

Proposed by:	Administration
Vote:	6 Aye 0 Nay 0 Absent

MUNICIPALITY OF SKAGWAY, ALASKA
RESOLUTION NO. 12-18R

A RESOLUTION OF THE MUNICIPALITY OF SKAGWAY, ALASKA AUTHORIZING SKAGWAY TERMINAL COMPANY TO ENTER INTO A SUB-LEASE AGREEMENT WITH THE U.S. GOVERNMENT FOR A TIDE STATION FACILITATED BY NOAA.

WHEREAS, in 1968 the Municipality of Skagway entered into a tidelands lease for portions of ATS 4 with Pacific and Arctic Railway and Navigation Company (PARN); and

WHEREAS, the PARN lease was assigned to a subsidiary, Skagway Terminal Company (STC), in 1968;

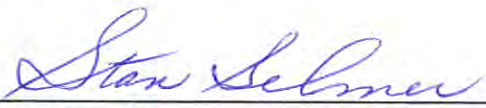
WHEREAS, the National Oceanic and Atmospheric Administration (NOAA) utilizes a portion of the tidelands lease for a tide station, and a sublease between STC and the U.S. Government is necessary to authorize that use; and

WHEREAS, all agreements between STC and sub lessees must be approved by the Skagway Borough Assembly; and

WHEREAS, the Municipality of Skagway does not consent to paragraph 9 of the sublease; however White Pass has provided environmental indemnification to the Municipality in the form of a supplemental letter that accompanies the sublease without which the Assembly would not give its approval to the sublease;

NOW, THEREFORE BE IT RESOLVED, that the Skagway Borough Assembly approves the lease agreement between Skagway Terminal Company and the U.S. Government, only upon the conditions set out in this resolution.

PASSED AND APPROVED by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 4th day of October, 2012.



Stan Selmer, Mayor

ATTEST:



Emily A. Deach
Borough Clerk

(SEAL)





WHITE PASS & YUKON ROUTE

THE SCENIC
RAILWAY OF THE WORLD

P.O. Box 435
Skagway, Alaska 99840
Phone: (907) 983-2214
Fax: (907) 983-2017
wpyr.com

October 4, 2012

Sent via e-mail only

Municipality of Skagway
PO Box 415
Skagway, AK 99840

RE: Defend & Indemnify Borough for NOAA Tide Station Lease

Dear Honorable Assembly Members~

Attached is the signed lease for the NOAA Tide Station Lease on ATS 4 near the Ore Dock.

White Pass agrees that the Assembly approval of the lease is conditioned on the lease not being extended without Assembly approval. White Pass agrees to provide the Assembly with any proposal to extend the lease at least 60 days before the termination of the lease and to provide the proposed lease and the extension.

Indemnify. White Pass shall indemnify and defend the Municipality of Skagway and its respective officers, mayor, assembly members employees and agents, from and against any claim, liability, loss or expense, administrative proceeding, (including, without limitation, any fines, penalties, clean-up costs, full attorneys' fees and consultant and expert fees and other litigation costs) that are imposed against or incurred as a result of any discharge, spill, leak or emission on, in, under or from the Premises of Hazardous Materials that arise out of any act or omission by or attributable to such operator, sublessee and licensee. The indemnity and defense obligation owed by the operator, user or subtenant shall be in addition to, and not lieu of, any other indemnity or defense obligation that may be owed under applicable law.

In the event that the Municipality of Skagway enters any agreement with White Pass before the expiration of the NOAA sublease that would allow the Municipality control of the area currently comprising the NOAA sublease area, White Pass agrees to provide written notice to NOAA of termination of the sublease within ten days of the effective date of the White Pass-Municipality Agreement pursuant to Section 4 of the sublease, with a copy of that written notice to the Borough Manager

Thank you for partnership for this lease.

Sincerely,

Jaime Bricker
Director of Contracts & Land Management

Cc. Rosa Asberry, NOAA



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER
Real Property Management Division Eastern Region
601 E. 12th Street Room 1736
Kansas City, Mo 64106

October 17, 2012

Ms Jaime Bricker
Director of Contracts & Land Management
White Pass & Yukon Route
P.O. Box 435
Skagway, AK99840

Dear Ms. Bricker:

Enclosed is your signed copy of Lease 12EKC0113C.

