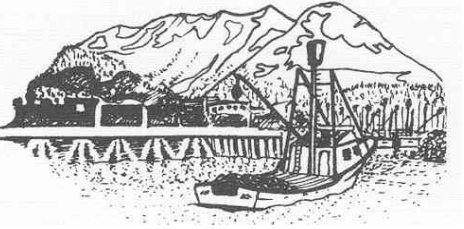


CITY OF CORDOVA



LD-RFP-24-02 SEALED PROPOSAL FORM

All proposals must be received by the Planning Department by **Friday, March 1st, 2024 at 4:30 PM.**

Property: Lot 1, Block 7A, Tidewater Development Park. See attached map.

Name of Proposer: _____

Name of Organization: _____

Address: _____ Phone #: _____

_____ Email: _____

Note: All submitted proposals for this property will be reviewed by the Planning Commission using the attached criteria. The Planning Commission will then recommend a proposal to City Council for final review and acceptance.

The City Council reserves the right to reject any proposal, part of any proposal, or all proposals. The City Council may accept any proposal deemed most advantageous to the City of Cordova or reject any or all proposals at their absolute discretion.

The chosen proposal will be subject to a Site Plan Review conducted in accordance with Chapter 18.42 of the Cordova Municipal Code. Prior to the issuance of a Building Permit, the City Council must approve the site plan for the project.

The available area available for purchase or lease is approximately 35,000 square feet. This area is made up of a roughly a 20,000 square foot pad area and 15,000 square feet of riprap extending from the pad down to the mean high tide line. See attachment C for more detail. Prior to sale of the property a replat will be required to adjust property lines to align with the Mean High-Water line.

The fair market value for Lot 1, Block 7A, Tidewater Development Park is **\$300,000.00** for the pad area and down to the mean hightide line, and will be the **minimum** price that will be accepted for the property if the proposal requests to purchase the property.

If a proposal is submitted to lease only a portion of the lot for a non-permanent use such as food trucks, coffee stand, non-food vendors, or other similar uses, the minimum cost will be \$1.00 per square foot of requested space.

If the successful proposal amount is greater than the minimum price, the amount in the proposal shall be the amount paid for the property.

Proposals shall include a deposit of **\$1,000.00**. In the event that a proposal is not awarded the opportunity to purchase the property, the City will reimburse the deposit to the proposer, otherwise deposit will be credited to costs associated with the contract preparation. **Nonpermanent use proposals shall submit a deposit of \$500.00.**

The attached **Lease with Option to Purchase** is a template for the agreement that will be negotiated with the proposal that is awarded the property. The terms and conditions of this template are subject to change as the City sees fit during the negotiation process with the chosen proposer.

The property is currently unzoned. Based on the chosen proposal a rezone to align the property with an appropriate zoning district, and or a conditional use permit will be required to be approved in conjunction with a building permit.

Proposed Price \$ _____

The applicant shall also be responsible for all fees and costs the City incurred to third-parties in the transaction, including without limitation costs of appraisal, attorney's fees and costs, surveying and platting fees and costs, closing costs and escrow fees as per CMC 5.22.100.

Additional Minimum Information Required (please attach separately with this proposal form):

1. Describe the development you are proposing*.
2. What is the proposed square footage of the development?
3. Provide a sketch, to scale, of the proposed development in relationship to the lot. (Attachment C)
4. What is the benefit of the proposed development to the community?
5. What is the value of the proposed improvements (in dollars)?
6. What is your proposed timeline for development?

*The site is not served by water or sewer. Proposals for nonpermanent uses / structures must include a detailed plan on how they will address their water needs and disposal of wastewater. The site does have one electrical service connection. Expansion of this service will be the proposer's responsibility if necessary.

Included for your convenience:

Attachment A: Criteria used when evaluating each submitted proposal.

Attachment B: A location map showing the subject property.

Attachment C: The property parcel with measurements.

Attachment D: Sample Lease with Option to Purchase Agreement

Please mail proposals to: **City of Cordova**
 Attn: Breakwater Fill Lot Proposal
 P.O. Box 1210
 Cordova, Alaska, 99574

Or email proposals to citymanager@cityofcordova.net and planning@cityofcordova.net. The email subject line shall be "Proposal for Lot 1, Block 7A," and the proposal shall be attached to the email as a PDF file.

Or deliver your proposal to the front desk at City Hall.

For questions or more information about the land disposal process, contact the City Planning Department at 424-6220, planning@cityofcordova.net, or stop by in person.

Proposals received after Friday, March 1st, 2024 at 4:30 PM will not be considered.

ATTACHMENT A

Each proposal will be evaluated on the criteria in the table below. Each criteria will be scored from 1-10. The multiplier will then be applied to the scores to determine a final score.

A proposals score is not the final determination on if it will be chosen. City Council has ultimate discretion and may select the proposal they determine best based on their own determination. The Council may also reject any and all proposals based on their own determination.

Final Land Disposal Evaluation Criteria

Criteria	Multiplier	Proposal Rank 1-10	Subtotal for Proposal
Value of improvements	1.75		
Number of Employees	1.5		
Sales Tax Revenue	1.25		
Importance to Community	1.75		
5yr Business Plan/Timeline	0.75		
Enhanced Architectural Design	1		
Proposal Price	1		
Consistency with Comprehensive Plan	1		
Total			

