

**AMENDMENT NUMBER 1 TO A  
COOPERATIVE RESOURCE MANAGEMENT AGREEMENT**

**Between  
THE CITY OF GUSTAVUS  
and  
THE STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES,  
DIVISION OF MINING, LAND AND WATER**

**GUSTAVUS BEACH TRACTS                      ADL # 108940**

**AS 38.05.027(a)**

**INTRODUCTION AND BACKGROUND:**

- A. On April 4, 2019, the State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, & Water (DMLW) (State), of 400 Willoughby Avenue, P.O. Box 111020, Juneau, Alaska 99801, and the City of Gustavus (City), of P.O. Box 1, Gustavus, Alaska 99826, entered into a Cooperative Resource Management Agreement (Agreement), serialized as ADL # 108940.
- B. The State and the City are the only two Parties to the Agreement.
- C. The Parties entered into the Agreement after the U.S. District Court issued a 1985 Judgment Quieting Title, in DeBoer v United States, Case No J-76-9 (Judgment). The Agreement incorporates the Judgment.
- D. The Agreement described two tracts of land within the City, Tract A and Tract B, which together total about 30 acres, more or less. Tract A is located to the west of the centerline of the existing dock road in the City that contains 16.26 acres, more or less. Tract B is located to the east of the centerline of the existing dock road and contains 16.19 acres, more or less, including the Gustavus Beach Park.
- E. The Agreement describes and defines the City's management of Tract B and refers to Tract B as the Gustavus Beach Park. The "Gustavus beach area" and the "Gustavus Beach Park" are used interchangeably in the Agreement.
- F. In the Agreement, among other things, the Parties agreed i) to cooperatively manage the Gustavus Beach Park, ii) the City would be the primary management authority of the Gustavus Beach Park to facilitate recreational uses while preventing damage to the land, and iii) the State would retain ownership of all the land defined in the Agreement.

- G. In the Agreement, the Parties confirmed that the Gustavus Beach Park was an important public recreational site. The Parties agreed that the City would manage the Gustavus Beach Park consistent with the Purposes in Section 1 of the Agreement and the City's Responsibilities, described in Section V of the Agreement.
- H. Appended to the Agreement, and made part of it, were the Judgment, a Gustavus Beach Development Plan Map, an eight-page Gustavus Beach Tracts Development Plan, and letters signed and notarized by Benjamin DeBoer and Donna DeBoer-Williams indicating these two individuals, who were the only adjacent landowners to Tract A and Tract B, approved the Agreement and Gustavus Beach Tracts Development Plan.
- I. In 2020 and 2021, the City approach the State and suggested amendments to the Agreement, which the City believed would better protect and preserve the Gustavus Beach Park, and more clearly define the areas of Tract A and Tract B that are used for the Gustavus Beach Park.
- J. Tract B comprises two "sub-tracts." Tract B-1 is an area within Tract B. Tract B-1 contains a fenced-off area and an unfenced area used by the public. Tract B-2 is the other area within Tract B that is used by the public.
- K. Tract B-2, along with Tract A, are the two only tracts of land that the City wanted to refer to in order to clarify that they are the only two tracts of land that comprise the Gustavus Beach Park, and that the Gustavus Beach Park excludes Tract B-1.
- L. The City prepared a Revised and Amended Development Plan for the Gustavus Beach Park, and updated and amended the Gustavus Beach Development Plan Map and submitted those to the State for the State's review and consideration.
- M. The Parties conferred and reviewed and considered amendments to the Agreement that are set forth in this Amendment Number 1 to the Agreement (Amendment Number 1) and all the Attachments to this Amendment Number 1, and believe they memorialize the Parties' understandings, intentions, and agreements.
- N. The Agreement requires that all landowners adjacent to Tract A and Tract B give their written, notarized approvals of this Amendment Number 1.
- O. The Parties understand that before they execute this Amendment Number 1, the public would have at least thirty days to review and comment on this Amendment Number 1, and that the City must provide its residents with notice of this Amendment Number 1 and an opportunity to comment on it.

