

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF WHITTIER AND THE  
ALASKA RAILROAD CORPORATION REGARDING LAND SALE, EXCHANGE, AND  
MANAGEMENT WITHIN THE CITY OF WHITTIER**

This Memorandum of Understanding (“MOU” or “Agreement”) is entered into on this \_\_\_\_\_ [“Execution Date”], by and between the City of Whittier, Alaska a municipal corporation and political subdivision of the State of Alaska, hereinafter referred to as the “City” and the Alaska Railroad Corporation, a public corporation of the State of Alaska, hereinafter referred to as “ARRC”.

**WHEREAS**, ARRC owns approximately two hundred fifty (250) acres of land within the boundaries of the City of Whittier, including approximately one hundred and five (105) acres in the city core and waterfront district.

**WHEREAS**, The ARRC and City are parties to a Ground Lease and Management Agreement dated November 13, 1998 (the “Master Lease”) which established certain terms and recitals agreed upon by the parties in 1998 that provide context for this Agreement, including;

- a. The City had (and still has) a relatively small tax base and operates under a limited annual budget due to its small population and few taxable business entities; and
- b. Within the City limits much of the land, including land owned by ARRC, was undeveloped and thus generated minimal property and sales taxes, and no payments-in-lieu-of-tax or other revenues on which to support critical City services and public infrastructure;
- c. The City did then and does now believe that it can only be financially viable by assuming control of ARRC’s unleased lands and managing land development activities for City-owned and ARRC-owned land in a manner that maximizes economic development and generates increased property and other taxes, and lease rent; and

**WHEREAS**, the parties agree that the Master Lease does not best promote the interests of or cooperation between the parties and that fee simple ownership will best serve the interests of both parties;

**NOW, THEREFORE**, the City and ARRC agree as follows:

**1. Purpose of the Agreement**

The purpose of this MOU is to establish the framework and the necessary steps for the review and consideration of a land sale, exchange or combination thereof between the parties and the process and general timing for such review and considerations.

**2. Areas of Interest**

A. The purpose of this section is to provide specific property descriptions and disclosures for accurate consideration, reference, and referral by both parties throughout negotiations. All property described in this section, taken collectively, shall be referred to as the "Areas of Interest". Individual parcels described in this section shall be identified as provided in this section. All Areas of Interest may be amended by either party, in writing, at any time. This section in no way limits the parties' ability to add, remove or amend the Areas of Interest or the specific property description, conditions or limitations of an Area of Interest up to 10 days before a resolution of essential terms is submitted to the governing body of either party.

B. The identification of an Area of Interest in no way obligates the identifying party to take any action regarding that Area of Interest or any other Area of Interest.

C. This subsection contains the preliminary Areas of Interest owned by the City of Whittier.

COW AOI 1 – Containing approximately 6.13 acres

Lots 1, 2, 8, 9, & 10 of Block 10 and Lots 1 & 2 of Block 12 of City of Whittier Subdivision Phase 2, recorded as Plat 74-4 in the Whittier Recording District on August 14, 1974; located within Section 13 and 24 of Township 8 North, Range 4 East, Seward Meridian.

COW AOI 2 – Containing approximately 2.70 acres of Tide and Submerged Lands

Tract G-3 and an approximately 1.7-acre portion of Tract D of Alaska Tideland Survey No. 1545, recorded as Plat 2003-49 in the Anchorage Recording District on May 1, 2003; located within Section 13 of Township 8 North, Range 4 East, Seward Meridian.

COW AOI 3 – Containing approximately 56.3 acres

All of Lot 2 and a portion of Lot 1, U.S. Survey No. 8726, according to the plat of survey in the records of the Bureau of Land Management and approved October 11, 1996; located within Section 15 of Township 8 North, Range 4 East, Seward Meridian.

Subject to the following:

Reservations in a Quitclaim Deed by and between the United States of America and the City of Whittier recorded as Document No. 2022-000460-0 on August 25, 2022 in the Valdez Recording District.