ATTACHMENT B



Subject Property

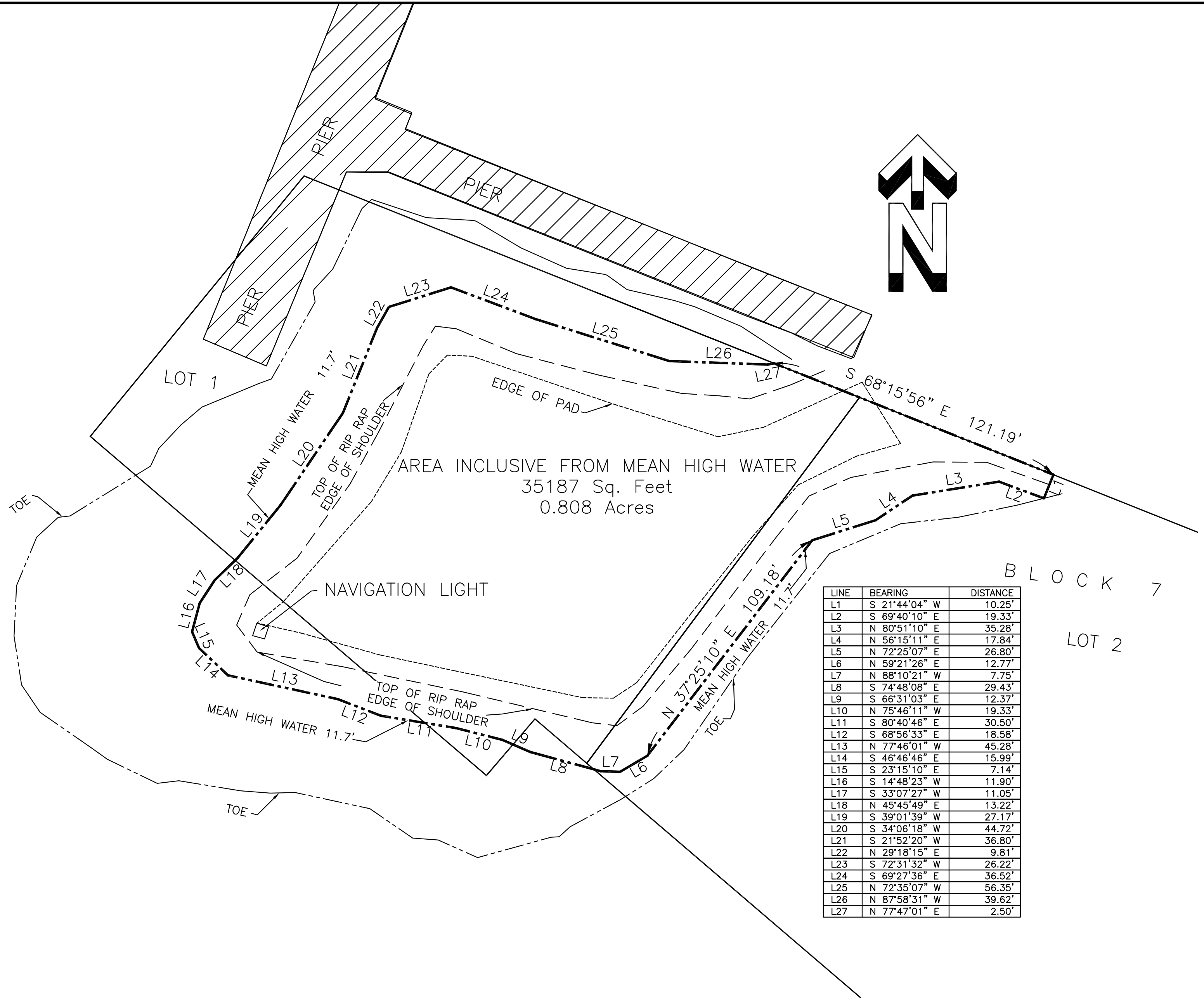
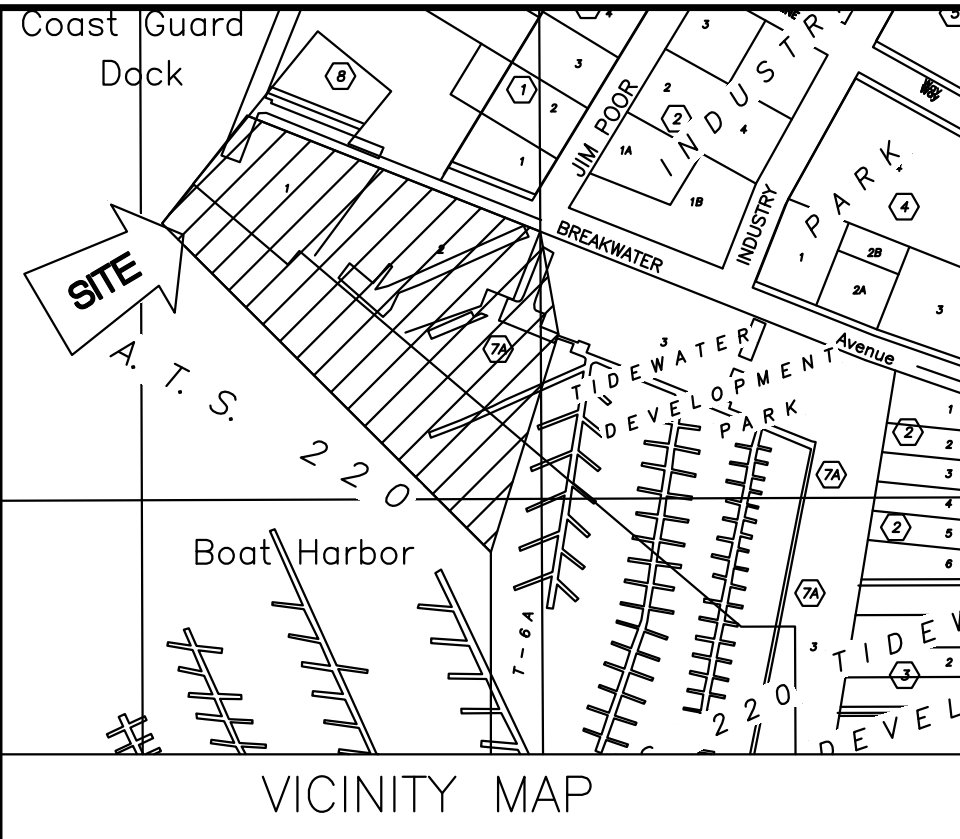
Text

