

## MEMORANDUM OF AGREEMENT

### **USE AGREEMENT BETWEEN THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES AND DEPARTMENT OF ENVIRONMENTAL CONSERVATION REGARDING THE USE OF STATE FERRIES FOR OIL SPILL RESPONSE**

#### **RECITALS:**

Departments of Transportation and Public Facilities and Environmental Conservation enter into this agreement for the use of the motor vessels owned and operated by the Alaska Department of Transportation and Public Facilities, Alaska Marine Highways Division, in support of oil spill cleanup activities and operations.

#### **1. PARTIES:**

The parties to this agreement are the Departments of Transportation and Public Facilities (hereafter DOT&PF), and Environmental Conservation (hereafter DEC).

#### **2. SCOPE OF THE AGREEMENT:**

DOT&PF is the owner of all vessels in the state ferry fleet, which DEC desires to use to assist it in support of oil spill cleanup activities. It is the intent of the parties that this agreement govern the use of any state ferries used in support of oil spill cleanup activities.

#### **3. USE OF VESSEL AND SERVICES PROVIDED BY DOT&PF:**

- A. If DEC declares an oil related emergency exists under AS 46.03.865(a), DEC may request DOT&PF to provide a vessel under this agreement to support oil spill cleanup activities. All passengers and vehicles aboard any vessel assigned

to support oil spill clean up activities shall disembark by the most expedient manner, allowing the vessel to proceed rapidly to the site of the incident.

B. During the use of a vessel under this agreement, DOT&PF shall provide:

1. a. transportation of personnel and equipment to the response site, as requested by DEC;
- b. use of the vessel on scene to stage and support clean up activities;
2. supervision of the safe and efficient loading and unloading of the vessel;
3. sleeping accommodations and three meals per day, subject to the limits in Appendix 1;
4. all fuel, lubricants, food, water, and other supplies necessary to provide the services referenced in this section; and
5. all crew and officers necessary for the operation of the vessel.

4. **RESPONSIBILITIES OF DEC:**

During the use of a vessel under this agreement, DEC shall have the following responsibilities:

- A. DEC will provide supervision and discipline of all DEC personnel, or individuals who are onboard the vessel in support of oil spill cleanup activities. This duty specifically includes the enforcement of an absolute ban on the use of drugs and alcohol while those individuals are aboard the vessel.
- B. DEC will provide and pay for all stevedoring services to load and unload freight transported aboard the vessel.

C. DEC shall provide and pay for all wharfage.

**5. CLEANUP AND DAMAGE TO VESSEL:**

DEC shall be responsible for and will directly reimburse DOT&PF for all reasonable and necessary costs and expenses incurred by DOT&PF in the repair of damage occurring to a vessel as the result of its use or operation on behalf of DEC, normal wear and tear excepted. The phrase "repair of damage" includes any repair or replacement of any parts of the vessel, including any repair or replacement of its fixtures, and any cleanup of the vessel, including any cleanup of its fixtures, that is required because of damage or soiling sustained as a result of the use and operation of the vessel under this agreement. In the event of any damage to a vessel, in addition to the costs of cleaning the vessel and repairing damage to the vessel under this paragraph, DEC shall pay DOT&PF the Daily Rate (see Appendix 1) for the time to move the vessel to a shipyard capable of performing the work and returning the vessel to its scheduled route.

**6. COMPENSATION:**

A. DEC shall pay DOT&PF the Daily Rate fee under Appendix 1 for each day or part of a day it has use of the vessel, not including room and board under (B) below. The Daily Rate fee covers the daily expenses of operating each vessel. Any claims arising under paragraphs 4 and 5 shall be in addition to the charges specified in this paragraph. DEC agrees to pay the Daily Rate until a vessel is returned to service by the most expeditious route.

The Daily Rate for each vessel is contained in Appendix 1 to this agreement. The parties agree that Appendix 1 will be revised annually to establish appropriate daily use rates. Any vessel fees will be charged on the most current fee calculation.