If you have any questions, please call me (816) 426-7801.

Sincerely,

A handwritten signature in blue ink that reads "Rosa Asberry".

Rosa Asberry
Contracting Officer

Enclosure



U.S. GOVERNMENT LEASE FOR USE OF REAL PROPERTY



DATE OF LEASE:

October 11, 2012

LEASE NO: 12EKC0113C

THIS LEASE under the authority of 40 U.S.C. 585, is made and entered into this date by and between

Skagway Terminal Company

whose address is: P.O. Box 435
Skagway, AK 99840

hereinafter called the Licensor, and the UNITED STATES OF AMERICA, hereinafter called the Government:

WITNESSETH: The parties hereto for considerations hereinafter mentioned, covenant and agree as follows:

1. **Lease of Premises.** Lessor leases to the Government a certain portion of the Property consisting of ground space of approximately thirty-six square feet for a Government owned fiberglass enclosure located at ATS #4 Wharf Area, Railroad Dock, Skagway Townsite, Skagway, AK 99840 within geographic coordinates of Latitude 59°27'29.9988", Longitude: -135° 18' 49.9962" with the right to install Pressure tubing runs in conduit along the pier edge to connect with underwater components of water sensors which are mounted to a piling as shown on **Exhibit "A"**, (attached)
2. **Term.** TO HAVE AND TO HOLD the said premises for the ten year term beginning on October 1, 2006 through September 30, 2017, subject to termination rights as may be hereinafter set forth.
3. **Rent.** The Government shall pay the Lessor annual rent as follows:

October 1, 2006 through September 30, 2012, \$1,200 per year with quarterly payments of \$300.00 in arrears.
October 1, 2012 through September 30, 2017, \$1,300 per year with quarterly payments of \$325.00 in arrears.

The Lessor acknowledges that the Government has made payment in full for the period beginning October 1, 2006 through June 30, 2012.

Rent shall be made via Electronic Funds Transfer.
4. **Termination.** This Lease may be terminated, without penalty or further liability, by either party on 90 days prior written notice. Said notice shall be computed commencing with the day after the date of mailing.
5. **Permitted Use.** The Government may use the Premises to conduct water level measurements to support tide predictions, tsunami warnings, sea level datum determination, sea level monitoring and climate change studies, storm surge and the installation, construction, maintenance, operation, repair, replacement and upgrade of its equipment. The Government's installed equipment is shown on **Exhibit "A"**. Lessor's execution of this Agreement will signify Lessor's approval of **Exhibit "A"**. The Government may take appropriate means to secure the Premises. The Government has the right to modify, supplement, replace, or upgrade the Equipment at any time during the term of this Agreement with prior approval from Licensor. The Government shall have the right to perform routine maintenance, repairs, replacement, and upgrades to the equipment within the Premises without the consent of Lessor.
6. **Access.** At all times throughout the Term of this Agreement, and at no additional charge to the Government, the Government and its employees, it's subcontractors, will have access to the Premises twenty-four (24) hour per day, seven (7) day per week.
7. **Removal of Equipment.** Lessor covenants and agrees that no part of the equipment or pads constructed, erected or placed on Premises by the Government will become, or be considered as being affixed to or a part of, the Property, it being the specific intention of the Lessor that all improvements of every kind and nature constructed, erected or placed by the Government on the Premises will be and remain the property of the Government and may be removed by the Government at any time during the Term or within 90 days of the termination of this Lease.

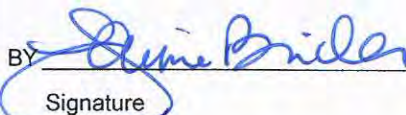
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8. **Operations, Maintenance & Utilities.** (a) The Government will keep and maintain Government equipment in good condition, reasonable wear and tear and damage excepted; (b) Lessor will maintain and repair the Premises and access thereto, in good and condition, subject to reasonable wear and tear excepted; (c) Electrical costs are not included in the Rent paid by the Government and the Lessor is not responsible for interference with, interruption of or failure, beyond the Licensor's reasonable control of the electrical service.
9. **Hazardous Materials.** The leased premises shall be free of hazardous materials according to applicable federal, state, and local environmental regulations. At the start and completion of this agreement, an environmental due diligence report will be prepared by the government and will be available to the Lessor upon request.
10. **Claims.** The Government is self-insured. It agrees to promptly consider and adjudicate any and all claims which may arise out of use of the permitor's premises by Government or duly authorized representatives or contractors of the Government and to pay for any damage or injury as may be required by Federal law. Such adjudication will be pursued under the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. or other such legal authority as may be pertinent. The Government also agrees to consider and adjudicate any claims for damage or injury sustained by Government personnel in the performance of their official duties while on permitor's premises. Such adjudication will be made pursuant to the Federal Employees' Compensation Act, 5 U.S.C. 8101 et seq., or other such legal authority as may be pertinent.
11. **Exhibits and Attachments.** The following are attached and made a part hereof:
- A. Exhibit "A", Photo of Premises, (one Page)
 - B. General Clauses, GSA Form 3517A(2 Pages, Rev 11/05 plus 1 page Rev 6/08)
 - C. Representations and Certifications, GSA Form 3518A (7 Pages, Rev 6/12)

