

Submitted by: Chair of the Assembly at the
Request of the Mayor

Prepared by: Dept. of Law

For reading: February 1, 2011

CLERK'S OFFICE

APPROVED

Date: 2-15-11
ANCHORAGE, ALASKA
AO No. 2011-19

**AN ORDINANCE APPROVING ACQUISITION OF THE WHITTIER-ANCHORAGE
PIPELINE TANK FARM (48 ACRES) FOR FAIR MARKET VALUE, IN THE FORM
OF IN-KIND CONSIDERATION, FROM THE U.S. ARMY TO THE MUNICIPALITY
OF ANCHORAGE FOR THE PORT OF ANCHORAGE.**

WHEREAS, the National Defense Authorization Act for Fiscal Year 2002, Public Law 107-107, Section 2831, authorized the Secretary of the Army to convey the Whittier-Anchorage Pipeline Tank Farm, consisting of two adjoining parcels, Tracts Q and Y, within Government Lots 10 and 15, Section 7, T13N, R3W, Seward Meridian, containing 48 acres M/L, to the Municipality of Anchorage for the Port of Anchorage; and

WHEREAS, appraisals were conducted between 2005 and 2010, with adjustments for a revised legal description, surveys, creation of a greenbelt/safety buffer zone, and easements to be retained by the U.S. Army, establishing the fair market value of the Anchorage-Whittier Pipeline Tank Farm at \$10,305,000.00 (Final Appraisal dated February 25, 2010, Erickson & Associates, attached to the Assembly Memorandum as **Exhibit "A"**); and

WHEREAS, on January 9, 2009, the U.S. Army Installation Management Command issued a Finding of Suitability to Transfer, clearing the way for final negotiation of in-kind consideration for the conveyance; and

WHEREAS, the parties negotiated in good faith to agree upon in-kind consideration appropriate to the on-going mission of the U.S. Army and the Port of Anchorage, and determined an access road from the U.S. Army to the Port, plus the future on-going environmental remediation activities for the Pipeline Tank Farm, are sufficient to acquire the property; and

WHEREAS, on October 19, 2010, the negotiated consideration agreement was finalized, and subsequently accepted in full by the U.S. Army Garrison and Corps of Engineers, subject to approval by the Assembly; and

WHEREAS, on December 13, 2010, the Corps of Engineers published the Quitclaim Deed for public comment; now, therefore,


THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. The acquisition of the Whittier-Anchorage Pipeline Tank Farm, totaling approximately 48 acres, with a fair market value of \$10,305,000.00, upon the terms

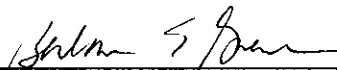
1 and conditions outlined in the Quitclaim Deed, with the property value paid solely with
2 and in exchange for in-kind consideration described herein and in the Assembly
3 Memorandum, is hereby approved.
4

5 **Section 2.** This ordinance shall be effective immediately upon passage and
6 approval by the Assembly.
7

8 PASSED AND APPROVED by the Anchorage Assembly on this 15th day of
9 February, 2011.
10

11 
12 _____
13 Chair of the Assembly

14 ATTEST:

15
16 
17 _____
18 Municipal Clerk

MUNICIPALITY OF ANCHORAGE

Summary of Economic Effects -- Utilities

AO Number: 2011-19

Title: AN ORDINANCE APPROVING ACQUISITION OF THE WHITTIER-ANCHORAGE PIPELINE TANK FARM (48 ACRES) FOR FAIR MARKET VALUE, IN THE FORM OF IN-KIND CONSIDERATION, FROM THE U.S. ARMY TO THE MUNICIPALITY OF ANCHORAGE FOR THE PORT OF ANCHORAGE.

Sponsor: Mayor
 Preparing Agency: Port of Anchorage
 Others Impacted: None

CHANGES IN REVENUES AND EXPENSES:			(In Thousands of Dollars)		
	FY11	FY12	FY13	FY14	FY15
Operating Revenues:					
Lease	\$ -	\$ 90.0	\$ 90.0	\$ 90.0	\$ 90.0
TOTAL OPERATING REVENUES	\$ -	\$ 90.0	\$ 90.0	\$ 90.0	\$ 90.0
Operating Expenses:					
Liability Insurance	\$ 15	\$ 30	\$ 30	\$ 30	\$ 30
TOTAL OPERATING EXPENSES	\$ 15	\$ 30	\$ 30	\$ 30	\$ 30
Non-Operating Revenues:					
Security Tariff	\$ -	\$ 40	\$ 40	\$ 40	\$ 40
TOTAL NON-OPERATING REVENUES	\$ -	\$ 40	\$ 40	\$ 40	\$ 40
Non-Operating Expenses:					
None					
TOTAL NON-OPERATING EXPENSES	\$ -	\$ -	\$ -	\$ -	\$ -
NET INCOME (REGULATED)	\$ (15)	\$ 60	\$ 60	\$ 60	\$ 60
POSITIONS: FT/PT and Temp	0	0	0	0	0

PUBLIC SECTOR ECONOMIC EFFECTS:

No added burden to Municipal property taxes. Port revenues generated from tenant occupancy will cover all associated operating and maintenance expenses, should any be needed.

PRIVATE SECTOR ECONOMIC EFFECTS:

TBD, base on any future tenant-associated payroll, revenues and expenses

Prepared by: Steve Ribuffo, Deputy Port Director
 Validated by OMB: _____
 Approved by: _____

Telephone: 343-6200
 Date: _____
 Date: _____

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 71-2011

Meeting Date: February 1, 2011

From: MAYOR

Subject: AN ORDINANCE APPROVING ACQUISITION OF THE WHITTIER-ANCHORAGE PIPELINE TANK FARM (48 ACRES) FOR FAIR MARKET VALUE, IN THE FORM OF IN-KIND CONSIDERATION, FROM THE U.S. ARMY TO THE MUNICIPALITY OF ANCHORAGE FOR THE PORT OF ANCHORAGE.

This ordinance requests approval to acquire 48 acres from the U.S. Army located in the Port of Anchorage, known as the Whittier-Anchorage Pipeline Tank Farm, for fair market value paid with in-kind consideration.

The National Defense Authorization Act for Fiscal Year 2002, Public Law 107-107, Section 2831, authorized the Secretary of the Army to convey to the Port of Anchorage a 48-acre parcel on the south end of the Port, previously known as the Whittier-Anchorage Pipeline Tank Farm. The parcel consists of 2 adjoining tracts, Tracts Q and Y, within Government Lots 10 and 15, Section 7, T13N, R3W, Seward Meridian.

Since congressional authorization of the conveyance (PL 107-107) in 2002, the Municipality, the U.S. Army Garrison – Fort Richardson, and the U.S. Army Corps of Engineers have worked diligently on the details necessary to finalize the acquisition. The details include compliance with AR 2001-307, amending the Port of Anchorage Master Plan to require conveyance of a green belt/safety buffer for the Government Hill community, as well as due diligence in identifying, reviewing, and categorizing existing entitlements, easements, leases and other interests in the parcel.

On January 9, 2009, the U.S. Army's Installation Management Command issued a Finding of Suitability to Transfer. This action cleared the way for final negotiation of in-kind consideration for the conveyance.

The Port and the U.S. Army Garrison came to agreement on the in-kind consideration terms in early October 2010. On October 19, 2010, the Municipal Attorney's Office made final modification recommendations to the negotiated consideration agreement, which were subsequently accepted in full by the U.S. Army Garrison and Corps of Engineers.

As appraised, the fair market value for the property is \$10,305,000. The Port, the U.S. Army Corps of Engineers Alaska District Real Estate Division, and U.S. Army Garrison-Alaska agreed payment for the acquisition shall consist solely of in-kind consideration. After review of many alternatives, the parties agreed two in-kind

consideration arrangements shall pay in full for the conveyance:

1. The Port constructs a 1-mile paved and lighted military port access road from Joint Base Elmendorf-Richardson to the Port of Anchorage. Through the design charrette process, the Army and the Port agreed the value of this arrangement is \$2.3 million; and
2. The Port assumes responsibility and liability for all future (after conveyance) remedial and corrective actions of environmental conditions or contamination on the property (except the South Jet Pipeline, retained by the Army). The Army and the Port agreed the value of this arrangement at \$8.0 million. The responsibilities encompass compliance issues and property use restrictions (described in detail in the Quitclaim Deed), including:
 - Commercial or industrial activities only;
 - Screening of soil excavated during construction activities;
 - Semi-annual ground water monitoring;
 - Maintenance of existing institutional controls, including fencing, posting of warning signs, and limiting access to address potential human health & environmental risks; and
 - Use of perched water as a source of potable water.

The Quitclaim Deed approved by all the parties includes a description of the in-kind consideration, as well as incorporating the consideration agreement. The final version of the Quitclaim Deed culminates eight years of intergovernmental negotiations, environmental studies, and land survey actions, and satisfy the needs and desires of all parties involved. The Port of Anchorage is prepared to fully comply with its obligation under the Quitclaim Deed.

The Port has been approached by two businesses wanting to occupy a total of 94,000 square feet. The potential income and expense is outlined in the Summary of Economic Effects.

THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE APPROVING ACQUISITION OF THE WHITTIER-ANCHORAGE PIPELINE TANK FARM (48 ACRES) FOR FAIR MARKET VALUE, IN THE FORM OF IN-KIND CONSIDERATION, FROM THE U.S. ARMY TO THE MUNICIPALITY OF ANCHORAGE FOR THE PORT OF ANCHORAGE.

