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COOPERATIVE USE AGREEMENT  
BETWEEN THE STATE OF ALASKA AND  
THE CITY AND BOROUGH OF JUNEAU  
REGARDING THE JUNEAU GOVERNMENT CENTER

WHEREAS, the State of Alaska and the City and Borough of Juneau have both pursued development plans in the urban core of Juneau;

WHEREAS, it is in the public interest that these plans for the development of public facilities be coordinated and integrated;

WHEREAS, under the authority granted the State of Alaska acting through its Department of Transportation and Public Facilities by AS 44.42.020 and the City and Borough of Juneau under the authority of its Charter, City and Borough of Juneau Code 53.04.020 and City and Borough of Juneau Ordinance 83-24(br) and in consideration of the promises exchanged;

IT IS HEREBY AGREED

1. Identification of the Site. The State of Alaska (State) and the City and Borough of Juneau (City and Borough) shall mutually develop certain land, identified for use as the Juneau Government Center, situated in Juneau, Alaska, First Judicial District, State of Alaska which is more particularly described in Exhibit 1 which is attached and by this reference incorporated into this agreement.

2. State Rights, Duties and Responsibilities. Under this agreement the State of Alaska has the following rights, duties and responsibilities:

(a) the State shall perform all land acquisition and render just compensation to the various claimants of interest;

(b) site planning and design of State improvements which may be constructed on the site with consultation by the City and Borough;

(c) the construction of State improvements; and

1 (d) maintenance and operation of improvements which serve  
2 a State function after their construction.

3 3. City and Borough Rights, Duties and Responsibilities.

4 Under this agreement the City and Borough of Juneau has the  
5 following rights, duties and responsibilities;

6 (a) the City and Borough shall pay the State of Alaska  
7 \$2,000,000 which it will disburse in the following manner:

8 (1) \$1,780,000 upon execution of this agreement and

9 (2) \$220,000 within fifteen days of any request by  
10 the State for that amount;

11 (b) the City and Borough may temporarily develop the site  
12 for use for parking, parks and open space as follows:

13 (1) in regard to Parcel A as plotted on Exhibit 1,  
14 the City and Borough may only develop parks and open  
15 space,

16 (2) in regard to Parcel B as plotted on Exhibit 1,  
17 the City and Borough may develop off street parking,  
18 parks, open space and other open space related uses,  
19 with no development higher than 60 feet above MLLW,

20 (3) any development on either parcel by the City and  
21 Borough will require the prior approval of the State,  
22 which will not be unreasonably withheld, and

23 (4) in the event that any portion of the site is  
24 required by the State, the State shall give the City  
25 and Borough at least sixty days notice of the dedica-  
26 tion to State use.

27 4. City and Borough Rights of Reimbursement. The City and  
28 Borough shall have rights of reimbursement for the money  
29 provided under paragraph 3(a) as set forth below.

30 (a) If within 10 years of the execution of this agreement  
31 State does not develop the Juneau Government Center, the  
32 City and Borough shall be reimbursed its adjusted payments  
33 less the current market value of the land only occupied by  
34 its parking, parks and open space. The City and Borough

1 shall receive by appropriate conveyance the land so  
2 occupied, provided that it renders compensation for market  
3 value in excess of the amount of its adjusted payments,  
4 otherwise it shall receive a pro rata portion of the land  
5 based upon the relationship of the adjusted payments to  
6 market value.

7 (b) The City and Borough may, in the exercise of its dis-  
8 cretion, elect to receive title to less land than it  
9 actually occupies. In which case, the City and Borough  
10 shall receive title to the portion of the site it  
11 designates and pay the difference, if any, between the  
12 land's market value without regard to the improvements, and  
13 the amount of its adjusted payments. If its adjusted  
14 payments are greater than the market value of the land to  
15 which it receives title, the City and Borough shall receive  
16 the difference.

