

MEMORANDUM OF UNDERSTANDING

Alberta to Alaska Railway Project

This Memorandum of Understanding ("MOU") is entered into on September 1, 2020 (the "Effective Date")

BETWEEN:

ALBERTA-ALASKA RAIL DEVELOPMENT CORPORATION, a Canadian company with an office at 1930, 360 Main Street, Winnipeg, Manitoba, Canada R3C 3Z3 ("A2A Rail")

AND

THE CITY OF VALDEZ, with an office at 212 Chenega Avenue, Valdez, Alaska 99686 ("COV")

A2A Rail and COV may be referred to herein individually as a "Party" and collectively as the "Parties."

WHEREAS, A2A Rail is a private company incorporated in the Province of Alberta, Canada;

WHEREAS, A2A Rail is proposing to develop a general freight railway running from Fort MacMurray, Alberta to tidewater in Alaska (the "Project"). The Project is expected to ship commodities, including heavy oil, from Alberta north through Alaska to tidewater and provide rail access to the lower 48 States for incoming cargo from ships calling at ports in Southcentral Alaska.

WHEREAS, the Project intends to encourage shippers of a variety of commodities to utilize the railway to ship their products, and the availability of a large marine terminal site is essential to the viability of the Project;

WHEREAS, the Project is a collaborative effort between A2A Rail and the Tribes/First Nations affected by the Project, and the Project is advancing consultation with the goal of formalizing agreements with all these communities; and

WHEREAS, the COV is the owner and operator of the port facilities at the Port of Valdez and seeks to develop the facility to its full potential for the benefit of the citizens of the City of Valdez and the State of Alaska, and generally supports the Project in concept.

NOW THEREFORE, the Parties hereby set out and confirm the following mutual understandings and intentions between them.

1. Confidentiality:

The Parties hereby acknowledge that either Party may disclose technical or financial information about the Project or other information regarding their respective business affairs and operations to the other Party, all of which information is to be considered private, confidential, and proprietary, whether or not identified as such (the "Confidential Information"). The Parties shall only use the Confidential Information for the express purposes and scope provided for herein, and in any event shall use care and procedures to prevent disclosure of Confidential Information from theft, loss, damage and unauthorized access and hold all such Confidential Information received from the other Party in strictest confidence except as compelled by legal process or as provided by Alaska state or local law. The Confidential Information is disclosed only to those authorized persons of the Parties on a need-to-know basis. Except as otherwise provided herein, a Party shall not reveal or disclose the

Confidential Information to any third party, unless such third party has entered into a confidentiality agreement directly with the disclosing Party protecting the Confidential Information. This obligation of confidentiality shall not apply to information which is already in the public domain or is expressly furnished to the Parties on a non- confidential basis.

2. Scope of Cooperation:

(a) The Parties may each use commercially reasonable efforts, determined in their mutual sole discretion, to evaluate and determine the feasibility of advancing the Port of Valdez ("Port") as a terminus for the A2A Rail Project, both as a port facility for shipping and railway facilities.

(b) During the term of this MOU, the Parties may form a Strategic Cooperation Working Team (further described under Section 3 below), tasked with the following goals:

- (i) Consider the Port's ability to offer transfer capacity to A2A Rail;
- (ii) Support marketing efforts in seeking new users for the Port, including efforts in cooperation with other Southcentral Alaska ports;
- (iii) Work to understand the comparative economics of shipping bitumen through the Port;
- (iv) To make information available, if necessary:
 - (a) As an alternative in A2A Rail's project description for a U.S. EIS; and
 - (b) As a method to inform shippers of their choices;
- (v) Develop Project supply options, including ingress of construction equipment and material;
- (vi) Work to evaluate markets for import and export of container and bulk shipping long term;
- (vii) Promote the sharing of market studies conducted by both Parties;
- (viii) Mutually determine and map sites appropriate to host rail facilities to support the widest variety of uses;
- (ix) Establish support from stakeholder groups, government and agencies; and
- (x) Perform such other tasks as mutually agreed to by the Parties from time to time.

3. Strategic Cooperation Working Team

The Strategic Cooperation Working Team ("Working Team") will consist of members selected by and representing each Party with the initial appointees of the Working Team as specified in Schedule "A" to this MOU. The primary objective of the Working Team is to foster and develop the strategic cooperation among the Parties. The Working Team will carry out the joint responsibilities of the Parties as set forth in Section 2 of this MOU.

