

E. NEW BUSINESS

- 6. Ordinance 2024-01: Authorizing a negotiated lease with Traylor Bros, Inc. for a temporary craft worker housing site in support of the Sterling Highway MP 45-60 Construction Project near Cooper Landing.**

Kenai Peninsula Borough
Planning Department – Land Management Division

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Peter A. Micciche, Mayor *PM*
Robert Ruffner, Planning Director *RR*
Marcus A. Mueller, Land Management Officer *mam*

FROM: Aaron Hughes, Land Management Agent *AH*

DATE: January 4, 2024

RE: Ordinance 2024-____, Authorizing a Negotiated Lease with Traylor Bros, Inc. for a Temporary Craft Worker Housing Site in Support of the Sterling Highway MP 45-60 Construction Project Near Cooper Landing (Mayor)

The Alaska Department of Transportation and Public Facilities has selected QAP – Traylor Bros Joint Venture as the contractor for the Sterling Highway MP 45-60 construction project near Cooper Landing. Traylor Bros, Inc., has submitted an application for a negotiated lease for the expressed purpose of temporary craft worker housing in support of construction operations necessary for the completion of the Juneau Creek Bridge.

The proposed negotiated lease would encompass 5 acres of vacant Borough lands adjacent to other related project construction sites located off of the Pioneer Road near the highway project alignment. Development of the identified parcel for this purpose would provide additional value to the KPB land through site improvements. The subject property is municipal entitlement land in approved KPB management authority status.

The negotiated lease terms provide for an initial annual lease amount of \$11,880.00 for a 5-year term, to include a 3% annual escalation, with an option to extend the lease for 2 additional one-year terms.

Authorization of the proposed lease in support of the Sterling Highway MP 45-60 Project will help to improve safe and efficient travel on the Sterling Highway for residents and visitors while generating addition lease revenues and other added values for the KPB.

Your consideration is appreciated.

Introduced by:	Mayor
Date:	1/16/24
Hearing:	2/6/24
Action:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2024-**

**AN ORDINANCE AUTHORIZING A NEGOTIATED LEASE WITH TRAYLOR BROS,
INC. FOR A TEMPORARY CRAFT WORKER HOUSING SITE IN SUPPORT OF THE
STERLING HIGHWAY MP 45-60 CONSTRUCTION PROJECT NEAR COOPER
LANDING**

WHEREAS, the Alaska Department of Transportation and Public Facilities has selected Colaska/QAP Traylor Joint Venture to execute the Sterling Highway MP 45-60 construction project near Cooper Landing; and

WHEREAS, Traylor Bros, Inc., has submitted an application for the negotiated lease of vacant Borough managed land for temporary specialized craft worker housing necessary for the construction of the Juneau Creek Bridge; and

WHEREAS, the Kenai Peninsula Borough (KPB) owns or manages similar sites under lease in support of the highway project, and as a result has relevant comparable lease pricing data used to determine the negotiated lease terms; and

WHEREAS, the site is approximately 5 acres in size, and is adjacent to other MP 45-60 project support sites; and

WHEREAS, the site is municipal entitlement land under management authority by way of State of Alaska Final Finding and Decision; and

WHEREAS, a site design concept and lease development agreement has been prepared for this proposal; and

WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of January 22, 2024 recommended _____;

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

SECTION 1. That the Assembly finds that leasing of the identified Kenai Peninsula Borough land pursuant to KPB 17.10.100(I) is in the best interest of the KPB as the use is in support of the highway project by improving safe and efficient travel on the Sterling

Highway for residents and guests, while generating lease revenue for the KPB and site improvements through the lease development.

SECTION 2. That the provisions of KPB 17.10.080-.090, KPB 17.10.110, and KPB 17.10.140-.150 governing classification, disposition, published notice, and leasing of borough lands will not apply to this lease to Traylor Bros, Inc. which is short-term and project driven.

SECTION 3. That the terms of the lease will be five years with two one-year renewals with an initial annual lease amount of \$11,880.00 and an annual 3% increase for the purpose of temporary worker housing in support of the MP 45-60 Project.

SECTION 4. That, based on the foregoing, the Mayor is hereby authorized pursuant to KPB 17.10.100(I) to lease the five-acre area referred to as Traylor Bros Lease Site, located within the N½ of Section 30, T5N, R3W, Seward Meridian Alaska, lying West of Cecil Road (also referred to as the Pioneer Road), and South of that existing lease to the State of Alaska DOT&PF. The authorization is for a lease solely to Traylor Bros, Inc., and may not be assigned or subleased to any other person or entity without the expressed written consent of the Mayor.

SECTION 5. That the Mayor is authorized to execute a lease substantially similar in form to the Lease Agreement accompanying this ordinance.

SECTION 6. That Traylor Bros, Inc. will have 120 days from the date of enactment of this ordinance to execute the lease.

SECTION 7. That revenue from the subject lease will be deposited in the Land Trust Fund.

