



# CITY AND BOROUGH OF SITKA

## PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT GENERAL APPLICATION

- Applications must be deemed complete at least TWENTY-ONE (21) days in advance of next meeting date.
- Review guidelines and procedural information.
- Fill form out completely. No request will be considered without a completed form.
- Submit all supporting documents and proof of payment.

### APPLICATION FOR:

☐ VARIANCE☐ CONDITIONAL USE☐ ZONING AMENDMENT☒ PLAT/SUBDIVISION

### BRIEF DESCRIPTION OF REQUEST: Subdivision/Replat as State Requirement for Conveyance

of land, under ADL 109249. No Boundary changes, vacations or dedications. Former ASLS 97-63  
Plat No. 98-18, excluding Taku Court. Sitka Parcel ID: 1-9402-000

### PROPERTY INFORMATION:

CURRENT ZONING: P PROPOSED ZONING (if applicable): \_\_\_\_\_

CURRENT LAND USE(S): Commercial/Warehouse PROPOSED LAND USES (if changing): \_\_\_\_\_

### APPLICANT INFORMATION:

PROPERTY OWNER: State of Alaska, Department of Natural Resources

PROPERTY OWNER ADDRESS: 550 West 7th Avenue, Suite 650, Anchorage, AK 99501-3576

STREET ADDRESS OF PROPERTY: Tongass Drive

APPLICANT'S NAME: Erin Kotka for Southeast Alaska Regional Health Consortium

MAILING ADDRESS: 222-Tongass Ave, SAK, AK, 99835

EMAIL ADDRESS: ErinK@Seattle.org DAYTIME PHONE: 907-738-6599

Last Name

Date Submitted

Project Address

## REQUIRED SUPPLEMENTAL INFORMATION:

### For All Applications:

- ☒ Completed General Application form
- ☒ Supplemental Application (Variance, CUP, Plat, Zoning Amendment)
- ☒ Site Plan showing all existing and proposed structures with dimensions and location of utilities
- ☐ Floor Plan for all structures and showing use of those structures
- ☒ Proof of filing fee payment
- ☐ Other: \_\_\_\_\_

### For Marijuana Enterprise Conditional Use Permits Only:

- ☐ AMCO Application

### For Short-Term Rentals and B&Bs:

- ☐ Renter Informational Handout (directions to rental, garbage instructions, etc.)
- ☐ Documentation establishing property as primary residence (motor vehicle registration, voter registration, etc.)
- ☐ Signed Affidavit of Primary Residence for Short-term Rental Conditional Use Permit

**CERTIFICATION:** I hereby certify that I am the owner of the property described above and that I desire a planning action in conformance with Sitka General Code and hereby state that all of the above statements are true. I certify that this application meets SCG requirements to the best of my knowledge, belief, and professional ability. I acknowledge that payment of the review fee is non-refundable, is to cover costs associated with the processing of this application and does not ensure approval of the request. I understand that public notice will be mailed to neighboring property owners and published in the Daily Sitka Sentinel. I understand that attendance at the Planning Commission meeting is required for the application to be considered for approval. I further authorize municipal staff to access the property to conduct site visits as necessary. I authorize the applicant listed on this application to conduct business on my behalf.

Juan M. Gerwelis  
Owner

07/14/2025

Date

Owner

Date

I certify that I desire a planning action in conformance with Sitka General Code and hereby state that all of the above statements are true. I certify that this application meets SCG requirements to the best of my knowledge, belief, and professional ability. I acknowledge that payment of the review fee is non-refundable, is to cover costs associated with the processing of this application and does not ensure approval of the request.

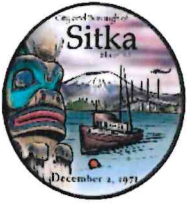
Erin Kitka  
Applicant (If different than owner)

8-1-2025  
Date

Last Name

Date Submitted

Project Address



# CITY AND BOROUGH OF SITKA

## PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT SUPPLEMENTAL APPLICATION FORM PLAT APPLICATION

### APPLICATION FOR

- ☐ MAJOR SUBDIVISION/PLANNED UNIT DEVELOPMENT
- ☒ MINOR SUBDIVISION/HYBRID SUBDIVISION
- ☐ SUBDIVISION REPLAT/LOT MERGER/EASEMENT AMENDMENT
- ☐ BOUNDARY LINE ADJUSTMENT

### ANALYSIS: (Please address each item in regard to your proposal)

- SITE/DIMENSIONS/TOPOGRAPHY:** 1.53 Acres, formerly ASLS 97-63, Plat No. 98-18  
Topography variable, with large flat area previously developed. Existing dormitory long abandoned. Fronts Tongass Drive and Taku Court. Topography as shown on site plan.
- EXISTING UTILITIES AND UTILITY ROUTES:** All visible aboveground surveyed and shown on site plan attached. All underground utilities marked by others surveyed and shown on site plan attached
- PROPOSED UTILITIES AND UTILITY ROUTES:** No new proposed utilities.
- ACCESS, ROADS, TRANSPORTATION, AND MOBILITY:** Existing legal Access, no New access requested  
~390 Ft of Frontage on Tongass Drive, ~310 ft Frontage on Taku Court.
- IMPACT OF PROPOSAL ON ANY EXISTING EASEMENTS:** No impacts known at this time.
- PUBLIC HEALTH, SAFETY, AND WELFARE:** Facilitate construction of new health facilities. Otherwise no change.
- ACCESS TO LIGHT AND AIR:** Currently open. No change expected.

- **ORDERLY AND EFFICIENT LAYOUT AND DEVELOPMENT:** \_\_\_\_\_

Layout and development unchanged by this plat.

- **DESCRIBE ALL EXISTING STRUCTURES, THEIR USE, AND PROXIMITY TO PROPOSED PROPERTY LINES:**

As shown on Site Plan attached. Existing Dormitory built 1940, long abandoned and vacant.

Additional Maintenance building on site, level of use unknown.

Proximity to property lines shown on site plan attached.