JIM POOR AVENUE

MARINE WAY

INDUSTRY WAY

BREAKWATER AVENUE



LINE	BEARING	DISTANCE
L1	S 21°44'04" W	10.25'
L2	S 69°40'10" E	19.33'
L3	N 80°51'10" E	35.28'
L4	N 56°15'11" E	17.84'
L5	N 72°25'07" E	26.80'
L6	N 59°21'26" E	12.77'
L7	N 88°10'21" W	7.75'
L8	S 74°48'08" E	29.43'
L9	S 66°31'03" E	12.37'
L10	N 75°46'11" W	19.33'
L11	S 80°40'46" E	30.50'
L12	S 68°56'33" E	18.58'
L13	N 77°46'01" W	45.28'
L14	S 46°46'46" E	15.99'
L15	S 23°15'10" E	7.14'
L16	S 14°48'23" W	11.90'
L17	S 33°07'27" W	11.05'
L18	N 45°45'49" E	13.22'
L19	S 39°01'39" W	27.17'
L20	S 34°06'18" W	44.72'
L21	S 21°52'20" W	36.80'
L22	N 29°18'15" E	9.81'
L23	S 72°31'32" W	26.22'
L24	S 69°27'36" E	36.52'
L25	N 72°35'07" W	56.35'
L26	N 87°58'31" W	39.62'
L27	N 77°47'01" E	2.50'

BASIS OF BEARING—NAD 83

VERTICAL CONTROL—
 IS MEAN LOWER LOW WATER DATUM, IN U.S. SURVEY FEET
 (MLLW=0.00')
 HOLDING TIDAL BENCH MARK "NO 13 1970" AS 21.53' AND
 NOAA/NOS TIDAL BENCH MARK "4050 H 1982 AS 30.33'.
 TIDAL DATUM IS BASED ON THE 1983-2001 TIDAL EPOCH
 FROM NOAA/NOS TIDAL MARK LIST "9454050 CORDOVA, ORCA
 INLET, PRINCE WILLIAM SOUND ALASKA" PUBLISHED
 05/16/2003.
 CALCULATION FOR MEAN HIGH WATER WERE BASED ON THE
 RECORDED MEAN RANGE OF 10.2 AND MEAN TIDE LEVEL OF
 6.6'. USING THE STATE OF ALASKA D.N.R. FORMULA THE
 MEAN HIGH WATER MAR IS 11.7'.

NOTES:

1. SUBJECT TO ALL CONDITIONS, SERVITUDE'S, EASEMENTS, COVENANTS, RESERVATION, RESTRICTIONS AND RIGHTS OF WAY OF RECORD.
2. SUBJECT TO ALL COPY RIGHT LAWS.



**PROPOSED LOT
 at MEAN HIGH WATER**

CORDOVA ALASKA

DRAWN BY MSTD	DATE 2-17-15	PROJECT NO. CORDOVA RECORDING DISTRICT
SCALE 1"=30'	SHEET 1 of 1	PREPARED FOR: CITY OF CORDOVA

ST. DENNY SURVEYING INC.
 P.O. BOX 388, KODIAK, ALASKA 99615 (907) 481-3500

ATTACHMENT D

The following is an example of possible lease terms. Final lease terms will be negotiated after a proposal is selected by the City Council. Lease will be modified as necessary to reflect a lease only option for proposals for nonpermanent uses. Final lease terms must be approved by the City Council who has the ultimate discretion to approve or deny the lease as a whole or to add, remove, or modify any terms as they see fit.

CITY OF CORDOVA Cordova, Alaska

LEASE WITH OPTION TO PURCHASE

This LEASE WITH OPTION TO PURCHASE ("Lease") is made by and between the CITY OF CORDOVA, a municipal corporation organized and existing under the laws of the State of Alaska (the "City"), and XXXXXXX., an Alaska corporation ("Lessee").

RECITALS

WHEREAS, the City owns that certain unimproved parcel of land in Cordova, Alaska generally described as XXXXXX, located within Cordova Recording District, Cordova Alaska, (referred to hereinafter as the "Premises");

WHEREAS, Lessee desires to lease the Property from the City (the "Premises") from the City and the City desires to lease the Premises to Lessee, on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the Premises and the parties' mutual covenants, it is agreed as follows:

1. LEASE OF PREMISES

Subject to the terms and conditions set forth herein, the City leases to Lessee, and Lessee leases from the City, the Premises, as described above and illustrated in Exhibit A, attached and incorporated into this Lease.

2. LEASE TERM

The Lease Term will be (XX) years, commencing on _____, 20XX, (the "Commencement Date") and terminating at 11:59 p.m. on _____, 20XX, unless earlier terminated in accordance with the terms of this Lease. The Lease does not provide a lease renewal option.

3. RENT

A. Base Rent. The annual rent for the first five years of the Lease Term will be XXXX Hundred Dollars and nine cents (\$XXXX) or XXX Dollars (\$XXX) in twelve monthly installments ("Base Rent"). Base Rent is due on the first day of each calendar

month during the Lease Term. Base Rent must be paid in lawful money of the United States without abatement, deduction or set-off for any reason whatsoever, at the address set forth in Section 22.E of this Lease, or at any other place the City directs in writing. Base Rent shall be paid promptly when due without notice or demand therefore. The parties intend the Base Rent to be absolutely net to the City. All costs, expenses, and obligations of every kind and nature whatsoever in connection with or relating to the Premises shall be the obligation of, and shall be paid by, Lessee.

B. Additional Charges. In addition to the Base Rent, Lessee acknowledges and agrees that Lessee is obligated to pay and will pay, before delinquency and without reimbursement, all costs, expenses, and obligations of every kind and nature whatsoever in connection with or relating to the Premises or the activities conducted on the Premises, including, without limitation, those costs, expenses, and obligations identified in Section 8 and all other sums, costs, expenses, taxes, and other payments that Lessee assumes or agrees to pay under the provisions of this Lease (collectively the “Additional Charges”).

Without limiting in any way Lessee’s payment obligations, the City will have the right, but not the obligation, at all times during the Lease Term, to pay any charges levied or imposed upon the Premises that remain unpaid after they have become due and payable, and that remain unpaid after reasonable written notice to Lessee. The amount paid by the City, plus the City’s expenses, shall be Additional Charges due from Lessee to the City, with interest thereon at the rate of ten percent (10%) per annum from the date of payment thereof by the City until repayment thereof by Lessee.

C. Late Fee. Rent not paid within ten (10) days of the due date shall be assessed a late charge of ten percent (10%) of the delinquent amount; the charge shall be considered liquidated damages and shall be due and payable as Additional Charges. In the event the late charge assessment above exceeds the maximum amount allowable by law, the amount assessed will be adjusted to the maximum amount allowable by law.