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.


LICENSOR: SKAGWAY TERMINAL COMPANY

BY  Title Director of Contracts & Land Mngt.
Signature

IN THE PRESENCE OF:

BY  Title Controller
Signature

UNITED STATES OF AMERICA/U.S. Department of Commerce

BY  Date 10/11/12 Contracting Officer Title

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Exhibit A. Photos

Enclosure



Conduit & pilings



**GENERAL CLAUSES
(Simplified Leases)**

(Acquisition of Leasehold Interests in Real Property for Leases Up to \$100,000 Net Annual Rent)

1. The Government reserves the right, at any time after the lease is signed and during the term of the lease, to inspect the leased premises and all other areas of the building to which access is necessary to ensure a safe and healthy work environment for the Government tenants and the Lessor's performance under this lease.
2. ~~If the building is partially or totally destroyed or damaged by fire or other casualty so that the leased space is untenable as determined by the Government, the Government may terminate the lease upon 15 calendar days written notice to the Lessor and no further rental will be due.~~
3. The Lessor shall maintain the demised premises, including the building, building systems, and all equipment, fixtures, and appurtenances furnished by the Lessor under this lease, in good repair and tenantable condition. Upon request of the Contracting Officer, the Lessor shall provide written documentation that building systems have been maintained, tested, and are operational.
4. In the event the Lessor fails to perform any service, to provide any item, or meet any requirement of this lease, the Government may perform the service, provide the item, or meet the requirement, either directly or through a contract. The Government may deduct any costs incurred for the service or item, including administrative costs, from rental payments.
5. 52.252-2 CLAUSES INCORPORATED BY REFERENCE (VARIATION) (DEC 2003)
This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make the full text available, or the full text may be found as GSA Form 3517C at <http://www.gsa.gov/leasingform>.
6. The following clauses are incorporated by reference:
 - GSAR 552-203-5 COVENANT AGAINST CONTINGENT FEES (FEB 1990)
(Applicable to leases over \$100,000.)
 - GSAR 552-203-70 PRICE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (SEP 1999)
(Applicable to leases over \$100,000.)
 - FAR 52.204-7 CENTRAL CONTRACTOR REGISTRATION (OCT 2003) (VARIATION)
 - FAR 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN
SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED,
OR PROPOSED FOR DEBARMENT (JAN 2005)
(Applicable to leases over \$25,000.)
 - FAR 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JUL 2005)
(Applicable to leases over \$500,000.)
 - FAR 52.219-16 LIQUIDATED DAMAGES—SUBCONTRACTING PLAN (JAN 1999)
(Applicable to leases over \$500,000.)
 - GSAR 552.219-72 PREPARATION, SUBMISSION, AND NEGOTIATION OF
SUBCONTRACTING PLANS (JUN 2005)
(Applicable to leases over \$500,000 if solicitation requires submission of the
subcontracting plan with initial offers.)
 - GSAR 552.219-73 GOALS FOR SUBCONTRACTING PLAN (JUN 2005)
(Applicable to leases over \$500,000 if solicitation does not require
submission of the subcontracting plan with initial offers.)