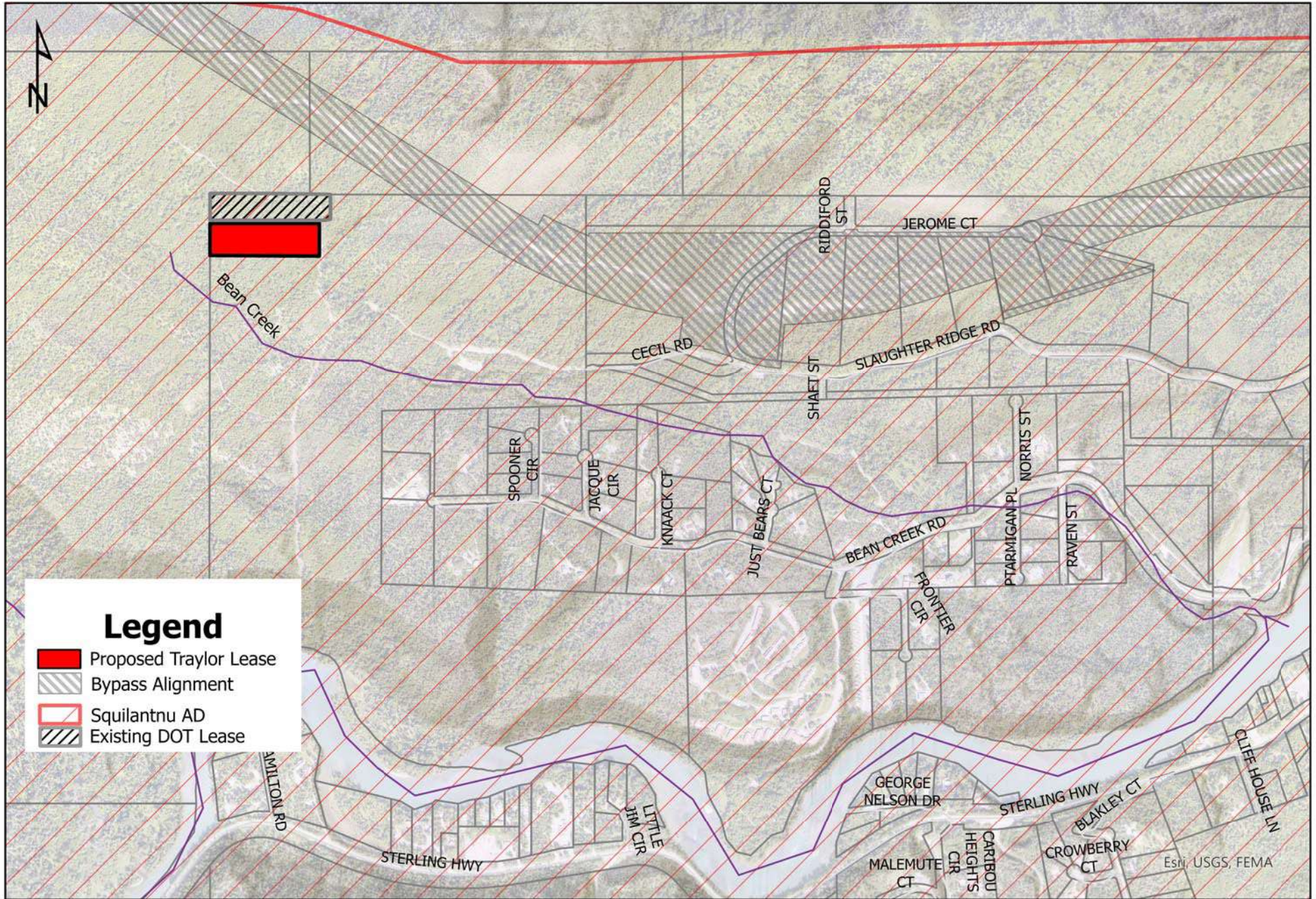
SECTION 8. That this ordinance shall take effect immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF * 2024.

Brent Johnson, Assembly President

ATTEST:

Michele Turner, CMC Borough Clerk



0 400 800 1,600 Feet

Traylor Bros, Inc. Lease Site

APPLICATION FOR LEASE OF BOROUGH LAND
KENAI PENINSULA BOROUGH
LAND MANAGEMENT DIVISION

144 N. Binkley Street
Soldotna, AK 99669-7599
lmweb@kpb.us

Phone: 907-714-2205
Fax: 907-714-2378

A \$500.00 fee must be submitted with this application. The application fee is not applied to the lease and is refunded only if the application is not found to be in the public's best interest.

This form is to be completed by individuals or organizations wishing to lease borough land pursuant to KPB 17.10.100(I). The application is to be completed in full to the best of knowledge of the individual or authorized representative. If requested, proprietary and financial information of the applicants, that is so marked, will be kept confidential. The assembly must approve, by ordinance, any disposition of borough land. The application process generally takes between 90-180 days.

Attach separate sheets of paper if more space is needed for explanation. If a section (*or portion thereof*) is not applicable, mark with the abbreviation "N/A". **Please type or print.**

APPLICANT INFORMATION (add additional pages if necessary)

Name(s): Alex Altmann

Organization (if applicable): Traylor Bros., Inc.

Mailing Address: PO BOX: 910, Cooper Landing, AK, 99572

Phone: (346)293-6366 Email: aaltmann@traylor.com

APPLICANT TYPE (check one)

- Individual
- Non-Profit
- Corporation
- Sole Proprietorship
- Limited Liability Company
- Government
- General Partnership
- Limited Partnership
- Other: _____

LEASE TERM: Short Term (up to five years) # of Months/Years: 5 Years
 Long Term (greater than five years) # of Months/Years: _____

PURPOSE OF LEASE: Agriculture Grazing
 Other (briefly describe): To provide a temporary personnel camp for the ADOT &PF Sterling Highway MP 45-60 project.

PARCEL(S) OF INTEREST (add additional pages if needed)

Legal Description(s): T 5N R 3W SEC 30 SEWARD MERIDIAN SW 0005105 US
SURVEY 5105 THAT PORTION OF TRACT A LYING NORTH OF THE KENAI RIVER
WITHIN SEC 30 EXCEPT SUBS & US SURVEYS

Plat Number(s) (if applicable): N/A Recording District(s): Seward

Tax Parcel ID(s): 11907501 Size/Acreage(s): 4.2 Acres

Are there any existing improvements on this land?

No Yes. *If yes, please describe and attach photos if available*

Has the applicant or affiliated entity previously leased Borough land or resources?

No Yes. *If yes provide legal description(s); type of lease and its' current status*

If the proposal is for other than fair market value, please state why it would be in the public's best interest to approve this proposal. Include all supporting facts & documents.

N/A

Has the applicant or affiliated entity ever filed a petition for bankruptcy, been adjudged bankruptor, or made an assignment for the benefit of a creditor?

No Yes *(If yes please explain, including dates)*

Is the applicant or affiliated entity now in default on any obligation to, or subject to any unsatisfied judgment or liens?

