

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF MINING, LAND AND WATER  
SOUTHCENTRAL REGIONAL LAND OFFICE

ADL 234033  
Cooperative Resource Management Agreement  
For the Mineral Creek Trails

The Department of Natural Resources, Division of Mining, Land and Water, Southcentral Regional Land Office, whose address is 550 West 7<sup>th</sup> Avenue, Suite 900C, Anchorage, AK 99501, hereafter referred to as the Assignor, assigns to the City of Valdez, whose address 212 Chenega Avenue, Valdez, AK 99686, hereafter referred to as Assignee, use of a parcel of state land for the use, operation, and maintenance of Mineral Creek Trails area pursuant to Valdez Municipal Code 12.08.010;

Within Sections 30 and 31 Township 8 South, Range 6 West, Copper River Meridian, in the Valdez Recording District, as further depicted on the attached location diagram.

The Assignee may use the surface estate as specified in the development plan subject to update and approval by the Assignor, attached and made part of this document as Attachment B, subject to the terms, conditions, and stipulations attached to and made part of this document as Attachment A. The right of the Assignee or Assignee's contractor(s) and subcontractor(s) to construct, maintain, or improve and remove infrastructure related to the management of recreational ski trails is limited to those expressly stated in the approved development plan. The right to grant or permit third party interests or to otherwise subdivide, sell, lease, exchange, transfer, covenant, zone, bind, obligate, pledge, encumber or otherwise alter the title of the property is expressly reserved to the Assignor.

This agreement is subject to the terms, conditions, and stipulations included as Attachment A.

This Cooperative Resource Management Agreement (CRMA) is made effective on the signature date of the Assignor. This CRMA will remain in effect until 11:59 PM September 20, 2073, Lands that are in excess of the Assignee's needs shall be returned to the Assignor upon determination by the Assignor that the site has been rehabilitated.

## ASSIGNOR

\_\_\_\_\_  
AJ Wait, Natural Resource Manager 2  
Southcentral Regional Land Office

United States of America                    )  
State of Alaska                                )  
\_\_\_\_\_ Judicial District                    )

This is to certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_ to be known and known by me to be the person named in and who executed said document and acknowledged voluntarily signing the same. In testimony whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

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

## ASSIGNEE

\_\_\_\_\_  
Sharon Scheidt, Mayor  
City of Valdez

United States of America                    )  
State of Alaska                                )  
\_\_\_\_\_ Judicial District                    )

This is to certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_ to be known and known by me to be the person named in and who executed said document and acknowledged voluntarily signing the same. In testimony whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

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

## **Attachment A - Stipulations**

1. **Authorized Officer:** The Authorized Officer (AO) for the State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), is the Regional Manager or designee.
2. **Change of Contact Information:** The Assignee shall maintain current contact information with the AO. Any change of contact information must be submitted in writing to the AO.
3. **Valid Existing Rights:** This agreement is subject to all valid existing rights and reservations in and to the authorized area. The Assignor makes no representations or warranties, whatsoever, either expressed or implied, as to the existence, number, or nature of such valid existing rights.
4. **Preference Right:** No preference right for subsequent assignments is granted or implied by this assignment.
5. **Inspections:** The AO shall have reasonable access to the authorized area for inspection, which may be conducted without prior notice. If the Assignee is found to be in noncompliance, the authorized area may be subject to reinspection. The Assignee may be charged for actual expenses of any inspection.
6. **Restriction of Public Access:** The Assignee may manage these lands pursuant to relevant portions of Valdez Municipal Code governing Mineral Creek Trail usage. This includes managing the lands as a ski area which may necessitate prohibiting or restricting certain motorized and non-motorized uses which may present conflicts.
7. **Public Trust Doctrine:** 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 assignment is subject to the principles of the Public Trust Doctrine regarding navigable or public waters. The AO reserves the right to grant other interests consistent with the Public Trust Doctrine.
8. **Alaska Historic Preservation Act:** The Alaska Historic Preservation Act, AS 41.35.200, prohibits the appropriation, excavation, removal, injury, or destruction of any state-owned historic, prehistoric, archaeological or paleontological site without written approval from the DNR Commissioner. Should any sites be discovered, the Assignee shall cease any activities that may cause damage and immediately contact the AO and the Office of History and Archaeology in the Division of Parks and Recreation.
9. **Compliance with Government Requirements:** The Assignee shall, at its expense, comply with all federal, state, and local laws, regulations, and ordinances directly or indirectly related to this assignment. The Assignee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.

**10. Incurred Expenses:** The Assignor shall in no way be held liable for expenses incurred by the Assignee connected with the activities directly or indirectly related to this assignment.