4. Costs and Expenses

Unless otherwise agreed to between the Parties, each Party shall bear its own costs or expenses to evaluate and determine whether to: (a) proceed with the Project; (b) negotiate and enter into a Project Development Agreement; (c) negotiate and enter into a precedent agreement; and (d) take any and all other actions as contemplated under this MOU. The COV shall at all times have the sole authority to determine whether and how to make any expenditures related to the Project and shall comply with Chapter 2.80 of the Valdez Municipal Code, which governs procurements.

5. Term and Termination

The term of this MOU shall commence as of the Effective Date and continue for one (1) year thereafter (with the exception of Sections 1, 4, 5, 7 and 8, which shall survive the termination of this MOU), unless otherwise terminated upon the earlier of the following events:

- (a) the written mutual confirmation of the Parties that this MOU be terminated;
- (b) at any time and by any Party for any reason upon the provision of at least thirty (30) days prior written notification to the other Party; or
- (c) execution of a Project Development Agreement by the Parties.

6. Non-Binding and Non-Exclusive Nature

This MOU expresses the intent of the Parties to work with each other during the term of this MOU but is not intended to, and shall not be construed to, bind the Parties legally or otherwise (except for the provisions of Sections 1, 4, 5, 7 and 8 hereof), or to legally oblige the Parties to enter into a Project Development Agreement and/or any other definitive agreement(s), COV to participate in the Project or A2A to include COV in the Project. In addition, nothing in this MOU shall be deemed to constitute, create or give effect to or otherwise recognize a license, joint venture, partnership or other formal business entity of any kind among the Parties. For greater clarity, the Parties do not have any obligation to enter into a Project Development Agreement or any definitive agreement pursuant to this MOU or otherwise.

7. Notices

All notices, requests, consents and other communications under this MOU shall be in writing and shall be personally delivered to such Party or sent by email or facsimile to the address set forth below:

If to A2A:

Attention: Jon Katchen
Address: 1029 W. Third Avenue, Suite 550, Anchorage, Alaska 99501
Email: jwkatchen@hollandhart.com

If to COV:

Attention: Mark Detter, City Manager
Address: 212 Chenega Avenue, P.O. Box 307, Valdez, AK 99686
Email: mdetter@ValdezAK.gov
Facsimile: 1 (907) 834-3406

and shall be deemed to have been received on the earliest of the date of delivery in the case of personal delivery, and the day following the date of communication by facsimile. A Party may change or update its contact information by written notice to the other Party, which change shall be effective upon receipt.

8. Governing Law

This MOU will be governed by and construed and enforced in accordance with the laws of the State of Alaska and any applicable and superseding federal laws of the United States of America. If any dispute under this MOU cannot be amicably resolved, the Parties irrevocably consent to the exclusive jurisdiction of the courts of the State of Alaska in Anchorage.

9. Miscellaneous

- (a) Time shall be of the essence of this MOU.
- (b) The division of this MOU into sections and the insertion of headings are for convenience of reference only and shall not affect the construction and interpretation of this MOU.
- (c) This MOU may be executed in counterparts, each of which shall be deemed an original document, and all of which together shall constitute one and the same document and may be delivered by facsimile or other electronic form (via PDF).

IN WITNESS WHEREOF, this MOU is signed by the duly authorized officers of the Parties as of the Effective Date.

ALBERTA-ALASKA RAIL DEVELOPMENT CORPORATION

Per: _____
Name: Sean McCoshen
Title: President

CITY OF VALDEZ

Per: _____
Name: Jeremy O'Neil
Title: Mayor

ATTEST:

Per: _____

Name: Sheri Pierce

Title: City Clerk

SCHEDULE "A"

STRATEGIC COOPERATION WORKING TEAM

The initial appointees of the Working Team from the Parties are:

Alberta-Alaska Rail Development Corporation			
Name	Title	Contact	
		Email:	
		Email:	
		Email	
		Email:	

City of Valdez			
Name	Title	Contact	
Mark Detter	City Manager	Email: mdetter@valdezak.com	
Martha Barberio	Economic Development Director	Email:mbarberio@valdezak.com	
Jeremy Talbott	Ports and Harbor Director	Email:jtalbott@valdezak.com	
Kate Huber	Planning Director	Email:khuber@valdezak.com	