D. Adjustment of Base Rent. Beginning on the fifth anniversary of the Commencement Date, Base Rent shall be adjusted annually by the Consumer Price Index (CPI-U) for the Anchorage, Alaska metropolitan area, as computed and published by the United States Bureau of Labor Statistics. Annual Base Rent adjustments will be equal to the percentage change between the then-current CPI-U and the CPI-U published for the same month during the previous year, except the first Base Rent adjustment, which will occur on the fifth anniversary of the Commencement Date, will be equal to the percentage increase in the CPI-U from the commencement date of this lease to the then-current year. No adjustments to Base Rent shall cause a reduction in the Base Rent. The City is not required to give advance written notice of the increase for the adjustment to be effective.

4. USES AND CONDITION OF PREMISES

A. Authorized Uses. Subject to the terms and conditions of this Lease, Lessee’s use of the Premises is limited to constructing and maintaining the project detailed in the site development plan, and using the constructed buildings and structures

as well as the undeveloped land XXXXXXXXXXXX. The Lessee shall give prior written notice to the City of any proposed changes to the site plan that are in furtherance of its authorized uses, and such changes are subject to City review and approval not to be unreasonably withheld or delayed. Lessee shall not leave the Premises unoccupied or vacant without the City's prior written consent. Inspections. The City and its authorized representatives and agents shall have the right, but not the obligation, to enter the Premises at any reasonable time to inspect the use and condition of the Premises; to serve, post, or keep posted any notices required or allowed under the provisions of this Lease, including notices of non-responsibility for liens; and to do any act or work necessary for the safety or preservation of the Premises. Except in the event of an emergency, the City will give 48-hours' advance written notice of its intent to inspect the Premises. The City shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of the City's entry onto the Premises, except for damage resulting directly from the acts of the City or its authorized representatives or agents

B. Compliance with Laws. Lessee shall maintain and repair the Premises in compliance with all applicable laws, regulations, ordinances, rules, orders, permits, licenses, and other authorizations. Lessee shall not use or permit the use of the Premises for any purpose prohibited by law or which would cause a cancellation of any insurance policy covering the Premises. Lessee shall not cause or permit any Hazardous Material (as defined in Section 10.B of this Lease) to be brought upon, kept, or used in, on, or about the Premises except for such Hazardous Material as is necessary to conduct Lessee's authorized uses of the Premises. Any such Hazardous Material brought upon, kept, or used in, on, or about the Premises shall be used, kept, stored, and disposed of in a manner that complies with all environmental laws and regulations applicable to Hazardous Material. Lessee shall not cause or allow the release or discharge of any other materials or substances that are known to pose a hazard to the environment or human health.

C. Lessee's Acceptance of Premises. Lessee has inspected the Premises to its complete satisfaction and is familiar with its condition, and the City makes no representations or warranties with respect thereto, including, but not limited to, the condition of the Premises or its suitability or fitness for any use Lessee may make of the Premises. Lessee accepts the Premises AS IS, WHERE IS, WITH ALL FAULTS. No action or inaction by the Council, the City Manager, or any other officer, agent, or employee of the City relating to or in furtherance of the Lease or the Premises shall be deemed to constitute an express or implied representation or warranty that the Premises, or any part thereof, are suitable or usable for any specific purpose whatsoever. Any such action or inaction shall be deemed to be and constitute performance of a discretionary policy and planning function only, and shall be immune and give no right of action as provided in Alaska Statute 9.65.070, or any amendment thereto..

5. DEVELOPMENT PLAN AND SUBSTANTIAL COMPLETION

A. Development Plan. The attached site development plan has been approved by the Cordova City Council, and is attached to this Lease as Exhibit B. Any proposed

material change to the attached site development plan by Lessee will be treated as an amendment to the Lease, requiring the written consent of both parties in accordance with Section 22.B. The Lease does not confer any approval from the Cordova Planning Commission regarding the site development plan or substitute for any approval process required in Cordova Municipal Code. Rather it is Lessee's responsibility to ensure the site development plan complies with all city code requirements and procedures.

B. Substantial Completion. Lessee must substantially complete construction of the project set forth in the site development plan attached as Exhibit B by _____, 20XX, which is Five (5) years after the Lease's Commencement Date. As used in this Lease, the term "substantially complete" shall mean the stage of construction when the building(s), whose footprint is outlined in the site development plan, including its structure, façade, windows, roof, heating, and lighting, are sufficiently complete so that Lessee can occupy and use the building and install or cause the installation of all equipment required for the contemplated use thereof, and Lessee has provided to the City certificates of inspection from certified inspectors providing that the above obligations have been met. If Lessee fails to substantially complete the construction of the project set forth in the site development plan by _____, 20XX, Lessee will be in default of this Lease and the City may terminate the Lease and take any other action detailed in Section 13.

6. REPRESENTATIONS AND WARRANTIES

Lessee represents and warrants to the City that Lessee is not delinquent in the payment of any obligation to the City, and that Lessee has not previously breached or defaulted in the performance of a material contractual or legal obligation to the City, which breach or default has not been remedied or cured.

7. ASSIGNMENTS AND SUBLETTING; SUBORDINATION

Lessee shall not assign or otherwise transfer this Lease or any interest herein or sublet the Premises or any portion thereof, or permit the occupancy of any part of the Premises by any other person or entity, without the prior written consent of the City, which consent may be withheld in the City's absolute discretion..

8. OPERATIONS, MAINTENANCE, UTILITIES, TAXES, & ASSESSMENTS

Lessee shall, at Lessee's sole cost and expense, be solely responsible for: (i) maintaining and repairing the Premises and shall not commit or allow any waste upon the Premises; (ii) obtaining any and all permits and approvals necessary for Lessee's use of the Premises; (iii) all utilities and services needed for Lessee's use of the Premises; (iv) all taxes and assessments levied against the Premises, and Lessee agrees to pay all such taxes and assessments when due, including, but not limited to, all utility bills and special assessments levied and unpaid as of the Commencement Date or hereafter levied for public improvements; (v) all licenses, excise fees, and occupation taxes with respect to the business and activities conducted on the Premises; (vi) all real property taxes, personal property taxes, and sales taxes related to the Premises or Lessee's use or occupancy thereof; and (vii) any taxes on the leasehold interest created under this Lease.

