



**Don Young Port of Alaska**

**Terminal 1 Crane Agreements Update**

**March 20, 2025**



Crane Agreement

Crane Use Agreement

Construction Contract



# Three Agreements: To Be Finalized Together

- T1 Construction Contract
  - Governs responsibilities of T1 construction contractor (after selection) to timely complete replacement of terminal 1
  - Redlines currently under review as part of the RFP process
  - Includes language governing damages due to MOA if dock is not complete in time for crane installation by Matson
- Crane Agreement
  - Governs the agreement between the MOA and Matson under which Matson will procure, transport, deliver, and install new Gantry cranes for Terminal 1
  - Includes language governing damages MOA will pay to Matson if dock is not complete in time for scheduled crane installation
- Crane Use Agreement
  - Governs how Matson will use and operate the Gantry cranes once installed on the dock at Terminal 1
  - Includes language governing permitted non-Matson uses of the cranes after installation

# Crane Agreements: Risks

- MOA does not preserve adequate flexibility to allow for humanitarian, Department of Defense, Department of Homeland Security, FEMA, and intermittent special commercial uses (Ambler Metals, etc.).
- MOA contractually obligated to pay damages to Matson if the dock is not sufficiently complete to allow for timely installation of the cranes when they arrive (though MOA really just sits in the middle of the “damages sandwich”).

# Crane Use Agreement: Preserving Flexibility

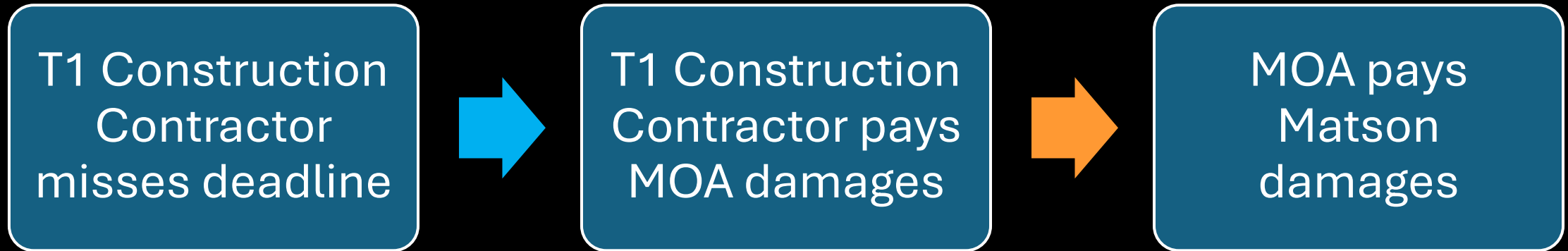
C. Matson will make available the Matson Cranes for third party use as follows:

1. Matson will make available the Matson Cranes for non-commercial use and humanitarian aid use outside of Matson's ongoing operations and subject to agreed-upon rates between Matson and the user. Matson's approval of proposed non-commercial use or humanitarian aid use shall not be unreasonably withheld. Matson will charge third parties under this paragraph an hourly rate for the use of the Matson Cranes, with a minimum time requirement no less than four (4) hours. Matson will retain the entire amount of such charges.

2. Matson may make available the Matson Cranes for third party commercial use at Matson's sole discretion. Notwithstanding the foregoing, if use is requested by an agent of the Department of Defense, the Department of Homeland Security, or the Federal Emergency Management Agency, Matson shall not unreasonably withhold such use. Further, if the requested use is both Transient and Non-Permanent, Matson shall not withhold such use, so long as the use is also (i) safe, (ii) within the capacity of the Matson Cranes, and (iii) will not otherwise interfere with Matson's operations. For purposes of this paragraph, "Transient" means the proposed use will make no more than four calls within any period within 365 days utilizing the Matson Cranes. For purposes of this paragraph, "Non-Permanent" means the proposed use will not be more than eight calls within any four year period. Prior to any use under this paragraph, the applicable third party must enter a written agreement with Matson regarding rates and charges.

3. Anchorage will enter into a use agreement with any Similarly Situated User including substantially similar third party use restrictions as those in this section. For the purposes of this paragraph a Similarly Situated User means a commercial organization operating privately owned cargo or freight loading and unloading cranes on dock infrastructure owned by Anchorage. |

# Crane Agreement: the Damages Sandwich



## Negotiation Goals:

- Minimize MOA risk for damages caused by contractor delay
- Preserve optionality if deadlines are missed, including option to purchase cranes at cost