercised the first of Lessee's four option periods of five (5) years thereby extending the current term of the Lease through midnight on April 5, 2020. Three five year option periods remain. The second option may not be exercised at any time prior to April 5, 2015.
2. Section 4 of the Lease is hereby amended to reflect that effective January 5, 2013 Rent shall increase to \$477 per month due to the availability of the City's water system to the Premises.

EXCEPT AS AMENDED by the foregoing, all of the provisions of the Lease remain in full force and effect and are hereby ratified and confirmed. The parties agree that any rights and obligations accrued by a party under the Lease prior to this Amendment shall survive. In the event of any conflict between the provisions of the Lease and this Amendment, the provisions of this Amendment shall have priority.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set out below.





2004-000003-0

Recording Dist: 307 - Bristol Bay
1/6/2004 9:35 AM Pages: 1 of 4

A
L
A
S
K
A



FOR RECORDING IN THE BRISTOL BAY RECORDING DISTRICT

**DEDICATION FOR
PUBLIC EASEMENT**

ccw

THE CITY of Dillingham, Alaska ("City") does hereby dedicate to the PUBLIC, a full, exclusive, and unrestricted easement and right of way along, over, and across the following described real estate located in the State of Alaska, to wit:

A portion of U.S. Survey 2874, located within Township 13 South, Range 55 West, Seward Meridian, Bristol Bay Recording District, Third Judicial District, State of Alaska, delineated on the Parcel Plat as Parcel E-1A and made a part hereof as page 3 and 4 of this instrument,

Said Easement, contains 2385 square meters (25,672 square feet), more or less, in addition to any existing right of way.

THE CITY hereby covenants that it has good title to the above described property, the PUBLIC shall have quiet and peaceable possession of the above described property, and that the CITY shall construct no buildings or other permanent structures which will interfere with the public use of the easement.


CITY OF DILLINGHAM
JOHN FULTON, CITY MANAGER

12/22/03
DATED

RETURN TO:
STATE OF ALASKA DOT/PF
P.O. BOX 196900
ANCHORAGE, AK 99519-6900
RIGHT OF WAY BRANCH

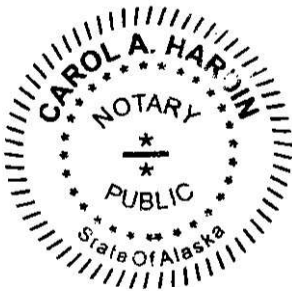
STATE BUSINESS
NO FEE

ACKNOWLEDGMENT OF GRANTOR

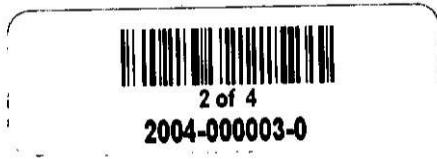
STATE OF ALASKA)
 : ss.
THIRD JUDICIAL DISTRICT)




ON THIS 23rd day of December, 2003 before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared John Fulton, the City Manager of the City of Dillingham, known to me to be the identical person who executed the foregoing instrument and who acknowledged to me that they signed the same freely and voluntarily, 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.



Carol A. Hardin
Notary Public in and for the State of Alaska
My Commission Expires: 10/27/05