9. LIENS

Lessee will suffer no lien or other encumbrance to attach to the Premises, including, without limitation, mechanic's or materialman's liens, sales tax liens under Cordova Municipal Code 5.40.125, or property tax liens under Cordova Municipal Code 5.36.260. If the City posts any notice of non-responsibility on the Premises, Lessee will ensure that the notice is maintained in a conspicuous place.

10. INDEMNIFICATION

A. General Indemnification. Lessee shall defend, indemnify, and hold the City and its authorized representatives, agents, officers, and employees harmless from and against any and all actions, suits, claims, demands, penalties, fines, judgments, liabilities, settlements, damages, or other costs or expenses (including, without limitation, attorneys' fees, court costs, litigation expenses, and consultant and expert fees) resulting from, arising out of, or related to Lessee's occupation or use of the Premises or the occupation or use of the Premises by Lessee's employees, agents, servants, customers, contractors, subcontractors, sub-lessees, or invitees, including, but not limited, to all claims and demands arising out of any labor performed, materials furnished, or obligations incurred in connection with any improvements, repairs, or alterations constructed or made on the Premises and the cost of defending against such claims, including reasonable attorneys' fees. In the event that such a lien is recorded against the Premises, Lessee shall, at Lessee's sole expense within ninety (90) days after being served with written notice thereof, protect the City against said lien by filing a lien release bond or causing the release of such lien.

B. Environmental Indemnification. The City makes no representation or warranty regarding the presence or absence of any Hazardous Material (as hereafter defined) on the Premises. Lessee releases the City and its authorized representatives, agents, officers, and employees from any and all actions, suits, claims, demands, penalties, fines, judgments, liabilities, settlements, damages, or other costs or expenses (including, without limitation, attorneys' fees, court costs, litigation expenses, and consultant and expert fees) arising during or after the Lease Term, that result from the use, keeping, storage, or disposal of Hazardous Material in, on, or about the Premises by Lessee, or that arise out of or result from Lessee's occupancy or use of the Premises or the use or occupancy of the Premises by Lessee's employees, agents, servants, customers, contractors, subcontractors, sub-lessees, invitees (other than the City), or authorized representatives. This release includes, without limitation, any and all costs incurred due to any investigation of the Premises or any cleanup, removal, or restoration mandated by a federal, state, or local agency or political subdivision, or by law or regulation. Lessee agrees that it shall be fully liable for all costs and expenses related to the use, storage, and disposal of Hazardous Material generated, kept, or brought on the Premises by Lessee, its employees, agents, servants, customers, contractors, subcontractors, sub-lessees, invitees, or authorized representatives.

Lessee shall defend, indemnify, and hold the City and its authorized representatives, agents, officers, and employees harmless from and against any claims,

demands, penalties, fines, judgments, liabilities, settlements, damages, costs, or expenses (including, without limitation, attorneys' fees, court costs, litigation expenses, and consultant and expert fees) of whatever kind or nature, known or unknown, contingent or otherwise, arising in whole or in part from or in any way related to: (i) the presence, disposal, release, or threatened release of any such Hazardous Material on or from the Premises, soil, water, ground water, vegetation, buildings, personal property, persons, animals, or otherwise; (ii) any personal injury or property damage arising out of or related to such Hazardous Material; (iii) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Material; and (iv) any violation of any laws applicable to such Hazardous Material; provided, however, that the acts giving rise to the claims, demands, penalties, fines, judgments, liabilities, settlements, damages, costs, or expenses arise in whole or in part from the use of, operations on, or activities on the Premises by Lessee or its employees, agents, servants, customers, contractors, subcontractors, sub-lessees, invitees (other than the City), or authorized representatives.

As used in this Lease, "Hazardous Material" means any substance which is toxic, ignitable, reactive, or corrosive or which is regulated by any federal, state, or local law or regulation, as now in force or as may be amended from time to time, relating to the protection of human health or the environment, as well as any judgments, orders, injunctions, awards, decrees, covenants, conditions, or other restrictions or standards relating to the same. "Hazardous Material" includes any and all material or substances that are defined as "hazardous waste," "extremely hazardous waste," or a "hazardous substance" under any law or regulation.

11. INSURANCE

Lessee shall procure and maintain, at Lessee's sole cost and expense, the following policies of insurance with a reputable insurance company or companies satisfactory to the City:

A. Commercial General Liability. Commercial general liability insurance in respect of the Premises and the conduct of Lessee's business and operations, naming the City as an additional insured, with minimum limits of liability of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate;

B. Property Insurance. Property insurance, insuring against loss or damage by fire and such other risks as are customarily included in the broad form of extended coverage, in an amount of coverage not less than the replacement value of the improvements on the Premises, if any, and on such commercially reasonable terms and consistent with the customary commercial coverages in the city of Cordova;

C. Personal Property Insurance. Personal property insurance covering Lessee's trade fixtures, furnishings, equipment, and other items of personal property, as soon as such items are located on the Premises; and

D. Workers' Compensation Insurance. Workers' compensation insurance and other insurance as required by law.

All insurance required under this Lease shall contain an endorsement requiring thirty (30) days' advance written notice to the City before cancellation or change in the coverage, scope, or amount of any policy. Before commencement of the Lease Term, Lessee shall provide the City with proof of the insurance required by this Section 11, except where noted above.

12. OWNERSHIP AND REMOVAL OF THE FACILITIES

Unless Lessee exercises its Option (defined in Section 21) (in which case all improvements made by Lessee shall continue to be owned by Lessee), the facilities on the Premises are and shall remain the property of Lessee until the expiration or earlier termination of this Lease. Upon expiration or earlier termination of this Lease, at the option of the City, title to and ownership of the facilities shall automatically pass to, vest in, and belong to the City without further action on the part of either party other than the City's exercise of its option, and without cost or charge to the City. Lessee shall execute and deliver such instruments to the City as the City may reasonably request to reflect the termination of Lessee's interest in this Lease and the facilities and the City's title to and ownership thereof.