No Yes *(If yes, please explain)*

REQUEST PLAN REVIEW MEETING. Applicant requests a meeting with Land Management staff to review lease proposal and process. No Yes

Note: Submit, as applicable, the following items with this application:

1. Current Alaska Business License
2. Designation of Signatory Authority to Act for Organization or Individual
3. Non-Profits – IRS Tax Exemption Status
 - Yes – Please attach letter of determination
 - No – Please attach certificate, articles of incorporation, by-laws, or other appropriated documentation.
4. Site Plan Depicting the Proposed Use of the Property
5. Development Plan Explaining the proposed:
 - Use
 - Nature of improvements
 - Estimated value of improvements
 - Development and construction timetable
6. Tax Compliance Certification Form.

Complete the following applicant qualification statement for each individual applicant or organization (*attach additional statements as necessary*).

APPLICANT QUALIFICATION STATEMENT

Name: Alex Altmann **Title (if applicable):** Project Manager

Address: PO BOX: 773, Cooper Landing, AK, 99572

I hereby swear and affirm to the best of my knowledge:

- That I am eighteen years of age or older; and
- I am a citizen of the United States or a permanent resident who has filed a declaration of intention to become a citizen or a representative of a group, association or corporation which is authorized to conduct business under the laws of Alaska; and
- I am not delinquent on any deposit or payment obligation to the Kenai Peninsula Borough (KPB); and
- I am not currently in breach or default on any contract or lease involving land in which KPB has not acted to terminate the contract or lease or to initiate legal action.
- Unless agreed otherwise in writing and signed by the KPB mayor, the above named applicant agrees to provide a performance bond, general liability insurance, damage deposit, and pay for remote site inspection, if applicable.

I hereby certify that the information contained herein is true to the best of my knowledge and belief.

Alex S. Altmann

Digitally signed by Alex Altmann
Date: 2023.09.20 06:20:48-08'00'

9/20/2023

Signature of Applicant

Date

Alex S. Altmann

Print Name

Leases are issued based on compatible land classifications, land use and comprehensive plans. If approved, lease development must be substantially complete within two (2) years. The site shall be utilized for purposes within the scope of the application, the terms and conditions of the lease, and in conformity with the lessee's development plan.

Short Term Lease (Less than five (5) years)

- Based on a Development Plan which discloses the proposed:
 - Use(s) at the location;
 - Nature of improvements;
 - Estimated value of improvements;
 - Development and construction timetable;
- May not be assigned or renewed;
- Fair Market Rental Value.

Long Term Lease – (Greater than five (5) years)

- Based on a Development Plan which discloses the proposed:
 - Use(s) at the location;
 - Nature of improvements;
 - Estimated value of improvements;
 - Development and construction timetable.
- With written approval by KPB, encumber by mortgage, deed of trust, assignment or other appropriate instrument, the leasehold interest;
- May be assigned;
- Fair Market Rental Value.

Agricultural Lease

- Based on a Farm Management and Development Plan which discloses the proposed:
 - Use(s) at the location;
 - Nature of improvements;
 - Estimated value of improvements;
 - Development and construction timetable.
- May be assigned after two (2) years;
- Agricultural Lease Areas fee (KPB Resolution 2021-002 approved 2/2/2021)

Grazing Lease

- Based on a Range Management and Development Plan which discloses the proposed:
 - Use(s) at the location;
 - Nature of improvements;
 - Estimated value of improvements;
 - Location of the improvements;

- Description of necessity for such improvements;
- Statement that the improvements, as proposed, will not impair the value of the land or the reasonable uses thereof.
- Permanent improvements are prohibited;
- KPB may contract with appropriate federal or state agencies to cooperatively manage borough grazing leases;
- May be assigned;
- Grazing Lease Areas fee (KPB Resolution 2021-002 approved 2/2/2021)
- Does not grant an exclusive right to use the leased area, except as necessary to protect lessees authorized assets.
- Lessee shall not prohibit or otherwise interfere with reasonable access to the leased area for other uses as may be authorized by KPB.

Alaska Business License # **2093472**

Alaska Department of Commerce, Community, and Economic Development

Division of Corporations, Business, and Professional Licensing

PO Box 110806, Juneau, AK 99811-0806

This is to certify that

TRAYLOR BROS., INC.

835 N. CONGRESS AVE., Attn Annette Williams, EVANSVILLE, IN 47715

owned by

CHRISTOPHER SCOTT TRAYLOR; MICHAEL THOMAS TRAYLOR; Traylor Bros., Inc.

is licensed by the department to conduct business for the period

October 7, 2022 to December 31, 2024
for the following line(s) of business:

23 - Construction



This license shall not be taken as permission to do business in the state without having complied with the other requirements of the laws of the State or of the United States.

This license must be posted in a conspicuous place at the business location.
It is not transferable or assignable.

Julie Sande
Commissioner



Department of Commerce, Community, and Economic Development CORPORATIONS, BUSINESS & PROFESSIONAL LICENSING

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LICENSE DETAILS

This serves as primary source verification* of the license.

License #: CONE39321

Program: Construction Contractors

Type: General Contractor Without Residential Contractor Endorsement

Status: Active

DBA: TRAYLOR BROS., INC.

Issue Date: 03/05/2014

Effective Date: 12/02/2022

Expiration Date: 12/31/2024

Mailing Address: EVANSVILLE, IN, UNITED STATES

Public Note: See CONE30706.

*Primary Source verification: License information provided by the Alaska Division of Corporations, Business and Professional Licensing, per AS 08 and 12 AAC.