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- FAR 52.222-26 EQUAL OPPORTUNITY (APR 2002)
(Applicable to leases over \$10,000.)
- FAR 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)
(Applicable to leases over \$10,000.)
- FAR 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS
OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001)
(Applicable to leases over \$25,000.)
- FAR 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)
(Applicable to leases over \$10,000.)
- FAR 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS,
VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS
(DEC 2001)
(Applicable to leases over \$25,000.)
- FAR 52.232-23 ASSIGNMENT OF CLAIMS (SEP 1999)
(Applicable to leases over \$2,500.)
- GSAR 552.232-75 PROMPT PAYMENT (SEP 1999)
- GSAR 552.232-76 ELECTRONIC FUNDS TRANSFER PAYMENT (MAR 2000) (VARIATION)
- FAR 52.233-1 DISPUTES (JUL 2002)
- FAR 52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (OCT 1997)
(Applicable when cost or pricing data are required for work or services over
\$500,000.)
- FAR 52.215-12 SUBCONTRACTOR COST OR PRICING DATA (OCT 1997)
(Applicable when the clause at FAR 52.215-10 is applicable.)

The information collection requirements contained in this solicitation/contract, that are not required by regulation, have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act and assigned the OMB Control No. 3090-0163.

Attachment B

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This clause replaces Page 1, Paragraph Number 2
of the GSA Form 3517A

552.270-7 FIRE AND CASUALTY DAMAGE (JUN 2008)

If the entire premises are destroyed by fire or other casualty, this lease will immediately terminate. In case of partial destruction or damage, so as to render the premises untenable, as determined by the Government, the Government may terminate the lease by giving written notice to the Lessor within 15 calendar days after such determination. If so terminated, no rent will accrue to the Lessor after such partial destruction or damage; and if not so terminated, the rent will be reduced proportionately by supplemental agreement hereto effective from the date of such partial destruction or damage. Nothing in this lease shall be construed as relieving Lessor from liability for damage to or destruction of property of the United States of America caused by the willful or negligent act or omission of Lessor.

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Lessor Government



(For Leases At or Below the Simplified Lease Acquisition Threshold)	Solicitation Number	Dated
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Complete appropriate boxes, sign the form, and attach to offer.

The Offeror makes the following Representations and Certifications. NOTE: The "Offeror," as used on this form, is the owner of the property offered, not an individual or agent representing the owner.

1. 52.219-1 - SMALL BUSINESS PROGRAM REPRESENTATIONS (APR 2011)

- (a) (1) The North American Industry Classification System (NAICS) code for this acquisition is 531190.
- (2) The small business size standard is \$20.5 Million in annual average gross revenue of the concern for the last 3 fiscal years.
- (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.
- (b) Representations.
 - (1) The offeror represents as part of its offer that it is, is not a small business concern.
 - (2) *[Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.]* The offeror represents, for general statistical purposes, that it is, is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.
 - (3) *[Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.]* The offeror represents as part of its offer that it is, is not a women-owned small business concern.
 - (4) Women-owned small business (WOSB) concern eligible under the WOSB Program. *[Complete only if the offeror represented itself as a women-owned small business concern in paragraph (b)(3) of this provision.]* The offeror represents as part of its offer that—
 - (i) It is, is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and
 - (ii) It is, is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (b)(4)(i) of this provision is accurate in reference to the WOSB concern or concerns that are participating in the joint venture. *[The offeror shall enter the name or names of the WOSB concern or concerns that are participating in the joint venture: _____.]* Each WOSB concern participating in the joint venture shall submit a separate signed copy of the WOSB representation.
 - (5) Economically disadvantaged women-owned small business (EDWOSB) concern. *[Complete only if the offeror represented itself as a women-owned small business*

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concern eligible under the WOSB Program in (b)(4) of this provision.] The offeror represents as part of its offer that—

- (i) It is, is not an EDWOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and
 - (ii) It is, is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (b)(5)(i) of this provision is accurate in reference to the EDWOSB concern or concerns that are participating in the joint venture. [*The offeror shall enter the name or names of the EDWOSB concern or concerns that are participating in the joint venture: _____.*] Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.
- (6) [*Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.*] The offeror represents as part of its offer that it is, is not a veteran-owned small business concern.
- (7) [*Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(6) of this provision.*] The offeror represents as part of its offer that it is, is not a service-disabled veteran-owned small business concern.
- (8) [*Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.*] The offeror represents, as part of its offer, that—
- (i) It is, is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR Part 126; and
 - (ii) It is, is not a HUBZone joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (b)(8)(i) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. [*The offeror shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: _____.*] Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

(c) *Definitions.* As used in this provision—

“Economically disadvantaged women-owned small business (EDWOSB) concern” means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business concern eligible under the WOSB Program.