- **EXISTENCE OF ANY ENCROACHMENTS:** None found during survey.

- **AVAILABILITY OF REQUIRED PARKING:** Currently no use and thus, no parking.

Parking required for any potential new development will be addressed during design.

- **SUMMARY OF PROPOSED EASEMENT AGREEMENTS OR COVENANTS:** \_\_\_\_\_

No proposed easements or covenants.

***ANY ADDITIONAL COMMENTS*** Subdivision Solely for the purposes of charitable conveyance

from the State of Alaska to SEARHC. No boundary changes or use changes are proposed. No

vacations of any kind are proposed. No new easements or encumbrances are proposed.

Future development unknown at this time.

Erin Kotka

Applicant

8-1-2025

Date

Tongass Dr.

Last Name

Date Submitted

Project Address



## QUITCLAIM DEED

The Grantor, the STATE OF ALASKA, DEPARTMENT OF EDUCATION & EARLY DEVELOPMENT, whose address of record is P.O. Box 110500, Juneau, Alaska 99811-0500, under the authority of AS 14.07.030(a)(6), for good and valuable consideration, does hereby convey and quitclaim unto the Grantee, the STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES, whose address of record is 550 W. 7th Avenue, Suite 1050A, Anchorage, Alaska 99501-3579, all right, title and interest, if any, in the following-described real property, located in the City and Borough of Sitka, State of Alaska:

Alaska State Land Survey No. 97-63, according to the plat recorded in the Sitka Recording District on July 15, 1998, as Plat No. 98-18, containing 1.53 acres, more or less.

**Subject to valid existing rights, including but not limited to:**

Platted easements and reservations;

An upland lease on ASLS 97-63, ADL 106359, recorded in Book 134, Pages 128-143, on November 23, 1998, as Document No. 1998-002423-0, Sitka Recording District.

Pursuant to the best interest finding issued October 7, 2022, this parcel is being conveyed to the Grantee so that it may conduct a best interest finding for disposal. Subject to that process are the following conditions:

1. The property is conveyed under “as-is, where-is” conditions, inclusive of known or unknown contaminations.
2. If the Grantee does not dispose of these lands to the Southeast Regional Health Consortium, the land will revert to Grantor.
3. Any sale of the parcel from Grantee to the Southeast Regional Health Consortium must occur in a fiscal year where appropriation language provides monetary proceeds are to be appropriated to Grantor to support Mt. Edgecumbe High School.
4. The parcel will maintain a public purpose.



Dated this 5 day of January, 2023.

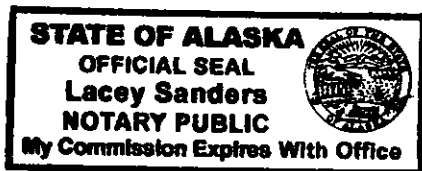
STATE OF ALASKA  
DEPARTMENT OF EDUCATION & EARLY  
DEVELOPMENT

By: Heidi Teshner  
Heidi Teshner  
Acting Commissioner

STATE OF ALASKA                    )  
  ) ss.  
FIRST JUDICIAL DISTRICT )

This Is To Certify that on the 5 th day of January, 2023, before me, the undersigned, a notary public in and for the State of Alaska, personally appeared Heidi Teshner, Acting Commissioner of the Department of Education and Early Development, known to me to be the person who executed the foregoing document and who acknowledged that she signed voluntarily and with knowledge of the document's intended purpose.

Witnessed with my official signature and official seal on the date of the above certificate.



Lacey Sanders  
Notary Public in and for the State of Alaska  
My commission expires: with office


[Acceptance page to follow]



ACCEPTANCE

Accepted, agreed to, and receipt acknowledged this 17 day of January, 2023.

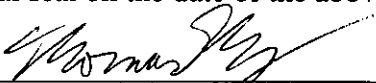
STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES

By:   
Christianna Colles  
Director, Division of Mining, Land and Water

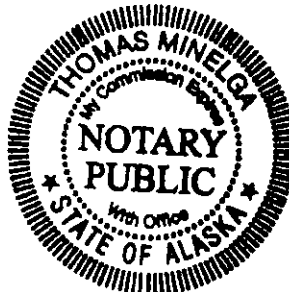
STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT )

**This Is To Certify** that on this 17th day of January, 2023, before me, the undersigned, a notary public in and for the State of Alaska, personally appeared Christianna Colles, Mining, Land and Water Division Director of the Department of Natural Resources, known to me to be the person who executed the foregoing document and who acknowledged that she signed voluntarily and with knowledge of the document's intended purpose.

Witnessed with my official signature and official seal on the date of the above certificate.

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

After Recording Return to:  
State of Alaska  
Department of Natural Resources  
Division of Mining, Land and Water  
550 W. 7th Ave., Suite 1050A  
Anchorage, AK 99501-3579



State Business – No Charge

Location Index:  
T. 55 S., R. 63 E., C.R.M.  
Section 35  
T. 56 S., R. 63 E., C.R.M.  
Section 2

QCD – Japonski Island  
ASLS 97-63 Penrod Hall  
ADL 104883

Page 3 of 3



Page 3 of 3  
103 – 2023 – 000040 – 0

# The United States of America

To all to whom these presents shall come, Greeting:

AA-66276

BOOK 89 PAGE 647  
Sitka Recording District

WHEREAS

GRANTOR:  
UNITED STATES OF AMERICA  
C/O BLM  
222 W. 7TH AVENUE #13  
ANCHORAGE, ALASKA 99513

State of Alaska

is entitled to a Land Patent confirming the land grant under the Act of July 30, 1983, Pub. L. 98-63, 97 Stat. 326, 327, as amended by the Act of August 22, 1984, Pub. L. 98-396, 98 Stat. 1387, 1388, for the following-described lands:

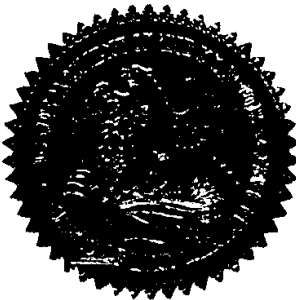
Lots 12, 13, 14, and 15, U.S. Survey No. 1496, Alaska, situated on Japonski Island near Sitka, Alaska.