Owners

Owner Name	Entity Number
TRAYLOR BROS., INC.	90371

Relationships

No Relationships Found

Designations

No Designations Found

Agreements & Actions

No Agreements Or Actions

9/18/2023 5:31:52 AM (Alaskan Daylight Time)

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CONTACT US

TRAYLOR

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that Traylor Bros., Inc., a corporation organized and existing under the laws of the State of Indiana, by its duly authorized officer, Steven S. Owen, has made, constituted, and appointed and by these presents does make, constitute, and appoint **Alex Altmann** its true and lawful attorney to:

Execute, as authorized agent on behalf of Traylor Bros., Inc., such documents as are necessary to submit an application for lease of borough land and, if granted, to execute a lease of borough land with the Kenai Peninsula Borough Land Management Division for a personnel camp for the ADOT & PF Sterling Highway MP 45-60 Project, and thereby to bind Traylor Bros., Inc. to associated legal agreements in accordance with the terms thereof.

IN TESTIMONY WHEREOF, Traylor Bros., Inc., by its duly authorized officer, Steven S. Owen, has executed this Power of Attorney this 18th day of September 2023.

TRAYLOR BROS., INC.


By: 
Steven S. Owen, Vice President

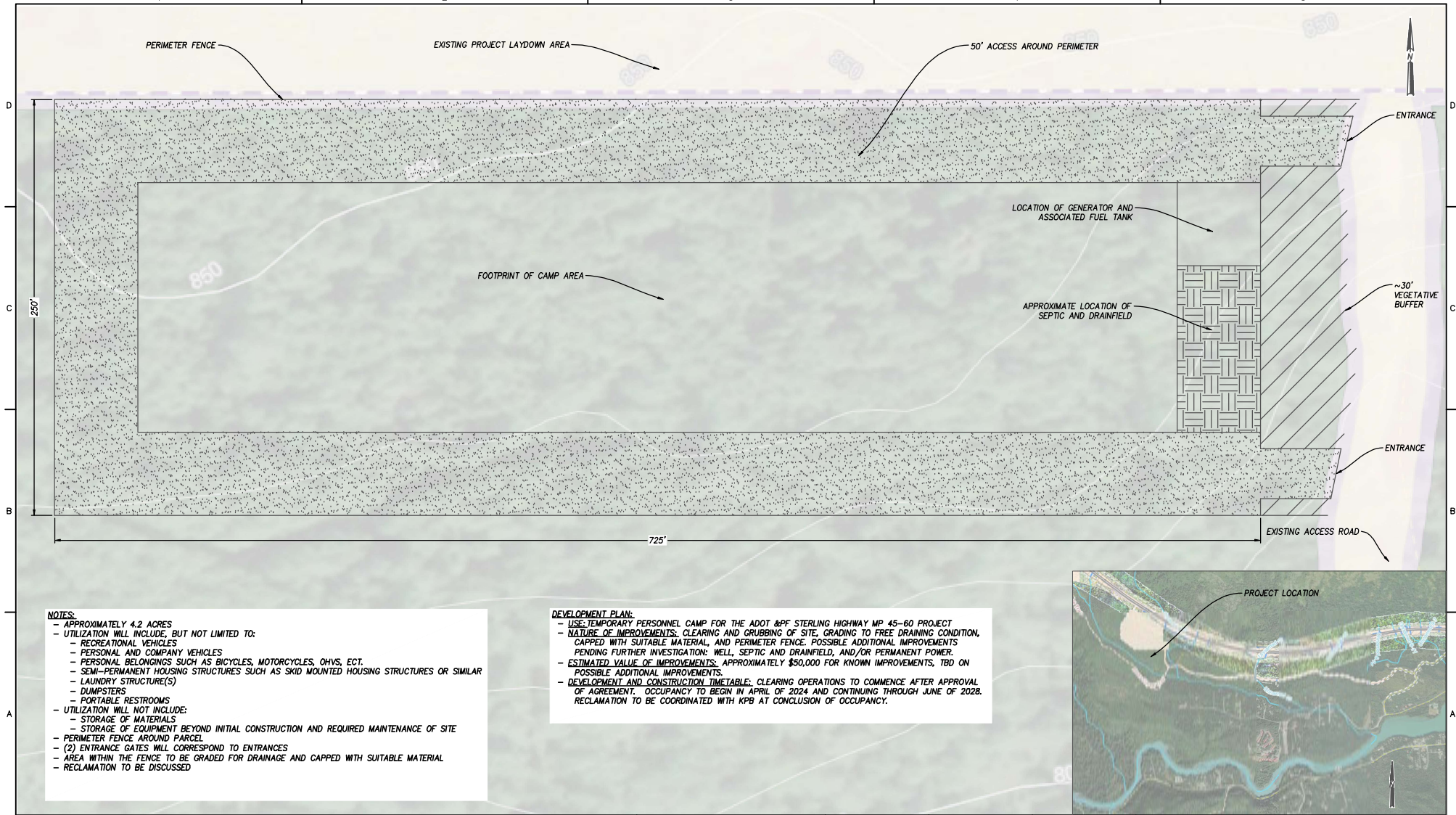
STATE OF INDIANA)
) SS:
COUNTY OF VANDERBURGH)

Before me, the undersigned, a Notary Public in and for said County and State personally appeared the within named Steven S. Owen, Vice President of Traylor Bros., Inc., and acknowledged the execution of the foregoing Power of Attorney to be his free and voluntary act and deed, for and on behalf of Traylor Bros., Inc. He further certified his full corporate authority to execute said instrument on behalf of Traylor Bros., Inc.

WITNESS my hand and notarial seal this 18th day of September 2023.