**THEREFORE**, based upon the preceding Introduction and Background, the exchange of valuable consideration, and the following agreements, terms, conditions, and Findings, the Parties agree as set forth below.

**A. AGREEMENT:**

1. Tract B comprises two separate parcels of land, Tract B-1 and Tract B- 2. Both Tract B-1 and Tract B-2 are solely defined to be within the existing boundaries of Tract B as set forth and described in Section III of the Agreement.
2. Tract B contains 16.19 acres, more or less. Tract B-1 comprises 1.322 acres, more or less, and has a fenced off area that contains bulk fuel storage tanks. Tract B-2 contains 14.471 acres, more or less.
3. Alaska State Land Survey No. 2009-15, which is attached and incorporated into this Amendment Number 1 by reference, depicts all of Tract A, all of Tract B, and shows the two separate Tract B-1 and Tract B-2 within Tract B.
4. The bulk fuel storage tanks within Tract B-1 are owned by the City and leased to an outside operator. Because of the nature of the use of Tract B-1 is to store and contain bulk fuel storage tanks, that portion of B-1 that contains the bulk fuel storage tanks is not open to the public, but it has been and will continue to be used by the City to store bulk fuel tanks to be used for the public. Tract B-1 is neither part of the Gustavus Beach Park nor is it managed by the City as part of the Gustavus Beach Park. However, by agreement with the bulk fuel storage tanks operator, the City maintains restrooms and recycling containers on the southwest corner of Tract B-1 for the public's use and benefit.
5. In 2013, DNR issued Quitclaim Deed No. 1898 (attached), recorded in the Juneau Recording District at 2013-003685-0, to the City for Tract B-1, which Quitclaim Deed is subject to the Judgment, and which provides that Tract B-1 is to be used by the City for a public purpose and in the public interest and not sold conveyed or transferred without DMLW's written consent. The City will continue to manage and own Tract B-1 in accordance with the Quitclaim Deed as a fenced-off site to maintain bulk fuel storage tanks. Tract B-1 now includes, and will continue to include, land solely used for bulk fuel storage tanks, restrooms, and recycling containers.
6. Tract B-2 is the only part of Tract B that includes and will continue to contain the Gustavus Beach Park. The Parties define the area comprising the Gustavus Beach Park as all of Tract A and all of Tract B-2. The Gustavus Beach Park specifically excludes Tract B-1.
7. As part of its management of the Gustavus Beach Park, the City submitted an Amended Gustavus Tracts Development Plan (attached) and an Updated and Amended Gustavus Beach Development Plan Map (attached), which are both incorporated by reference into this Amendment Number 1.
8. The State has reviewed and approved both Amended Gustavus Tracts Development Plan and the Updated and Amended Gustavus Beach Development Plan Map, and the City

may operate and manage the Gustavus Beach Park on Tract A and Tract B-2 as provided in those documents.