Containing 65.45 acres as shown on supplemental plat of survey officially filed March 28, 1990.

NOW KNOW YE, that there is, therefore, granted by the UNITED STATES, unto the above-named claimant the land above described; TO HAVE AND TO HOLD the said land with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant, forever;

THE GRANT IS SUBJECT TO THE FOLLOWING:

As to Lot 15, U.S. Survey No. 1496, Alaska, a right-of-way AA-40276 for a sewer line, granted to the City and Borough of Sitka, under the provisions of Title V of the Act of October 21, 1976, Pub. L. 94-579, 90 Stat. 2743, as authorized by Sec. 906(1) of the Alaska National Interest Lands Conservation Act of December 2, 1980, Pub. L. 96-487, 94 Stat. 2442.



IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in ANCHORAGE, ALASKA  
the ELEVENTH day of MAY  
in the year of our Lord one thousand nine hundred and  
NINETY and of the Independence of the  
United States the two hundred and FOURTEENTH.

By Terry R. Hassett  
Terry R. Hassett  
Chief, Branch of KCS Adjudication

Patent Number 50-90-0267



BOOK 89 PAGE 648  
Sitka Recording District

SITKA RECORDING DISTRICT

Return to Grantee:

State of Alaska  
Dept. of Natural Resources  
Div. of Land & Water Management  
Title Administration Unit  
3601 C Street., Suite 960  
Anchorage, Alaska 99503

90-1072

*NIC*  
RECORDED-FILED  
SITKA REC.  
DISTRICT

JUL 9 1 08 PM '90

REQUESTED BY AS/DL+WM  
ADDRESS Anch

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF LAND, SOUTHEAST REGION  
400 Willoughby Ave., Suite 400  
Juneau, Alaska 99801

ADL No. 106359

## LEASE AGREEMENT

Effective this **1st** day of **November, 1998**, this lease agreement is entered into by the State of Alaska, hereafter referred to as "lessor," and **SouthEast Alaska Regional Health Consortium**, hereafter referred to as "lessee," whether one or more, whose sole addresses for purposes of notification under this lease agreement are listed in section 28.

The lessor and the lessee agree that this lease, including all attachments and documents that are incorporated in this lease by reference, contains the entire agreement between the parties, and each of the covenants and conditions in this lease including any attachments will be binding upon the parties and upon their respective successors and assigns. The lessor and the lessee further agree that this lease is conditioned upon satisfactory performance by the lessor and the lessee of all covenants and conditions contained in this lease. The lessee is aware of the provisions of Title 38, Alaska Statutes, Title 11, Alaska Administrative Code, and other applicable laws, regulations, and ordinances, and fully understands the duties and obligations of the lessee under this lease, and the rights and remedies of the lessor.

This lease is subject to all applicable state, federal, and municipal statutes, regulations, and ordinances in effect on the effective date of this lease, and insofar as is constitutionally permissible, to all statutes, regulations, and ordinances placed in effect after the effective date of this lease. A reference to a statute, regulation, or ordinance in this lease includes any change in that statute, regulation, or ordinance, whether by amendment, repeal and replacement, or other means. This lease does not limit the power of the State of Alaska, its political subdivisions, or the United States of America to enact and enforce legislation or to adopt and enforce regulations or ordinances affecting, directly or indirectly, the activities of the lessee or its agents in connection with this lease or the value of the interest held under this lease. In case of conflicting provisions, statutes, regulations, and ordinances take precedence over this lease. This lease shall not be construed as a grant or recognition of authority for promulgation or adoption of municipal ordinances that are not otherwise authorized.

1. Grant. This **upland** lease is issued under the authority of **AS 38.05.810(a)**, for a term of **30** year(s) beginning on the **1st** day of **November, 1998** and ending at 12 o'clock midnight on the **31st** day of **October, 2028**, unless sooner terminated, subject to: compensation as specified in section 2; the attached development plan approved by the state on **July 25, 1997**; and attached stipulations, if any, that are incorporated in and made a part of this lease, for the following, hereafter referred to as the "leasehold":

**Alaska State Land Survey 97-63, located within Section 35, Township 55 South, Range 63 East and Section 2, Township 56 South, Range 63 East, Copper River Meridian, containing 1.53 acres more or less, according to the plat filed in the Sitka Recording District as Plat 98-18.**

Excepting and reserving any general reservations to the lessor that are required by law and that may be stated elsewhere in this lease, and the following, which the state reserves for itself and others:

**Subject to all platted easements and reservations and further subject to the Special Stipulations noted on Attachment A and made a part of this lease agreement.**

2. Compensation. (a) The lessee shall pay to the lessor compensation as follows, without the necessity of any billing by the lessor: **Equal annual payments on or before the 1st day of November, every year of said term at the rate of \$450.00 per annum**. The lessor may, upon 10 days' notice, review and copy any records of the lessee that are necessary to verify the lessee's compliance with this paragraph.

(b) In accordance with AS 38.05.105, the lease compensation is subject to adjustment by the lessor at the commencement of the sixth year of the term and every fifth year thereafter (the "adjustment date"). The compensation adjustment takes effect on the applicable adjustment date, regardless of whether the adjustment determination occurs before or after that date. All reasonable costs of the adjustment, including reappraisal if required by the lessor, will be borne by the lessee.

3. Denial of Warranty. The lessor makes no warranty, express or implied, nor assumes any liability whatsoever, regarding the social, economic, or environmental aspects of the leasehold, including, without limitation, the soil conditions, water drainage, access, natural or artificial hazards that may exist, or the profitability or fitness of the leasehold for any use. The lessee represents that the lessee has inspected the leasehold and determined that the leasehold is suitable for the use intended, or has voluntarily declined to do so, and accepts the leasehold "as is" and "where is."