Annette M. Williams
Notary Public No. NP0738853
My Commission Expires: January 31, 2030
Resident of Vanderburgh County, Indiana

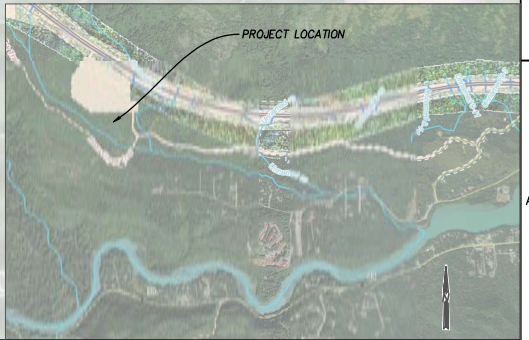


NOTES:

- APPROXIMATELY 4.2 ACRES
- UTILIZATION WILL INCLUDE, BUT NOT LIMITED TO:
 - RECREATIONAL VEHICLES
 - PERSONAL AND COMPANY VEHICLES
 - PERSONAL BELONGINGS SUCH AS BICYCLES, MOTORCYCLES, OHVS, ECT.
 - SEMI-PERMANENT HOUSING STRUCTURES SUCH AS SKID MOUNTED HOUSING STRUCTURES OR SIMILAR
 - LAUNDRY STRUCTURE(S)
 - DUMPSTERS
 - PORTABLE RESTROOMS
- UTILIZATION WILL NOT INCLUDE:
 - STORAGE OF MATERIALS
 - STORAGE OF EQUIPMENT BEYOND INITIAL CONSTRUCTION AND REQUIRED MAINTENANCE OF SITE
 - PERIMETER FENCE AROUND PARCEL
 - (2) ENTRANCE GATES WILL CORRESPOND TO ENTRANCES
 - AREA WITHIN THE FENCE TO BE GRADED FOR DRAINAGE AND CAPPED WITH SUITABLE MATERIAL
 - RECLAMATION TO BE DISCUSSED

DEVELOPMENT PLAN:

- USE: TEMPORARY PERSONNEL CAMP FOR THE ADOT & PF STERLING HIGHWAY MP 45-60 PROJECT
- NATURE OF IMPROVEMENTS: CLEARING AND GRUBBING OF SITE, GRADING TO FREE DRAINING CONDITION, CAPPED WITH SUITABLE MATERIAL, AND PERIMETER FENCE. POSSIBLE ADDITIONAL IMPROVEMENTS PENDING FURTHER INVESTIGATION: WELL, SEPTIC AND DRAINFIELD, AND/OR PERMANENT POWER.
- ESTIMATED VALUE OF IMPROVEMENTS: APPROXIMATELY \$50,000 FOR KNOWN IMPROVEMENTS, TBD ON POSSIBLE ADDITIONAL IMPROVEMENTS.
- DEVELOPMENT AND CONSTRUCTION TIMETABLE: CLEARING OPERATIONS TO COMMENCE AFTER APPROVAL OF AGREEMENT. OCCUPANCY TO BEGIN IN APRIL OF 2024 AND CONTINUING THROUGH JUNE OF 2028. RECLAMATION TO BE COORDINATED WITH KPB AT CONCLUSION OF OCCUPANCY.



FILE NAME: 2023_09_18_Traylor Area Personnel Camp.dwg | PLOT DATE: 9/18/2023 5:00 PM by Ahmann, Alex

SCALE: N.T.S.		PREPARED BY: ASA	DATE: 9/18/2023	PROJECT: TRAYLOR PERSONNEL CAMP	
SIZE: 11x17 (ANSI B)		CHECKED BY: ---	DATE: --/--/----	PACKAGE: ----	
REVISION	DESCRIPTION	BY	DATE	PROJECT:	----
				OWNER:	----
				FILE NO.:	----
				SHEET NO.:	01 of 01

TRAYLOR
TRAYLOR BROS., INC.
835 N. Congress Ave.
Evansville, IN 47715
Office: (812) 477-1542

Alaska Entity #90371

State of Alaska
Department of Commerce, Community, and Economic Development
Corporations, Business, and Professional Licensing

Certificate of Compliance

The undersigned, as Commissioner of Commerce, Community, and Economic Development of the State of Alaska, and custodian of corporation records for said state, hereby issues a Certificate of Compliance for:

Traylor Bros., Inc.
transacting business in this state under the name of
Traylor Bros., Inc.

This entity was formed on November 8, 2004 and is in good standing. This entity has filed all biennial reports and fees due at this time.

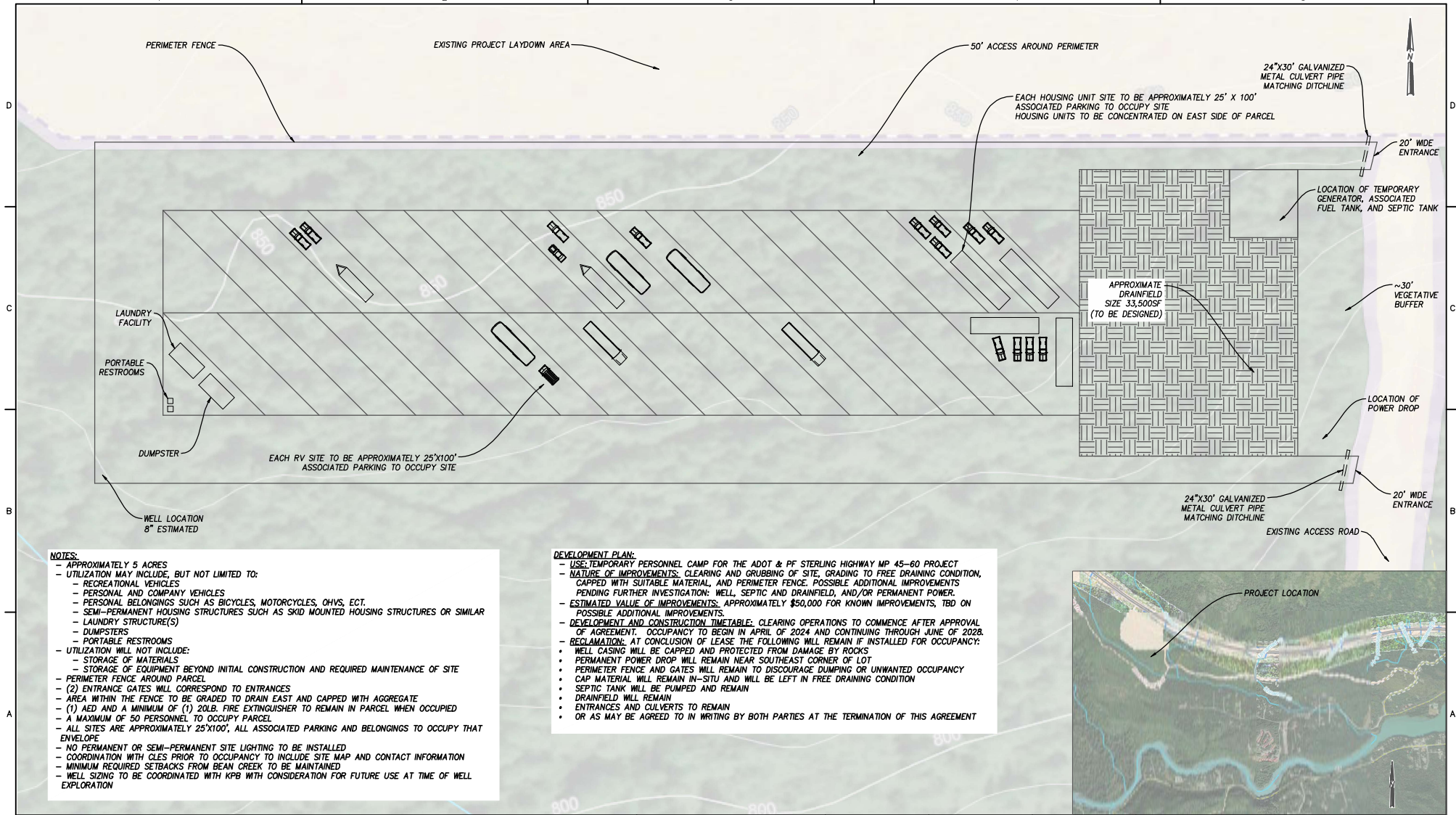
No information is available in this office on the financial condition, business activity or practices of this corporation.