**11. Waiver of Forbearance:** Any failure on the part of the AO to enforce the terms of this assignment, or the waiver of any right under this assignment by the Assignee, unless in writing, shall not discharge or invalidate the assignment of such terms. No forbearance or written waiver affects the right of the AO to enforce any terms in the event of any subsequent violations of terms of this assignment.

**12. Severability Clause:** If any clause or provision of this assignment is, in a final judicial proceeding, determined illegal, invalid, or unenforceable under present or future laws, then the Assignor and the Assignee agree that the remainder of this assignment will not be affected, and in lieu of each clause or provision of this assignment that is illegal, invalid, or unenforceable, there will be added as a part of this assignment 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.

**13. Transfer of Assignment:** This assignment shall not be transferred, assigned or sublet.

**14. Indemnification:** In connection with the entry on or use of these lands, subject to the limitations and provision of AS 09.50.250-270 and AS 37.05.170, the Assignee shall ensure that its contractors and subcontractors shall indemnify, save harmless, and defend the State, its agents and its employees from any and all claims or actions for injuries sustained by any person or property arising directly or indirectly from the construction of the contractor's performance of the contract, except when the sole proximate cause of the injury or damage is the State's negligence.

**15. Fuel and Hazardous Substances:** No fuel or hazardous substances are to be stored on state land. Prior written approval from the AO is required for a change in this restriction and may include additional stipulations and/or a change in the amount required for the performance guaranty. During equipment maintenance operations, the site shall be protected from leaking or dripping hazardous substances or fuel. The Grantee shall place drip pans or other surface liners designed to catch and hold fluids under the equipment or develop a maintenance area by using an impermeable liner or other suitable containment mechanism. a) "Surface liner" means any safe, non-permeable container (e.g., drips pans, fold-a-tanks, etc.) designed to catch and hold fluids for the purpose of preventing spills. Surface liners should be of adequate size and volume based on worst-case spill risk.

**16. Insurance:** Insurance is not required. The provisions of this assignment shall not prejudice the State's right to obtain remedy under any law or regulation.

**17. Relinquishment:** The Assignee will provide written notification to the Assignor of their intent to cease use of lands described herein. Notification shall be given a minimum of 90 days prior to expected return of lands. This notification will identify all improvements on site and will include a plan for the disposition of these improvements. Land returned by the Assignee to

DMLW for any reason shall be in an environmental and physical condition acceptable to the AO. Site rehabilitation may require the removal of improvements, equipment, and material.

**18. Review of Assignment:** This assignment is subject to review by the Assignor. If a review shows the site is abandoned; has significant nonuse relative to an approved development plan or has a violation of the terms, conditions and stipulations of this assignment, such as a new use not authorized in an approved development plan; the AO may revoke the CRMA in whole or part and require rehabilitation of the site to a condition satisfactory to the AO. The Assignee shall, upon request, provide written verification that the lands are still required for the purpose(s) described herein.

**19. Concurrent Use:** The DMLW reserves the right to grant additional authorizations or assignments to third parties for compatible uses on or adjacent to the land under this assignment. Authorized concurrent users of State land, their agents, employees, contractors, subcontractors, and licensees shall not interfere with the operation or maintenance activities of each user. The DMLW may require authorized concurrent users of State land to enter into an equitable agreement regarding concurrent use.

**20. Performance Guaranty:** The AO reserves the right to require a performance guaranty in the event the Grantee's compliance is less than satisfactory or as a condition of authorizing significant changes in the development plan or operations. If required, such performance guaranty shall remain in effect until released, in writing, by the AO and shall secure performance of the Grantee's obligation hereunder. The amount of the performance guaranty may be adjusted by the AO in the event of approved amendments to this authorization, changes in the development plan, or any change in the activities or operations conducted on the premises.

**21. Violations:** This assignment may be revoked upon violation of any of its terms, conditions, stipulations, nonpayment of fees, or upon failure to comply with any other applicable laws, statutes, and regulations. A revocation may not become effective until 60 days after the Assignee has been notified in writing of the violation during which time the Assignee has an opportunity to cure any such violation.

**22. Notification of Discharge:** The Assignee shall immediately notify the Department of Environmental Conservation (DEC) and AO 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 immediately.

If a discharge, including a cumulative discharge, of oil is greater than 10 gallons but less than 55 gallons, or a discharge of oil greater than 55 gallons is made to an impermeable secondary containment area, the Assignee shall report the discharge within 48 hours. Any discharge of oil greater than one gallon up to 10 gallons, including a cumulative discharge, solely to land, must be reported in writing on a monthly basis.