17 (c) In the event that portions of the site developed by  
18 the City and Borough are required by the State for  
19 construction of the Juneau Government Center, the City and  
20 Borough shall be reimbursed by the State for market value  
21 of the land occupied, without regard to the improvements,  
22 up to the amount of its adjusted payments with market value  
23 estimated as of the date the notice required under the  
24 provisions of paragraph 3(b)(4). The City and Borough may  
25 decline payment for any portion of the site it occupies  
26 without any prejudice to its right to receive reimbursement  
27 under this paragraph.

28 (d) Upon receipt of land with a market value of at least  
29 the amount of its adjusted payments, the payment of the  
30 amount of its adjusted payments by the State, or a com-  
31 bination of the conveyance of land and a payment of money  
32 when the aggregate of the market value of the land and the  
33 payment equal the adjusted payments, the City and Borough  
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1 shall have no further claim for reimbursement under this  
2 agreement against the State.

3 (e) In the event that the State and the City and Borough  
4 can not agree on the valuations required by this paragraph,  
5 the dispute will be resolved under paragraph 5 relating to  
6 dispute resolution.

7 (f) Any obligation of the State to pay money under this  
8 paragraph is subject to legislative appropriation.

9 5. Dispute Resolution. The State and the City and  
10 Borough, consistent with the provisions of AS 09.50.250 and  
11 AS 44.77,070. agree to the following mandatory procedure to  
12 adjudicate claims and disputes between them arising under this  
13 lease, except indemnification claims arising under paragraph  
14 6(a) and (b).

15 (a) In the event of any dispute under this lease, either  
16 party may give notice to the other that a dispute exists,  
17 specifying the facts and provisions of the lease relied  
18 upon in reaching the conclusion that a dispute exists.

19 (b) The parties shall attempt by good faith negotiation to  
20 resolve the dispute within thirty days from the date notice  
21 of the dispute is first given.

22 (c) If the dispute is not resolved within thirty days, ei-  
23 ther party may request that a hearings officer be appointed  
24 by the Commissioner of the Department of Transportation and  
25 Public Facilities. Such hearings officer shall be  
26 appointed from the hearings officer roster from which  
27 hearings officers are appointed under AS 44.62.350.

28 (d) The hearing before the hearings officer shall occur in  
29 a timely fashion and shall be conducted on the record in  
30 accordance with the Alaska Rules of Civil Procedure and  
31 Rules of Evidence. In rendering a decision the hearings  
32 officer shall render findings of fact and conclusions of  
33 law. The hearings officer's decision is the State's final  
34 decision.

1 (e) In the event either the State or the City and Borough  
2 disputes the decision of the hearings officer, an appeal  
3 may be made to the Superior Court under Appellate Rule 601,  
4 provided the appeal is made within thirty days of the hear-  
5 ings officer's rendering of the decision. The appealing  
6 party is responsible for the costs of preparing the record  
7 including transcript preparation though that expense may  
8 have been previously paid under the provisions of paragraph  
9 (f) below. Review by the Superior Court is limited to a  
10 review of the record to determine whether the decision is  
11 supported by substantial evidence and is not contrary to  
12 law.

13 (f) The State shall render compensation to the hearing  
14 officer and shall pay all costs arising from the conduct of  
15 the hearing. Each party shall bear its own costs and  
16 attorney's fees arising from the adjudication.

17 (g) In the event of an appeal to the Superior Court under  
18 the provisions of Appellate Rule 601 the prevailing party  
19 in that appeal may recover those costs and attorney's fees  
20 actually and reasonably incurred in the appeal.

21 6. Indemnification and Insurance. (a) In regard to use by  
22 the City and Borough of the site, the City and Borough shall  
23 indemnify, defend and hold harmless the State, its officers,  
24 agents, employees and contractors for any claim or suit which  
25 arises out of any facility which the City and Borough may con-  
26 struct or operate on the site.