- B. In addition to the Daily Rate fee set out in subparagraph (A) above, DEC shall pay \$50.00 per day for each person provided room and board on the vessel and \$30.00 per day for each person receiving only food service. The parties agree that the charge for room and board is subject to annual revision. These charges will be made upon the most recent calculations.
- C. The parties acknowledge that the value of the use of a vessel by DOT&PF and the traveling public is difficult to calculate and that the loss of the use of any vessel will result in a public inconvenience. It is therefore agreed between the parties that DEC is required to pay the Daily Rate for each day that a vessel is not available for service at its regularly scheduled ports of call. This obligation commences upon the request for the vessel from DEC and continues until the vessel returns to service on its usual route and includes any time spent restoring the vessel to its condition prior to the declaration of emergency, normal wear and tear excepted.
- D. Billings under this paragraph and paragraph 5 above will be sent to DEC monthly for payment.

**7. SAFETY OF THE VESSELS:**

DOT&PF shall, in the exercise of its discretion, take all steps necessary to protect the vessel, its equipment, engines, crew or others aboard the vessel, and DOT&PF ferry terminal facilities. These actions include, but are not limited to, declining to proceed on a trip in the face of adverse or changing weather or sea conditions, moving a vessel to a place of safe moorage, ordering any person off a vessel under the supervision and control of DEC, and refusing to carry any freight or equipment which may jeopardize the safety of a vessel. Vehicles or equipment weighing more than twenty-five (25) tons or greater than fifty (50) feet in length shall not be carried aboard a vessel.

8. **PROVISIONING, FUELING AND RELIEF OF CREW OF THE VESSELS:**

It shall be necessary from time to time to provision, fuel and relieve the crew of the vessel. DOT&PF shall, in the exercise of its sole discretion, determine the provisioning and fueling schedule and the crew change schedule and shall provide not less than 24 hours notice to DEC of its intent to do so. The fueling of the vessels will only occur at a dock or other facility which DOT&PF shall select. The time spent transiting to and from a port for provisions, fueling or changing the crew shall not result in a reduction of the daily charge for vessel use.

9. **DISPUTE RESOLUTION:**

- A. In the event that the parties can not resolve within 15 days any dispute between them regarding any payment sought from DEC arising because of the use of a vessel, the parties agree that they each shall appoint an arbitrator, who shall agree on the appointment of a third arbitrator. The three arbitrators shall decide

the matter of the appropriate fees. Each party shall bear the expenses of any arbitrator that they appoint and each shall pay half of the cost of the third arbitrator.

B. The arbitrators may conduct such proceedings as they believe are necessary to resolve the matter before them. They may, in the exercise of their discretion, proceed on the record, the cost of such record borne equally by the parties.

C. Their decision of the matter is final.

**10. TERM OF THE AGREEMENT:**

The term of this agreement is to begin on the date of the signing of this agreement and continues five years. The expiration of this agreement does not relieve DEC of any obligation it might have under paragraphs 5 and 6 above.

**11. NOTICES AND BILLINGS:**

Billings and any notices required by this agreement shall be sent by mail to the respective parties as indicated below, except as specified in this paragraph.

**Department of Transportation  
& Public Facilities**

Captain Robert J. Doll  
Alaska Marine Highway System  
P.O. Box 25535  
Juneau, Alaska 99802

Telephone Number: (907) 465-8815  
Fax Number: (907) 465-2474

**Department of Environmental  
Conservation**

Kurt Fredriksson  
Division of Spill Prevention & Response  
410 Willoughby Ave.  
Juneau, Alaska 99801

Telephone Number: (907) 465-5250  
Fax Number: (907) 465-5262

The initial request for use of any vessel under paragraph 3 of this agreement will come from the DEC State on Scene Coordinator (SOSC) to the DOT&PF Designated Person, Robert Doll. This request shall be sent by FAX to Robert Doll at (907) 465-2474 during normal working hours or by phone at (907) 321-1262 during nights or weekends.