9. The City's management of the Gustavus Beach Park will continue under the Agreement and this Amendment Number 1 and includes the authority to manage the surface estate and so much of the subsurface as may be required in order to make use of Tract A and Tract B-2 for public purposes within the statutory authority of the City and the terms of the Judgment, the Agreement, and this Amendment Number 1, but does not otherwise diminish the State's rights, authorities, management, or jurisdiction over Tract A and Tract B in their entirety.
10. This Amendment Number 1 terminates at the same time as the Agreement and in no way modifies the 20-year term of the Agreement, unless as otherwise provided in the Agreement, or as the Parties may agree in writing. After this Amendment Number 1 is signed, and before the Agreement terminates or before the Agreement is again amended, the Parties will determine if Tracts A and B should be designated as a Special Use Area, or whether Tracts A and B should be leased to the City by DMLW.
11. Except as specifically provided in this Amendment Number 1, the Parties do not amend any other term, condition, or other part of the Agreement.
12. DMLW expressly reserves jurisdiction and management of all subsurface minerals, including oil and gas in Tract A and Tract B, provided, however, that DMLW will not permit surface entry for the purpose of mineral or oil and gas exploration or development without the State and City's mutual, written consent.
13. The Parties may amend this Amendment Number 1 or the Agreement at any time, but no amendments will be effective unless the Parties agree to them in writing.
14. Except as provided in this Amendment Number 1, it does not otherwise expand or restrict the duties, obligations, purposes, management intent, responsibilities, general provisions, term, termination, amendment, notices, or anything else imposed on the Parties or contained in the Agreement.
15. The City's Mayor is fully authorized to execute this Amendment Number 1 by, and on behalf of, the City, and is authorized to bind the City to the terms and conditions set forth in this Amendment Number 1.
16. The City warrants that it provided a copy of this Amendment Number 1 to all persons who own lands adjacent to Tract A and Tract B. As of the date of this Amendment Number 1, the City confirms that the only adjacent landowners to Tract A and Tract B are Benjamin DeBoer and Donna DeBoer-Williams, and that they have received, reviewed, and given their approval and consent to the terms of this Amendment Number 1 as indicated below by their written, notarized signatures of approval.

17. The Parties have given the public at least thirty days to review and comment on this Amendment Number 1. The City has provided its residents with notice of this Amendment Number 1 and an opportunity to comment on it for at least thirty days.

**B. FINDINGS:**

1. The State has considered this Amendment Number 1 and reviewed it. The state has provided 30-day public notice of this Amendment Number 1 under AS 38.05.945 and finds that the public has been provided notice of this Amendment Number 1 .
2. AS 38.05.027(a) deals with cooperative resource management agreements and provides: “Consistent with the authority of the commissioner under law, the commissioner, after determining that the agreement is in the best interests of the public and the state, may enter into cooperative resource management or development agreements with the federal government, a state agency, a village or municipality, or a person. Specific guidelines to protect the state and public interest shall be established, if necessary, by the commissioner before entering into an agreement under this section.”
3. The State finds that this Amendment Number 1 has specific guidelines to protect the state and public interest, and further finds that it is in the state’s best interest to enter into this Amendment Number 1 under AS 38.05.027(a).
4. DMLW’s Director has been delegated the authority to enter into this Amendment Number 1 on behalf of the DNR Commissioner, and who, by signing below, finds that this Amendment Number 1 is in the best interests of the public and the state consistent AS 38.05.027(a).

**WHEREFORE**, this Amendment Number 1 to the 2019 Cooperative Resource Management Agreement, serialized as ADL # 108940, is effective on the last date that all the individuals below have signed it. By signing this Amendment Number 1, all the signatories have reviewed and agreed to it.

**Attachments:**

1. Alaska State Land Survey No. 2009-15.
2. Quitclaim Deed No. 1898.
3. Amended Gustavus Tracts Development Plan.
4. Updated and Amended Gustavus Beach Development Plan Map

-- **SIGNATURE PAGES FOLLOW** --





## Donna DeBoer-Williams

THIS CERTIFIES that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me personally appeared Donna DeBoer-Williams to me known and known by me to be the person named in, and who executed, this document and acknowledged voluntary signing it. IN TESTIMONY WHEREOF, I have set my hand and affixed my official seal, on the day and year shown above.

Notary Public in and for the State of Washington  
My commission expires: \_\_\_\_\_



Benjamin White  
Regional Manager, Southeast Regional Office, Division of Mining, Land and Water

THIS CERTIFIES that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me personally appeared Benjamin White to me known and known by me to be the person named in and who executed this document and acknowledged voluntary signing it. IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, on the day and year shown above.

Notary Public in and for the State of Alaska  
My commission expires: \_\_\_\_\_

**STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES, DIVISION OF  
MINING, LAND AND WATER, ON BEHALF OF DNR'S COMMISSIONER:**

\_\_\_\_\_ Dated: \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Martin W. Parsons, Director  
Division of Mining, Land and Water  
Alaska Department of Natural Resources