“Service-disabled veteran-owned small business concern”—

- (1) Means a small business concern—
 - (i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51

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percent of the stock of which is owned by one or more service-disabled veterans; and

- (ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

- (2) "Service-disabled veteran" means a veteran, as defined in [38 U.S.C. 101\(2\)](#), with a disability that is service-connected, as defined in [38 U.S.C. 101\(16\)](#).

"Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

"Veteran-owned small business concern" means a small business concern—

- (1) Not less than 51 percent of which is owned by one or more veterans (as defined at [38 U.S.C. 101\(2\)](#)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
- (2) The management and daily business operations of which are controlled by one or more veterans.



"Women-owned small business concern" means a small business concern—

- (1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

"Women-owned small business (WOSB) concern eligible under the WOSB Program" (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

(d) Notice.

- (1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.
- (2) Under [15 U.S.C. 645\(d\)](#), any person who misrepresents a firm's status as a business concern that is small, HUBZone small, small disadvantaged, service-disabled veteran-owned small, economically disadvantaged women-owned small, or women-owned small eligible under the WOSB Program in order to obtain a contract to be awarded under the preference programs established pursuant to section 8, 9, 15, 31, and 36 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall—
 - (i) Be punished by imposition of fine, imprisonment, or both;
 - (ii) Be subject to administrative remedies, including suspension and debarment; and

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- (iii) Be ineligible for participation in programs conducted under the authority of the Act.

2. 52.222-22 - PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)

(Applicable when the estimated value of the acquisition exceeds \$10,000)

The Offeror represents that—

- (a) It has, has not participated in a previous contract or subcontract subject either to the Equal Opportunity clause of this solicitation;
- (b) It has, has not filed all required compliance reports; and
- (c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards. (Approved by OMB under Control Number 1215-0072.)

3. 52.222-25 - AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

(Applicable when the estimated value of the acquisition exceeds \$10,000)

The Offeror represents that—

- (a) It has developed and has on file, has not developed and does not have on file, at each establishment affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or
- (b) It has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor. (Approved by OMB under Control Number 1215-0072.)

4. 552.203-72 REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID DELINQUENT FEDERAL TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (DEVIATION) (APR 2012)

- (a) In accordance with Sections 630 and 631 of Division of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74), none of the funds made available by that Act may be used to enter into a contract action with any corporation that—

- (1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government, or
- (2) Was convicted, or had an officer or agent of such corporation acting on behalf of the corporation convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation or such officer or agent and made a determination that this action is not necessary to protect the interests of the Government.

- (b) The Contractor represents that—

- (1) It is is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or

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have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

- (2) It is [] is not [] a corporation that was convicted, or had an officer or agent of the corporation acting on behalf of the corporation, convicted of a felony criminal violation under any Federal law within the preceding 24 months.

5. 52.203-11 – CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEP 2007)

(Applicable when the estimated value of the acquisition exceeds \$100,000)

- (a) *Definitions.* As used in this provision—"Lobbying contact" has the meaning provided at [2 U.S.C. 1602\(8\)](#). The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" ([52.203-12](#)).
- (b) *Prohibition.* The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" ([52.203-12](#)) are hereby incorporated by reference in this provision.
- (c) *Certification.* The offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.
- (d) *Disclosure.* If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.
- (e) *Penalty.* Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by [31 U.S.C. 1352](#). Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

6. 52.204-3 - TAXPAYER IDENTIFICATION (OCT 1998)

- (a) *Definitions.*

"Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the Offeror is a member.

"Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the Offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

- (b) All Offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the Offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.
- (c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the Offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the

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resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the Offeror's TIN.