Prepared by:	Stephen Ribuffo, Deputy Director, Port of Anchorage
Approved by:	William J. Sheffield, Director, Port of Anchorage
Concur:	Dennis A. Wheeler, Municipal Attorney
Concur:	George J. Vakalis, Municipal Manager
Respectfully submitted:	Daniel A. Sullivan, Mayor

Exhibit "A"

RECEIVED
MAR 2 2010

ERICKSON & ASSOCIATES
2804 West Northern Lights Boulevard, Anchorage, Alaska 99517
Telephone: (907) 274-8691

Port of Anchorage
2000 Anchorage Port Road
Anchorage, AK 99501

February 25, 2010

Attn: Edward Leon
Director, Finance and Administration

RE: 48.2 Acres of Industrial Land located in the Anchorage Port Area (Former Defense
Fuels Tank Farm Site), Anchorage, Alaska (Our File NO. 2929-09-4)
Revised Buffer and Remainder Areas

Dear Mr. Leon:

You have provided us with a revised description and survey of the proposed greenbelt/safety buffer zone. As requested, we have reviewed our May 25, 2009 appraisal report of the above project, and our letter dated September 15, 2009, to determine the impact of this revised information regarding the size and extent of the buffer area.

Based on the revised survey information, the buffer area is increased from 230,868 SF to 113,387 SF, which was valued at \$1/SF. The Remainder Portion is decreased from 1,548,821 SF to 1,435,434, which was valued at \$4/SF. The Lease Area-Port Related Portion remains the same, or 318,092 SF, which was valued at \$8.75/SF.

The revised market value of the Subject property, "As If Vacant and Unimproved", as of the original date of valuation, April 16, 2009, would be as follows:

Designated Buffer Greenbelt:	344,255 SF X \$1.00 = \$	344,255
Lease Area- Port Related Portion:	318,092 SF X \$8.75 = \$	2,783,305
Remainder Portion of Subject Parcel:	1,435,434 SF X \$5.00 = \$	<u>7,177,170</u>
Total Market Value of Subject Parcel:		\$10,304,730
	(RD)	\$10,305,000

TEN MILLION THREE HUNDRED FIVE THOUSAND DOLLARS

(\$10,305,000)

If you have any further questions please let us know. We appreciate the opportunity to be of service to the Port of Anchorage.

Sincerely,


Robert C. Erickson, MAI

ERICKSON & ASSOCIATES
REAL ESTATE APPRAISERS & CONSULTANTS

This deed was prepared/reviewed by

Attorney
U.S. Army Corps of Engineers Alaska
District

**QUITCLAIM DEED
WHITTIER-ANCHORAGE PIPELINE TANK FARM
ANCHORAGE, ALASKA
TRACTS Q & Y**

This QUITCLAIM DEED is made between the UNITED STATES OF AMERICA (hereinafter the "GRANTOR"), acting by and through the Director of Real Estate, pursuant to a delegation of authority from the SECRETARY OF THE ARMY (hereinafter the "ARMY"), under the authority of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. No. 107-107), C/O District Commander, United States Army Corps of Engineers, Alaska District, ATTN: CEPOA-RE, P.O. Box 6898, JBER, Alaska 99506-0898, and the PORT OF ANCHORAGE, an Entity of the Municipality of Anchorage, Alaska (hereinafter the "GRANTEE").

WITNESSETH THAT:

WHEREAS, Section 2831 of Pub. L. No. 107-107 authorized the ARMY to convey to the GRANTEE all of the GRANTOR's right, title, and interest to certain real property, including any improvements thereon;

WHEREAS, as consideration for the conveyance, the GRANTEE has agreed to pay in cash or in kind an amount not less than the fair market value of the real property hereby conveyed; and

WHEREAS, a form of the in-kind consideration offered by the GRANTEE may consist of environmental remediation activities for the real property conveyed.

NOW THEREFORE, the GRANTOR, for and in consideration of \$10,305,000.00 in other good and valuable consideration as set forth in Section 3 herein, and in the CONSIDERATION AGREEMENT attached hereto as Exhibit D the receipt of all of which is hereby acknowledged, does hereby REMISE, RELEASE AND FOREVER QUITCLAIM unto,

the GRANTEE, its successors and assigns, all its right, title, and interest in the property identified as the Whittier-Anchorage Pipeline Tank Farm, located at 1217 Port Road at the Port of Anchorage in Anchorage, Alaska, situated, lying and being in the Municipality of Anchorage in the State of Alaska, located as shown on **Exhibit A.1 Sheet 1 and 2**, attached hereto and made a part hereof (hereinafter referred to as the "Property") being described as follows:

The Property is comprised of two adjoining parcels of land, Tracts Q and Y, within Government Lots 10 and 15, of Section 7, Township 13 North, Range 3 West, Seward Meridian, Anchorage Recording District, Third Judicial district in the State of Alaska; said parcels more specifically described by metes and bounds based on Alaska State Plane Coordinates for Zone 4, NAD27 are as follows:

Note: Basis of bearing from "GLO, 1935" C1/4 Cor. Sec. 7 (North 2642249.92 and East 520955.32) to USACE Monument "C-5, 1948" (North 2642293.86 and East 521958.13) is North 87°29'28" East, a distance of 1,003.87 feet.

TRACT Q

Commencing at "GLO, 1935" benchmark for the Center ¼ Corner for said Section 7 with coordinates of North 2642249.92 and East 520955.32 and THE TRUE POINT OF BEGINNING;

thence South 89°52'07" West, a distance of 252.12 feet; thence North 17°51'57" East, a distance of 463.97 feet; thence South 75°59'24" West, a distance of 491.19 feet; thence South 80°21'49" West, a distance of 89.99 feet; thence South 87°02'12" West, a distance of 161.48 feet; thence South 79°17'02" West, a distance of 112.99 feet; thence South 67°22'00" West, a distance of 108.48 feet; thence South 56°59'48" West, a distance of 231.71 feet; thence North 41°30'47" East, a distance of 550.44 feet; thence North 47°52'32" East, a distance of 181.90 feet to a point on a 349.87 foot radius curve to the right; thence on said curve through a central angle of 18°02'30" for an arc distance of 109.98 feet; thence North 89°27'27" East, a distance of 588.42 feet; thence North 62°38'32" East, a distance of 410.84 feet; thence North 30°35'27" East, a distance of 491.27 feet; thence North 89°52'04" East, a distance of 926.75 feet; thence South 0°17'28" East, a distance of 989.54 feet; thence South 89°49'32" West, a distance of 164.94 feet; thence South 0°17'28" East, a distance of 330.08 feet; thence South 89°52'04" West, a distance of 924.62 feet; thence North 1°31'03" West, a distance of 176.40 feet; thence South 81°03'47" West, a distance of 300.95 feet; thence South 38°39'33" West, a distance of 147.02 feet; thence South 10°56'10" West, a distance of 15.99 feet to the said Center ¼ Corner of Section 7 and THE TRUE POINT OF BEGINNING.

Contains 46.882 acres, more or less.

TRACT Y

Commencing at a "GLO, 1935" benchmark for the Center ¼ Corner for said Section 7 with coordinates of North 2642249.92 and East 520955.32 and THE TRUE POINT OF BEGINNING.

Thence North 10°56'10" East, a distance of 15.99 feet; Thence North 38°39'33" East, a distance of 147.02 feet; Thence North 81°03'47" East, a distance of 300.95 feet; Thence South 1°31'03" East, a distance of 176.40 feet; Thence South 89°52'03" West, a distance of 396.85 feet to the said Center ¼ Corner of Section 7 and THE TRUE POINT OF BEGINNING.

Containing approximately 1.210 acres, more or less

Tracts Q and Y comprise a total of 48.09 acres, more or less

As described in a current Record of Survey Plat dated November 2009 prepared by William D. Cohen, R&M Consultants, Inc, Registered Professional Land Surveyor No. LS-7537, in accordance with the Standards of Practice for Professional Land Surveyors in the State of Alaska: labeled as **Exhibit A.1, Sheet 1**, and filed with the Anchorage Recorder December 7, 2009.

The above-described property was withdrawn from the public domain by Executive Order 8102, as amended, and Public Land Order 3222.

SUBJECT TO all valid and existing restrictions, reservations, covenants, conditions, and easements, including but not limited to rights-of-way for railroads, highways, pipelines, and public utilities, if any, whether of public record or not.

TO HAVE AND TO HOLD the property granted herein to the GRANTEE and its successors and assigns, together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, or claim whatsoever of the GRANTOR, either in law or in equity and subject to the terms, reservations, restrictions, covenants, and conditions set forth in this Deed.

RESERVING UNTO the GRANTOR a perpetual and assignable right and easement for the operation, maintenance, protection, and repair of an existing fuel transmission pipeline (known and referred to herein as the "South Jet Pipeline") and for the installation of additional or replacement fuel transmission lines, if necessary in the future, in the sole judgment of the GRANTOR, in the easement area defined below (hereinafter referred to as the "Easement Area"). The Easement Area is identified as the South Jet Pipeline and depicted on **Exhibit A.1, Sheet 3**, attached to and made a part hereof, and described as follows:

A parcel of land located within Section 7, Township 13 North, Range 3 West, Seward Meridian, Alaska more specifically within Tracts Q and Y, Whittier-Anchorage POL Pipeline Tank Farm (REC OF SURVEY No. 2009-104) Anchorage Recording District, and more particularly described as follows:

Commencing at a 1 ½" brass cap monument marking the southwest corner of said Tract Q, from which an aluminum cap monument marking the north corner of the most southerly west line of said tract bears North 17°51'24" East a distance of 463.93 feet, said line being the Basis of Bearings for this description; thence on said line North 17°51'24" East a distance of 96.04 feet to the True Point of Beginning for this description;

Thence departing said west boundary North 71°43'53" East a distance of 47.16 feet, the side lines of said easement being extended or shortened to terminate at said southwesterly boundary; thence North 86°25'34" East a distance of 168.88 feet; thence South 44°25'32" East a distance of 72.93 feet to the northwest boundary of said Tract Y; thence South 44°25'32" East a distance of 46.33 feet; thence North 83°21'38" East a distance of 278.47 feet; thence South 89°38'44" East a distance of 44.45 feet to the east boundary of said Tract Y; thence South 89°38'44" East a distance of 560.68 feet; thence North 54°27'21" East a distance of 376.93 feet; thence North 26°17'01" East a distance of 125.22 feet to the point of intersection with the most southerly east boundary of said Tract Q extended, and the terminus of said easement, from which the southeast corner of said Tract Q bears South 00°13'26" East a distance of 387.71 feet,

Containing 86,053 square feet (1.976 acres) more or less.