An Environmental Covenant by and between the United States of America and the City of Whittier recorded as Document No. 2022-031565-0 on August 25, 2022, in the Anchorage Recording District.

A Public Road Easement granted to the State of Alaska, Department of Transportation & Public Facilities, recorded as Document No. 1999-032940-0 on May 20, 1999, in the Anchorage Recording District.

A Public Road Easement to the State of Alaska, Department of Transportation & Public Facilities, recorded as Document No. 1999-036182-0, on June 3, 1999, in the Anchorage Recording District.

A Public Road Easement for to the State of Alaska, Department of Transportation & Public Facilities, recorded as Document number 1999-032940-0 on January 16, 2015, in the Anchorage Recording District.

A Right of Way Easement to the Enstar Natural Gas Company, LLC, recorded as Document No. 2024-004014-0 on February 16, 2024, in the Anchorage Recording District.

COW AOI 4 – Containing approximately 14.2 acres

Government Lot 3, Section 15 of Township 8 North, Range 4 East, Seward Meridian, according to the plat of survey in the records of the Bureau of Land Management and approved October 11, 1996.

D. This section contains Areas of Interest owned by the Alaska Railroad Corporation.

ARRC AOI 1 – Containing approximately 0.8 acres

A portion of Parcel B of U.S. Survey No. 2559 according to the plat of survey officially filed December 14, 1994 together with a portion of Lot 8 of U.S Survey 9008 located within Section 23 of Township 8 North, Range 4 East, Seward Meridian.

ARRC AOI 2 – Containing approximately 39.1 acres

A portion of Lot 8 of U.S. Survey No. 9008 according to the plat of survey officially filed October 12, 1995 together with a portion of Parcel A of U.S. Survey No. 2559 according to the plat of survey officially filed December 14, 1994; located within Section 23 of Township 8 North, Range 4 East, Seward Meridian.

ARRC AOI 3 – Containing Approximately 9.78 acres.

Lots 9, 11, & 12 and a portion of Lot 8 of U.S. Survey No. 9008 according to the plat of survey officially filed October 12, 1995; located within Sections 13, 14, 23 & 24 of Township 8 North, Range 4 East, Seward Meridian.

ARRC AOI 4 – Containing approximately 21.94 acres

Lot 2, Lot 4 and a portion of Lot 8 of U.S. Survey No. 9008 according to the plat of survey officially filed October 12, 1995, located within Sections 14, 15, 22 & 23 of Township 8 North, Range 4 East, Seward Meridian.

ARRC AOI 5 - Containing approximately 16.27 acres

A portion of Lot 1, U.S. Survey No. 9008 according to the plat of survey officially filed October 12, 1995; located within Section 15 of Township 8 North, Range 4 East, Seward Meridian.

E. Final Areas of Interest List.

Parties agree to provide a final list of Areas of Interest no more than 30 days after the execution of this Agreement. This "Final Areas of Interest List" shall be used for securing appraisals and future negotiations. Both parties agree that the "Final Areas of Interest List" shall include the following:

1. Full and accurate legal descriptions of the Areas of Interest or, if a full description is not available, a description of the limitations of the descriptions and the reason for the limited description;
2. Identification of whether or not each parcel falls under the Master Lease; and
3. Identification of all or any lease(s), permit(s) or any interest of any kind on each Area of Interest and identify any other leases, permits or interests on the Areas of Interest or impacting the Areas of Interest on the Final Areas of Interest List and to provide copies of such leases, permits or agreements to the other party with the Final Areas of Interest List.
4. Both parties agree that all Areas of Interest are free of encumbrances, liens, or other legal impediments to transfer or that any encumbrances, liens or other legal impediments are identified by the party owning the Area of Interest or the separate deed or other instrument containing such encumbrance, lien or other legal impediment is directly identified in the Final Areas of Interest List.

