

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

ADL 421741  
Private Exclusive Use Easement  
Alaska Industrial Development and Export Authority

This Private Exclusive Use Easement (Easement) is granted this \_\_\_\_ day of \_\_\_\_\_, 202\_\_ by the State of Alaska, acting by and through the Department of Natural Resources, Division of Mining, Land and Water, whose address is 3700 Airport Way, Fairbanks, AK 99709, hereinafter referred to as the Grantor. This Easement is granted to the Alaska Industrial Development and Export Authority, whose address is 813 West Northern Lights Blvd., Anchorage, Alaska 99503, hereinafter referred to as the Grantee.

In accordance with the provisions of AS 38.05.850 and the rules and regulations promulgated thereunder, a Private Exclusive Use Easement (“Easement”) is hereby granted for the construction, operation and maintenance of a private industrial-access road and utility corridor (“Grantee Improvements”). This Easement is located over and across the following described state lands:

Fairbanks Meridian:

Township 25 North, Range 16 West, Sections 1-4;  
Township 25 North, Range 20 West, Sections 1-6;  
Township 25 North, Range 21 West, Sections 1-3;  
Township 26 North, Range 17 West, Sections 22-24, and 27-32;  
Township 26 North, Range 19 West, Sections 31-36;  
Township 26 North, Range 20 West, Sections 35 and 36;  
Township 26 North, Range 21 West, Sections 27-31, and 34;  
Township 26 North, Range 22 West, Sections 17-21, 28, 29, and 33-36;  
Township 26 North, Range 23 West, Sections 7-10, and 13-15;  
Township 26 North, Range 24 West, Sections 2-5, 7, 8, 10-12, 16, 17 20, and 21; and  
Township 26 North, Range 25 West, Sections 11 and 12.

Kateel River Meridian:

Township 19 North, Range 12 East, Sections 7-11, 13, 14, and 18;  
Township 19 North, Range 13 East, Sections 18-20, 25-29, and 32;  
Township 19 North, Range 14 East, Sections 13, 23, 24, and 26-30;  
Township 19 North, Range 15 East, Sections 18-21, 27-30, and 34-36  
Township 19 North, Range 16 East, Sections 25-29, and 31-35  
Township 19 North, Range 17 East, Sections 20-23 and 23, and 25-30;  
Township 19 North, Range 18 East, Sections 13-15, 19-24, and 30;  
Township 19 North, Range 23 East, Sections 8-12, 17, and 18;  
Township 19 North, Range 24 East, Sections 7-9, and 11-16;  
Township 19 North, Range 25 East, Sections 1-4, and 7-10;  
Township 19 North, Range 26 East, Sections 1-5, 9, and 10;

Township 20 North, Range 25 East, Section 36;  
Township 20 North, Range 26 East, Sections 31, 32, and 36; and  
Township 20 North, Range 27 East, Section 30 and 31.

The Easement is \_\_\_\_\_ feet in length and 250 feet in width for a total of \_\_\_\_\_ acres, more or less, as shown on As-Built Survey EPF \_\_\_\_\_, recorded concurrently as Plat # \_\_\_\_\_, Fairbanks Recording District and Plat # \_\_\_\_\_, Kotzebue Recording District.

In addition to the stipulations set forth in the Stipulations section below, this Easement is subject to the following terms and conditions:

Except as otherwise provided for in this document, in the event that this Easement in any way conflicts with or overlaps a pre-existing easement or right-of-way, the Grantee shall not interfere with the peaceful use and enjoyment of the previously issued easement or right-of-way.

The Grantor reserves the right to set or modify stipulations governing Grantee's use of any lands where existing easements, mining claims, traditional trails, adjudicated RS2477 routes, or other preexisting rights ("Conflicting" or "Overlapping Area") that might be identified as the Project proceeds. Prior to setting or modifying stipulations governing the use of any identified Conflicting or Overlapping Area, the Grantor shall consult with the Grantee regarding possible alterations or refinements of the Ambler Road design that would minimize any Project impacts to Conflicting or Overlapping Areas. The Grantor and Grantee's consultation does not grant the Grantee any additional rights to the Conflicting or Overlapping Area and does not limit the Grantor's right to set or modify stipulations governing the use of the Conflicting or Overlapping area.

The Grantor may not convert the use of this Easement to a different purpose or type other than that specifically authorized by section 201(4)(b) of the Alaska National Interest Lands Conservation Act (ANILCA), "Congress finds that there is a need for access for surface transportation purposes across the Western (Kobuk River) unit of the Gates of the Arctic National Preserve (from the Ambler Mining District to the Alaska Pipeline Haul Road."

