



ccc

After Recording, Return to:  
Alaska Village Electric Cooperative, Inc.  
4831 Eagle Street  
Anchorage, AK 99503

Ground Lease and Agreement  
between  
Alaska Village Electric Cooperative, Inc.  
and  
Pilot Station Inc.

This Lease is being made between Alaska Village Electric Cooperative, Inc. (hereinafter "AVEC"), whose address is 4831 Eagle Street, Anchorage, AK 99503 and Pilot Station Inc. (hereinafter "Land Owner") whose address is P.O. Box 5059, Pilot Station, Alaska 99650.

Description of Location. Land Owner leases to AVEC that certain property located in Pilot Station, Alaska within Section 5, Township 21 North, Range 74 West, Seward Meridian, Bethel Recording District, Fourth Judicial District, more particularly described in the attached Exhibit A. The description is approximate and is subject to amendments to the description necessary to reflect as built alignments of improvements. The Lease includes all rights-of-way, licenses, or easements now or in the future relating to Land Owner's title in the property and any improvements on the property.

Length of Lease. The Lease will last for fifty (50) years, beginning on the 2nd day October 2006, and will terminate on the 1st day October 2056 unless the property is conveyed pursuant to paragraph no. 3.

3. The parties agree that after the project is constructed, AVEC will survey the appropriate parcel that is actually needed for the facility. After the survey is recorded, the Landowner will convey fee title to this site to AVEC. AVEC will then relinquish the subject lease.
4. Rent. Rent for this Lease will be in the total amount of One Dollar and No/100 (\$1). As additional consideration for this Lease, AVEC promises to use the property for power generation, transmission, or fuel storage purposes during the term of the Lease.

5. Improvements.

(a) AVEC will have the unconditional right to build and develop power generation, transmission, control, and distribution facilities on the property. Such facilities include, but are not limited to:

(i) Power or heat generation equipment, including coal-fired, internal combustion, fuel cell, solar, wind turbine, or any other power or heat generation method;

Above or underground transmission and distribution lines for power or heat;

Equipment associated with the control of the process of generation, transmission, or distribution;

(iv) Bulk tank farms and other equipment or structures for the storage, delivery, and transportation of fuel; and

Any associated facilities that further the purposes of the Lease, including infrastructure improvements such as water lines, sewer lines, fences, etc.

(b) AVEC will be responsible for obtaining permits and governmental approvals for construction of the facilities mentioned in Paragraph 5(a).

6. Maintenance and Construction Obligations.

(a) **Maintenance.** AVEC will, at its expense, keep any improvements, including any water, sewer, waste water drain lines, fences, vehicle/pedestrian access ways, trench drains and utilities, on the property in good repair and maintenance, and in a safe, sanitary, orderly, and slightly condition. The improvements will be maintained in compliance with applicable federal, state, and local regulations.

(b) **Construction.** AVEC may remove all or portions of any existing improvements on the property in its sole discretion.

7. Division. AVEC may divide the property into two (2) or more parcels for purposes of development, assignment, or mortgage. In conjunction with such a division, and upon written request of AVEC, AVEC and Land Owner shall execute new leases identical in terms to this Lease for each new parcel.

8. No Right of Entry. Land Owner will not have the right to enter the property during the term of the Lease without AVEC's permission. AVEC will grant permission to enter the premises if entry is necessary for Land Owner to perform



its obligations under this Lease, or to comply with a federal, state, or local law, regulation, or directive.

9. Payment of Taxes and Other Charges. Land Owner shall be responsible for the payment of all real property taxes on the property during the term of the Lease. AVEC shall be responsible for payment of any sales tax, excise tax, gross receipts tax, or other business tax associated with its use of the property. The parties will make all payments of taxes directly to the charging governmental entity prior to delinquency, and before any fine, interest, or penalty shall become due or be imposed by operation of law for their nonpayment.

10. Indemnification.

(a) Land Owner shall indemnify, save, and hold AVEC harmless, and defend AVEC at Land Owner's sole cost and expense against any claim or liability for any injury to any person or persons or damage to any property or any other liability arising or relating to any act, omission, neglect or misconduct of Land Owner, its officers, agents, subcontractors, servants, or employees relating to AVEC's Lease of the property from Land Owner or Land Owner's obligations under this Lease.

(b) AVEC shall indemnify, save, and hold Land Owner harmless, and defend Land Owner at AVEC's sole cost and expense against any claim or liability for any injury to any person or persons or damage to any property or any other liability arising or relating to any act, omission, neglect or misconduct of AVEC, its officers, agents, subcontractors, servants, or employees relating to AVEC's Lease of the property from Land Owner or AVEC's obligations under this Lease.