4. Use of Leasehold. Prior to execution of this lease and to commencing use or development of the leasehold, the lessee shall submit a development plan for the leasehold to the lessor and obtain the lessor's approval of the plan. Any use or development of the leasehold must be consistent with the development plan approved by the lessor. Any proposed revisions to the development plan must be submitted to the lessor for approval before any change in use or development occurs. The lessee shall use and occupy the leasehold in compliance with the approved development plan and all applicable laws, regulations, ordinances, and orders that a public authority has put into effect or may put into effect, including those of a building or zoning authority and those relating to pollution and sanitation control. The lessee may not permit any unlawful occupation, business, or trade to be conducted on the leasehold. The lessee shall properly locate all activities and improvements on the leasehold, and may not commit waste of the parcel. The lessee shall maintain and repair the leasehold including improvements in a reasonably neat and clean condition, and shall take all necessary precautions to prevent or suppress grass, brush, or forest fires, and to prevent erosion, unreasonable deterioration, or destruction of the land or improvements. The lessee agrees not to place any aboveground or underground fuel or chemical tanks on the leasehold without the prior written approval of the lessor.

5. Encumbrance of Leasehold. The lessee may not encumber or cloud the lessor's title to the leasehold, or any portion of the leasehold, nor enter into any lease, easement, or other obligation of the lessor's title without the prior written approval of the lessor.

6. Assignment of Interest. The lessee may not assign or sublet any interest held under this lease, including a security interest, without the prior written approval of the lessor. The lessor may approve such assignment or subletting if the lessor finds it to be in the best interest of the state. No such assignment or subletting will be effective until approved by the lessor in writing, and the assignee agrees to be subject to and governed by the provisions of this lease, any subsequent amendments to this lease, any additional stipulations, or reappraisal as deemed appropriate by the lessor, and all applicable laws, regulations, and ordinances in the same manner as the original lessee. No assignment or subletting of the leasehold, or any portion thereof, by the lessee will annul the lessee's obligation to pay the compensation required for the full term of this lease. Except as provided in this lease, no subdivision of the leasehold interest may occur without the prior written approval of the lessor.

7. Conditional Lease. If all or part of the leasehold has been tentatively approved, or approved, but not yet patented, by the United States to the lessor, then this lease will be conditioned upon receipt by the lessor of such patent. If for any reason the lessor does not receive patent, any compensation paid to the lessor under this lease will not be refunded. Any prepaid compensation for land to which patent is denied the lessor will be refunded to the lessee of record in the amount of the pro-rata portion of the unexpired term. The lessor will have no further liability to the lessee for the termination of the lease.

8. Payment of Taxes and Assessments. The lessee shall pay prior to delinquency all taxes and assessments accruing against the leasehold.

9. Section Line Rights-of-Way. If the leasehold borders on or includes one or more section lines, the lessor hereby expressly reserves unto itself and its successors and assigns a right-of-way or rights-of-way pursuant to AS 19.10.010.

10. Navigable and Public Waters. (a) Pursuant to AS 38.05.127 and 11 AAC 53.330, the lessor reserves a public access easement to and along all public or navigable water bodies that border on or are included in this leasehold. No public access easement may be obstructed or otherwise rendered incapable of reasonable use for the purposes for which it was reserved. No public access easement may be vacated, abandoned, or extinguished without the prior written approval of the lessor.

(b) The Public Trust Doctrine guarantees public access to, and the public right to use, navigable and public waters and the land beneath them for navigation, commerce, fishing, and other purposes. This lease is issued subject to the principles of the Public Trust Doctrine regarding navigable or public waters. The lessor reserves the right to grant other interests to the leasehold consistent with the Public Trust Doctrine.

11. Condemnation of Leasehold or Improvements. If the whole or any part of the leasehold is taken by any authorized body or person vested with the power of eminent domain, by negotiation, court action, or otherwise, the following provisions control:

(1) Taking of the entire leasehold. If all of the leasehold is taken by condemnation, this lease and all rights of the lessee will immediately terminate, and the compensation will be adjusted so that it is due only until the date the lessee is required to surrender possession of the leasehold. The lessor is entitled to all the condemnation proceeds, except that the lessee will be paid the portion of the proceeds attributable to the fair market value, as determined in the condemnation proceedings, of any buildings or improvements taken that were placed on the condemned leasehold by the lessee in accordance with the approved development plan.

(2) Taking of substantial part of the leasehold. If the taking is of a substantial part of the leasehold, the following rules apply:

(A) If the taking by condemnation reduces the ground area of the leasehold by at least 30 percent or materially affects the use being made by the lessee of the leasehold, the lessee has the right to elect to terminate the lease by written notice to the lessor not later than 180 days after the date of taking.

(B) If the lessee elects to terminate, the provisions in subsection (1) of this section govern the condemned portion of the leasehold and the covenants and conditions of the lease govern disposal of the remainder of any buildings or improvements made by the lessee in accordance with the approved development plan.

(C) If the lessee does not elect to terminate, the lease continues and the lessor is entitled to the full condemnation proceeds except the portion attributable to the fair market value, as determined in the condemnation proceedings, of any buildings or improvements taken that were placed on the condemned portion of the leasehold by the lessee in accordance with the approved development plan. Compensation at the existing rate will terminate on the date the lessee is required to surrender possession of the condemned portion of the leasehold. Except as it may be adjusted from time to time under the covenants and conditions of the lease and applicable statutes, compensation for the balance of the term will be adjusted by the lessor to reflect the taking.

(3) Taking of insubstantial part of the leasehold. If the taking by condemnation reduces the ground area of the leasehold by less than 30 percent and the lessor determines that the taking is of such an insubstantial portion that the lessee's use of the leasehold is not materially affected, the lessee may not elect to terminate the lease and the compensation provisions of subsection 2(C) of this section will govern.

12. Valid Existing Rights. This lease is subject to all valid existing rights, including easements, rights-of-way,

reservations, or other interests in land in existence on the date of execution of this lease.

13. Inspection. The lessor will have reasonable access to the leasehold for purposes of inspection.

14. Mineral Reservations. This lease is subject to the reservations required by AS 38.05.125 and the rights and obligations imposed by AS 38.05.130.