But upon expiration or earlier termination of this Lease, Lessee shall remove from the Premises, at Lessee's sole expense, all of the facilities or the portion thereof that the City designates must be removed. In such event, Lessee shall repair any damage to the Premises caused by the removal and return the Premises as near as possible to its original condition as existed on the Commencement Date. All facilities which are not promptly removed by Lessee pursuant to the City's request and in any event within thirty (30) days of the date of expiration or termination of this Lease may be removed, sold, destroyed or otherwise disposed of in any manner deemed appropriate by the City, all at Lessee's sole expense, and Lessee hereby agrees to pay the City for such expenses.

Notwithstanding any provision to the contrary in this Lease, all petroleum, fuel, or chemical storage tanks installed in or on the Premises during the Lease Term will remain Lessee's property and upon expiration or earlier termination of this Lease, Lessee must remove these items and all contaminated soil and other material from the Premises, at Lessee's sole expense.

13. DEFAULT AND REMEDIES

A. Default. The occurrence of any of the following shall constitute a default and a breach of this Lease by the Lessee:

i. The failure to make payment when due of any Base Rent, Additional Charges, or of any other sum herein specified to be paid by the Lessee if such failure is not cured within ten (10) days after written notice has been given to Lessee;

ii. The failure to pay any taxes or assessments due from the Lessee to the City and in any way related to this Lease, the Premises, any improvements, or the Lessee's activities or business conducted thereon, including, but not limited to, any real

property, personal property, or sales tax if such failure is not cured within thirty (30) days after written notice has been given to Lessee;

iii. Lessee's failure to substantially complete the site development plan, as required by Section 5;

iv. An assignment for the benefit of Lessee's creditors or the filing of a voluntary or involuntary petition by or against Lessee under any law for the purpose of adjudicating Lessee a bankrupt; or for extending the time for payment, adjustment, or satisfaction of Lessee's liabilities; or for reorganization, dissolution, or arrangement on account of or to prevent bankruptcy or insolvency, unless the assignment or proceeding, and all consequent orders, adjudications, custodies, and supervision are dismissed, vacated, or otherwise permanently stated or terminated within thirty (30) days after the assignment, filing, or other initial event;

v. The appointment of a receiver or a debtor-in-possession to take possession of the Premises (or any portion thereof); Lessee's interest in the leasehold estate (or any portion thereof); or Lessee's operations on the Premises (or any portion thereof), by reason of Lessee's insolvency;

vi. The abandonment or vacation of the Premises continues for a period of three (3) months of any consecutive four (4) month period during the Lease Term; notwithstanding the foregoing, leaving the Premises vacant pending development of improvements shall not be deemed abandonment;

vii. Execution, levy, or attachment on Lessee's interest in this Lease or the Premises, or any portion thereof;

viii. The breach or violation of any statutes, laws, regulations, rules, or ordinances of any kind applicable to Lessee's use or occupancy of the Premises if such breach or violation continues for a period of thirty (30) days or longer; or

ix. The failure to observe or perform any covenant, promise, agreement, obligation, or condition set forth in this Lease, other than the payment of rent, if such failure is not cured within thirty (30) days after written notice has been given to Lessee, or if the default is of a nature that it cannot be cured within thirty (30) days, then a cure is commenced within thirty (30) days and diligently prosecuted until completion, weather and *force majeure* permitting. Notices given under this subsection shall specify the alleged breach and the applicable Lease provision and demand that the Lessee perform according to the terms of the Lease. No such notice shall be deemed a forfeiture or termination of this Lease unless the City expressly elects so in the notice.

B. Remedies. If the Lessee breaches any provision of this Lease, in addition to all other rights and remedies the City has at law or in equity, the City may do one or more of the following:

i. Distrain for rent due any of Lessee's personal property which comes into the City's possession. This remedy shall include the right of the City to dispose of

Lessee's personal property in a commercially reasonable manner. Lessee agrees that compliance with the procedures set forth in the Alaska Uniform Commercial Code with respect to the sale of property shall be a commercially reasonable disposal;

ii. Re-enter the Premises, take possession thereof, and remove all property from the Premises. The property may be removed and stored at Lessee's expense, all without service of notice or resort to legal process, which Lessee waives, and without the City becoming liable for any damage that may result unless the loss or damage is caused by the City's negligence in the removal or storage of the property. No re-entry by the City shall be deemed an acceptance of surrender of this Lease. No provision of this Lease shall be construed as an assumption by the City of a duty to re-enter and re-let the Premises upon Lessee's default. If Lessee does not immediately surrender possession of the Premises after termination by the City and upon demand by the City, the City may forthwith enter into and upon and repossess the Premises with process of law and without a breach of the peace and expel Lessee without being deemed guilty in any manner of trespass and without prejudice to any remedies which might otherwise be used for arrears of rent or breach of covenant;

iii. Declare this Lease terminated;

iv. Recover, whether this Lease is terminated or not, reasonable attorneys' fees and all other expenses incurred by the City by reason of the default or breach by Lessee, less any rents received in mitigation of Tenant's default (but City is not under any duty to relet Premises);

v. Recover an amount to be due immediately upon breach equal to the sum of all Base Rent, Additional Charges, and other payments for which Lessee is obligated under the Lease;

vi. Recover the costs of performing any duty of Lessee in this Lease; or

vii. Collect any and all rents due or to become due from subtenants or other occupants of the Premises

14. SUBSIDENCE

The City shall not be responsible for any washout, subsidence, avulsion, settling, or reliction to the Premises or for any injury caused thereby to Lessee's, any sub-lessee's, or any other person's property. The City is not obligated to replace, refill, or improve any part of the Premises during Lessee's occupancy in the event of a washout, subsidence, avulsion, settling, or reliction.

15. VACATION BY LESSEE

Upon the expiration or sooner termination of this Lease, Lessee shall peaceably vacate the Premises and the Premises shall be returned to the City by Lessee together with any alterations, additions, or improvements, unless the City requests that they be removed from the Premises. Upon such vacation, Lessee shall remove from the

Premises any items of personal property brought on to the Premises. Any such property not removed from the Premises within thirty (30) days of the expiration or termination of this Lease shall become the property of the City at no cost or charge to the City, and may be removed, sold, destroyed, or otherwise disposed of in any manner deemed appropriate by the City, all at Lessee's sole expense, and Lessee hereby agrees to pay the City for these expenses.

