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**Municipality of Skagway
and
Pacific and Arctic Railway and Navigation Company**

**LEASE AGREEMENT
First Avenue Parking Lot**

This Ground Lease Agreement (this "Lease") is entered into on this ___st day of March, 2020, by and between the Municipality of Skagway (hereinafter, Municipality) a municipal corporation, and Pacific and Arctic Railway and Navigation Company (hereinafter, PARN), for the purpose of leasing a parking lot area on First Avenue between State and Broadway Streets in Skagway.

WITNESSETH:

WHEREAS, PARN owns the Site described as Lots 2 through 6 of Block 44, according to Plat 1 (USS 435) recorded October 12, 1909, Skagway Recording District, First Judicial District, State of Alaska (the "Site"); and

WHEREAS, PARN wishes to offer lease of the Site to the Municipality for use as a parking lot;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, it is agreed as follows:

1. DURATION:

This Lease shall be in effect from April 1, 2020 to October 1, 2020.

2. FACILITIES:

A. The Site subject to this lease shall be the grounds of Lots 2 through 6 of Block 44, according to Plat 1 (USS 435) recorded October 12, 1909, Skagway Recording District, First Judicial District, State of Alaska (Exhibit A).

B. The Site may only be used for the purpose of parking motor vehicles. The Municipality shall not allow use of the Site for any illegal purpose. The Municipality shall comply with all governmental rules, orders, regulations, or requirements relating to the use and occupancy of the Site.

3. LEASE AMOUNT:

The annual lease payment shall be in the amount of \$18,000.00 (Eighteen-Thousand Dollars and No/100). This amount is payable in six (6) equal monthly installments of \$3,000.00 (Three-Thousand Dollars and No/100), due on or before the first day of April, May, June, July, August, and September.

4. **OPERATIONS AND MAINTENANCE:**

- A. The Municipality shall promptly repair, rebuild or restore damage or destruction to the Site, except damage caused solely by PARN.
- B. PARN may, at all reasonable times and with prior notice, enter upon and inspect the Site. If PARN determines the Municipality has failed to perform maintenance or repair work required under this lease, and if the Municipality, after prior notice of the deficiencies, fails to correct the deficiencies or begin corrective action within a reasonable time, PARN may enter any part of the Site and perform the necessary work. The Municipality shall reimburse PARN for reasonable expenses incurred by this work within thirty days of PARN providing the Municipality with an invoice for the work.
- C. The Municipality shall make no changes, improvements or alterations to the Site without the prior written consent of PARN provided, however, PARN hereby gives its consent to: (i) Remove brush on the Site including trees and shrubs, with the exception of the row of memorial trees lining the north side of the property line; (ii) Level the Site by placing crushed gravel, so long as such crushed gravel does not contain any Hazardous Materials (as that term is defined in Section 5C); (iii) Place appropriate signs on the Site specifying that it may be used only for public parking.

5. **INSURANCE:**

- A. The Municipality shall provide to PARN a certificate of insurance showing that the Municipality has obtained at least two million dollars (\$2,000,000.00) general liability insurance, which covers the Municipality's operations on the Site. The Municipality shall provide the Certificate of Insurance, naming PARN as an additional insured, at the time of the effective date of the Lease.
- B. **HAZARDOUS WASTE RESPONSIBILITY.** The Municipality represents and warrants that the Site will never be used for the generation, manufacture, storage, treatment, disposal, release, or threatened release of any hazardous waste or substance. The term "Hazardous Waste or Substance" means hazardous or toxic substances, materials or wastes, including but not limited to any substance, material or waste which is (i) petroleum; (ii) asbestos; (iii) polychlorinated biphenyls (PCBs); (iv) toxic or hazardous substances as defined in Alaska Statute 18.60.105 or 46.03.826, and associated regulations; (v) designated as a "Hazardous Substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. ' 9601, et. seq.; (vi) designated as a "Hazardous Waste" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. ' 6901, et. seq.; (vii) designated as a "Hazardous Substance" under the Clean Water Act, 33 U.S.C. ' 1321, or listed pursuant to 33 U.S.C. § 11317; (viii) listed by the U.S. Department of Transportation at 49 C.F.R. Part 302; and (ix) any other substance, waste or material which is regulated as hazardous or dangerous by any Federal, State or local agency.

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6. DEFAULT:

When PARN determines that the provisions of this Lease are not being met and attempts to resolve the matter are unsuccessful, written notice shall be given to the Municipality stating the nature of the deficiency and necessary corrective action. The Municipality shall either take immediate corrective action or respond to PARN in writing within ten calendar days stating the reason for noncompliance and a schedule for compliance. If PARN determines this response unacceptable, in its sole discretion, PARN shall give the Municipality written notice of default. In the event of default, the Municipality shall have ten calendar days from receipt of notice to remove property and vacate the Site. If such property is not removed within this time period, PARN may take possession of the property and dispose of the property without any liability to the Municipality.

7. TERMINATION

PARN or the Municipality may terminate this Lease at any time by giving no less than 90 days written notice to the other party of such termination and specifying the effective date of such termination.

8. TERM AND CONDITIONS:

This Lease specifically supersedes any prior written or oral agreements between parties relating to the Lease of the property as described in this agreement.

9. NOTICE:

All notices and requests in connection with this Lease shall be in writing and shall be addressed as follows:

MUNICIPALITY: Municipality of Skagway
Municipal Manager
P.O. Box 415
Skagway, AK 99840

PARN: Jaime Bricker
P.O. Box 435
Skagway, AK 99840

10. MISCELLANEOUS


A. The Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska, shall be the exclusive court for jurisdiction and venue of any and all actions of any kind and any nature arising out of or related to this Lease. Venue for trial in any action shall be in Skagway, Alaska. The Municipality specifically waives any right or opportunity to request a change of venue from Skagway, Alaska for trial pursuant to A.S. 22.10.040. The parties agree that this Lease shall be governed by the laws of the State of Alaska.

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- B. This Lease is binding upon the heirs, successors and assign of the parties.
- C. This Lease represents the entire agreement of the parties and no other agreement whether oral or written which is not specifically set forth in this Lease or an addendum to this Lease will have any force or effect upon the other party. PARN specifically understands and agrees that no Municipal employee, Assembly member, or the Mayor has any authority to verbally modify this Lease and any modifications must be in writing approved by the Assembly.
- D. PARN's waiver of any term or condition in this Lease shall not constitute a waiver of any term or condition in this Lease.
- E. If any term of this Lease is held to be invalid, void or unenforceable by a court of competent jurisdiction, the remaining provisions of this Lease shall be valid and binding upon the parties.
- F. Titles and headings to sections are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Lease.
- G. PARN is not relying on any representations by a Municipal employee, officer, assembly member, consultant or attorneys. PARN has had a full opportunity to consult with their own attorney before entering into this Lease.

IN WITNESS WHEREOF, the parties hereto have executed this lease as of the date first written above.

Andrew Cremata, Mayor
For the Municipality of Skagway



Jaime Bricker
For PARN

Date _____

Date _____

ATTEST:

Emily Deach, Borough Clerk

(SEAL)