15. Concurrent Use. This lease is subject to reasonable concurrent uses as provided under Article VIII, Section 8 of the Constitution of the State of Alaska. The concurrent user who is found to be at fault for damage or injury arising from noncompliance with the terms governing the user's concurrent use is liable for damages and the user's interest is subject to forfeiture or termination by the lessor. In this context, the term "concurrent user" includes the lessee and any other person or entity who lawfully uses the land subject to this lease, but does not include the State of Alaska.

16. Surface Resources. Unless otherwise provided by this lease or other written authorization, the lessee may not sell or remove from the leasehold any timber, stone, gravel, peatmoss, topsoil, or any other material valuable for building or commercial purposes. Material required for the development of the leasehold may be used only in compliance with the approved development plan.

17. Appropriation or Disturbance of Waters. During the term of this lease, the lessee will have the right to apply for an appropriation of ground or surface water on the leasehold in accordance with AS 46.15 and 11 AAC 93.060.

18. Acquisition of Rights or Interests. Any right or interest acquired during the term of this lease and accruing to the benefit of the leasehold will remain appurtenant to the leasehold, and may not be severed or transferred from the leasehold without the prior written approval of the lessor. In the event of termination or forfeiture of this lease, any such right or interest will vest in the lessor.

19. Land Alterations Due to Natural or Artificial Causes. The interest described in this lease constitutes the entire leasehold. If, through natural or artificial causes, accretion or reliction of land occurs contiguous to the leasehold, the Lessee has no right to occupy or use the accreted land unless a separate lease is entered with the Lessor with respect to such lands. The rules of law usually applicable to accretion or reliction of land do not apply to this lease, nor to the interest described in this lease.

20. Waiver or Forbearance. The receipt of compensation by the lessor, with or without knowledge of any default on the part of the lessee, is not a waiver of any provision of this lease. No failure on the part of the lessor to enforce a covenant or condition of this lease, nor the waiver of any right under this lease by the lessor, unless in writing, will discharge or invalidate the application of such covenant or condition. No forbearance or written waiver affects the right of the lessor to enforce any covenant or condition in the event of any subsequent default. The receipt of compensation by the lessor after termination or any notice of termination will not reinstate, continue, or extend this lease, or destroy, or in any manner impair the validity of any notice of termination that may have been given prior to receipt of the compensation, unless specifically stated by the lessor in writing.

21. Default and Remedies. (a) Time is of the essence in this lease. If the lessee defaults on the performance of any of the covenants or conditions of this lease, and the default is not remedied within 60 days after written notice of such default has been received by the lessee and by the holder of a security interest in the leasehold approved by the lessor, or within any additional period the lessor allows for good cause, the lessee will be subject to legal or any other administrative action deemed appropriate by the lessor, including termination of this lease. The lessor may include in the notice of the default or give a separate written notice stating that if the default is not remedied, this lease shall terminate on a date certain, which shall be at least 60 days after receipt of the first notice. Upon the date specified in such notice, unless the default has been remedied, the lease shall expire automatically without further notice or action by the lessor and this lease and all rights of the lessee under the lease shall terminate. Upon termination of the lease the lessor shall have an immediate right to possession of the leasehold and any possession by the lessee shall be unlawful. It is specifically agreed that no judicial action shall be necessary to terminate this lease or to allow the

lessor to retake possession in the event of default by the lessee. No improvements may be removed from the leasehold while the lease is in default except with the lessor's prior written approval. If this lease is terminated for default, all compensation paid by the lessee is forfeited to the lessor. The lessor is not liable for any expenditures made or undertaken by the lessee under this lease. Any costs or fees, including attorney's fees, reasonably incurred by the lessor for the enforcement of this lease, shall be added to the obligations due and payable by the lessee.

(b) The rights, if any, of third-party security interest holders or lienholders are controlled solely by AS 38.05.103 and 11 AAC 58.590. If the lessee fails to remedy the default within the time allowed in subsection (a) of this section, the holder of an approved security interest who has received notice under subsection (a) of this section may remedy the default. The holder shall act within 60 days from the date of receipt of notice under subsection (a) of this section, or within any additional period the lessor allows for good cause.

(c) The lessor may, at the lessor's option, following the lessee's default and failure to remedy, or after termination of this lease due to such default and failure to remedy, accelerate the unpaid compensation for the remainder of the term of this lease. The lessee's obligation to pay such accelerated rent to the lessor survives termination of this lease.

(d) If this lease is terminated, or all or any portion of the leasehold is abandoned by the lessee, the lessor may immediately enter, or re-enter and take possession of the leasehold, and without liability for any damage, remove all persons and property from the leasehold and may, if necessary, use summary proceedings or an action at law. The words "enter" and "re-enter" as used are not restricted to their technical legal meaning. Any entry, re-entry, possession, repossession, or dispossession by the lessor, whether taken with or without judicial action, does not absolve, relieve, release, or discharge the lessee, either in whole or part, of any liability under the lease.

(e) The lessor, upon or at any time after giving written notice of any default, may enter or re-enter the leasehold to remedy any default by the lessee or exercise any right given under this lease, all without the intervention of any court being required. The curing of such default shall not be deemed for any purpose to be for the benefit of the lessee.

(f) At any time after termination of this lease, the lessor may re-let the leasehold, or any part thereof, in the name of the lessor for such term and on such conditions as the lessor may determine, and may collect and receive the compensation therefor. The lessor shall not be responsible or liable for failure to re-let the leasehold or for any failure to collect any compensation due upon such re-letting, nor shall the lessor be required to account for or pay to the lessee any excess compensation received as a result of such re-letting. The lessee shall be liable for any deficiency, and for all costs, expenses, and fees incurred by the lessor arising out of the default, including the lessor's efforts to re-let the leasehold.

(g) No right or remedy conferred upon or reserved to the lessor in this lease or by statute, or existing in law or equity, is intended to be exclusive of any other right or remedy, and each and every right shall be cumulative.