27 (b) The State shall indemnify, defend and hold harmless,  
28 the City and Borough, its officers, agents, employees, and con-  
29 tractors for any claim or suit which arises out of any facility  
30 which the State may construct or operate on the site or any por-  
31 tion of the site which is not included within any area developed  
32 or used by the City and Borough.

33 (c) The City and Borough shall purchase and maintain  
34 insurance with a carrier or carriers satisfactory to Department

1 of Administration, Division of Risk Management covering injury  
2 to persons or property suffered by the State of Alaska or a  
3 third party, as a result of errors or omissions or operations  
4 which arise both out of and during the course of this agreement  
5 by the City and Borough or by any subcontractor or anyone  
6 directly, or indirectly employed by them. The coverage will  
7 also provide protection against injuries by all employees of the  
8 City and Borough and the employees of any subcontractor engaged  
9 in work under this agreement. A Certificate of Insurance will  
10 be furnished to the State. This certificate will show evidence  
11 of coverage and provide a written thirty (30) day prior notice  
12 to the State of cancellation, non-renewal or material change.  
13 Failure to furnish satisfactory evidence of insurance of lapse  
14 of the policy is a material breach.

15 Before performing under this agreement, evidence of the  
16 following coverages will be provided:

17 (1) Workers' Compensation Insurance: The City and Borough  
18 shall provide and maintain, for all employees of the City  
19 and Borough engaged in work under this agreement, workers'  
20 compensation insurance as required by AS 23.30.045. The  
21 City and Borough shall be responsible for workers' compen-  
22 sation insurance for any Subcontractor who directly, or  
23 indirectly provides services under this agreement, to  
24 include;

25 (A) statutory coverage for employees engaging in  
26 work,

27 (B) employer's liability protection in the amount of  
28 \$500,000 per person/\$500,000 per occurrence,

29 (C) broad form all State's endorsement,

30 (D) all State and Federal Acts where applicable, and

31 (E) voluntary compensation endorsement,

32 (2) Comprehensive General Liability with coverage limits  
33 \$5,000,000 per occurrence/annual aggregate to include;

34 (A) premises operations,

- (B) independent contractors,
- (C) products/completed operations,
- (D) blanket contractual, and
- (E) personal injury,

(3) Comprehensive Automobile Liability with coverage limits \$5,000,000 per occurrence/annual aggregate:

- (A) all owned vehicles,
- (B) all hired vehicles,
- (C) all non-owned vehicles, and
- (D) uninsured motorists.

7. The State's Interim Management Authority. (a) The State has filed eminent domain proceedings to acquire ten parcels and made one voluntary acquisition of land contained within the site as identified in Exhibit 1. The City and Borough acknowledges that the State may, in the exercise of its discretion, allow the continued use of various of the parcels until October 1, 1985. In the event that any of the parcels become available for use before October 1, 1985, the City and Borough may, with the consent of the State, which will not be unreasonably withheld, enter upon such parcels and develop them for uses which are consistent with this agreement.

(b) The State and the City and Borough may agree to the development of interim improvements by the City and Borough upon Parcel A of the site which are inconsistent with paragraph 3. However, if the State does not grant approval of the proposed interim use, the State's refusal is not subject to the provisions of paragraph 5. In all other respects the provisions of this agreement apply.

8. View Plane Protection. In the event the State develops improvements on parcel B of the site, it agrees that no improvement will be higher than sixty feet above MLLW.

9. Demolition of Improvements. In the event that the City and Borough desires to develop any land contained within the

1 site, it shall be responsible for all site preparation costs  
2 including demolition of improvements.  
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4 10. Notices. Any notices required under this agreement or  
5 correspondence exchanged between the State and the City and Bor-  
6 ough shall be sent to the officials indicated below at their  
7 respective addresses.

8 City Manager  
9 City and Borough of Juneau  
10 155 S. Seward Street  
11 Juneau, Alaska 99801

12 Deputy Commissioner  
13 Southeast Region  
14 Department of Transportation and Public Facilities  
15 P.O. Box 3-1000  
16 Juneau, Alaska 99802

17 11. Definitions. For the purposes of this agreement the  
18 following terms have the meanings stated in this paragraph.