The Grantee has full control over the Grantee Improvements and therefore may limit and regulate access to and charge a toll or fee for the use of, the Grantee Improvements constructed on this Easement. Incidental crossing of this Easement pursuant to a Grantor-approved Access Plan is not considered "use" of Grantee Improvements.

Any lands included in this Easement that are conveyed from state ownership will be subject to this Easement.

The term of this Easement will be through \_\_\_\_\_, except this Easement will automatically be extended beyond \_\_\_\_\_ to match the greatest non-perpetual term of a similar authorization obtained by the Grantee from any other public landowner or public land manager along the route for the operation and maintenance of the Grantee's private road and utility corridor.

The Grantor and Grantee may extend the term of this Easement for any other reason. All term extensions must be in writing and signed by the Grantor and Grantee.

Unless extended, this Easement shall terminate on \_\_\_\_\_, 50 years from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to terms and conditions of this authorization. The State of Alaska shall be forever wholly absolved from any liability for damages that might result if this Easement is terminated for any reason.

Now therefore, in accordance with the conditions of this Easement including all attachments and documents that are incorporated by reference, the Grantee is authorized to construct, operate and maintain a private industrial access road and utility corridor on said Easement over and across lands herein described. In witness whereof, the Grantor and the Grantee have affixed their signatures on the date(s) specified herein.

*Signature page follows*

**GRANTOR**

\_\_\_\_\_  
Authorized Officer [Name] [Title]  
Northern Regional Land Office, Division of Mining, Land and Water

STATE OF ALASKA            )  
  ) ss  
\_\_\_\_ Judicial District        )

THIS IS TO CERTIFY THAT ON THIS \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_ to be known and known by me to be the person named in and who executed said document and acknowledged voluntarily signing the same.

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

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

**GRANTEE**

\_\_\_\_\_  
Authorized Agent [Name] [Title]  
Alaska Industrial Development and Export Authority

STATE OF ALASKA            )  
  ) ss  
\_\_\_\_ Judicial District        )

THIS IS TO CERTIFY THAT ON THIS \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_ to be known and known by me to be the person named in and who executed said document and acknowledged voluntarily signing the same.

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

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

WHEN RECORDED, RETURN DOCUMENT TO:  
Department of Natural Resources  
Division of Mining, Land and Water  
3700 Airport Way  
Fairbanks, Alaska 99709

## Stipulations

1. **Authorized Officer:** The Authorized Officer (AO) for the State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), is the Regional Manager or designee.
2. **Change of Contact Information:** The Grantee shall maintain current contact information with the AO. Any change of contact information must be submitted in writing to the AO.
3. **Valid Existing Rights:** This authorization is subject to all valid existing rights and reservations in and to the authorized area. The State makes no representations or warranties, whatsoever, either expressed or implied, as to the existence, number, or nature of such valid existing rights.
4. **Preference Right:** No preference right for subsequent authorizations is granted or implied by this authorization.
5. **Third Party Access to and Use of Grantee's Improvements:** Grantee is authorized to limit and regulate access to, and charge a toll or fee for the use of, Grantee Improvements constructed on the Easement. Only with written concurrence and non-objection from the Grantee, the AO may grant additional authorizations to third parties for compatible uses on state land within the Easement. Because the Grantee's operation and maintenance of a private road and utility corridor has been determined to be in the public interest, all third-party uses of state lands shall not interfere with operations conducted under this Easement. Incidental crossing of this Easement pursuant to a Grantor-approved Access Plan or the exercise of prior existing rights is not considered "use" subject to Grantee fees and regulation; Grantee will be consulted prior to authorizing any crossings exceeding Generally Allowed Uses under 11 AAC 96.020.
6. **Inspections:** The AO shall have reasonable access to the authorized area for inspection. If the Grantee is found to be in noncompliance the authorized area may be subject to reinspection. The Grantee may be charged for actual expenses of any inspection.
7. **Public Trust Doctrine:** The Public Trust Doctrine guarantees public access to, and the public right to use, navigable and public waters and the land beneath those navigable and public waters for navigation, commerce, fishing, and other purposes. This authorization is subject to the principles of the Public Trust Doctrine regarding navigable or public waters. The Public Trust doctrine requirement of ensuring access to and the right to use navigable and public waters does not extend to mandating access to and use of Grantee Improvements, which the Grantee may limit, regulate and charge a toll or fee for the use of consistent with this Private Exclusive Use Easement. Incidental crossing of this Easement pursuant to a Grantor-approved Access Plan or the exercise of prior existing rights is not considered "use" subject to Grantee fees and regulation; Grantee shall be consulted prior to authorizing any crossings exceeding Generally Allowed Uses under 11 AAC 96.020.
8. **Alaska Historic Preservation Act:** The Alaska Historic Preservation Act, AS 41.35.200, prohibits the appropriation, excavation, removal, injury, or destruction of any state owned historic, prehistoric, archaeological or paleontological site without written approval from the DNR Commissioner. Should any sites be discovered, the Grantee shall cease any activities

that may cause damage and immediately contact the AO and the Office of History and Archaeology in the Division of Parks and Recreation.