**22. Disposition of Improvements and Chattels After Termination.** AS 38.05.090 will govern disposition of any lessor-approved chattels or improvements left on the leasehold after termination. At the lessor's sole option, improvements not approved by the lessor shall be removed from the leasehold and the site restored to its original condition at the lessee's sole expense, or be forfeited to the lessor. The lessee shall be liable to the lessor for any costs, expenses, or damages arising out of the disposition of improvements not approved by the lessor, and may be required to pay rent on any improvements or chattels left on the parcel in accordance with 11 AAC 58.680.

**23. Indemnity to Lessor.** The lessee shall indemnify, defend, and hold the lessor harmless from and against all claims, demands, judgments, damages, liabilities, penalties, and costs, including attorney's fees, for loss or damage, including but not limited to property damage, personal injury, wrongful death, and wage, employment, or worker's compensation claims, arising out of or in connection with the use or occupancy of the leasehold by the lessee or by any other person holding under the lessee, or at the lessee's sufferance or invitation; and from any accident or fire on the leasehold; and from any nuisance made or suffered on the leasehold; and from any failure by the lessee to keep



the leasehold in a safe and lawful condition consistent with applicable laws, regulations, ordinances, or orders; and from any assignment, sublease, or conveyance, attempted or successful, by the lessee of all or any portion of the leasehold or interest therein contrary to the covenants and conditions of this lease. The lessee holds all goods, materials, furniture, fixtures, equipment, machinery, and other property whatsoever on the parcel at the sole risk of the lessee, and shall defend, indemnify and hold the lessor harmless from any claim of loss or damage by any cause whatsoever, including claims by third parties.

24. Insurance. If required by the lessor, the lessee shall obtain insurance in an amount determined by the lessor to be sufficient. The lessor shall be named as an additional insured party of any such insurance. The types and amount of insurance shall be specified in the attached stipulations made a part of this lease agreement and may be adjusted periodically. The lessee shall maintain that insurance as long as required by the lessor. Any insurance acquired by the lessee for the purpose of providing insurance coverage under this lease must be issued by an insurer authorized to do business in the State of Alaska under the provisions of AS 21.09.010 and AS 21.27.010 for the type of policy being written.

25. Bonding. If required by the lessor, the lessee shall furnish a bond, cash deposit, certificate of deposit, or other form of security acceptable to the lessor in an amount determined by the lessor to be sufficient to ensure faithful performance of the covenants and conditions of this lease, and to cover the cost of site cleanup and restoration and any associated costs after termination of the lease. The amount and conditions of the bond shall be specified in the attached stipulations made a part of this lease agreement. The lessee shall maintain the bond as long as the lessor deems necessary, and in the amount required by the lessor, which amount may be adjusted periodically.

26. Environmental Compliance. (a) The lessee shall, at the lessee's own expense, comply with all existing and hereafter enacted environmental responsibility laws ("Environmental Laws"). The lessee shall, at the lessee's own expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Authority") under the Environmental Laws.

(b) Should the Authority require that a remedial action plan be prepared and that a remedial action be undertaken because of the presence of, or any disposal, release, spill, or discharge, or threatened disposal, release, spill, or discharge of or contamination by hazardous materials at the leasehold that occurs during the term of this lease or arises out of or in connection with the lessee's use or occupancy of the land described in section 1 of this lease, then the lessee shall, at the lessee's own expense, prepare and submit the required plans and financial assurances and carry out the approved plans. The lessee's obligations under this section shall arise if there is any event or occurrence at the leasehold during the term of this lease, or arising out of or in connection with the lessee's use or occupancy of the land described in section 1 of this lease, that requires compliance with the Environmental Laws.

(c) At no expense to the lessor, the lessee shall promptly provide all information requested by the lessor for preparation of affidavits or other documents required by the lessor to determine the applicability of the Environmental Laws to the leasehold, and shall sign the affidavits promptly when requested to do so by the lessor.

(d) The lessee shall indemnify, defend, and hold harmless the lessor from all fines, penalties, suits, judgments, procedures, claims, demands, liabilities, settlements, and actions of any kind arising out of or in any way connected with the presence of or any disposal, release, spill, or discharge or any threatened disposal, release, spill, or discharge of or contamination by hazardous materials at the leasehold that occurs during the term of the lease or arises out of or in connection with the lessee's use or occupancy of the land described in section 1 of this lease; and from all fines, penalties, suits, judgments, procedures, claims, demands, liabilities, settlements, and actions of any kind arising out of the lessee's failure to provide all information, make all submissions, and take all steps required by the Authority under the Environmental Laws or any other law concerning any spill, discharge, or contamination that occurs during the term of this lease or arises out of or in connection with the lessee's use or occupancy of the land described in section 1 of this lease.

(e) The lessee agrees that it will not discharge or dispose of or suffer the discharge or disposal of any petroleum products, gasoline, hazardous chemicals, or hazardous materials into the atmosphere, ground, wastewater disposal

(e) The lessee agrees that it will not discharge or dispose of or suffer the discharge or disposal of any petroleum products, gasoline, hazardous chemicals, or hazardous materials into the atmosphere, ground, wastewater disposal system, sewer system, or any body of water.

(f) In any court action or administrative proceeding, in addition to all other applicable presumptions, it shall be rebuttably presumed that any environmental contamination of the leasehold (i) has been released on the leasehold; (ii) has resulted from acts or omissions of the lessee or its agents; and (iii) has occurred during the term of this lease. The lessee has the burden of rebutting the presumptions by clear and convincing evidence.

(g) This section of this lease does not in any way alter the State of Alaska's powers and rights or the lessee's duties and liabilities under Title 46 (or its successor) of the Alaska Statutes or other state, federal, or municipal statutes, regulations, or ordinances. For example, notwithstanding the provisions of this lease, the State of Alaska shall not be precluded from claiming under AS 46.03.822 that the lessee is strictly liable, jointly and severally, for damages and costs incurred by the state for clean up of contamination on the leasehold. The obligations and provisions of this section 26 shall survive the termination of this lease.