IN TESTIMONY WHEREOF, I execute the certificate and affix the Great Seal of the State of Alaska effective **September 18, 2023**.

A handwritten signature in black ink, appearing to read "Julie Sande".

Julie Sande
Commissioner

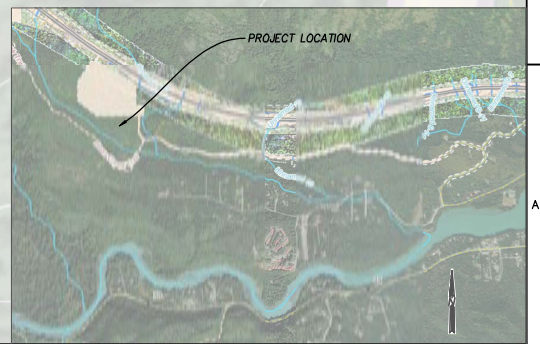


NOTES:

- APPROXIMATELY 5 ACRES
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 - PERSONAL BELONGINGS SUCH AS BICYCLES, MOTORCYCLES, OHVS, ECT.
 - SEMI-PERMANENT HOUSING STRUCTURES SUCH AS SKID MOUNTED HOUSING STRUCTURES OR SIMILAR
 - LAUNDRY STRUCTURE(S)
 - DUMPSTERS
 - PORTABLE RESTROOMS
- UTILIZATION WILL NOT INCLUDE:
 - STORAGE OF MATERIALS
 - STORAGE OF EQUIPMENT BEYOND INITIAL CONSTRUCTION AND REQUIRED MAINTENANCE OF SITE
- PERIMETER FENCE AROUND PARCEL
- (2) ENTRANCE GATES WILL CORRESPOND TO ENTRANCES
- AREA WITHIN THE FENCE TO BE GRADED TO DRAIN EAST AND CAPPED WITH AGGREGATE
- (1) AED AND A MINIMUM OF (1) 20LB. FIRE EXTINGUISHER TO REMAIN IN PARCEL WHEN OCCUPIED
- A MAXIMUM OF 50 PERSONNEL TO OCCUPY PARCEL
- ALL SITES ARE APPROXIMATELY 25'X100', ALL ASSOCIATED PARKING AND BELONGINGS TO OCCUPY THAT ENVELOPE
- NO PERMANENT OR SEMI-PERMANENT SITE LIGHTING TO BE INSTALLED
- COORDINATION WITH GLE'S PRIOR TO OCCUPANCY TO INCLUDE SITE MAP AND CONTACT INFORMATION
- MINIMUM REQUIRED SETBACKS FROM BEAN CREEK TO BE MAINTAINED
- WELL SIZING TO BE COORDINATED WITH KPB WITH CONSIDERATION FOR FUTURE USE AT TIME OF WELL EXPLORATION

DEVELOPMENT PLAN:

- USE TEMPORARY PERSONNEL CAMP FOR THE ADOT & PF STERLING HIGHWAY MP 45-60 PROJECT
- NATURE OF IMPROVEMENTS: CLEARING AND GRUBBING OF SITE, GRADING TO FREE DRAINING CONDITION, CAPPED WITH SUITABLE MATERIAL, AND PERIMETER FENCE. POSSIBLE ADDITIONAL IMPROVEMENTS PENDING FURTHER INVESTIGATION: WELL, SEPTIC AND DRAINFIELD, AND/OR PERMANENT POWER.
- ESTIMATED VALUE OF IMPROVEMENTS: APPROXIMATELY \$50,000 FOR KNOWN IMPROVEMENTS, TED ON POSSIBLE ADDITIONAL IMPROVEMENTS.
- DEVELOPMENT AND CONSTRUCTION TIMETABLE: CLEARING OPERATIONS TO COMMENCE AFTER APPROVAL OF AGREEMENT. OCCUPANCY TO BEGIN IN APRIL OF 2024 AND CONTINUING THROUGH JUNE OF 2028.
- RECLAMATION: AT CONCLUSION OF LEASE THE FOLLOWING WILL REMAIN IF INSTALLED FOR OCCUPANCY:
 - WELL CASING WILL BE CAPPED AND PROTECTED FROM DAMAGE BY ROCKS
 - PERMANENT POWER DROP WILL REMAIN NEAR SOUTHEAST CORNER OF LOT
 - PERIMETER FENCE AND GATES WILL REMAIN TO DISCOURAGE DUMPING OR UNWANTED OCCUPANCY
 - CAP MATERIAL WILL REMAIN IN-SITU AND WILL BE LEFT IN FREE DRAINING CONDITION
 - SEPTIC TANK WILL BE PUMPED AND REMAIN
 - DRAINFIELD WILL REMAIN
 - ENTRANCES AND CULVERTS TO REMAIN
 - OR AS MAY BE AGREED TO IN WRITING BY BOTH PARTIES AT THE TERMINATION OF THIS AGREEMENT



FILE NAME: 2023 12 08_Taylor_Bean-Perennial Comp.dwg | PLOT DATE: 12/8/2023 11:25 AM by: MMiner, Alex

TRAYLOR
TRAYLOR BROS., INC.