As shown on the current Record of Survey Plat dated Nov 2009 prepared by William D. Cohen, R&M Consultants, Registered Professional Land Surveyor No. LS-7537, in accordance with the Standards of Practice for Professional Land Surveyors in the State of Alaska: labeled as **Exhibit A.1, Sheet 3** and filed with the Anchorage Recorder December 7, 2009.

The Easement area will extend twenty-five (25) feet on either side of the center line of the existing pipeline, and the GRANTEE will not build any road or structure on the Easement Area unless at least four (4) feet of top cover is placed on the pipeline. For all other portions of the Easement area, the GRANTEE will maintain three (3) feet of top cover at all times.

GRANTOR shall retain the right of entry onto the Property to make repairs, perform maintenance, undertake measures necessary to protect the pipeline, and to install new or replace existing piping with respect to the South Jet Pipeline and any new installations in the Easement Area. The use of the Easement Area includes the ability of the GRANTOR to employ any machinery or service equipment necessary for repair, maintenance, protection, or replacement of the South Jet Pipeline, and any new installations. Any roads, structures, or improvements built by the GRANTEE will be done so at its own risk. If a road, structure, or improvement covers any portion of the Easement Area and the removal of that road, structure, or improvement is necessary to gain access to the South Jet Pipeline and any new installations, the GRANTOR reserves the right and ability to remove any road, structure, or improvement after first providing GRANTEE reasonable notice of the intended undertaking. Should GRANTEE elect to do so, GRANTEE will be provided a reasonable amount of time to remove any improvement that obstructs GRANTOR'S access to piping within the Easement Area. In exercising this right to remove obstacles impeding access to piping within the Easement Area, GRANTOR will take all reasonable measures to minimize any damage to the GRANTEE's improvements within the

Easement Area. The GRANTOR will not be liable for any damage to, or destruction of, any roads, structures, or improvements resulting from its use and exercise of the rights contained in this reservation.

AND IT IS FURTHER AGREED AND UNDERSTOOD by and between the parties hereto that the GRANTEE, by its acceptance of this Deed, agrees that, as part of the consideration for this Deed, the GRANTEE covenants and agrees for itself, its successors and assigns, forever, that this Deed is made and accepted upon each of the following covenants, which covenants shall be binding upon and enforceable against the GRANTEE, its successors and assigns, in perpetuity by the GRANTOR and other interested parties as allowed by federal, state or local law; that the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS set forth here are a binding servitude on the Property herein conveyed and shall be deemed to run with the land in perpetuity; and that the failure to include the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in subsequent conveyances does not abrogate the status of these restrictions as binding upon the parties, their successors and assigns:

1. PROPERTY COVERED BY NOTICE, DESCRIPTION, ACCESS RIGHTS, AND COVENANTS MADE PURSUANT TO SECTION 120(h)(3)(A) of the COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 (42 U.S.C. § 9620(h)(3)(A)):

For the property, the GRANTOR provides the following notice, description, and covenants and retains the following access rights:

a. Notices Pursuant to Section 120(h)(3)(A)(i)(I) and (II) of the COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(I) AND (II)):

Pursuant to section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(I) and (II)), available information regarding the type, quantity, and location of hazardous substances and the time at which such substances were stored, released, or disposed of, as defined in section 120(h), is provided in **Exhibit B**, attached hereto and made a part hereof.

b. Description of Remedial Action Taken, if Any, Pursuant to Section 120(h)(3)(A)(i)(III) of the COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)):

Pursuant to section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)), a description of the remedial action taken, if any, on the property is provided in **Exhibit B**, attached hereto and made a part hereof.

c. Covenant Pursuant to Section 120(h)(3)(A)(ii) and (B) of the COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 (42 U.S.C. § 9620(h)(3)(A)(ii) AND (B)):

Pursuant to section 120(h)(3)(A)(ii) and (B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(ii) and (B)), the GRANTOR warrants that—

(i) all remedial action necessary to protect human health and the environment with respect to any hazardous substance identified pursuant to section 120(h)(3)(A)(i)(I) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 remaining on the Property has been taken before the date of this deed, and

(ii) Any additional remedial action found to be necessary after the date of this deed shall be conducted by the GRANTEE, its successors and assignees pursuant to the GRANTEE's assumption of the GRANTOR's obligations as set forth in **Section 3** entitled, "Additional Consideration". If the GRANTEE, its successors and assignees fail to fulfill any or all of the obligations which they have assumed under **Section 3** as a condition of this grant, the GRANTOR may conduct any necessary remedial action for contamination on the Property existing prior to the date of this quitclaim deed. The GRANTOR's obligation to conduct any necessary remedial action under this **Section (1)(c)**, will not apply in any case in which any GRANTEE of the Property, or any part thereof, is a potentially responsible party with respect to the Property. Nothing herein shall impair the GRANTOR's right to seek reimbursement from the GRANTEE or its successors and assigns for the GRANTOR's costs, including administrative expenses, resulting from the GRANTEE or its successors and assigns' failure to perform their obligations under **Section 4** herein.

d. Access Rights Pursuant to Section 120(H)(3)(A)(III) of the COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 (42 U.S.C. § 9620(H)(3)(A)(III)):

The GRANTOR retains and reserves a perpetual and assignable easement and right of access on, over, and through the property, to enter upon the property in any case in which a remedial action or corrective action is found to be necessary on the part of the GRANTOR, without regard to whether such remedial action or corrective action is on the property or on adjoining or nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, testpitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the GRANTOR to meet its responsibilities under applicable laws and as provided for in this instrument. Such easement and right of access shall be binding on the GRANTEE and its successors and assigns and shall run with the land.

In exercising such easement and right of access, the GRANTOR shall provide the GRANTEE or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the property and exercise its rights under this clause, which notice may be severely curtailed or even eliminated in emergency situations. The GRANTOR shall use reasonable means to avoid and to minimize interference with the GRANTEE's and the GRANTEE's successors' and assigns' quiet enjoyment of the property. At the completion of work, the work site shall be reasonably restored. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the property at a reasonable charge to the GRANTOR. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the GRANTEE, nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the GRANTOR.

In exercising such easement and right of access, neither the GRANTEE nor its successors and assigns, as the case may be, shall have any claim at law or equity against the GRANTOR or any officer or employee of the GRANTOR based on actions taken by the GRANTOR or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this clause: Provided, however, that nothing in this paragraph shall be considered as a waiver by the GRANTEE and its successors and assigns of any remedy available to them under the Federal Tort Claims Act.

2. USE RESTRICTION AND MAINTENANCE OF A BUFFER ZONE:

GRANTEE, and its successors and assigns, shall maintain a Buffer Zone on the Property for the purpose of reducing the impact of any future development of the Property on the neighboring Government Hill community. The Buffer Zone shall follow the upper portion of the property following the existing bluff as shown on **Exhibit A.2, Sheet 1 and 2**, attached to and made a part hereof (hereinafter referred to as the "Buffer Zone Property"), and more particularly described as follows:

A parcel of land located within Tracts Q and Y, per the Whittier-Anchorage POL Pipeline Record of Survey recorded as Plat No 2009-104 in the Anchorage Recording District, Third Judicial District, State of Alaska being more particularly described as follows:

Beginning at a 5/8" diameter rebar marking the southeast corner of said Tract Q, being the True Point of Beginning for this description, from which a brass cap monument marking the Center ¼ of Section 7, Township 13 North, Range 3 West, Seward Meridian, Alaska bears S89°51'55"W a distance of 1319.50 feet, said line being the Basis of Bearing for this description; thence on the south line of said tract S89°51'55"W a distance of 922.66 feet to the southeast corner of said Tract Y; thence on the south line of said tract S89°51'55"W 396.84 feet to the southwest corner of said tract; thence departing said south line N57°21'50"E a distance of 152.67 feet; thence N30°47'09"E a distance of 44.70 feet; thence N50°11'57"E a distance of 35.96 feet to the north line of said Tract Y; thence departing said north line N50°11'57"E a distance of 81.01 feet; thence N33°55'34"E a distance of 132.23 feet; thence N86°28'09"E a distance of 274.76 feet; thence

S78°29'21"E a distance of 277.75 feet; thence N86°15'17"E a distance of 69.29 feet; thence S57°28'39"E a distance of 53.12 feet; thence N59°49'06"E a distance of 39.00 feet; thence N10°59'56"E a distance of 61.29 feet; thence N87°57'11"E a distance of 297.56 feet to the north corner of the most southerly east boundary line of said Tract Q, being coincident with Corner 8 ACS Communication Station Tract as shown on said Record of Survey recorded as Plat No. 2007-87; thence on said east boundary S00°13'26"E a distance of 330.09 feet to the southeast corner of said Tract Q and the True Point of Beginning;

Containing 344,255 square feet (7.903 acres) more or less

As shown on Exhibits A.2 Sheets 1 and 2 prepared by R&M Consultants on February 25, 2010.

Development within the Buffer Zone Property will be limited to roads and paved areas constructed to accommodate the parking of vehicles used by GRANTEE's employees and visitors. Storage areas shall not be used for storage or staging of equipment, shipping containers, shipping vehicles or construction equipment.

This covenant shall constitute a binding servitude on the Property and shall be deemed to run with the land, in perpetuity. In the event of a violation of this covenant, and in addition to any remedy now or hereafter provided by law, the GRANTOR may, upon reasonable notice to GRANTEE, its successors or assigns, institute suit to enjoin said violation or to require the restoration of the Buffer Zone, or any portion thereof, affected by such violation.