19 (1) "Adjusted payments" shall mean any payments made under  
20 paragraph 3(a) plus interest at the rate of five percent  
21 simple interest per annum, computed from the date the spe-  
22 cific payments were made.

23 (2) "Develop the Juneau Government Center" shall mean the  
24 construction of buildings or structures which contain  
25 100,000 square feet of floor space.

26 (3) "Market value" shall mean "The highest price,  
27 estimated in terms of money, which a property would bring  
28 if exposed for sale on the open market, allowing a  
29 reasonable time to find a buyer who is knowledgeable of all  
30 the uses to which the property is adapted and capable of  
31 being used".

32 12. Miscellaneous.

33 a. this agreement is effective upon signature by a desig-  
34 nated State representative and approval by the Assembly of  
City and Borough of Juneau;

b. this is the entire agreement between the parties, any  
amendment of the agreement must be in writing and signed by  
the parties; and



c. the parties may from time to time agree to amend the agreement,

Dated: 7-28-84

City and Borough of Juneau

By: [Signature]  
N. L. Taagua  
Manager

Dated: 7/24/84

State of Alaska  
Department of Transportation  
and Public Facilities

By: [Signature]  
Jonathan W. Scribner  
Deputy Commissioner  
Southeast Region

ACKNOWLEDGEMENT OF CITY AND BOROUGH OF JUNEAU

STATE OF ALASKA )  
FIRST JUDICIAL DISTRICT ) ss.

THIS IS TO CERTIFY that on this 24 day of July 1984 before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally came N. L. Taagua to me known to be the Manager of the City and Borough of Juneau and to be the person described in and who executed the foregoing freely and voluntarily and for the purposes therein mentioned and being authorized to do so.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

[Signature]  
Notary Public, State of Alaska  
My commission expires: 1-9-85

ACKNOWLEDGMENT OF STATE OF ALASKA,  
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

STATE OF ALASKA )  
FIRST JUDICIAL DISTRICT ) ss.

THIS IS TO CERTIFY that on this 24 day of July 1984 before me the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally came Jonathan W. Scribner to me known to be Deputy Commissioner, Southeast Region, Department of Transportation and Public Facilities and to be the person described in and who executed the foregoing freely and voluntarily and for the purposes therein mentioned and being authorized to do so.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