16. RESERVATION OF RIGHTS

The City reserves the right to designate and grant rights-of-way and utility easements across the Premises without compensating Lessee or any other party, including the right of ingress and egress to and from the Premises for the construction, operation, and maintenance of utilities and access, provided that Lessee shall be compensated for the taking or destruction of any improvements on the Premises, and provided further that the City's designation will not unreasonably interfere with Lessee's improvements or use of the Premises. Lessee shall be responsible for requesting a rental adjustment to reflect any reduction in the value of the Premises.

17. SIGNS

No signs or other advertising symbols, canopies, or awnings shall be attached to or painted on or within the Premises without approval of the City Manager first being obtained; provided, however, that this prohibition shall not apply to standard, directional, informational and identification signs of two square feet or less in size. At the termination of this Lease, or sooner, all such signs, advertising matter, symbols, canopies, or awnings, attached or painted by Lessee shall be removed from the Premises by Lessee at its own expense, and Lessee shall repair any damage or injury to the Premises, and correct any unsightly conditions caused by the maintenance or removal of said signs.

18. HOLDING OVER

If Lessee, with the City's written consent, remains in possession of the Premises after the expiration or termination of the Lease for any cause, or after the date in any notice given by the City to Lessee terminating this Lease, such holding over shall be deemed a tenancy from month to month at the same Base Rent applicable immediately prior to such expiration or termination, subject to adjustment in accordance with Cordova Municipal Code 5.22.090.C, or such successor provision of the code then in effect, and shall be terminable on thirty (30) days' written notice given at any time by either party. All other provisions of this Lease, except those pertaining to term, rent, and purchase option, shall apply to the month-to-month tenancy. If Lessee holds over without the City's express written consent, Lessee is deemed to be a tenant at sufferance and may be removed through a forcible entry and detainer proceeding without service on Lessee of a notice to quit.

19. EMINENT DOMAIN

If the whole or any part of the Premises shall be taken for any public or quasi-public use, under any statute or by right of eminent domain or private purchase in lieu

thereof by a public body vested with the power of eminent domain, then the following provisions shall be operative:

A. Total Taking. If the Premises are totally taken by condemnation, this Lease shall terminate;

B. Partial Taking. If the Premises are partially taken by condemnation, then this Lease shall continue and the rent as specified in Section 3 above shall be abated in a proportion equal to the ratio that the portion of the Premises taken bears to the total Premises leased hereunder; and

C. Award. Upon condemnation, the parties shall share in the award to the extent that their interests, respectively, are depreciated, damaged, or destroyed by the condemnation.

20. COSTS

Lessee shall be liable to and shall pay the City for the fees and costs incurred by the City in connection with the negotiation, drafting, preparation, operation, and enforcement of this Lease, including, without limitation, attorneys' fees and costs incurred by the City. All outstanding fees and costs shall be paid in full no later than the time of the City's execution of this Lease.

21. BUYER'S OPTION TO PURCHASE

A. Option. The City hereby grants to Lessee an option (the "Option") to purchase the Premises upon the terms and conditions stated in this Lease.

B. Option Period. The Option will commence upon the Commencement Date of this Lease and terminate the date the Lease terminates (the "Option Period"). If Lessee fails to exercise the Option during the Option Period, neither party shall have any further rights or claims against the other party by reason of the Option.

C. Exercise of Option. To exercise the Option, Lessee must provide written notice ("Notice of Exercise of Option") to the City, delivered or mailed by certified or registered mail, return receipt requested, to the City's address set forth in Section 22.E, at least sixty (60) days prior to the date Lessee intends to exercise the Option.

D. Conditions to Exercise Option. Lessee can only exercise the Option if all of the following conditions are satisfied: (i) no default exists or is continuing under this Lease and (ii) the building as described in the site development plan attached as Exhibit B. is substantially completed as defined in section 5 B.

E. Purchase Price. Lessee shall have the right to purchase the Premises for \$XXXXX ("Purchase Price") until the fifth anniversary of the Commencement Date. If Lessee exercises its Option to purchase the Premises after the tenth anniversary of the Commencement Date, the Purchase Price will be adjusted to the current fair market value, as reasonably determined by the City, excluding all improvements completed by

Lessee under this Lease. In the event that Lessee exercises the Option on or before _____, 20XX, payment due at Closing to the City (“Closing Payment”) will equal the Purchase Price reduced by all Base Rent payments paid by Lessee to the City under this Lease. In the event that Lessee exercises the Option after _____, 20XX, the Closing Payment will equal the Purchase Price, and the Closing Payment will not be reduced by any Base Rent payments paid by Lessee to the City under this Lease.

F. Closing Date. The Closing must occur on a date (the “Closing Date”) mutually agreed upon by the parties, but must be within sixty (60) days after the exercise of the Option.

G. Closing. At Closing, the City shall deliver a quitclaim deed, subject to matters of record, including those matters that have arisen out of Lessee’s use and occupancy of the Premises, in recordable form, transferring marketable title (subject to Lessee’s reasonable approval) and Lessee shall execute and deliver to the City the Closing Payment in full, in immediately available funds. This Lease will terminate upon the Closing of Lessee’s purchase of the Premises. All costs and fees (including attorneys’ fees) associated with the negotiation, drafting, preparation, and enforcement of a purchase and sale agreement and related documents, the closing of the transaction, and the termination of the leasehold interest in the Premises, including, but not limited to, environmental assessments, appraisal fees, escrow fees, recording fees, and title insurance, will be paid by Lessee.

H. Cooperation for Consummating the Option. If Lessee exercises the Option, the City and Lessee each covenant and agree to sign, execute, and deliver, or cause to be signed, executed, and delivered, and to do or make, or cause to be done or made, upon the written request of the other party, any and all agreements, instruments, papers, deeds, acts, or things, supplemental, confirmatory, or otherwise, as may be reasonably required by either party hereto for the purpose of or in connection with consummating the Option.