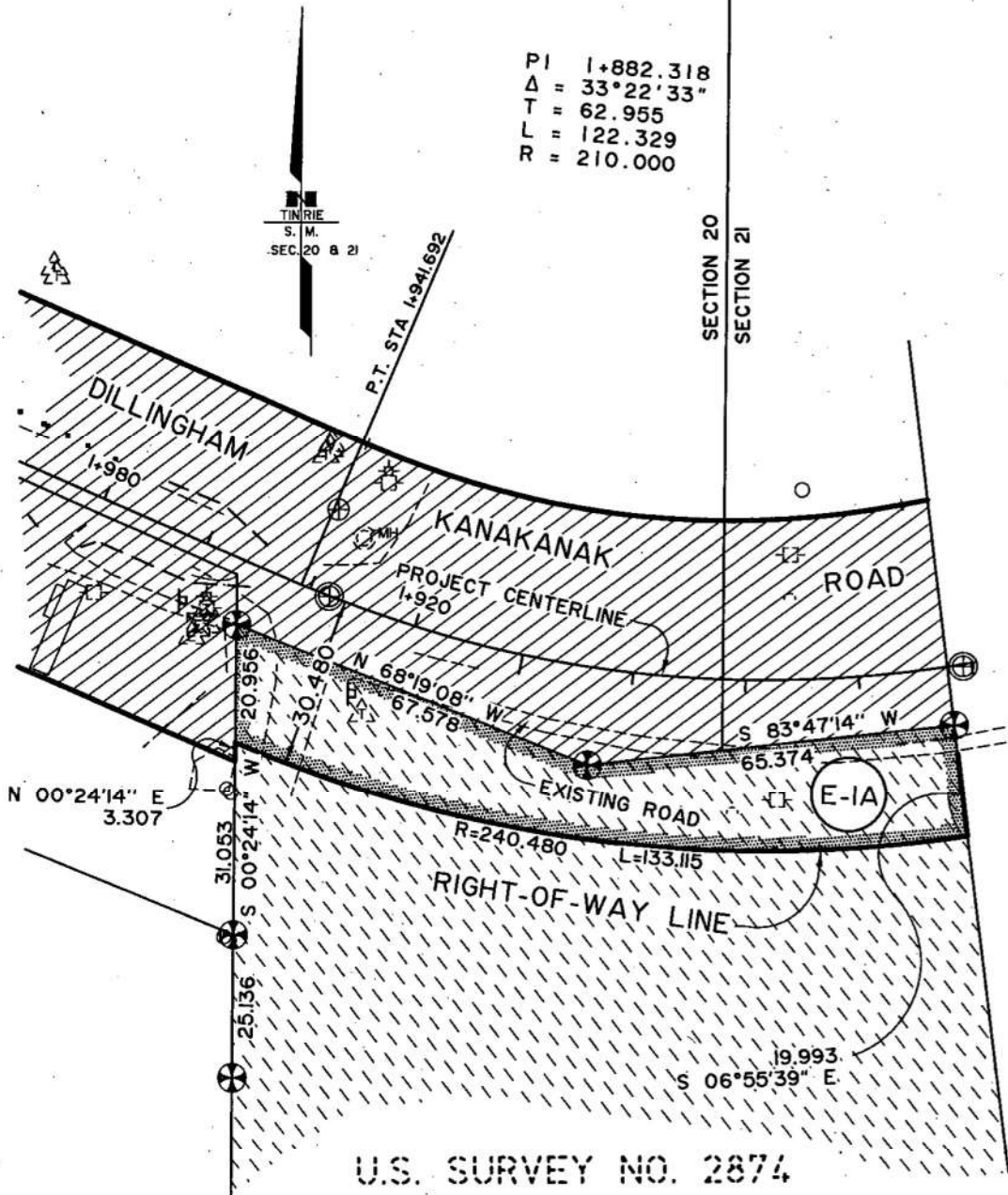


-  EXISTING RIGHT-OF-WAY
-  EASEMENT REQUIRED
-  AREA REMAINING

DIMENSIONS ARE METRIC UNLESS OTHERWISE NOTED.
BEARINGS ARE STATE PLANE, ZONE 4

NOTE:
THIS PLAT SHOWS
ENTIRE TAKE.
SEE PLAT 2 OF 2
FOR REMAIN.