(c) The parties expressly waive any right to common law indemnification.

Insurance. AVEC may maintain insurance relating to the property.

12. Hazardous Materials & Environmental Compliance.

(a) As detailed in Paragraph 4, AVEC may use the property for power and heat facilities. Such use may require Hazardous Materials to be brought onto, used, and stored on the property. AVEC will indemnify, save, and hold Land Owner harmless, and defend Land Owner at AVEC's sole cost and expense against any claim or liability for any injury to any person or persons or damage to any property or any other liability arising or resulting from any negligent act, omission, or intentional misconduct of AVEC, its officers, agents, subcontractors, servants, or employees relating to AVEC's use, transportation, or storage of Hazardous Materials on the property.



- (b) The presence or use of Hazardous Materials on the property, or violations of federal, state, or local environmental laws, regulations, or directives by AVEC, shall not constitute a breach of this Lease agreement.
  - (c) As used herein the term “Hazardous Material” means any hazardous or toxic substance, material, or waste which is or becomes regulated by any local government authority, the State of Alaska, the United States Government, or any other governmental entity. The term “Hazardous Material” includes, without limitation, any material or substance that is (i) defined as a “hazardous substance” under appropriate state law provisions (ii) petroleum; (iii) asbestos; (iv) designated as a “hazardous substance” pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); (v) designed as a “hazardous waste” pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act (42 U.S.C. 6903); (vi) defined as a “hazardous substance” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601); or (vii) defined as a “regulated substance” pursuant to Subchapter IX Solid Waste Disposal Act (Regulation of Underground Storage Tanks) (42 U.S.C. 6991).
13. Lease Termination. In the event of Lease termination or expiration, AVEC may, at its sole discretion, choose to:
- (a) leave the property with improvements and equipment in place;
  - (b) remove or destroy any improvements or equipment on the property; or
  - (c) remove or destroy some improvements and equipment while leaving other equipment or improvements in place.
14. Modification. This Lease may not be amended or modified except in writing signed by both parties and any mortgagee of any portion of the leasehold estate.
15. Subletting, Assignment, Mortgage, and Security Interests.
- (a) Sublet. AVEC may sublet portions of the property during the term of this Lease to persons who will occupy a portion of the property for the conduct of business consistent with the uses permitted herein. Each sublease will be in writing and will provide that the sublease is subject to this Lease and to any extension, modifications or amendments of this Lease.
  - (b) Assignment. AVEC may assign this Lease in whole or in part. If AVEC assigns the Lease, it will be relieved of all of its obligations under this Lease as long as the person taking the assignment assumes AVEC’s obligations under this Lease.



- (c) **Mortgages and Security Interests.** AVEC may mortgage the property as long as it gives written notice to Land Owner within thirty (30) days after recording of any mortgage(s). AVEC may also grant security interests in the property as necessary to secure financing from the federal government or financial institutions. Land Owner agrees to reasonably cooperate with AVEC in the preparation of submission of any documents necessary for AVEC to secure financing from Rural Utilities Service.

**16. Land Owner's Remedies and Breach.**

- (a) In the event that AVEC defaults on its obligations under this Lease, Land Owner may terminate the Lease if:
  - (i) Land Owner has given written notice of the default to AVEC; and  
  
AVEC has not cured the default within sixty (60) days, or in the case of a default which cannot reasonably be cured within sixty (60) days, has not made reasonable efforts to complete a cure of the default.
- (b) In the event that Land Owner defaults upon any of its obligations under this Lease, AVEC may terminate the Lease if:
  - (i) AVEC has given written notice of the default to Land Owner; and  
  
Land Owner has not cured the default within sixty (60) days, or in the case of a default which cannot reasonably be cured within sixty (60) days, has not made reasonable efforts to complete a cure of the default.
- (c) In the event of a termination under subparagraph (b), if AVEC elects to leave any improvements or equipment in place, it shall be entitled to recover from Land Owner the greater of the fair market value of the equipment and improvements or the outstanding balance on any loans used to purchase and install said improvements or equipment.

**17. Notices.** Any notice required or desired to be given pursuant to this Lease shall be in writing. Notices may be faxed or mailed and are effective on the date they are received. Notices shall be given to:

Alaska Village Electric Cooperative, Inc.  
4831 Eagle Street  
Anchorage, AK 99503  
Facsimile No. (907) 561-2388

with copy to:



Kemppel, Huffman and Ellis, P.C.  
255 E. Fireweed Lane, Suite 200  
Anchorage, AK 99503  
Facsimile No. (907) 276-2493

and if addressed to Land Owner, the address of Land Owner is:

Pilot Station Inc.  
P.O. Box 5059  
Pilot Station, AK 99650  
Facsimile No. (907)549-3234

Upon written notice, the parties may change the address for notice required under this Lease.