I. City’s Right of First Refusal. In the event Lessee exercises its Option and subsequently determines to sell or otherwise dispose of the Premises, the City shall have a continuous and exclusive right of first refusal to purchase the Premises. The parties must either include notice of the City’s right of first refusal in the deed transferring the Premises to the Lessee, or execute a separate document acceptable to the City and in a recordable form ensuring the City’s right of first refusal hereunder. The document must be recorded contemporaneously with the recording of the deed. The City’s right of first refusal to purchase the Premises contains the following terms and conditions:

i. Lessee may accept an offer for the sale or other disposition of the Premises only if it is made subject to the City’s right of first refusal herein. Upon acceptance of an offer for the sale, disposition, conveyance, or transfer from a third party (the “Purchase Offer”), Lessee will present a copy of the Purchase Offer and acceptance to the City by written notice at the address set forth in Section 22.E. The City will then have sixty (60) days to either agree to purchase the Premises on the same terms and conditions set forth in the Purchase Offer, or decline to exercise its right of first refusal.

The City shall give written notice of its decision to exercise or decline to exercise its right of first refusal to Lessee at the address set forth in Section 22.E no later than sixty (60) days after being presented with a copy of the Purchase Offer.

ii. If the City declines to exercise its right of first refusal, Lessee may then sell or otherwise dispose of the Premises to the third party on the same terms and conditions set forth in the Purchase Offer. If the sale or other disposition is completed on the same terms and conditions set forth in the Purchase Offer, then any interest of the City in and to the Premises shall cease and be of no further force and effect and the City shall provide in recordable form a release of its right of first refusal at the closing of the sale to the third party. If the sale or other disposition is not completed on the terms and conditions in the Purchase Offer, then the City will continue to have its exclusive right of first refusal under the procedures outlined above in this Section, before Lessee may convey or transfer its interest in the Premises to a third party.

22. MISCELLANEOUS

A. Time Is of the Essence. Time is of the essence for this Lease and of each provision hereof.

B. Entire Agreement. This Lease represents the entire agreement between the parties with respect to the subject matter hereof, and may not be amended except in writing executed by the City and Lessee.

C. Governing Law and Venue. This Lease shall be subject to the provisions of the Cordova Municipal Code now or hereafter in effect. This Lease shall be governed by and construed in accordance with Alaska law and any action arising under this Lease shall be brought in a court of competent jurisdiction in Cordova, Alaska.

D. Relationship of Parties. Nothing in this Lease shall be deemed or construed to create the relationship of principal and agent, partnership, joint venture, or of any association between Lessee and the City. Neither the method of computation of rent, nor any other provisions contained in this Lease, nor any acts of the parties shall be deemed to create any relationship between the City and Lessee other than the relationship of lessee and lessor.

E. Notice. All notices hereunder may be hand-delivered or mailed. If mailed, they shall be sent by certified or registered mail to the following respective addresses:

TO CITY:

City of Cordova
Attn: City Manager
P.O. Box 1210
Cordova, Alaska 99574

TO LESSEE:

XXXXX
P.O. Box XXXX
Cordova, Alaska 99574

or to such other address as either party hereto may from time to time designate in advance in writing to the other party. Notices sent by mail shall be deemed to have been given when properly mailed. The postmark affixed by the U.S. Post Office shall be conclusive evidence of the date of mailing. If hand-delivered, notice shall be deemed to have been made at the time of delivery.

F. Captions. Captions herein are for convenience and reference and shall not be used in construing the provisions of this Lease.

G. No Waiver of Breach. No failure by the City to insist upon the strict performance of any term, covenant, or condition of this Lease, or to exercise any right or remedy upon a breach thereof, shall constitute a waiver of any such breach or of such term, covenant, or condition. No waiver of any breach shall effect or alter this Lease, but each and every term, covenant, and condition of this Lease shall continue in full force and effect with respect to any other existing or subsequent breach.

H. Survival. No expiration or termination of this Lease shall expire or terminate any liability or obligation to perform which arose prior to the termination or expiration.

I. Partial Invalidity. If any provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

J. Successors and Assigns. The terms, covenants, and conditions in this Lease shall inure to the benefit of and shall be binding upon the successors and permitted assigns of the City and Lessee.

K. Estoppel Certificates. Either party shall at any time and from time to time, upon not less than ten (10) days' prior written request by the other party, execute, acknowledge, and deliver to such party a statement certifying that this Lease has not been amended and is in full force and effect (or, if there has been an amendment, that the same is in full force and effect as amended and stating the amendments); there are no defaults existing (or, if there is any claimed default, stating the nature and extent thereof); and stating the dates up to which the Base Rent and Additional Charges have been paid in advance.

L. Recordation of Lease. The parties agree that this Lease shall not be recorded, but upon the request of either party, the other party will join the requesting party in executing a memorandum of lease in a form suitable for recording, and each party agrees that such memorandum shall be prepared and recorded at the requesting party's expense.

M. Authority. Lessee represents that it has all necessary power and is duly authorized to enter into this Lease and carry out the obligations of Lessee. Lessee further represents that Lessee has the necessary power to authorize and direct the officer of Lessee whose name and signature appear at the end of this Lease to execute the Lease on Lessee's behalf.

N. Exhibits. Exhibits A and B to this Lease are specifically incorporated into the Lease.

O. No Third-Party Beneficiaries. Nothing in this Lease shall be interpreted or construed to create any rights or benefits to any parties not signatories, successors, or permitted assigns of signatories to this Lease.

P. Interpretation. The language in all parts of this Lease shall in all cases be simply construed according to its fair meaning and not for or against the City or Lessee as both City and Lessee have had the assistance of attorneys in drafting and reviewing this Lease.

Q. Counterparts. This Lease may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

R. Attorneys' Fees. In the event that any suit or action is brought to enforce this Lease or any term or provision hereof, the parties agree that the prevailing party shall recover all attorneys' fees, costs, and expenses incurred in connection with such suit or action to the maximum extent allowed by law.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed as of the Commencement Date.

CITY: **CITY OF CORDOVA**

By: _____

Its: _____

LESSEE: **XXXX**

By: _____

Its: _____

Exhibit A
Legal Description

Exhibit B
Development Plan

DRAFT