- 9. Incurred Expenses:** The Grantor shall in no way be held liable for expenses incurred by the Grantee connected with the activities directly or indirectly related to this authorization.
- 10. Waiver of Forbearance:** Any failure on the part of the AO to enforce the terms of this authorization, or the waiver of any right under this authorization by the Grantee, unless in writing, shall not discharge or invalidate the authorization of such terms. No forbearance or written waiver affects the right of the AO to enforce any terms in the event of any subsequent violations of terms of this authorization.
- 11. Severability Clause:** If any clause or provision of this authorization is, in a final judicial proceeding, determined illegal, invalid, or unenforceable under present or future laws, then the Grantor and the Grantee agree that the remainder of this authorization will not be affected, and in lieu of each clause or provision of this authorization that is illegal, invalid, or unenforceable, there will be added as a part of this authorization a clause or provision as similar in terms to the illegal, invalid, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.
- 12. Assignment:** This authorization may not be transferred or assigned without the prior written consent of the AO. Consent shall not be unreasonably withheld where the Grantee demonstrates that the proposed transfer or assignment is in the public interest and serves a public purpose. Transfer to a non-State party may result in substantive changes to the terms and conditions of this authorization as necessary to protect the State's interest.
- 13. Development Plan:** Development shall be limited to the authorized area and improvements specified in the approved development plan or subsequent modifications approved by the AO. The Grantee is responsible for accurately siting development and operations within the authorized area. Any proposed revisions to the development plan must be approved in writing by the AO before the change in use or development occurs.
- 14. Site Restoration:** Unless by a separate written agreement by the Grantor and Grantee, upon termination of this authorization, whether by abandonment, revocation or any other means, the Grantee shall return the lands to the Grantor in a condition acceptable to the AO in accordance with the approved reclamation plan.
- 15. Violations:** This authorization may be revoked upon violation of any of its terms, conditions, stipulations, nonpayment of fees, or upon failure to comply with any other applicable laws, statutes and regulations. A revocation may not become effective until 180 days after the Grantee has been notified in writing of the violation during which time the Grantee has an opportunity to cure any such violation.
- 16. Request for Information:** The AO may request the Grantee to provide any information directly or indirectly related to this authorization, in a manner prescribed by the AO. Notwithstanding the foregoing, Grantee is not required to provide any information which it considers being commercially sensitive information or which is otherwise held subject to an obligation of confidentiality.
- 17. User/Operator Indemnification:** In connection with the entry on or use of assigned lands, subject to the limitations and provisions of AS 09.50.250-.270 and AS 37.05.170, the Grantee

shall require that its contractors, subcontractors, operator, and or authorized users shall indemnify, save harmless, and defend the State, including DNR, its agents and its employees from any and all claims or actions for injuries or damages sustained by any person or property arising directly or indirectly from the construction or the contractor's performance of the contract, except when the proximate cause of the injury or damage is the State's sole negligence.

- 18. Maintenance of Improvements:** The Grantor is not responsible for maintenance of Grantee Improvements or liable for injuries or damages related to those improvements. No action or inaction of the Grantor is to be construed as assumption of responsibility.
- 19. Amendment or Modification:** The Grantee may request an amendment or modification of this authorization; the Grantee's request must be in writing. Any amendment or modification must be approved by the AO in advance and may require changes to the terms of this authorization.
- 20. Fire Prevention, Protection and Liability:** The Grantee shall ensure all contractors, subcontractors, operators, and authorized users take all reasonable precautions to prevent and suppress forest, structure, brush, and grass fires, and they assume full liability for any damage to state land and structures resulting from the negligent use of fire. The State is not liable for damage to the contractors, subcontractors, operators, or authorized users personal property.
- 21. Compliance with Government Requirements:** The Grantee shall, at its expense, comply with all federal, state, and local laws, regulations, and ordinances directly or indirectly related to this authorization. The Grantee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.
- 22. Fuel and Hazardous Substances:** The use and/or storage of hazardous substances by the Grantee must be done in accordance with existing federal, state and local laws, regulations and ordinances. Debris (such as soil) contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous substance and must be removed and disposed of in accordance with existing federal, state and local laws, regulations and ordinances. Drip pans and materials, such as sorbent pads, must be on hand to contain and clean up spills from any transfer or handling of fuel.