(d) *Taxpayer Identification Number (TIN).*

- TIN: _____
- TIN has been applied for.
- TIN is not required because:
- Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;
- Offeror is an agency or instrumentality of a foreign government;
- Offeror is an agency or instrumentality of the Federal government;

(e) *Type of organization.*

- Sole proprietorship;
- Partnership;
- Corporate entity (not tax-exempt);
- Corporate entity (tax-exempt);
- Government entity (Federal, State, or local);
- Foreign government;
- International organization per 26 CFR 1.6049-4;
- Other _____

(f) *Common Parent.*

- Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.
- Name and TIN of common parent:
Name _____
TIN _____

7. 52.204-6 – DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (APR 2008)

- (a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS+4" followed by the DUNS number or "DUNS+4" that identifies the offeror's name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet, Inc. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see [Subpart 32.11](#)) for the same concern.
- (b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.
 - (1) An offeror may obtain a DUNS number—
 - (i) Via the Internet at <http://fedgov.dnb.com/webform> or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or
 - (ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.
 - (2) The offeror should be prepared to provide the following information:
 - (i) Company legal business name.
 - (ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.
 - (iii) Company physical street address, city, state and ZIP Code.
 - (iv) Company mailing address, city, state and ZIP Code (if separate from physical).

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- (v) Company telephone number.
- (vi) Date the company was started.
- (vii) Number of employees at your location.
- (viii) Chief executive officer/key manager.
- (ix) Line of business (industry).
- (x) Company Headquarters name and address (reporting relationship within your entity).

8. DUNS NUMBER (JUN 2004)

Notwithstanding the above instructions, in addition to inserting the DUNS Number on the offer cover page, the Offeror shall also provide its DUNS Number as part of this submission:

DUNS # 146584920

9. CENTRAL CONTRACTOR REGISTRATION (MAY 2012)

The Central Contractor Registration (CCR) System is a centrally located, searchable database which assists in the development, maintenance, and provision of sources for future procurements. The Offeror must be registered in the CCR prior to lease award. The Offeror shall register via the Internet at <https://www.acquisition.gov>. To remain active, the Offeror/Lessor is required to update or renew its registration annually.

- Registration Active and Copy Attached
- Will Activate Registration and Submit Copy to the Government Prior to Award

OFFEROR OR AUTHORIZED REPRESENTATIVE	NAME, ADDRESS (INCLUDING ZIP CODE) NAME <u>Pacific Arctic Railway Navigation Co.</u> STREET <u>231 2nd Ave, PO Box 435</u> CITY, STATE, ZIP <u>Skagway, AK 99840</u> <u><i>Dennis P. ...</i></u> Signature	TELEPHONE NUMBER <u>(907) 983-2214</u> <u>10/11/12</u> Date
--------------------------------------	---	--

INITIALS: *[Signature]* LESSOR & *[Signature]* GOVERNMENT

Attachment C



WHITE PASS & YUKON ROUTE

THE SCENIC
RAILWAY OF THE WORLD

P.O. Box 435
Skagway, Alaska 99840
Phone: (907) 983-2214
Fax: (907) 983-2017
wpyr.com

October 4, 2012

Sent via e-mail only

Municipality of Skagway
PO Box 415
Skagway, AK 99840

RE: Defend & Indemnify Borough for NOAA Tide Station Lease

Dear Honorable Assembly Members~

Attached is the signed lease for the NOAA Tide Station Lease on ATS 4 near the Ore Dock.

White Pass agrees that the Assembly approval of the lease is conditioned on the lease not being extended without Assembly approval. White Pass agrees to provide the Assembly with any proposal to extend the lease at least 60 days before the termination of the lease and to provide the proposed lease and the extension.

Indemnify. White Pass shall indemnify and defend the Municipality of Skagway and its respective officers, mayor, assembly members employees and agents, from and against any claim, liability, loss or expense, administrative proceeding, (including, without limitation, any fines, penalties, clean-up costs, full attorneys' fees and consultant and expert fees and other litigation costs) that are imposed against or incurred as a result of any discharge, spill, leak or emission on, in, under or from the Premises of Hazardous Materials that arise out of any act or omission by or attributable to such operator, sublessee and licensee. The indemnity and defense obligation owed by the operator, user or subtenant shall be in addition to, and not lieu of, any other indemnity or defense obligation that may be owed under applicable law.

In the event that the Municipality of Skagway enters any agreement with White Pass before the expiration of the NOAA sublease that would allow the Municipality control of the area currently comprising the NOAA sublease area, White Pass agrees to provide written notice to NOAA of termination of the sublease within ten days of the effective date of the White Pass-Municipality Agreement pursuant to Section 4 of the sublease, with a copy of that written notice to the Borough Manager

Thank you for partnership for this lease.

Sincerely,

Jaime Bricker
Director of Contracts & Land Management

Cc. Rosa Asberry, NOAA