Notification of discharge during normal business hours must be made to the nearest DEC Area Response Team: Anchorage (907) 269-7500, fax (907) 269-7687; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-5245. For discharges in state off shore

waters call (907) 269-0667. The DEC oil spill report number outside normal business hours is (800) 478-9300.

Notification of discharge must be made to the appropriate DNR Office, preferably by e-mail: Anchorage email [dnr.scro.spill@alaska.gov](mailto:dnr.scro.spill@alaska.gov), (907) 269-8503; Fairbanks email [dnr.nro.spill@alaska.gov](mailto:dnr.nro.spill@alaska.gov), (907) 451-2739; Juneau email [dnr.sero@alaska.gov](mailto:dnr.sero@alaska.gov), (907) 465-3400. The Assignee shall supply the AO with all incident reports submitted to DEC.

23. **Fees:** No fees are associated with this assignment.

24. **Liens and Assessments.** The Assignee is responsible for paying all liens, assessments or other encumbrances made against the property.

25. **Request for Information:** The AO, at any time, may require the Assignee to provide any information directly or indirectly related to this assignment in a manner prescribed by the AO.

26. **Waste Disposal:** On-site refuse disposal is prohibited unless specifically authorized. All waste generated during operation, maintenance, and termination activities under this assignment shall be removed and disposed of at an off-site DEC approved disposal facility. Waste, in this paragraph, means all discarded matter, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and discarded equipment.

27. **Destruction of Markers:** The Assignee shall protect all survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed corner posts against damage, destruction, or obliteration. The Assignee shall notify the AO of any damaged, destroyed, or obliterated markers and shall reestablish the markers at the Assignee's expense in accordance with accepted survey practices of the DMLW.

28. **Site Maintenance:** The authorized area shall be maintained in a neat, clean, and safe condition, free of any solid waste, debris, or litter, except as specifically authorized herein.

29. **Maintenance of Improvements:** The Assignor is not responsible for maintenance of authorized improvements or liable for injuries or damages related to those improvements. No action or inaction of the Assignor is to be construed as assumption of responsibility.

30. **Amendment or Modification:** The Assignee may request an amendment or modification of this assignment; the Assignee's request must be in writing. Any amendment or modification must be approved by the AO in advance and may require additional fees and changes to the terms of this assignment.

31. **Development Plan:** Development shall be limited to the authorized area and improvements specified in the approved development plan or subsequent modifications approved by the AO. The Assignee is responsible for accurately siting development and operations within the

authorized area. Any proposed revisions to the development plan must be approved in writing by the AO before the change in use or development occurs.

32. **Proper Location:** This assignment is for activities on state lands or interests managed by DMLW. It does not authorize any activities on private, federal, native, and municipal lands, or lands which are owned or solely managed by other offices and agencies of the State. The Assignee is responsible for proper location within the authorized area.

33. **Choice of Venue:** This assignment shall be construed under the laws of the State of Alaska. The Assignee confers personal jurisdiction on the courts of the State of Alaska for any litigation under this assignment.

34. **Stop Work Orders:** Stop Work Orders may be issued if there is a deviation from design criteria, project specifications, stipulations, state statutes, or state regulations and that deviation is causing or is likely to cause significant damage to state resources. Under a Stop Work Order, work at the area subject to the Stop Work Order may not resume until the deviation is cured and corrective action is taken. Corrective action may include halting or avoiding specific conduct, implementing alternative measures, repairing any damage to state resources that may have resulted from the conduct, or other action as determined by the AO. The AO has the right but not the obligation, to undertake corrective action at the expense of the Assignee by moving against the performance bond when such action is necessitated by neglect or inaction on the part of the Assignee to take corrective action.

35. **Fire Prevention, Protection and Liability:** The Assignee shall take all reasonable precautions to prevent and suppress forest, structure, brush and grass fires,. The State is not liable for damage to the Assignee's personal property and is not responsible for forest fire protection of the Assignee's activity. To report a wildfire, call 911 or 1-800-237-3633.

36. **Materials:** The Assignee shall not sell, transfer, donate or otherwise remove material including gravel, sand, rock, or peat from the parcel(s) except as explicitly authorized by the Assignor.

37. **Timber Resources:** The Assignee shall not sell, transfer, donate or otherwise remove timber from the parcel(s) except as explicitly authorized by the DNR Division of Forestry.

38. **Minerals:** Jurisdiction and management of all minerals including oil and gas in the above described land is reserved to DMLW.

39. **Survey:** The Grantee shall submit a record of survey format as-built acceptable to the standards of the Survey Section within 5 years. The survey must be produced in accordance with survey instructions provided by the DMLW Survey Section and stamped by a Professional Land Surveyor registered in the State of Alaska.

## Attachment B – Location Diagram