The storage of petroleum products below Ordinary High Water (OHW) or Mean High Water Mark (MHW) is prohibited. Fuel storage containers, including flow test holding tanks and hazardous substances, with a total combined capacity larger than 55 gallons shall not be placed within 100 feet (500 feet in the Bering Straits CRSA) from the ordinary high water mark of waterbodies. All fuel storage containers and associated materials must be removed by the authorization expiration date. All fuel and hazardous substance containers shall be marked with the contents and the Grantee's name using paint or a permanent label.

#### Definitions:

Containers means any item which is used to hold fuel or hazardous substances. This includes tanks, drums, double-walled tanks, portable testing facilities, fuel tanks on small equipment such as light plants and generators, flow test holding tanks, slop oil tanks, bladders, and bags. Manifolded tanks or any tanks in a series must be considered as single independent containers. Vehicles, including mobile seismic tanks, are not intended to be included under this definition.



Hazardous substances are defined under AS 46.03.826(5) as (a) an element or compound which, when it enters the atmosphere, water, or land, presents an imminent and substantial danger to the public health or welfare, including fish, animals, or vegetation; (b) oil; or (c) a substance defined as a hazardous substance under 42 U.S.C. 9601(14).

Secondary containment means an impermeable diked area or portable impermeable containment structure capable of containing 110 percent of the volume of the largest independent container. Double-walled tanks do not qualify as secondary containment unless an exception is granted for a particular tank. All piping and manifolds shall be within secondary containment.

Surface liner means any safe, non-permeable container (e.g., drips pans, fold-a-tanks, etc.) designed to catch and hold fluids for the purpose of preventing spills. Surface liners should be of adequate size and volume based on worst-case spill risk.

- 23. Roadside Vegetation:** The Grantee shall employ mitigation measures to reduce contamination of roadside vegetation through industry Best Management Practices (BMPs) that prevent and minimize fugitive dust, stormwater runoff, erosion, and spills and leaks. Contaminant monitoring will continue throughout the life of the project.

- 24. Notification of Discharge:** The Grantee shall immediately notify the Department of Environmental Conservation (DEC) and AO of any unauthorized discharge of any amount of oil to water, a discharge of any amount of a hazardous substances (other than oil), and any discharge of oil greater than 55 gallons on land. All fires and explosions must also be reported immediately.

If a discharge, including a cumulative discharge, of oil is greater than 10 gallons but less than 55 gallons, or a discharge of oil greater than 55 gallons is made to an impermeable secondary containment area, the Grantee shall report the discharge within 48 hours. Any discharge of oil greater than one gallon up to 10 gallons, including a cumulative discharge, solely to land, must be reported in writing on a monthly basis.

Notification of discharge must be made to DEC online at [ReportSpills.alaska.gov](http://ReportSpills.alaska.gov) or by phone at 1-800-478-9300.

Notification of discharge must be made to the appropriate DNR Office, preferably by e-mail: Anchorage email [dnr.scro.spill@alaska.gov](mailto:dnr.scro.spill@alaska.gov), (907) 269-8528; Fairbanks email [dnr.nro.spill@alaska.gov](mailto:dnr.nro.spill@alaska.gov), (907) 451-2739; Juneau email [dnr.sero.spill@alaska.gov](mailto:dnr.sero.spill@alaska.gov), (907) 465-3513. The Grantee shall supply the AO with all incident reports submitted to DEC.

- 25. Waste disposal:** On-site refuse disposal is prohibited, unless specifically authorized. All waste generated during operation, maintenance, and termination activities under this authorization shall be removed and disposed of at an off-site DEC approved disposal facility. Waste, in this paragraph, means all discarded matter, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and discarded equipment.
- 26. Road Traffic:** Vehicles will be required to slow down or stop and wait to permit the free and unrestricted movement of wildlife across the road at any location. During known caribou migration, the AO may require temporary cessation of traffic.

- 27. Winter Maintenance:** Snowbank height will be minimized to allow caribou passage, in particular during spring migrations, to the extent practicable.
- 28. Breeding Seasons:** During periods of wildlife breeding, lambing, or calving activity, and during major migrations of wildlife, the Grantee's activities on DNR-managed land may be restricted by the AO with written notice. From time to time, the AO may furnish the Grantee a list of areas identified by ADF&G where such actions may be required, together with anticipated dates of restriction.
- 29. Subsistence Activity Impact Mitigation:** The Grantee shall notify workers and road users when subsistence activities are ongoing in the area and direct them to refrain from actions that may affect the activities (e.g., not removing trapline markers).
- 30. Approved Plans:** The Grantee shall operate in accordance with the following approved plans:
- a. Spill Prevention Control and Countermeasure Plan
  - b. Spill Prevention and Response and Concentrate Recovery Plan
  - c. Culvert Adaptive Management Plan
  - d. Dust Control Plan
  - e. Naturally Occurring Asbestos Management Plan
  - f. Invasive Species Prevention and Management Plan
  - g. Public Access Plan