**3. Appraisal**

Both parties agree to commission independent, licensed appraisers to determine the fair market value of the Areas of Interest. Both parties shall agree in writing on a date certain for the exchange of appraisals. If the appraised values of the parcels differ, the parties will create a procedure for selecting and agreeing upon market value for purposes of any sale, exchange or combination thereof.

**4. Environmental Assessments**

A. Prior to any exchange, sale or combination thereof each party shall conduct or commission a Phase I Environmental Site Assessment ("ESA") on the Areas of Interest currently owned by that party.

B. If the Phase I ESA identifies any potential environmental concerns, a Phase II ESA may be required at the discretion of the party receiving the parcel.

C. The costs associated with environmental assessments shall be borne by the current owner of the parcel being assessed.

**5. Survey and Title Work**

A. Each party agrees to commission a survey of the Areas of Interest owned by that party to confirm the boundaries and legal description of that Area of Interest. A party may submit a survey of an Area of Interest surveyed before the Execution Date of this MOU so long as that survey meets the requirement of this section and the survey was completed in the last 365 days by a qualified surveyor.

B. The parties shall identify, in writing, the date by which survey and title work must be completed by both parties.

C. The costs associated with survey and title work under this section shall be borne by the party commissioning the work, unless otherwise agreed upon in writing by both parties.

**6. Execution of Exchange**

A. Proposals. No more than 60 days after completion of all required steps under this MOU, including appraisal, environmental assessment, and survey, the City agrees to either:

1. Submit a proposal for the sale, exchange or combination thereof of property owned by ARRC within the City's boundaries or

2. Adopt a resolution declining to submit a proposal.

Nothing in this provision prevents the City or ARRC from making a proposal at any time. Any proposal submitted by either party shall be subject to all applicable provisions in this MOU.

B. Responses to Proposals. The ARRC agrees to provide the City with a written response to a proposal within 60 days of the date of the proposal or to adopt a resolution rejecting the proposal submitted by the City. If ARRC submits a proposal to the City regarding the Areas of Interest, the City shall comply with the response to proposal procedure identified in this subsection.

C. Agreement of Essential Terms. In the event a proposal is made and its essential terms agreed upon by the parties, or the parties are otherwise able to negotiate an agreement regarding the essential terms of a proposal, a resolution presenting the essential terms of the sale, exchange or combination thereof shall be presented to the governing bodies of both parties for consideration.

D. Execution of Agreed Terms. If both governing bodies adopt resolutions agreeing to the essential terms of the sale, exchange or combination thereof, the parties shall meet and identify the instruments required for execution of the agreed upon terms and the timeline for the preparation and review of those documents and the presentation of those instruments to the Alaska legislature for approval where legislative approval is necessary. The parties may determine, in writing, to seek legislative approval after both bodies have adopted resolutions with the agreed upon essential terms but before final documents of exchange, sale or a combination thereof have been drafted. The City Council shall approve the process and timing of any submission to the Alaska legislature before any such submission is made.

E. Closing. The closing procedures shall be governed by the instrument of sale, exchange or transfer agreed upon and executed by the parties. Before closing, the parties shall agree upon lease termination to be effective upon closing.

**7. Timelines and Deadlines**

Notwithstanding the specific provisions of this MOU, both parties agree to work diligently to complete the land exchange, sale or combination thereof within \_\_\_\_\_ [City to specify timeline, e.g., 6 months] from the date of the Execution Date of this MOU. Any extensions of the deadlines must be mutually agreed upon in writing by both parties.

**8. Amendments**

This MOU may be amended only by mutual written agreement of both parties.

**9. Termination**

Either party may terminate this MOU by providing the other party with written notice.

**10. Governing Law**

This MOU shall be governed by and construed in accordance with the laws of the State of Alaska.

**11. Signatures**

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding on the date first written above.

**CITY OF WHITTIER**

\_\_\_\_\_  
Jackie Wilde  
Acting City Manager

**ALASKA RAILROAD CORPORATION**

\_\_\_\_\_  
By:  
Its:  
Date: