

Introduced by: Mayor  
Date: 11/10/20  
Hearing: 12/01/20  
Action: Enacted as Amended  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2020-48**

**AN ORDINANCE AUTHORIZING A COMMUNICATIONS SITE LEASE  
AGREEMENT AT NIKISKI STATION 3 WITH SPITWSPOTS, INC**

**WHEREAS**, SPITwSPOTS, Inc. is proposing to install a communication tower and related equipment at the new Nikiski Station 3 site; and

**WHEREAS**, SPITwSPOTS, Inc was awarded a CARES grant to make rural communication improvements which would be applied to this project location; and

**WHEREAS**, the CARES grant eligibility has a performance period ending this calendar year which necessitates an accelerated time line for construction and operability of the communication installations resulting in the need for an expeditious processing of the associated land agreement; and

**WHEREAS**, a communications site lease agreement has been negotiated in standard form and in consideration of the interests of the Nikiski Fire Service Area which acquired title to the property per Ordinance 2003-13; and

**WHEREAS**, the Nikiski Fire Service Area Board at its regularly scheduled meeting of November 11, 2020 recommended approval by unanimous consent;

**WHEREAS**, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of November 30, 2020 recommended approval by unanimous consent;

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1.** That the assembly finds that entering into a Communications Site Lease Agreement with SPITwSPOTS Inc., pursuant to KP.B 17.10.100(I), authorizing the negotiated lease of borough lands, is in the best interest of the borough at the following location:

Tract D Wes Warren Subdivision, Ranch Addition, according to plat no. 97-48, Kenai Recording District

This finding is based on the following facts:

1. The borough will receive a fair market rent, or a fair value in services in lieu of rent, for the term of the lease.
2. The land will be used to provide new communication sites that will improve connectivity services in rural areas of the Kenai Peninsula Borough.
3. That the communication improvements will provide tower space for Nikiski Fire Service Area communication equipment and other public safety communications equipment.
4. That the communication improvements are compatible with the site.

**SECTION 2.** That the provisions of KPB 17.10.080-.090 and KPB 17.10.110-.240 governing classification, notice of disposition, and leasing of borough lands and related natural resources shall not apply to this communications site lease due to the urgent need for improved rural communications due to the COVID-19 pandemic.

**SECTION 3.** Based on the foregoing, the mayor is hereby authorized pursuant to KPB 17.10.100(I) to negotiate and enter into Communications Site Lease Agreement upon the property identified in Section 1. The authorization is for lease solely to SPITwSPOTS Inc., and it may not assign any rights to negotiate or enter an agreement for lease to any other person or entity.

**SECTION 4.** The mayor is authorized to execute a Communications Site Lease Agreement with terms and conditions substantially similar to the agreement attached to this ordinance as well as any other necessary documents to effectuate the lease agreement.

**SECTION 5.** SPITwSPOTS, Inc. shall have 20 days from the date of enactment of this ordinance to execute the agreement.

**SECTION 6.** That rent revenue from the subject lease shall be submitted to the Borough Finance Department and deposited in the Nikiski Fire Service Area account 206.00000.00000.36315.

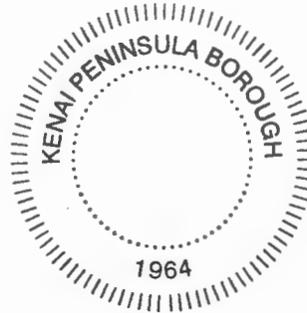
**SECTION 7.** That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 1ST DAY OF DECEMBER, 2020.



Brent Hibbert, Assembly President

ATTEST:

  
John Blankenship, MMC, Borough Clerk

Yes: Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert  
No: None  
Absent: None