3. ADDITIONAL CONSIDERATION

The GRANTEE agrees on behalf of itself and its successors and assigns to provide in-kind consideration consisting of the assumption of all responsibility and liability for any further remedial or corrective action of environmental conditions or contamination with respect to the Property, whether such condition or contamination was known or unknown as of the date of this Quitclaim Deed, standing as substitute for the GRANTOR with respect to any response or corrective actions required to protect human health and the environment as a consequence of hazardous substance contamination or petroleum contamination. In addition, GRANTEE warrants that should the GRANTOR be ordered to undertake any response or corrective action by an Environmental Regulatory Agency, the GRANTEE shall intercede and assume such obligation on behalf of the GRANTOR. GRANTEE's obligation to act on behalf of the GRANTOR pursuant to this Section 3 is conditioned upon GRANTOR providing GRANTEE notice of any demand for action by an Environmental Regulatory Agency.

For the purposes of this Section 3, and hereafter in this Quitclaim Deed, Environmental Regulatory Agency shall mean any federal or state administrative agency with the authority to order the undertaking of an inspection, investigation, or a response or corrective action with respect to the property.

Should GRANTEE, or its successors or assigns, fail to meet its obligations under this **Section 3**, GRANTEE shall be liable to the GRANTOR for all reasonable costs, to include administrative expenses, resulting from GRANTOR'S undertaking of GRANTEE's obligations hereunder and GRANTEE, its successors and assigns will provide GRANTOR access to the Property as provided in Section 1.d. in the event GRANTEE its successors and assigns fail to fulfill any obligations assumed as a condition of this Quitclaim Deed to undertake any and all environmental response actions or corrective actions so ordered by an Environmental Regulatory Agency.

This section shall not apply to any contamination arising out of the installation, operation, maintenance or removal of the South Jet Pipeline identified in the reservation section above and any new installations, including, but not limited to, any contamination migrating from the Easement Area.

4. "AS IS"

The GRANTEE acknowledges that it has inspected or has had the opportunity to inspect the Property and accepts the condition and state of repair of the subject Property. The GRANTEE understands and agrees that the Property and any part thereof is offered "AS IS" without any representation, warranty, or guaranty by the GRANTOR as to quantity, quality, title, character, condition, size, or kind, or that the same is in condition or fit to be used for the purpose(s) intended by the GRANTEE, and no claim for allowance or deduction upon such grounds will be considered.

No warranties, either expressed or implied, are given with regard to the condition of the Property, including, without limitation, whether the Property does or does not contain asbestos or lead-based paint. The GRANTEE shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any asbestos, lead-based paint, or other conditions on the Property. The failure of the GRANTEE to inspect or to exercise due diligence to be fully informed as to the condition of all or any portion of the Property offered, will not constitute grounds for any claim or demand against the GRANTOR.

5. HOLD HARMLESS

To the extent authorized by law, the GRANTEE, on behalf of itself, its successors, and assigns, covenants and agrees to indemnify and agrees to hold harmless the GRANTOR, its officers, agents, and employees from any and all claims, damages, judgments, loss and costs, including fines and penalties, arising out of the violation of the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in this Deed; and the GRANTOR shall not be responsible for any costs associated with activity under a conditional exception, amendment, or as an exception to the Grant or change in activity or use, including, without limitation, costs associated with any additional investigation or remediation.

6. ENVIRONMENTAL PROTECTION PROVISIONS.

The United States Department of the Army has undertaken careful environmental study of the Property and concluded that the land use restrictions set forth below are necessary to ensure protection of human health and the environment. The GRANTEE shall neither transfer the Property, lease the Property, nor grant any interest, privilege, or license whatsoever in connection with the Property without the inclusion of the Environmental Protection Provisions contained herein, and shall require the inclusion of the Environmental Protection Provisions in all further deeds, easements, transfers, leases, or grant of any interest, privilege, or license.

Nothing contained herein following **section 6a** shall preclude the GRANTEE, its successors or assigns, from undertaking, in accordance with applicable laws and regulations and without any cost to the GRANTOR, such additional action necessary to allow for other less restrictive use of the Property. Prior to such use of the Property, GRANTEE, its successors and assigns, shall consult with and obtain the approval of the appropriate Environmental Regulatory Agency and/or local authorities. Upon the GRANTEE's obtaining the approval of the appropriate Environmental Regulatory Agency and/or local authorities, the GRANTOR agrees to record an amendment hereto. This recordation shall be the responsibility of the GRANTEE and at no additional cost to the GRANTOR.

a. Restrictions Related to Use as a Former Bulk Fuel Storage Facility and Distribution Center:

The shallow ground water and soils have been determined to be affected by petroleum spills from the past use of the Property as a fuel storage facility. Therefore, the GRANTEE and its successors and assigns are prohibited from undertaking or allowing any activity on or use of the property that violates the following land use restrictions contained herein below. Available information regarding the type, quantity, and location of Petroleum product storage, release, and/or disposed of is provided in **Exhibit B**.

The GRANTEE, its successors and assigns, shall use the Property solely for commercial or industrial activities and not for residential purposes. For the purposes of this **Section 6**, residential use includes, but is not limited to, single family or multi-family residences; child care facilities; and nursing home or assisted living facilities; and any type of educational uses for children/young adults in grades kindergarten through 12. All remaining allowable uses must conform to applicable Federal and State law.

The GRANTEE, its successors and assigns, shall not use the perched water as a source of potable water.

The GRANTEE, its successors and assigns, shall ensure the protection of future site construction workers from prolonged dermal exposure to perched groundwater within the remediation area identified as Slope Deposits Area (SDA) until a determination is made by the Alaska Department of Environmental Conservation (ADEC) that conditions on the Property no longer pose a threat to human health and the environment. Specifically, the GRANTEE, its

successors and assigns, shall notify site workers in excavations below the water table within the SDA of the risks of such exposure and shall provide site workers with the appropriate personal protective equipment. The GRANTEE, its successors and assigns, shall manage any contaminated groundwater that is encountered in accordance with all applicable regulations. (Exhibits B and C contain descriptions of, and show the locations of the remediation areas.)

Soil excavated during construction activities that exhibit contamination levels above ADEC Method 1, Category C cleanup levels must either be removed for off-site disposal, or remediated to levels below target cleanup levels before being placed back into the ground. Construction plans on the property must include procedures to screen any excavated soils and provide for soil remediation contingency scenarios. Construction plans within the property must include procedures to address any contaminated groundwater that is encountered. Any contaminated soil encountered below the existing ground surface is the responsibility of the GRANTEE, its successors and assigns.

The GRANTEE, its successors and assigns, shall perform ongoing semi-annual ground water monitoring in accordance with the *Long-Term Monitoring Plan, Defense Fuel Support Point - Anchorage, dated August 25, 2003*, until ADEC determines such monitoring is no longer necessary. The GRANTEE, its successors and assigns, will also be responsible for any other groundwater or future surface water monitoring as determined by the ADEC.

When cleanup levels are achieved in groundwater monitoring wells for a minimum of four (4) consecutive sampling events, groundwater sampling at the Property may cease as determined by ADEC in accordance with applicable regulations. The same condition applies for discontinuing surface water sampling on the property.

The GRANTEE, its successors and assigns, shall notify the ADEC of any conveyance of title, easement, or other interest in the property at least ninety (90) days prior to such conveyance until ADEC determines that conditions on the Property no longer pose a threat to human health and the environment in accordance with applicable regulations.

The GRANTEE, its successors and assigns, shall maintain existing institutional controls as referenced in the *Record of Decision for Cleanup, Defense Fuel Support Point - Anchorage, Alaska, dated April 9, 2003*. Current institutional controls consist of fencing and posting of warning signs to limit access to the Property to address potential human health and environmental risks associated with the property until ADEC determines that conditions on the Property no longer pose a threat to human health and the environment in accordance with applicable regulations.

b. Restrictions Related to Future Use of Property:

As a result of the GRANTOR's Environmental Assessment and Finding of No Significant Impact under the National Environmental Policy Act of 1969 (*Environmental Assessment for the Whittier-Anchorage Pipeline Tank Farm Property Transfer, dated August 16, 2006*), the GRANTEE and its successors and assigns are prohibited from undertaking or allowing any activity on or use of the property that violates the following land use restriction contained herein below.

The GRANTEE, its successors and assigns, will minimize soil impacts to site by restabilization during and after construction, and by properly disposing of or reusing contaminated soils. Fugitive dust and construction noise will be minimized as practical, and will be temporary in duration.

7. PROXIMITY OF AIRPORT

The Joint Base Elmendorf-Richardson Airport is in close proximity to the subject property. Accordingly, in coordination with the Federal Aviation Administration, the GRANTEE covenants and agrees, on behalf of itself, its successors and assigns and every successor in interest to the property herein described, or any part thereof, that there will be no construction or alteration unless a determination of no hazard to air navigation is issued by the Federal Aviation Administration in accordance with Title 14, Code of Federal Regulations, Part 77, entitled, "Objects Affecting Navigable Airspace," or under the authority of the Federal Aviation Act of 1958, as amended.

8. ANTI-DEFICIENCY ACT

The GRANTOR's obligation to pay or reimburse any money under this Deed is subject to the availability of funds appropriated for this purpose to the Department of the Army, and nothing in this Deed shall be interpreted to require obligations or payments by the GRANTOR in violation of the Anti-Deficiency Act, 31 U.S.C. §1341.

9. NO WAIVER

The failure of the GRANTOR to insist in any one or more instances upon complete performance of any of the said notices, covenants, conditions, restrictions, or reservations shall not be construed as a waiver or a relinquishment of the future performance of any such covenants, conditions, restrictions, or reservations; but the obligations of the GRANTEE, its successors and assigns, with respect to such future performance shall continue in full force and effect.

IN WITNESS WHEREOF, the GRANTOR has caused this Deed to be executed in its name by the Director of Real Estate, this the ____ day of _____ 20__.