**12. OPERATION AND COMPLIANCE WITH LAW:**

DOT&PF shall operate any vessel subject to this agreement in accordance with applicable state, federal and local laws.

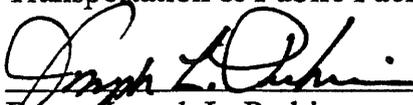
**13. INTEGRATION OF AGREEMENT AND EMERGENCY RESPONSE PLAN**

**(ERP):**

This agreement constitutes the whole agreement between the parties. The most recent Emergency Response Plan (ERP) will outline the specific procedures for use of a vessel in an emergency under AS 46.03.865(a). Any amendment of this agreement shall only be in writing and signed by the parties, except as provided in paragraphs 6 and 7.

DATED: Oct 2, 1998

State of Alaska, Department of  
Transportation & Public Facilities

  
By: Joseph L. Perkins,  
Commissioner

DATED: Oct 26, 1998

State of Alaska, Department of  
Environmental Conservation

  
By: Michele Brown,  
Commissioner

# Alaska Marine Highway System Vessel Information Table

## Appendix 1

Updated February 1997	Columbia	Matanuska	Malaspina	Taku	Aurora	Leconte	Tustumena	Bartlett	Kennicott
DATE COMPLETED	1974	1963	1963	1963	1977	1974	1964	1969	1998
LENGTH (feet)	418	408	408	352	235	235	296	193	382
BEAM (feet)	85	74	74	74	57	57	59	53	85
LOADED DRAFT	17'-6 3/4"	16'-11 5/8"	16'-11 3/8"	16' 11"	13'-10 7/8"	13'-10 7/8"	14'-4 1/2"	13'-3"	17'-6"
INT'L TONNAGE: Gross	13,009	9,214	9,121	7,302	3,124	3,124	4,529	2,045	12,904
Net	4,932	3,824	3,667	2,496	987	987	1,451	682	3,872
DOMESTIC Tonnage: Gross	3,946	3,029	2,928	2,624	1,280	1,328	4,593	933	Not
Net	2,683	1,235	1,253	1,494	453	566	1,377	384	Available
HORSEPOWER	12,350	7,400	8,000	8,122	4,300	4,300	5,100	3,468	13,380
SERVICE SPEED (knots)	17.3	16.5	16.5	16.5	14.5	14.5	13.3	12	16.75
FUEL CONSUMPTION (GPHY)	450	240	270	270	180	180	140	170	290
CREW CAPACITY	66	50	50	42	24	24	37	24	61
PASSENGER CAPACITY (U.S.C.G. authorized)	522 (winter) 971 (sum)	498 (winter) 745 (sum)	516 (winter) 701 (sum)	500	300	300	220	236	748 - SE 500-SW
PASSENGER CAPACITY* AMHS Booking Limits	500 (winter) 625 (sum)	500	500	450	250	250	210	190	748 - SE 500-SW
Staterooms - 4 berth	61	4	54	9	n/a	n/a	8	n/a	48
Staterooms - 3 berth	9	23	0	0	n/a	n/a	0	n/a	0
Staterooms - 2 berth	20	80	28	33	n/a	n/a	17	n/a	56
Staterooms - Handicap (4 b)	0	0	0	0	0	n/a	0	n/a	3
Staterooms - Handicap (2 b)	1	1	1	2	n/a	n/a	1	n/a	2
TOTAL STATEROOMS	91	108	83	44	0	0	26	0	109
TOTAL BERTHS	313	247	274	106	0	0	68	0	320
VEHICLE Capacity* (linear ft (approx. number of vehicles)	2,680	1,760	1,760	1,380	680	680	720	580	120 - SE 103 - SW
DAILY RATE For Spill Response	\$65,000	\$50,000	\$25,000	\$45,000	\$25,000	\$25,000	\$25,000	\$20,000	\$65,000

\* Gallons per hour fuel consumption figures are averages based on calendar year 1996 weekly engineering reports, and include fuel usage to generate heat and electricity.

\* These capacity figures represent functional booking limits, not Coast Guard authorized capacity.