

**ALASKA BULK WATER INC.  
TIDELANDS LEASE AGREEMENT**

The City and Borough of Sitka ("CBS" or "Lessor") and Alaska Bulk Water Inc. ("ABWI" or "Lessee"), collectively referred to as the "Parties," enter into this Alaska Bulk Water Inc. Tidelands Lease Agreement ("Lease"), based on the terms and conditions set out in this "Lease," and as approved by the City and Borough of Sitka Assembly in Ordinance XXXXX, effective \_\_\_\_\_.

**WHEREAS**, the Lessor is the owner of certain tidelands seaward of CBS bulk water pipeline at the Gary Paxton Industrial Park in Sitka, Alaska, comprising approximately 18 acres in Alaska Tideland Survey No. 6, and graphically represented on the copy of the attached Exhibit A, hereafter referred to as the "Subject Property;" and the Lessee is the owner of a Bulk Water Agreement dated November 9, 2006 and all amendments and assignments thereto ("Original Contract") with the Lessor. This lease is not intended to modify or supercede the Original Contract; rather this lease is intended to be consistent with the obligations of the parties to perform the Original Contract.

**NOW THEREFORE**, based on the consideration set out below, the Lessor and Lessee agree to the following terms and conditions:

1. Lessor leases to the Lessee, for a term concurrent with the Purchase Agreement for Raw Water in Bulk Export and amendments 1-4 agreed upon by both parties, including the benchmarks in Section 3, the Subject Property described as:

Approximately 18 acres within the boundaries of Alaska Tidelands Survey No. 6 as shown on Exhibit A (*Section of Plat 2008-27, Sawmill Cove Industrial Park Subdivision No. 1; U.S. Survey 3551, 2797 and ATS No. 6*)

2. Lessee, in consideration of this Lease, agrees as follows:
  - a. Lease payments shall be made annually to Lessor. The annual lease payments shall be \$5,292.54 per year, which is the equivalent of 4.5% of the value of the Subject Property, which is valued at \$117,612.
  - b. Lessee shall pay sales tax to the City and Borough of Sitka, based on the amount of each annual lease payment.
  - c. The first year's payment is due within 10 business days of the Lease being executed by all of the parties to the Lease. All subsequent payments shall be made on or before January \_\_\_\_ each year.
  - d. The Lease may not be assigned or sublet by the Lessee without the consent of the Lessor, provided that nothing herein prevents Lessee from contracting with any third party (even through a lease) for the use of the improvements on the leased land.
  - e. If the full lease payment is not timely paid, and Lessee fails to remedy default within thirty (30) days after receipt of written notice of any such lease payment arrears, the Lessor may

immediately, or at any time thereafter while such default continues, terminate the lease, repossess the Subject Property, enter on Subject Property, expel Lessee and those claiming right to possession or to be on the Subject Property based on the rights of the Lessee, and remove Lessee's effects (forcefully if necessary) without being guilty of any trespass. These rights are in addition to any other rights and remedies, without prejudice, which might otherwise be used for arrears or lease payments, proceedings on breach of agreement, or collection on arrears.

- f. The Lessee agrees to pay any Local Improvement District assessments that may be levied against the Subject Property to the same extent and in the same amount as if the Lessee were the owner of the Subject Property which would be included in the Local Improvement District to be formed or contemplated. The Lessee shall share the Lessor's right as owner in all proceedings under the Local Improvement District (except for payment of assessments) in proportion that the remaining years of the lease bear to twenty (20). (For example: If the lease has five (5) years to run, the Lessee shall have the right to exercise 5/20ths of the Lessor's vote and the Lessor, 15/20ths.)

3. The Parties mutually agree as follows:

- a. The terms and conditions herein contained shall apply to and bind the heirs, successors, and agents of the respective Parties.
- b. Waiver by Lessor of any term or condition setout in this Lease shall not be considered a waiver of any subsequent breach of said term or condition.
- c. Other than due to negligence by CBS, lessee agrees to hold harmless, insure and indemnify the Lessor from any liability for property damage or personal injury to any person or persons on or about the Subject Property and to carry and provide proof of liability insurance in the amount of \$5 million dollars, with the Lessor as an additional named insured. ABWI is responsible for any damage to the CBS (and Northern Southeast Regional Aquaculture Association, aka, NSRAA) outfalls which are located close to the proposed location for anchors and any damages incurred will be rectified by ABWI to the specifications agreed upon by CBS and NSRAA. Lessee is not responsible for negligence on the part of the Lessor.
- d. At any termination of the Lease, Lessee will be responsible for removal of any improvements including but not limited to, mooring buoys and anchors. If the improvements are not removed in a timely manner, Lessee shall repay the Lessor for all expenses incurred by such removal.
- e. Lessee must assure that both permanent and non-permanent anchoring systems are at least 100 feet away from current and proposed shore-based CBS infrastructure.
- f. CBS, as owner of this property of Tidelands, reserves the right to allow ingress and egress across this property by CBS and other parties, when it will not interfere with actual loading operations of any ABWI vessels or tie up to ABWI buoys. Both parties agree in good faith

to give as much advance notice as possible for such activity so there is no disruption of business. *This incorporates by reference Section 12 Water Loading Plan Requirement of the original lease, dated November 9, 2006.*

- g. Each Party to the Lease represents that its representative or agent who signs and executes the Lease has been delegated and is authorized to legally bind each Party regarding this Lease.
- h. Lessee shall throughout any term of this Lease Agreement, at Lessee's sole expense, promptly comply with all the laws and ordinances and the orders, rules, regulations, and requirements of all federal, state, and municipal governments and appropriate departments, commissions, boards, and officers (whether or not the same require structural repairs or alterations) and all other legal requirements that may be applicable to the use of the Subject Property. Nothing in the foregoing sentence shall be deemed to relieve Lessor of its general obligations in its municipal capacity.
- i. Lessee shall be responsible for obtaining all necessary permits and approvals for its activities unless otherwise specifically allowed by Lessor.

4. Nothing in this agreement supersedes, voids or modifies any previous agreements between the parties. This document is intended to facilitate the obligations of both parties under the Original Contract and Amendments 1-4.

**ALASKA BULK WATER, INC**

**CITY AND BOROUGH OF SITKA**

\_\_\_\_\_  
Terrence Trapp, CEO

\_\_\_\_\_  
Mark Gorman, Municipal Administrator

**STATE OF ALASKA**                    )  
  ) **ss.**  
**FIRST JUDICIAL DISTRICT**        )

On this \_\_\_\_ day of \_\_\_\_\_, 2014, Terrence Trapp, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, signs this Lease Agreement on behalf of Alaska Bulk Water, Inc. and affirms by signing this document to be authorized to sign on behalf of the Alaska Bulk Water Inc. and does so freely and voluntarily.

\_\_\_\_\_  
Notary Public for Alaska  
My Commission Expires: \_\_\_\_\_

**STATE OF ALASKA**                    )  
  ) **ss.**  
**FIRST JUDICIAL DISTRICT**        )

On this \_\_\_\_ day of \_\_\_\_\_, 2014, Mark Gorman, Municipal Administrator of the City and Borough of Sitka, Alaska, a municipal corporation organized under the laws of the State of Alaska, signs this Lease Agreement on its behalf, and affirms by signing this document to be authorized to sign on its behalf, and does so freely and voluntarily.

\_\_\_\_\_  
Notary Public for Alaska  
My Commission Expires: \_\_\_\_\_