835 N. Congress Ave.
Evansville, IN 47715
Office: (812) 477-1542

SCALE:	N.T.S.	PREPARED BY:	ASA	DATE:	12/8/2023	TRAYLOR PERSONNEL CAMP
SIZE:	11x17 (ANSI B)	CHECKED BY:	---	DATE:	---/---/---	PACKAGE:
REVISION	DESCRIPTION	BY	DATE	PROJECT:	---	
				OWNER:	---	
				FILE NO.:	---	
				SHEET NO.	01 of 01	

Master Land Lease Development Agreement
KPBL#

The Kenai Peninsula Borough, an Alaska municipal corporation, whose address is 144 N. Binkley Street, Soldotna, AK 99669 (the "Borough" or "KPB"); and Traylor Bros., Inc., whose address is P.O. Box 910, Cooper Landing, AK 99572, ("Traylor") (together, the "Parties") enter into this Master Land Lease Development Agreement (the "Master Lease") and agree as follows:

I. Background; Contract Documents; Authorized Contact; Definitions

- 1. **Background.** The Borough owns or manages certain real property located in the Kenai Peninsula Borough, in the state of Alaska. The Property is more particularly described in Section 5 and depicted in Attachment 3. For good and valuable consideration, the Parties agree that the Borough will grant Traylor the right to use the Property for the purposes of temporary short-term craft worker housing in support of the State of Alaska MP 45-60 Project. Traylor agrees that it will conduct its use and operations according to the terms and conditions contained in this Agreement for purposes integral to the Sterling Highway MP45-60 Project near Cooper Landing, Alaska.
- 2. **Authorized Contact.** All communications about this Agreement will be directed as follows. Any reliance on a communication with a person or entity other than those listed below is at the Party's own risk. Borough staff do not have authority to bind the Borough. Any material amendments or changes to the Agreement must be approved in writing signed by the Borough Mayor and may be subject to appropriation and approval by the Borough Assembly.

KPB

Traylor

Name: KPB Land Management Division
Attn: Land Management Officer
Mailing Address: 144 N. Binkley St.
Soldotna, AK 99669

Name: Traylor Bros., Inc.
Attn: Alex Altman

- 3. **Contract Documents.** As authorized by the Borough Assembly, this Master Lease and incorporated attachments together form the entire agreement ("Agreement"). Collectively, the Agreement is the final and complete understanding of the Parties. The following agreements or attachments, are attached to, incorporated herein by reference, and together form the Agreement:

- i. Master Lease
- ii. Attachment 1: Lease Provisions Required by KPB 17.10
- iii. Attachment 2: Development Plan
- iv. Attachment 3: Site Survey Drawings

4. Definitions.

- 4.1. Agreement – As set forth in Section 3, above.
- 4.2. Environmental Assessment - An assessment of property, prepared in a manner consistent with generally accepted professional practices, that is supported by reports

and tests that determine the environmental condition of property and the presence, type, concentration, and extent of any contamination in, on, and under the surface of the property.

- 4.3. Environmental Law - Any federal, state, or local statute, law, regulation, ordinance, code, lease, order, decision, or judgment from a governmental entity relating to environmental matters, including littering and dumping. It includes, as applicable, 42 U.S.C. 7401-7671 (Clean Air Act); 33 U.S.C. 1251-1387 (Federal Water Pollution Control Act); 42 U.S.C. 6901-6992 (Resource Conservation and Recovery Act); 42 U.S.C. 9601-9657 (Comprehensive Environmental Response, Compensation, and Liability Act); U.S.C. 5101-5127 (Hazardous Materials Transportation Act); 15 U.S.C. 2601-2692 (Toxic Substances Control Act); AS 46 (Alaska Water, Air, Energy, and Environmental Conservation Acts); and the provisions of 18 AAC (Environmental Conservation) implementing AS Title 46.
- 4.4. Environmental Liability Baseline - A description, accepted by the Borough and documented by one or more Environmental Assessments and any other relevant documents, of the existence, location, level, and extent of contamination in, on, or under the surface of the Property that was neither caused nor materially contributed to by Traylor, nor assumed by Traylor by reason of assignment.
- 4.5. Project – State of Alaska Sterling Highway MP45-60 Project.
- 4.6. Property – KPB Land leased to Traylor more particularly described in Section 5 and shown on Attachment 3.
- 4.7. Site Development Materials - Materials used for site development, including geotextile, fill, gravel, paving, and pavement reinforcement materials.

II. **Leased Property Description; Term; Rent**

5. **The Property.** The Borough agrees to lease to Traylor, and Traylor agrees to lease from the Borough, the Property in an “as-is” condition. The Borough makes no specific warranties, express or implied, concerning the title or condition of the Property, including survey, soils, wetlands, access, or suitability for any use, including those uses authorized by the Agreement, unless otherwise specified in this Agreement. The Property is more particularly described as:

Section 30, Township 5N, Range 3 West

A 5-acre area located in the N½ of Section 30, Seward Meridian, Alaska, lying West of Cecil Road (also referred to as the Pioneer Road), and South of that existing lease to the State of Alaska DOT&PF, as further depicted in attached Lease Site map.