PI = 1+882.318
Δ = 33°22'33"
T = 62.955
L = 122.329
R = 210.000

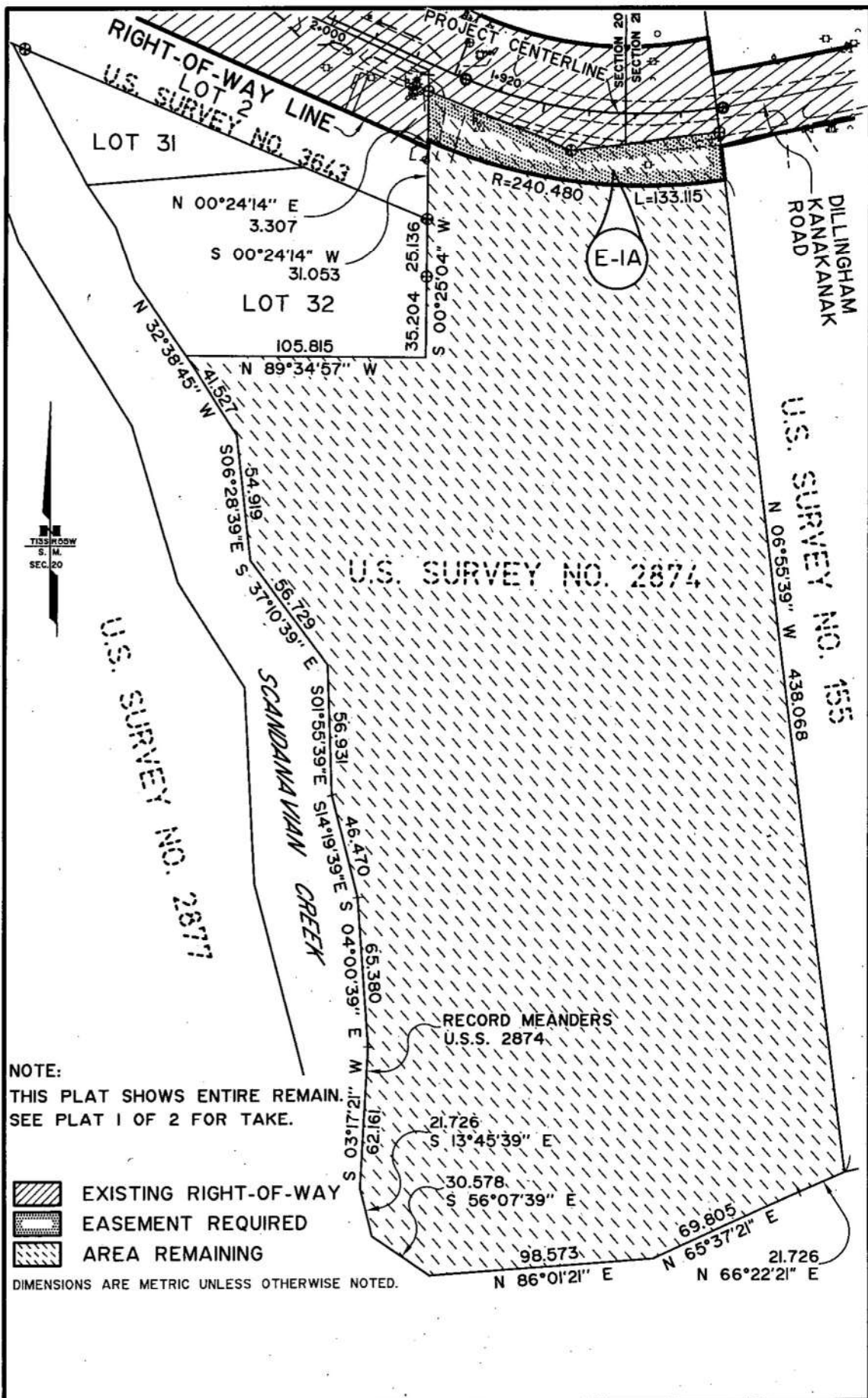


U.S. SURVEY NO. 2874




PLAT 1 OF 2	GROSS TAKE	0.2385 ha
	NET TAKE	0.2385 ha
DRAWN BY GE	REMAIN	9.5299ha±
SCALE 1:1000 DATE DEC. 2003 PARCEL NO. E-1A		



3 of 4
2004-000003-0



NOTE:
 THIS PLAT SHOWS ENTIRE REMAIN.
 SEE PLAT 1 OF 2 FOR TAKE.

-  EXISTING RIGHT-OF-WAY
-  EASEMENT REQUIRED
-  AREA REMAINING

DIMENSIONS ARE METRIC UNLESS OTHERWISE NOTED.

PLAT 2 OF 2	GROSS TAKE	0.2385 ha
	NET TAKE	0.2385 ha
DRAWN BY <u>GE</u>	REMAIN	9.5299 ha±
SCALE 1:2000 DATE DEC. 2003 PARCEL NO. E-IA		