UNITED STATES OF AMERICA

BY:

SCOTT L. WHITEFORD
Director of Real Estate
United States Army Corps of Engineers

NOTORIAL CERTIFICATE

DISTRICT OF COLUMBIA) SS

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that this ____ day of _____, _____, Scott L. Whiteford, Director of Real Estate, known to me or proven through satisfactory evidence of identity to be the person whose name is subscribed to the foregoing document, appeared in person and acknowledged before me that the signature on the document was voluntarily affixed by him for the purposes therein stated and that he had due authority to sign the document in the capacity therein stated.

Notary Public

My commission expires the ____ day of _____, _____

ACCEPTANCE BY GRANTEE

The Port of Anchorage, an Entity of the Municipality of Anchorage, Alaska, GRANTEE, hereby accepts this Quitclaim Deed for itself, its successors and assigns, subject to all of the conditions, reservations, restrictions and terms contained therein, this ____ day of _____ 20 ____.

PORT OF ANCHORAGE

BY:

GEORGE J. VAKALIS
Municipal Manager
Municipality of Anchorage

NOTORIAL CERTIFICATE)
STATE OF ALASKA) SS
THIRD JUDICIAL DISTRICT)

I, _____, a Notary Public in and for the STATE OF ALASKA, THIRD JUDICIAL DISTRICT, do hereby certify that this ____ day of _____, _____, George J. Vakalis, Municipal Manager, known to me or proven through satisfactory evidence of identity to be the person whose name is subscribed to the foregoing document, appeared in person and acknowledged before me that the signature on the document was voluntarily affixed by him for the purposes therein stated and that he had due authority to sign the document in the capacity therein stated.

Notary Public

My commission expires the ____ day of _____, _____

EXHIBITS

- A - Location Map**
- B - Property Description and Remedial Actions**
- B - Notification of Hazardous Substance Storage, Release or Disposal**
- B - Notification of Petroleum Product Storage, Release or Disposal**
- C - Description and Delineation of Remediation Sites**
- D - Consideration Agreement**

AFTER RECORDING RETURN TO:

Port of Anchorage

Port of Anchorage

ATTN: William J. Sheffield, Director

2000 Anchorage Port Road

Anchorage, Alaska 99501-1024

AND A CONFORMED COPY TO:

U.S. Army Corps of Engineers

ATTN: Real Estate Division/CEPOA-RE

P.O. Box 6898

JBER, AK 99506-0898

Abstract

0320442

2.0 Introduction

[illegible]

PRISM



RECORD OF SALES	DATE	BY	AMOUNT
WHITTIER - ARCADE/PALE POL. PIPELINE			
TRACTS Q AND Y			
(CR. LOAN, DISCOUNT)			
LOCATED WHILE			
SUBJECT SECTION 3, TOWNSHIP 11 NORTH, RANGE 3 WEST,			
SECTION 10, TOWNSHIP 11 NORTH, RANGE 3 WEST,			
ARCADE, MISSOURI COUNTY			
ARMED CONSULTANTS, INC.			
2101 Jefferson Drive, Independence, Missouri 64057			
NAME	DATE	BY	AMOUNT
10/11/78	10/11/78	10/11/78	10/11/78