[Signature]  
Notary Public, State of Alaska  
My commission expires: 1-9-85

ATTORNEY GENERAL STATE OF ALASKA  
STATE CAPITAL  
POUCH K. JUNEAU, ALASKA 99801  
PHONE 463-3600

1  
2 ACKNOWLEDGEMENT OF THE ASSEMBLY OF  
THE CITY AND BOROUGH OF JUNEAU

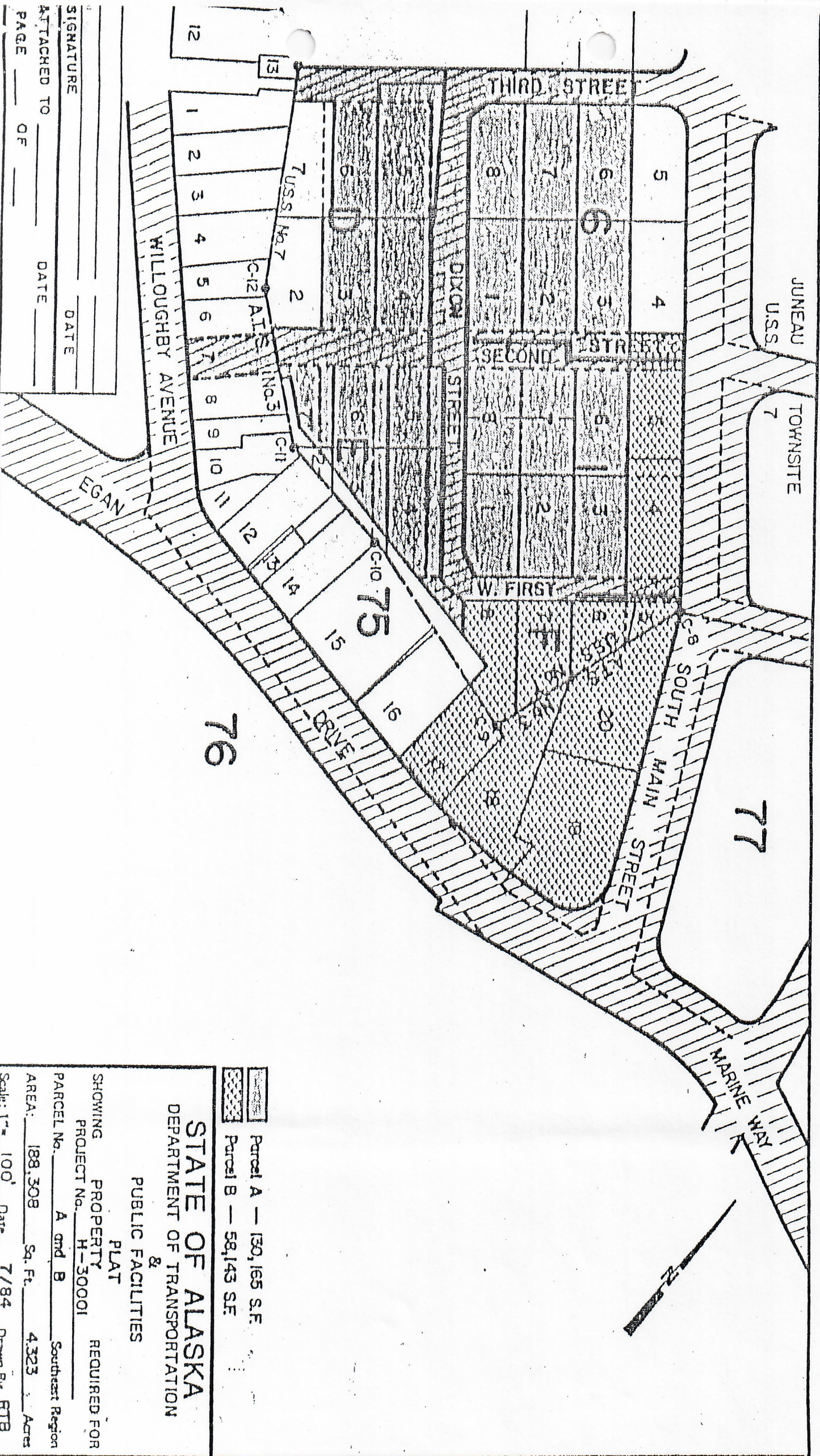
3 Be it remembered that on July 23, 1984 at a special meeting  
4 the Assembly of the City and Borough of Juneau granted its  
approval to the foregoing instrument.

5 Dated: 7/24/84

Peggy Garrison  
6 Peggy Garrison  
7 City and Borough Clerk

8 Seal of the City and Borough  
9 of Juneau

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ATTORNEY GENERAL STATE OF ALASKA  
STATE CAPITOL  
POUCH K, JUNEAU, ALASKA 99801  
PHONE 465-3600



SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_  
 ATTACHED TO \_\_\_\_\_ DATE \_\_\_\_\_  
 PAGE \_\_\_\_\_ OF \_\_\_\_\_

Parcel A — 130,165 S.F.  
 Parcel B — 58,143 S.F.

**STATE OF ALASKA**  
 DEPARTMENT OF TRANSPORTATION  
 &  
 PUBLIC FACILITIES  
 PLAT

SHOWING PROPERTY PROJECT No. H-30001  
 PARCEL No. A and B  
 AREA: 188,308 Sq. Ft. 4.323 Acres  
 Scale: 1" = 100' Date 7/84 Drawn By RTB