18. Warranty of Title. Land Owner agrees that it has the right and authority to lease the property and that AVEC by paying rent and performing all promises on AVEC's part, will be able to use the property without interruption or interference.
19. Condemnation.
  - (a) Termination. If, during the term of this Lease, title to the whole or substantially all of the property is taken as the result of the exercise of the power of eminent domain, this Lease shall, at the election of AVEC terminate as of the date of vesting of title pursuant to such proceeding. For the purposes of this Section 18, "substantially all of the leased premises" shall be deemed to have been taken if a taking under any such proceeding shall involve such an area, whether the area be improved with a building(s) or be utilized for a parking area or otherwise (including a deprivation of access to all streets and highways abutting the leased premises), that AVEC cannot reasonably operate in the remainder of the leased premises the business being conducted on the leased premises at the time of such taking.
  - (b) Award. The award made in any proceeding shall be divided between Land Owner and AVEC as follows: The amount of any such award attributable to the improvements or equipment AVEC has provided shall belong to AVEC, and the remainder of the such award shall belong to Land Owner; provided, however, in the event title to the whole or substantially all of the property is taken, or any mortgagee of the property so requires, AVEC shall be obligated to use so much or all of its award as shall be necessary to pay off any permanent mortgage of AVEC.
20. Easements. AVEC's interest is subject to any easements of record as of the date of this Lease.



21. Arbitration. AVEC and Land Owner agree that if any dispute, arises between them relating to this Lease, the dispute will be submitted for arbitration. The determination of the arbitrator will be binding on the parties. In the event the parties are unable to agree to an arbitrator or method of selecting an arbitrator, the arbitrator shall be appointed by the presiding judge of the Alaska judicial district in which the property is located.
22. Attorney's Fees. The prevailing party in any action or arbitration relating to this Lease agreement is entitled to reasonable attorneys' fees and costs as may be fixed by the court or arbitrator.

Impossibility. If the obligations and duties of AVEC or Land Owner cannot be performed by either of them because of an unforeseeable act beyond their control, then for such time period as the rights and obligations are incapable of being performed this Lease shall be suspended and the time of such suspension shall not be counted against AVEC, anything in this Lease to the contrary notwithstanding.

Recording. This Lease may be recorded at AVEC's option. In the event the Lease terminates, Land Owner shall have the right to record an affidavit so stating.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed

FOR: PILOT STATION INC.

By: Arthur S. Heckman 10/02/06  
ARTHUR S. HECKMAN, PRESIDENT

STATE OF ALASKA )  
 )  
 ss.  
 Fourth Judicial District )

THIS IS TO CERTIFY that before me, the undersigned, a Notary Public in and for the State of Alaska, duly sworn and commissioned as such, personally appeared Arthur S. Heckman, the President of Pilot Station Inc., whose name is subscribed to the foregoing instrument, and he/she acknowledged to me that he/she is authorized to and did execute the same freely and voluntarily for the uses and purposes contained therein.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal this 2<sup>nd</sup> day of October, 2006.



[Signature]  
 Notary Public in and for Alaska  
 My Commission expires: When Retired

POSTMASTER  
 PILOT STATION, AK 99650

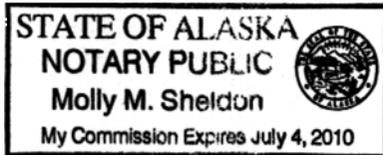
FOR ALASKA VILLAGE ELECTRIC COOPERATIVE, INC.

By: *Meera Kohler*  
Meera Kohler, President & CEO

STATE OF ALASKA            )  
  ss.  
Third Judicial District    )

THIS IS TO CERTIFY that before me, the undersigned, a Notary Public in and for the State of Alaska, duly sworn and commissioned as such, personally appeared MEERA KOHLER, the PRESIDENT & CEO of ALASKA VILLAGE ELECTRIC COOPERATIVE, INC., whose name is subscribed to the foregoing instrument, and she acknowledged to me that she is authorized to and did execute the same freely and voluntarily for the uses and purposes contained therein.

IN WITNESS WHEREOF, I have hereunto set my hand and notary seal this 11<sup>th</sup> day of October, 2006.