Exhibit A.1, Sheet 3
Quitclaim Deed
Whittier- Anchorage

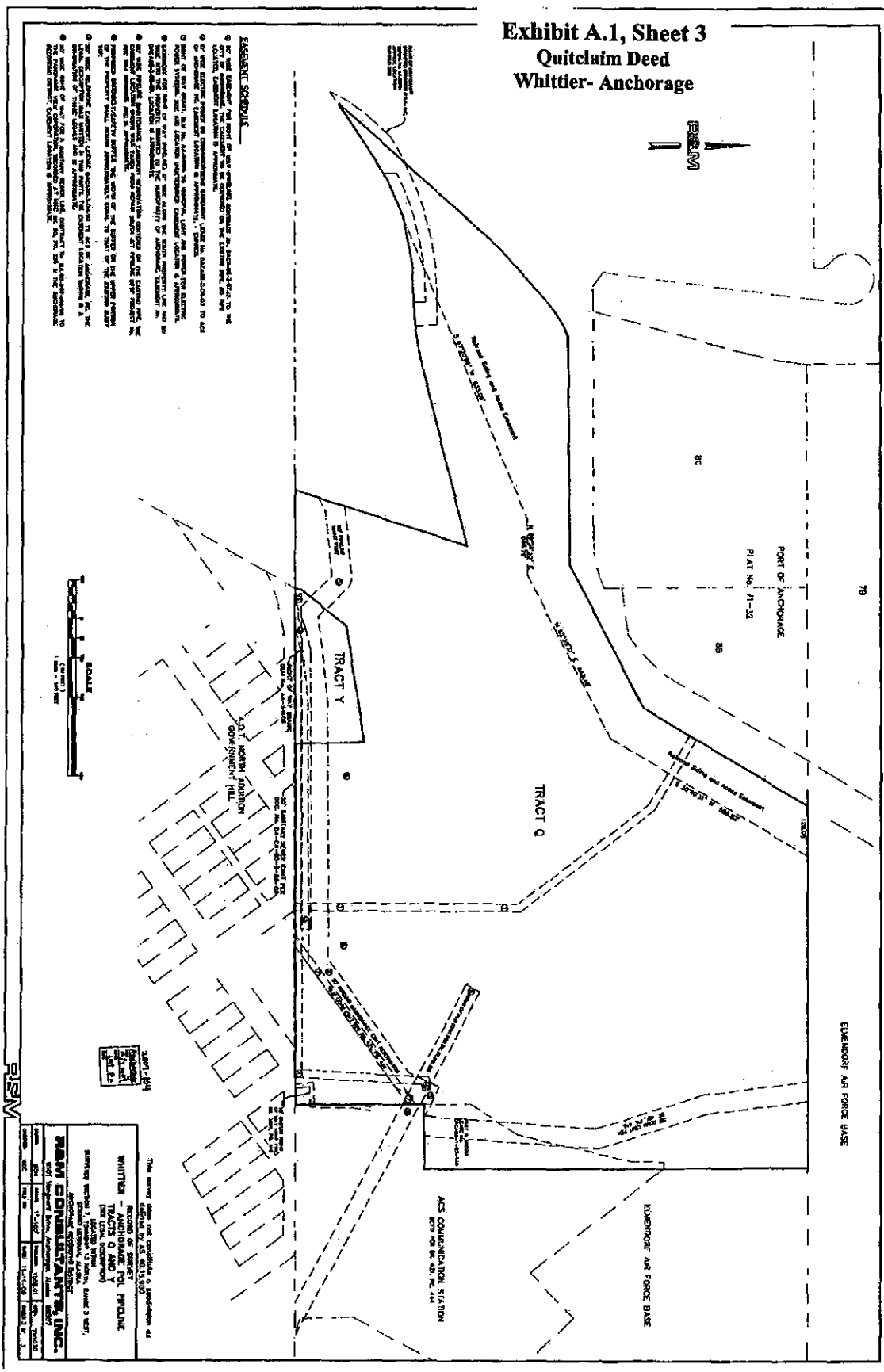


Exhibit A.2, Sheet 1
Quitclaim Deed
Whittier- Anchorage

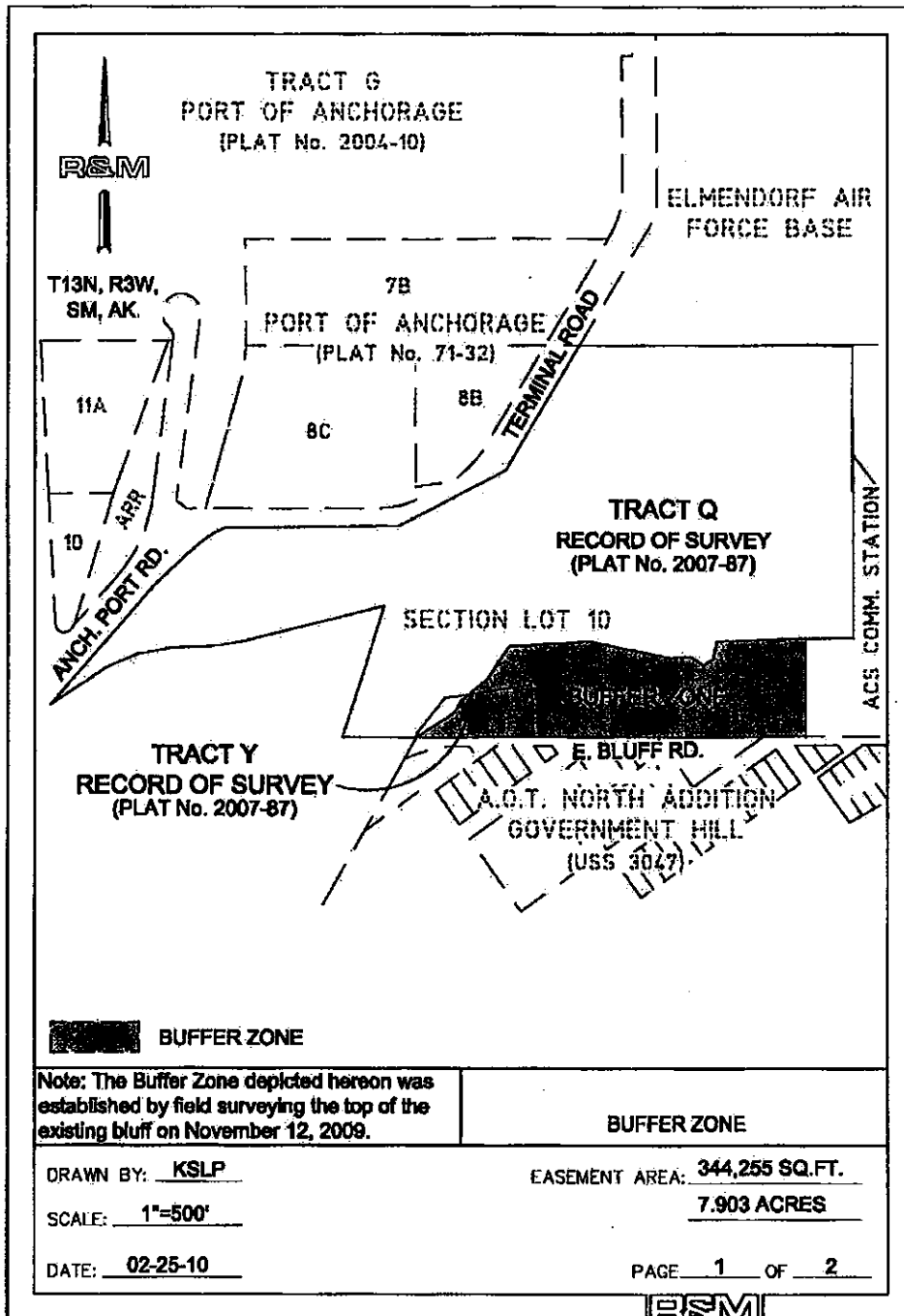


Exhibit A.2, Sheet 2
Quitclaim Deed
Whittier- Anchorage

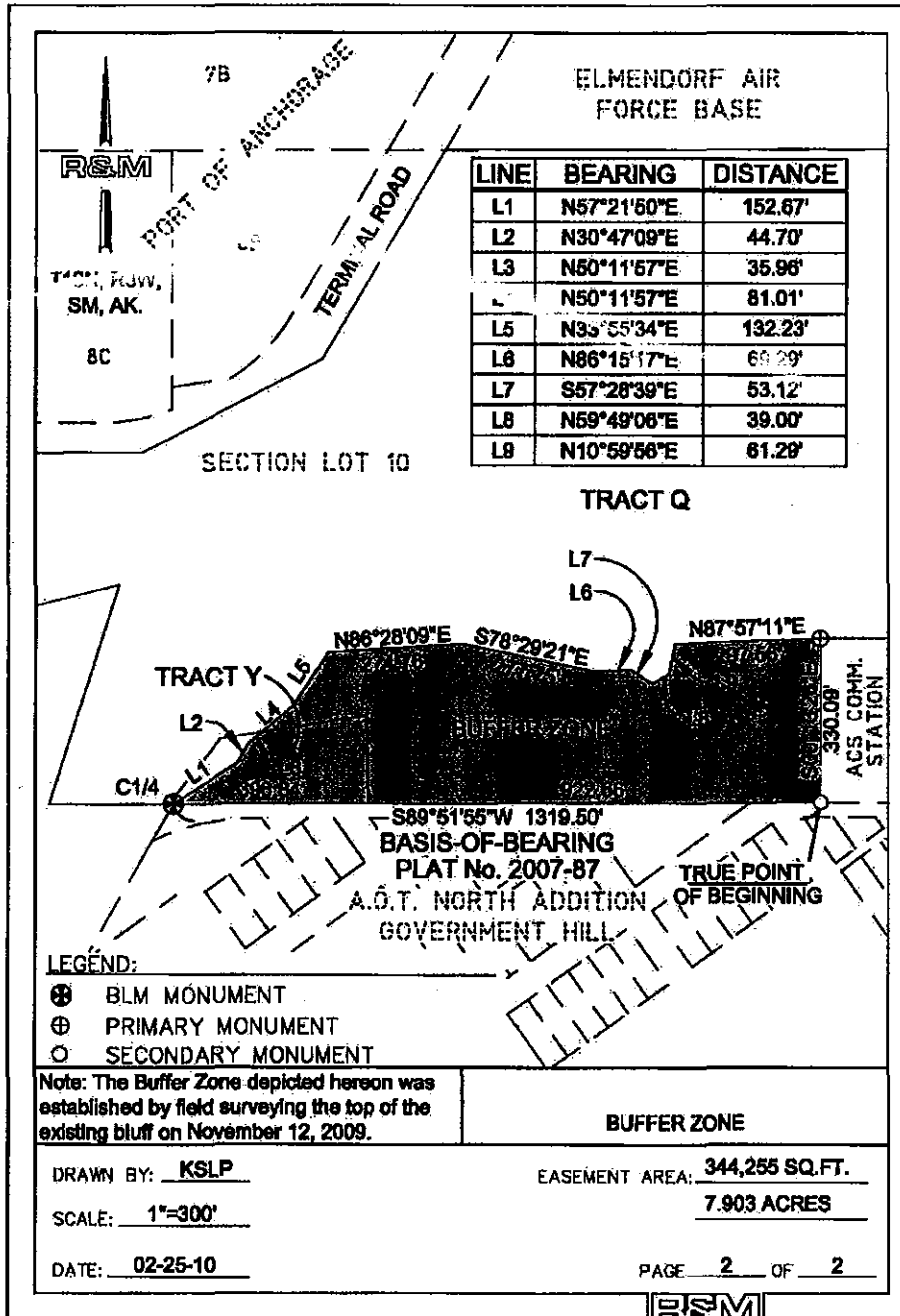


EXHIBIT B
PROPERTY DESCRIPTION & REMEDIAL ACTIONS
NOTIFICATION OF HAZARDOUS SUBSTANCE STORAGE, RELEASE OR DISPOSAL
NOTIFICATION OF PETROLEUM PRODUCT STORAGE, RELEASE OR DISPOSAL

Property Description & EBS Parcel Designation	Date of Storage, Release, or Disposal	Name of Hazardous Substance or Soil Contaminate	Condition Category	Remedial Actions
Upper Bluff Area (UBA) The generally flat-lying ground at higher elevation site. Also occupies the forested northeastern portion of the property Refer to Exhibit C.	Various between 1948 and 1989	Petroleum Product	2	No removal actions required per Record of Decision for Cleanup, Defense Fuel Support Point-Anchorage, Alaska (ROD), Summary of Risks (page 4).
A portion of UBA (225 square feet) The tank location is noted on Exhibit C.	1982	PCB	4	This is an area located around former Tank No. 20-617. The clean-up documentation cannot be found but further testing indicates that no contamination exists; therefore it must have been remediated.
Former Tidal Flats Area (FTFA) The generally flat-lying ground at lower elevations of the property as shown on Exhibit C.	Various between 1948 and 1989	Petroleum Product	2	At the FTFA and SDA a combination of 30,000 tons of contaminated soil were moved in 2003. The excavation was backfilled with imported material, contoured and hydroseeded. All contaminated soil was removed from the site and treated at an approved soil treatment facility (ROD, pgs. 12-13).
Slope Deposit Area (SDA) The sloping topography of the property excluding the forest mentioned in UBA above as shown on Exhibit C.	Various between 1948 and 1989	Petroleum Product	2	At the FTFA and SDA a combination of 30,000 tons of contaminated soil were moved in 2003. The excavation was backfilled with imported material, contoured and hydroseeded. All contaminated soil was removed from the site and treated at an approved soil treatment facility (ROD, pgs. 12-13).

Category 1: Areas where no release or disposal of hazardous substances or petroleum products has occurred. (including no migration of these substances from adjacent areas)

Category 2: Areas where only release or disposal of petroleum products has occurred.

Category 3: Areas where release, disposal, and/or migration of hazardous substances has occurred, but at concentrations that do not require a removal or remedial response.

Category 4: Areas where release, disposal, and/or migration of hazardous substances has occurred, and all removal or remedial actions to protect human health and the environment have been taken.

Exhibit D
Consideration Agreement for Real Property Transaction
Between United States and Port of Anchorage

I. This Agreement between the United States of America (hereafter "Grantor") and the Port of Anchorage, an entity of the Municipality of Anchorage (hereafter "Grantee") sets forth the terms of the consideration paid to the Grantor by the Grantee in exchange for transfer of all interest held by the Grantor in approximately 48.09 acres of real property (hereafter Subject Real Property) identified as the Whittier-Anchorage Pipeline, located at 1217 Port Road at the Port of Anchorage situated, lying and being in the Municipality of Anchorage, in the state of the Alaska. The legal description and encumbrances are set out in the *Quit Claim Deed, Whittier-Anchorage Pipeline Tank Farm, Anchorage, Alaska, Tracts Q & Y* (hereafter Transfer Quit Claim Deed).

The Fair Market Value for the **Subject Real Property** has been determined to be \$10,305,000.00.

II. This real property transaction is accomplished under the authority set forth in the *National Defense Authorization Act for Fiscal Year 2002*, Public Law 107-107, Section 2831, December 28, 2001, by which Congress expressly granted to the Secretary of the Army authority to directly convey, for fair market value, land commonly known as the Whittier-Anchorage Pipeline Tank Farm, which consists of approximately 48.09 acres of previously developed land, legal description set forth in the Transfer Quit Claim Deed. Through said authority, the Grantor transfers through the Transfer Quit Claim Deed all interests and rights, current, past and future, in Subject Real Property, excepting those retained real property interests as set forth in the Transfer Quit Claim Deed. The law allowed that in-kind consideration could be accepted as payment for the fair market value of the Subject Real Property and as such this agreement will become Exhibit D of the Transfer Quit Claim Deed.

III. The Grantee warrants:

- a. That the terms of this Agreement conform to applicable State of Alaska and Municipality laws and regulations;
- b. The persons executing this Agreement on behalf of the Grantee have the full right, power and authority to execute and deliver this Agreement as the Grantee's act and deed and to bind the Grantee hereto;
- c. The Grantee has obtained all necessary authorizations and consents, to enter into and perform its obligations under this Agreement; and
- d. This Agreement is a legal, valid and binding obligation of the Grantee, enforceable against the Grantee in accordance with its terms.