(h) As used in this lease, the term "hazardous materials" means any hazardous or toxic substance, material, or waste that is or becomes regulated by any municipal governmental authority, the State of Alaska, or the United States government.

27. Surrender of Leasehold. Upon the expiration, termination, or cancellation of this lease, the lessee shall peacefully leave and deliver up all of the leasehold in good, sanitary, and marketable condition, order, and repair.

28. Notices. (a) Any notice or demand by the lessee will be made by hand delivery to the Director, Division of Land, or by certified mail, postage prepaid, addressed as follows (or to a new address that the lessor designates in writing), with delivery occurring upon receipt by the lessor:

To the Lessor:

Division of Land, Southeast Region  
400 Willoughby Ave., Suite 400  
Juneau, Alaska 99801

(b) Any notice or demand by the lessor will be made by delivery as provided in 11 AAC 02.040(c). If delivery is by mail, the notice or demand will be addressed as follows (or to a new address that the lessee or its successor in interest designates in writing):

To the Lessee:

**SouthEast Alaska Regional Health Consortium**  
**3245 Hospital Drive**  
**Juneau, Alaska 99801**

The lessor will deliver a copy of any such notice or demand to each holder of a security interest in the leasehold whose assignment has been approved by the lessor under section 6 of this lease. Any security interest not approved as provided in section 6 is insufficient to require notice by the lessor under AS 38.05.103.

(c) Any notice or demand regarding the lease must be in writing and will be complete if delivered as set out above.

29. Penalty Charges. The lessee shall pay a fee for any late payment or returned check issued by the lessee as

(1) Late Payment Penalty: The greater of either the fee specified in 11 AAC 05.010 or interest at the rate set by AS 45.45.010(a) will be assessed on a past-due account until payment is received by the lessor. Acceptance of a late payment or of a service charge for a late payment is subject to the lessor's rights under sections 20 and 21 of this lease.

(2) Returned Check Penalty: A returned check fee as provided in 11 AAC 05.010 will be assessed for any check on which the bank refuses payment. If the bank refuses payment, the default termination date remains the same. Late penalties under subsection (1) of this section shall continue to accumulate.

30. Modification. This lease may be modified or amended only by a document signed by both parties. Any purported amendment or modification has no legal effect until placed in writing and signed by both parties.

31. Choice of Law. This lease shall be construed under the laws of the State of Alaska. The lessee confers personal jurisdiction on the courts of the State of Alaska for any litigation under this lease.

32. Severability of Clauses of Lease Agreement. If any clause or provision of this lease is, in a final judicial proceeding, determined illegal, invalid, or unenforceable under present or future laws, then the lessor and the lessee agree that the remainder of this lease will not be affected, and in lieu of each clause or provision of this lease that is illegal, invalid, or unenforceable, there will be added as a part of this lease 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.

By signing this lease, the lessor and the lessee agree to be bound by its provisions.

LESSEE:

Kenneth Brown, owner, U.P.

SouthEast Alaska Regional Health Consortium

LESSOR:

Andrew W. Pekovich

Andrew W. Pekovich Regional Manager

STATE OF ALASKA

)  
) ss.

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\_\_\_\_ Judicial District )

THIS IS TO CERTIFY that on this 15 day of October, 1998 before me personally appeared Kenneth Brewer known to me to be the Senior Vice President of SEARHC the corporation which executed the foregoing Lease, and he acknowledged to me that he executed the same for and on behalf of said corporation, and that he is fully authorized by said corporation so to do; Kenneth Brewer acknowledged to me that he signed and executed the same freely and voluntarily, for the uses and purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



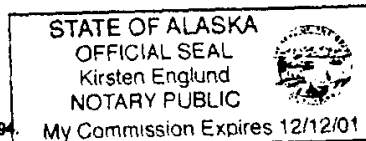
Cheryl A. Jordan  
Notary Public in and for the State of Alaska  
My Commission expires: May 1, 2002

STATE OF ALASKA )

) ss.

1st Judicial District )

THIS IS TO CERTIFY THAT ON THIS 18th day of November, 1998, before me personally appeared Andrew W. Pekovich, of the Division of Land of the Department of Natural Resources of the State of Alaska, who executed the foregoing Lease and acknowledged voluntarily signing the same.



Kirsten Englund  
Notary Public in and for the State of Alaska  
My commission expires: 12/12/01

Approved as to form February 9, 1994

/s/ Elizabeth J. Barry, Assistant Attorney General

After recording in the Sitka Recording District, this document must be returned to the Department of Natural Resources, Division of Land, Southeast Regional Office, 400 Willoughby Avenue, Suite 400, Juneau, Alaska 99801.

Attachment A  
To  
Lease Agreement ADL 106359

**SPECIAL STIPULATIONS**

1. **Lease Development.** The development of the Lease area shall be limited in form and scope to the area and improvements specified in the development and operations plan, included as Attachment 'B' (2 pages). The lessee is responsible for accurately siting development and operations within this area. Use of the area for purposes other than those specified in this agreement, or any written and approved amendment thereto, is a violation of this lease. Any proposed revisions to the development and operations plan must be approved in writing by the Lessor before the change in use or development occurs. This lease must be utilized for the purpose described in the approved development plan. Failure to make substantial use of the land, consistent with the approved development plan, within five years, will, in the Director's discretion, constitute grounds for cancellation.
2. **Insurance.** Pursuant to lease condition #24, the Lessee shall:
  - a) Consult, as appropriate, with an insurance professional licensed to transact the business of insurance under Alaska Statute, Title 21, to determine what types and levels of insurance are adequate to protect the Lessee and Lessor (the State, its officers, agents and employees) relative to the liability exposures of the Lessee's commercial operations.
  - b) Secure or purchase at Lessee's own expense, and maintain in full force at all times during the term of the lease, adequate insurance policies and coverage levels recommended by an insurance professional, licensed to transact the business of insurance under Alaska Statute, Title 21, and acceptable to the Lessor. The Lessor will expect to see at a minimum, the following types of coverage:

**Commercial General Liability Insurance:** The policy shall be written on an "occurrence" form and shall not be written as a "claims-made" form unless specifically reviewed and agreed to by the Division of Risk Management, Alaska Department of Administration.