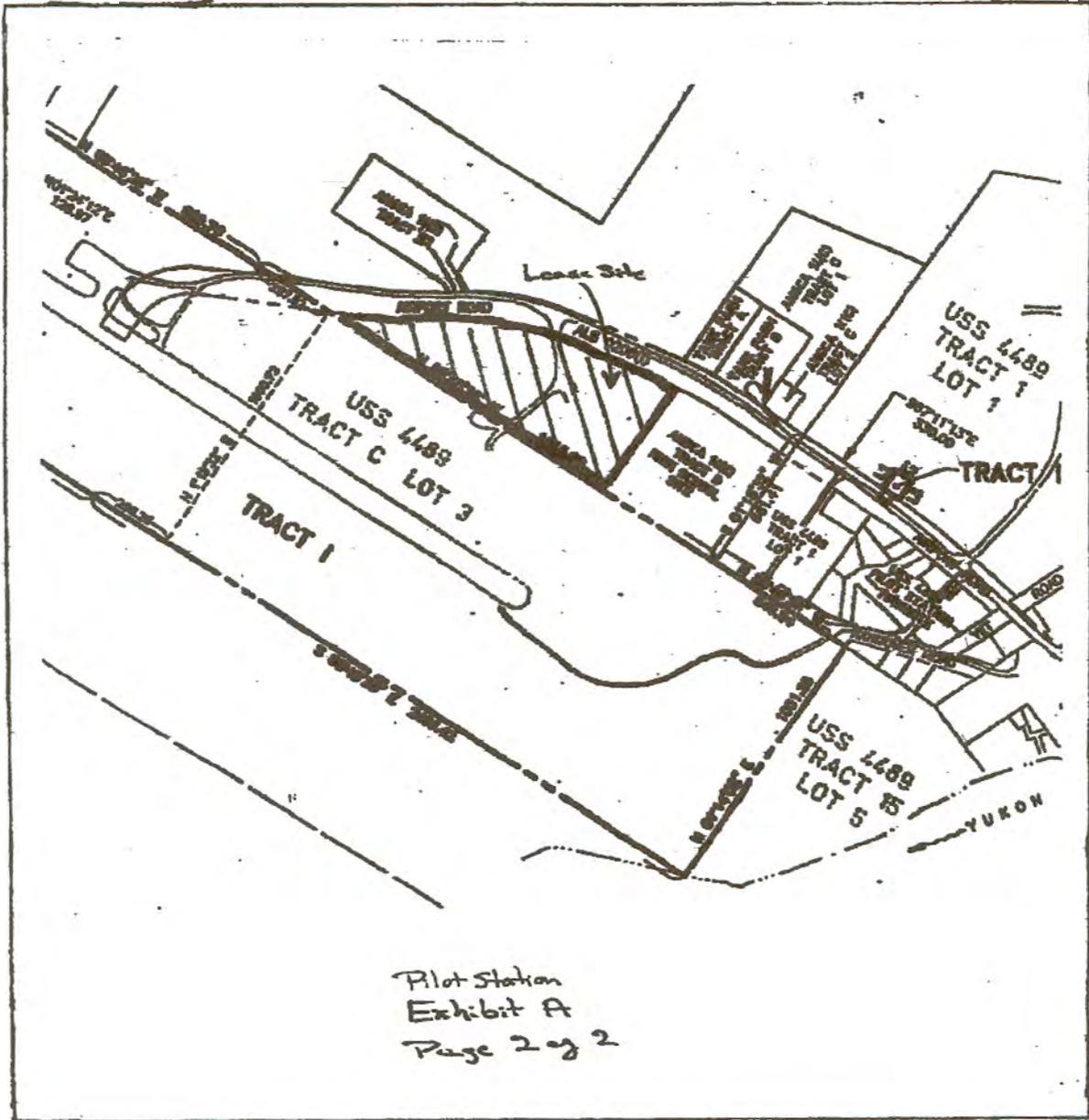
*Molly M. Sheldon*  
Notary Public in and for Alaska  
My Commission expires: July 4, 2010



**Land Description  
AVEC Lease Site  
Pilot Station**

**True Point of Beginning is Corner No. 3, Tract D, Pilot Station High School Site, ANCSA 14(c) Survey, Plat 97-4; thence S. 88°48' 15" E. a distance of approximately 1,150 feet along the northern boundary line of Lot 3, Tract C, U.S. Survey 4489, to a point of intersection with the southern boundary of Airport Road right of way; thence northeasterly along the southern boundary of Airport Road right of way to Corner No. 4 of Tract D, Pilot Station High School site; thence S. 1°14' W. a distance of 454.96 feet to the True Point of Beginning. Containing approximately 7.5 acres.**





10 of 10

2006-001726-0