IV. In consideration for grant of all real property interests in the Subject Real Property, the Grantee promises the following:

Consideration 1. The Grantee agrees on behalf of itself and its successors and assigns to provide in-kind consideration for the ownership of the Subject Real Property as is, consisting of the assumption of all responsibility and liability for any further remedial or corrective action of environmental conditions or contamination with respect to the Subject Real Property, whether such condition or contamination was known or unknown as of the date of Transfer Quit Claim Deed, standing as substitute for the Grantor with respect to any response or corrective actions required to protect human health and the environment as a consequence of hazardous substance contamination or petroleum contamination. In addition, Grantee warrants that should the Grantor be ordered to undertake any response or corrective action by an Environmental Regulatory Agency, the Grantee shall intercede and assume such obligation on behalf of the Grantor. Grantee's obligation to act on behalf of the Grantor pursuant to this **Consideration 1** is conditioned upon Grantor providing Grantee notice of any demand for action by an Environmental Regulatory Agency. For the purposes of this **Consideration 1**, and hereafter in this Agreement, Environmental Regulatory Agency shall mean any federal or state administrative agency with the authority to order the undertaking of an inspection, investigation, or a response or corrective action with respect to the Subject Real Property.

a. Should Grantee, or its successors or assigns, fail to meet its obligations under this **Consideration 1**, the Grantee shall be liable to the Grantor for all reasonable costs, to include administrative expenses, resulting from Grantor's undertaking of Grantee's obligations hereunder and Grantee, its successors and assigns will provide Grantor access to the Property as provided in **Consideration 1(b)** in the event Grantee its successors and assigns fail to fulfill any obligations assumed as a condition of this Agreement to undertake any and all environmental response actions or corrective actions so ordered by an Environmental Regulatory Agency.

b. Consideration 1 shall not apply to any contamination arising out of the installation, operation, maintenance or removal of the perpetual and assignable right and easement reserved to the Grantor in the Transfer Quitclaim Deed for the operation, maintenance, protection, and repair of an existing fuel transmission pipeline, known and referred to as the "South Jet Pipeline", including, but not limited to, any contamination migrating from the easement area.

c. The Grantor retains and reserves a perpetual and assignable easement and right of access on, over, and through the Subject Real Property, to enter upon the Subject Real Property in any case in which a remedial action or corrective action is found to be necessary on the part of the Grantor, without regard to whether such remedial action or corrective action is on the Subject Real Property or on adjoining or nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, testpitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the Grantor to meet its responsibilities under applicable laws and as provided for in this instrument. Such easement and right of access shall be binding on the Grantee and its successors and assigns and shall run with the land.

In exercising such easement and right of access, the Grantor shall provide the Grantee or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the property and exercise its rights under this clause, which notice may be severely curtailed or even

eliminated in emergency situations. The Grantor shall use reasonable means to avoid and to minimize interference with the Grantee's and the Grantee's successors' and assigns' quiet enjoyment of the property. At the completion of work, the work site shall be reasonably restored. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the property at a reasonable charge to the Grantor. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the Grantee, nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the Grantor.

In exercising such easement and right of access, neither the Grantee nor its successors and assigns, as the case may be, shall have any claim at law or equity against the Grantor or any officer or employee of the Grantor based on actions taken by the Grantor or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this clause. Provided, however, that nothing in this paragraph shall be considered as a waiver by the Grantee and its successors and assigns of any remedy available to them under the Federal Tort Claims Act.

The Fair Market Value of Consideration 1 is \$8,060,454.00

Consideration 2. The Grantee shall construct a Military-Port Access Road connecting Joint Base Elmendorf-Richardson (hereafter JBER) to the Port of Anchorage.

a. The Military-Port Access Road shall be built to the standards set forth in *Construct Port of Anchorage Access Spur Road on Elmendorf AFB, Alaska, USA, PN 65717 & FXSB113008*, prepared by the U.S. Army Engineer District, Alaska, and dated January 2007 (hereafter Road Design Document). The said Road Design Document is incorporated into this Agreement by reference, with appropriate sections included as Appendix A .

b. Construction of the Access Road will be completed within one year of the date in which the Grantee ceases to use an existing Port Haul Road for moving gravel and other fill material.

c. The completed Military-Port Access Road will be approximately one mile in length connecting Fairchild Road, at the intersection with 26th Street on JBER with the northern end of the Port of Anchorage; paved, with guard rails, lights and signage. Design specifications are included in the Road Design Document.

The Fair Market Value of **Consideration 2** is **\$2,345,109.00**

The Fair Market Value of **Consideration 1 and 2** totals to **\$10,405,563.00**

V. Force Majeure. The possibility exists that circumstances outside the reasonable control of the Grantee could delay compliance with the terms of **Consideration 2** of this Agreement. Should a delay in performance occur under such circumstances as set forth in this section of the Agreement, such resulting delay shall be deemed a result of force majeure and will not constitute a breach of this Agreement, and the Grantee shall be given a reasonable amount of additional time to comply with the terms of **Consideration 2** of this Agreement, provided the Grantee delivers timely notice of a condition interfering with its ability to perform to the Grantor. Conditions constituting a force majeure are inclement weather sufficient to delay construction activities; labor disputes sufficient to prevent construction activities; civil disorder; natural disasters interfering with construction efforts; National Defense conditions serving to restrict access to the Port of Anchorage sufficient to delay construction; and any other event or condition that the Parties to the Agreement determine warrant an extension of the compliance timeline.

VI. The services and undertakings identified in this Agreement and the Transfer Quit Claim Deed constitute the full extent of compensation due from the Grantee in exchange for transfer of the Subject Real Property. There are no representations, agreements or understandings related to the compensation due for this exchange other than those expressly contained in this Agreement.

Any changes to this Agreement shall be in writing and executed by officials serving in the same, or successor, offices as the original signing parties.

VII. This Agreement shall become effective upon the date of delivery of a copy bearing all necessary signatures to the Municipal Manager of the Municipality of Anchorage.

VIII. The Grantor recognizes that the Grantee performance under this Agreement is subject to applicable Federal, State and Municipal law and regulations.

IN WITNESS WHEREOF, the GRANTOR has caused this Consideration Agreement to be executed in its name by the Director of Real Estate, this the ____ day of _____ 20__.

UNITED STATES OF AMERICA

BY:

SCOTT L. WHITEFORD
Director of Real Estate
United States Army Corps of Engineers

IN WITNESS WHEREOF, the GRANTEE has caused this Consideration Agreement to be executed in its name by the Municipal Manager, this the ____ day of _____ 20__.

PORT OF ANCHORAGE

BY:

GEORGE J. VAKALIS
Municipal Manager
Municipality of Anchorage

Appendix A
Pages 1-7 of the
Construct Port of Anchorage Access Spur Road on Elmendorf AFB, Alaska,
USA, PN 65717 & FXSB113008.



ELM282 CHARRETTE FINAL REPORT



DoD SERVICE: USACE

**CONSTRUCT PORT OF ANCHORAGE
ACCESS SPUR ROAD**

on

ELMENDORF AFB

ALASKA, USA

PN 65717 & FXSB113008

U.S. Army Engineer District, ALASKA

June 2007

ELM282 CHARRETTE FINAL REPORT

TABLE OF CONTENTS

	<u>PAGE</u> <u>NO.</u>
Table of Contents	2
Project Description and Background.....	3
Project Criteria	4
Critical Assumptions and Current Status	5
Ideas, Deliverables, and Basis for Cost Estimates	6
Cost Estimate for Building on Haul Road.....	7
Attendees List	8
Attachment:	
Detail Cost Estimate for Building on Haul Road	

ELM282 CHARRETTE FINAL REPORT
PROJECT DESCRIPTION AND BACKGROUND

PROJECT TITLE: CONSTRUCT PORT OF ANCHORAGE ACCESS SPUR ROAD

PROJECT LOCATION: Elmendorf AFB, Alaska

Currently, if the Army deployed from Fort Richardson to the Port of Anchorage by road, the Army would likely travel through Elmendorf AFB, around the north side of the Elmendorf AFB east-west runway, and to the road that leaves Elmendorf AFB through the Government Hill gate, then down the city road to the off ramp and through the Port of Anchorage to the Port of Anchorage staging area. This route goes through both Air Force and Civilian Housing which have a high population density and sensitive facilities.

To provide the quickest and safest access from Fort Richardson to Port of Anchorage for deployment and redeployment of military vehicles, a direct route through Elmendorf AFB has been investigated. Most of the route will be over existing paved roads but a connect is needed between Fairchild Road on Elmendorf AFB to northerly end Port of Anchorage, to avoid traveling through housing areas and over public roads.

In August of 2006, the Port of Anchorage (POA) constructed a gravel haul road from the northerly end of POA to a gravel pit just west of Fairchild Road and plan to extend it to the intersection of Fairchild Road and 26th Street on Elmendorf AFB for use as the route to move almost 10 Million Cubic Yards of fill to expand the POA. The fill material will be taken from several sites on Elmendorf AFB and transported by earthmovers down to the POA. Based the completion of an appropriate Memorandums of Agreement (MOA), the use of this haul road as an interim solution to move DoD equipment to the POA is desirable. The plan for the haul road over the next five years contemplates only use as a haul road during the summer months when the ground can be worked. During the winter the haul road would be available in its semi-improved state for use as an expedient deployment route requiring snow removal and grading. At such times that it is in use the MOA between the POA and EAFB/FRA Complex will call for temporary suspension of the haul effort allowing the use of the haul road for movement of the DoD equipment to Port.

The US Government has some property adjacent to POA that the Port wants. A land swap and work-in-kind are under discussion, including the Port constructing the proposed access road from Elmendorf AFB to the Port. This charrette will develop a scope of work and cost estimate which will be used in the land swap negotiations. If the negotiations are unsuccessful, the scope of work and cost estimate will be used to revise the existing DD Form 1391 to be submitted for federal funding of the road design and construction.

ELM282 CHARRETTE FINAL REPORT
PROJECT CRITERIA

Project programming numbers: PN 65717 & FXSB113008

Project is for a deployment/redeployment road for military equipment in Alaska and will connect from Fairchild Road on Elmendorf AFB to Port of Anchorage.