**Workers' Compensation Insurance:** The lessee shall provide and maintain, for all its employees, Workers' Compensation Insurance as required by AS 23.30.045. Where applicable, coverage must comply with

any other statutory obligations, whether Federal (i.e. U.S.L.&H)., or, Jones Act) or other state laws in which employees are engaged in work on the leased premises. The insurance policy must contain a waiver of subrogation clause in favor of the State of Alaska.

- c) Ensure that the State of Alaska, Department of Natural Resources is included as an additional insured on all liability policies held by the Lessee that provide coverage for liabilities connected to the operations of the Lessee on or in conjunction with the leased premises, referred to as ADL 106359.
- d) Provide proof of insurance to the Lessor on a yearly basis. The certificate must provide for a 30-day prior notice to the State of Alaska in the event of cancellation, nonrenewal or material change of conditions. Failure to furnish satisfactory evidence of insurance, or lapse of the policy, are material breaches of the lease contract and shall be grounds, at the option of the Lessor, for termination of the lease agreement. Generally, the Lessor will rely upon the best professional judgement of the licensed insurance agent and, at renewal, the agent's annual re-assessment of the insured's liability exposure for determination of adequate levels of coverage. The Lessor hereby reserves the right to require additional coverage if, in its discretion, it determines that it may be warranted. Any changes in the approved lease development and operations plan, or the existence of significant claims against the liability coverage, would warrant examination of the insurance by the state to determine adequacy.
- e) In the event the Lessee becomes aware of a claim against any of its liability coverage, the Lessee shall notify, and provide documentation and full disclosure of the claim to the Lessor within 20 days.
3. **Maintenance.** The State assumes no responsibility for maintenance of improvements constructed on state land nor liability for injuries or damages attributable to that construction.
4. **Solid Waste** All solid waste and debris generated from the activities conducted under this Lease shall be removed to a facility approved by the ADEC prior to the expiration, completion, or termination of the Lease or activities. Temporary storage and accumulation of solid waste (prior to its removal) shall conform to the following:
- Solid waste shall be stored in a manner that prevents a litter violation under AS 46.06.080;
- Putrescible wastes (material that can decompose and cause obnoxious odors) shall be stored in a manner that prevents the attraction of or access to wildlife or disease vectors; and



The premises shall be maintained free of solid waste that might create a health or safety hazard.

5. **Wastewater Disposal.** Disposal of wastewater from any operation associated with this Lease to state lands or waters is specifically prohibited, unless otherwise approved by the Alaska Department of Environmental Conservation.
6. **Fuel and hazardous substances.** No fuel or hazardous substances are to be stored on the subject parcel. Prior written approval from the lessor is required for a change in this restriction. Such approval may include additional stipulations and a change in the amount required for the performance guarantee.
7. **Notification.** The lessee shall immediately notify DNR and DEC by phone of any unauthorized discharge of oil to water, any discharge of hazardous substances (other than oil), and any discharge of oil greater than 55 gallons on land. All fires and explosions must also be reported.

The DNR 24 hour spill report number is (907) 451-2678; the Fax number is (907) 451-2751. The DEC spill report number is (800) 478-9300. DNR and DEC shall be supplied with all follow-up incident reports.

8. **Inspection.** Authorized representatives of the State of Alaska shall have reasonable access to the subject parcel for purposes of inspection. The Lessee may be charged fees under 11 AAC 05.010(a)(7)(M) for routine inspections of the subject parcel, inspections concerning non-compliance, and a final close-out inspection.
9. **Compliance with Governmental Requirements.** The lessee shall, at its expense, comply with all applicable laws, regulations, rules and orders, and the requirements and stipulations included in this Lease. Lessee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.
10. **Destruction of Markers.** All survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed lease corner posts shall be protected against damage, destruction, or obliteration. The lessee shall notify the Lessor of any damaged, destroyed, or obliterated markers and shall reestablish the markers at the lessee's expense in accordance with accepted survey practices of the Division of Land.
11. **Ownership of Improvements.** Should SEARHC choose to terminate the lease, or should the lease be terminated by default, breach, or through conditions or procedures outlined in the lease, SEARHC shall, at the request of the lessor,

**provide, within 6 months of the termination, a Quit-Claim-Deed, conveying all interest it may have in the improvements on the lease area to the lessor.**

- 12. The lessor shall have the right, without compensation to the lessee to terminate this lease within one year of the termination of SEARCH as the contract operator for the hospital, or loss of its tax-exempt status under the Internal Revenue codes.**

Attachment B, ADL 106359, Operations/Development Plan

Remodel and use portions (approximately 11,000 square feet; the first floor) of Penrod Hall for storage/warehouse and minimal support office space. Remodeling will consist of:

- 1) running electrical lines from Mt. Edgecumbe Hospital to Penrod Hall;
- 2) establishing a water line, if necessary, from Mt. Edgecumbe Hospital to Penrod Hall;
- 3) replacing interior lights;
- 4) replacing the electrical wiring throughout the first floor;
- 5) replacing the main entrance door with a wide roll-up warehouse door;
- 6) adding a loading dock at the main entrance;
- 7) removing the existing exterior paint and repainting;
- 8) repainting the first floor walls and ceiling;
- 9) removing the existing carpet; and
- 10) repairing any leaks in the existing roof.

The estimated cost of the remodel is \$106,000. Work shall be performed during the first five years of the lease.

Use of other portions of Penrod Hall or ASLS No. 97-63 will require permission of the lessor, the lessors successor or assigns, in writing.

Plan View of lease site = Page 2 of 2 Pages.



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2423

<u>Sitka</u>		REC. DIST.
DATE	<u>11-23</u>	19 <u>98</u>
TIME	<u>8:30</u>	<u>A.M.</u>
Requested By <u>BS/JNR</u>		
Address _____		