- Minimum Road Design Criteria:
 - o Road will have two 13-foot wide paved lanes with 5-foot wide gravel shoulders.
 - o 30" cut (F-1&2 soil) and fill (NFS) in non-road areas; 12" cut for existing haul road overlay.
 - o 24" sub-base & 6" base layers
 - o 26' wide pavement, 3" thick AC-3% SBS
 - o 5' wide gravel shoulders
- Maximum grade on road shall be 9%.
- Guardrails shall be installed on steep curves.
- A manually operated vehicle gate shall be installed through base perimeter fence at the Port, with Elmendorf AFB controlling the gate use. Option for guard shack.
- Lights or reflective signage shall be installed on or behind the guardrail on steep curves.
- Minimal road signage.
- If Guard Shack is incorporated, include provisions for electrical power and communication.
- Design road to end on Port property.
- Provide proper drainage consistent with the ICRC Development, Operations, & Reclamation Plan for Cherry Hill Borrow Pit design, and taking into consideration the haul road placement to Fairchild Road.

ELM282 CHARRETTE FINAL REPORT
CRITICAL ASSUMPTIONS, CURRENT STATUS & IDEAS

CRITICAL ASSUMPTIONS

- Military vehicles are unarmed/ without ammo (per Dave Buirge)
- Construction materials can be from on-base sources (Hazim Yunis)
- No helicopters traveling along road (Dave Buirge)
- Environmental clearances for proposed road are complete (Hazim Yunis)
- All work will be above water table

CURRENT STATUS OF LAND TRANSFER

- Environmental study has been completed
- No investigation required
- USACE Real Estate is working on transfer documents
- As-builts of existing haul road were turned over to the USACE ON 30 Feb 2007 by Port
- Land transfer negotiations are on-going, with final determination expected by end of FY07

EXISTING HAUL ROAD DESIGN/CONSTRUCTION CRITERIA

- 40' Wide
- 9% maximum grade
- 5' fill over geotextile

FOCAL IDEA

- Port designs and builds road from Fairchild Rd. to Port as part of land transfer agreement if construction cost is less than land value

ELM282 CHARRETTE FINAL REPORT
DELIVERABLES, BASIS FOR COST ESTIMATES

DESIGN DELIVERABLES

- 1391 with scope, and parametric cost estimate for 5000 linear foot road

COST ESTIMATE ASSUMPTIONS

- 5000 feet of road
- 30" cut (F-1&2 soil) and fill (NFS) in non-road areas; 12" cut for existing haul road overlay and 24" sub-base & 6" base layers
- 28' wide pavement, 3" thick
- 5' wide gravel shoulders
- Centerline and edge striping
- 500' of guardrail
- Manually operated vehicle gate
- Electrical power from Port
- Guardrail illumination by lights or reflective markings
- Minimal traffic signage
- Optional guard shack with electrical power and communication
- Road will essentially follow final haul road route from Port to Fairchild Road
- Assumed no additional cost for contaminated soil or ground water which will be accomplished as part of final haul road
- All clearing and grubbing accomplished as part of final haul road
- No additional final site work required over haul road agreement
- Only deviation from final haul road alignment is at tie-ins to existing road networks
- Construction is accomplished at completion of final haul road, and equipment cost is based on 2007 cost, no escalation was included

ELM282 CHARRETTE FINAL REPORT

DETAIL COST ESTIMATE RESULTS

Project programming numbers: PN 65717 & FXSB113008

Cost Estimate for Upgrading Port of Anchorage Haul Road from Fairchild Road on Elmendorf to Port of Anchorage, assumed 5000 linear feet long:

- Estimated Construction Cost: \$1,219,881 (breakdown attached)
 - Includes direct construction cost + job office & home office overhead + profit and bond
 - Does not include any management costs except for construction contractor
 - Note: Although detail cost estimate scope of work erroneously states to construct 6" base layer & 6" sub-base layer, the quantity calculation and cost estimate are correctly calculated on a 6" base layer and 24" sub-base layer

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 77-2011

Meeting Date: February 1, 2011

From: MAYOR

Subject: AN ORDINANCE APPROVING ACQUISITION OF THE WHITTIER-ANCHORAGE PIPELINE TANK FARM (48 ACRES) FOR FAIR MARKET VALUE, IN THE FORM OF IN-KIND CONSIDERATION, FROM THE U.S. ARMY TO THE MUNICIPALITY OF ANCHORAGE FOR THE PORT OF ANCHORAGE.

This Assembly Memorandum supplements AO 2011-19 by providing a copy of the applicable provisions in Public Law 107-107, Section 2831, authorizing the Dept. of the Army to convey the Whittier-Anchorage Pipeline Tank Farm property located at the Port of Anchorage, to the Municipality.

THE ADMINISTRATION RECOMMENDS APPROVAL OF [AN ORDINANCE APPROVING ACQUISITION OF THE WHITTIER-ANCHORAGE PIPELINE TANK FARM (48 ACRES) FOR FAIR MARKET VALUE, IN THE FORM OF IN-KIND CONSIDERATION, FROM THE U.S. ARMY TO THE MUNICIPALITY OF ANCHORAGE FOR THE PORT OF ANCHORAGE.

Prepared by: Port of Anchorage
Approved by: William Sheffield, Port Director
Concur: Dennis A. Wheeler, Municipal Attorney
Concur: George J. Vakalis, Municipal Manager
Respectfully submitted: Daniel A. Sullivan, Mayor

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002

Page 115 STAT. 1012
Public Law 107-107
107th Congress

An Act

To authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes. NOTE: Dec. 28, 2001 - [S. 1438]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress <<NOTE: National Defense Authorization Act for Fiscal Year 2002.>> assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ``National Defense Authorization Act for Fiscal Year 2002".

*** *** ***

SEC. 2831. LAND CONVEYANCE, WHITTIER-ANCHORAGE PIPELINE TANK FARM, ANCHORAGE, ALASKA.

(a) Conveyance Authorized.--The Secretary of the Army may convey to the Port of Anchorage, an entity of the Municipality of Anchorage, Alaska (in this section referred to as the ``Port"), all right, title, and interest of the United States in and to two adjoining parcels of real property, including any improvements thereon, consisting of approximately 48 acres in Anchorage, Alaska, which are known as the Whittier-Anchorage Pipeline Tank Farm, for the purpose of permitting the Port to use the parcels for economic development.

(b) Consideration.--As consideration for the conveyance under subsection (a), the Port shall pay to the United States an amount, in cash or in-kind, equal to not less than the fair market value of the conveyed property, as determined by the Secretary. The Secretary may authorize the Port to carry out, as in-kind consideration, environmental remediation activities for the property to be conveyed.

(c) Time for Conveyance.--The Secretary may delay the conveyance under subsection (a) until such time as the Army studies relating to the Alaska deployment of the Interim Brigade Combat Team in Alaska are completed.

(d) Description of Property.--The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Port. (e) Additional Terms and Conditions.--The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Content ID: 009827**Type:** InfoMemorandum - AIM**Title:** Supplemental information to an Ordinance approving acquisition of the Whittier-Anchorage Pipeline Tank Farm**Author:** bickforddj**Initiating Dept:** Port**Description:** Acquisition of pipeline tank farm**Keywords:** pipeline tank farm**Date Prepared:** 1/25/11 3:52 PM**Director Name:** William J. Sheffield**Assembly Meeting Date:** 2/1/11**Public Hearing Date:** 2/15/11

Workflow Name	Action Date	Action	User	Security Group	Content ID
Clerk_Admin_SubWorkflow	1/28/11 10:34 AM	Exit	Joy Maglaqui	Public	009827
MuniManager_SubWorkflow	1/28/11 10:34 AM	Approve	Joy Maglaqui	Public	009827
CFO_SubWorkflow	1/28/11 7:33 AM	Approve	Lucinda Mahoney	Public	009827
Port_SubWorkflow	1/25/11 3:56 PM	Approve	Stephen Ribuffo	Public	009827
AIAIMSWorkflow	1/25/11 3:56 PM	Checkin	Diane Bickford	Public	009827

Ad. for item

CONSENT AGENDA - INTRODUCTION

ref. A02011-19

Content ID: 009804**Type:** Ordinance - AO

Title: AN ORDINANCE APPROVING ACQUISITION OF THE WHITTIER-ANCHORAGE PIPELINE TANK FARM (48 ACRES) FOR FAIR MARKET VALUE, IN THE FORM OF IN-KIND CONSIDERATION, FROM THE U.S. ARMY TO THE MUNICIPALITY OF ANCHORAGE FOR THE PORT OF ANCHORAGE.

Author: bickforddj

Initiating Port
Dept:

Keywords: tank farm acquisition

Date
Prepared: 1/19/11 10:23 AM

Director
Name: William J. Sheffield

Assembly
Meeting 2/1/11

Date:

Public
Hearing 2/15/11
Date:

<u>Workflow Name</u>	<u>Action Date</u>	<u>Action</u>	<u>User</u>	<u>Security Group</u>	<u>Content ID</u>
Clerk_Admin_SubWorkflow	1/21/11 2:02 PM	Exit	Joy Maglaqui	Public	009804
MuniManager_SubWorkflow	1/21/11 2:02 PM	Approve	Joy Maglaqui	Public	009804
Legal_SubWorkflow	1/21/11 11:55 AM	Approve	Dean Gates	Public	009804
Finance_SubWorkflow	1/21/11 9:41 AM	Approve	Lucinda Mahoney	Public	009804
OMB_SubWorkflow	1/19/11 1:32 PM	Approve	Cheryl Frasca	Public	009804
Port_SubWorkflow	1/19/11 12:27 PM	Approve	Stephen Ribuffo	Public	009804
AllOrdinanceWorkflow	1/19/11 12:25 PM	Checkin	Diane Bickford	Public	009804