6. **Additional Lands.** By mutual written agreement of the Parties, the Property may be added to, amended, or otherwise changed to fit the needs of the Project. This provision will be interpreted to mean that the Borough and Traylor may agree to add additional lands owned or managed by the Borough to the Agreement and Traylor may agree to lease such additional lands under the same rental and fees basis, subject to the terms and conditions set forth in this Agreement and to Assembly approval.

7. Term.

- 7.1. Initial Term. The Initial Term of this Agreement will be for a period of five years commencing on _____ and terminating on _____.
- 7.2. Renewal Term(s). Unless notice of non-renewal is provided prior to expiration of the Initial Term or Traylor is otherwise in breach of the Agreement, the Agreement may be automatically renewed by Traylor for two additional 1-year Renewal Terms.

8. Rent.

- 8.1. Surface Use Rent ("Rent"). The Rent for the use of the surface area of the Property is \$11,880.00 plus applicable sales taxes as may otherwise be required by law, for the first year of the Agreement, payable on the commencement date of the lease and each anniversary thereof. The Rent will increase annually at 3% per annum.
- 8.2. Material Extraction and Disposal. No material extraction and or disposal provisions are incorporated as a part of this Agreement.

III. Uses; Reservation of Rights by KPB

9. Authorized Uses. The Agreement is entered into for the use of the Property for the following authorized uses:

- 9.1. Subject to Section 11 below, Traylor will have exclusive surface use and possession of the Property. The surface uses will be governed by this Master Lease. Surface uses include the staging of personnel and temporary worker housing, support facilities, and related uses as reasonably necessary.

10. Prohibited Uses. Under this Agreement, the following uses on the Property are prohibited:

- 10.1. Installing permanent structures;
- 10.2. Storage of bulk fuel. Bulk fuel is defined as storage of 500 gallons or more fuel.
- 10.3. Storage or maintenance of heavy equipment or construction materials.
- 10.4. Material extraction or deposit not related to the project.
- 10.5. All other uses not specifically in support of the identified intended use.

11. Rights Reserved by KPB.

- 11.1 The Borough reserves and retains the right to grant additional easements for utility and public access purposes across the Property and nothing herein contained shall prevent the Borough from specifically reserving or granting such additional easements and rights-of-way across the Property as may be deemed reasonable and necessary.

As the Parties agree that this is a reserved right which is reflected in the annual lease rental, in the event that the Borough grants future additional easements or rights-of-way across the Property, it is agreed and understood that Traylor will receive no damages for such grant.

- 11.2 The Borough reserves the right of ingress and egress from the Property, and the right to enter any part of the Property for the purposes of inspection at any reasonable time subject only to the Borough's best efforts, except in the case of an emergency, to coordinate its inspection with Traylor to minimize interference with Traylor's operations and activities on the Property.

IV. Cancellation, Expiration or Other Termination

12. Traylor Default.

- 12.1. If Traylor violates a term of the Agreement and the Borough considers that term to be a material obligation of the Agreement, or the violation to be a material deviation from the requirements of the Agreement, the Borough will mail or deliver to Traylor a written notice of the violation. The notice must allow Traylor not less than sixty (60) days to correct the violation, unless the violation constitutes an imminent threat to public health or safety.
- 12.2. If Traylor does not correct the violation by the time set forth in the notice, the Borough will:
 - a. Grant an extension of time to correct the violation if Traylor shows good cause;
 - b. Take enforcement action as provided under this Agreement or as available by law; or
 - c. Cancel this Master Lease.
- 12.3. If the Borough determines that a violation creates an imminent threat to public health or safety, the KPB will:
 - a. Direct Traylor to stop the activity immediately;
 - b. Provide Traylor less time than otherwise specified in the Agreement to correct the violation; or
 - c. Correct the violation at Traylor's expense.
- 12.4. Without limitation, the following will be deemed either violations of material obligations of this Agreement or material deviations from the requirements of the Agreement:
 - a. Traylor fails to pay when due any rent, charge, or fee or royalty specified in the Agreement, including any increase made under this Master Lease;
 - b. Traylor blocks or restricts the Borough or its Contractors access to the Property in violation of Section 11 above; or
 - c. Traylor is otherwise found to be in violation of local, state or federal law.

13. Waiver.

- 13.1. A waiver by the Borough of any default by Traylor of any provision of this Agreement will not operate as a waiver of any subsequent default. If the Borough waives a default, the Borough is not required to provide notice to Traylor to restore or revive any provision under this Agreement. The waiver by the Borough of any provision in this Agreement cannot be enforced or relied upon unless the waiver is in writing and signed by the Borough.
- 13.2. The Borough's failure to insist upon the strict performance by Traylor of any provision in this Agreement is not a waiver or relinquishment for the future, and the provision will continue in full force.

14. Disposition of Improvements and Personal Property. All temporary improvements and personal property of Traylor must be removed by Traylor, at its sole expense, within ninety (90) days of cancellation, termination, or expiration of the Agreement.

15. Disposition of Site Development Materials. Site Development Materials that Traylor completes or places on the Property become part of the Borough-owned or managed realty and property of the Borough upon completion or placement. Traylor may not remove the Site Development Materials unless the Borough approves in writing.

16. Natural Disasters. If the Parties agree in writing that the Property is unusable, not due to the fault or negligence of either Party, to the extent that performance of this Master Lease is impossible, this Master Lease may be terminated. If Traylor elects to continue to operate, the Borough is under no obligation to continue to perform. Causes for termination under this provision include, but are not restricted to: acts of God; fires; floods; epidemics; quarantine restrictions; earthquakes; landslides; mudslides; avalanches; tsunamis; or volcanic activity.

17. National Emergency. If the federal government declares a national emergency, neither Party may hold the other liable for any inability to perform any part of this Master Lease as a result of the national emergency.

18. Survival.

18.1. Upon expiration, cancellation, or other termination of this Lease, Traylor must peaceably and quietly vacate the Property and return possession to the Borough.

18.2. Traylor's obligations under the following provisions of this Master Lease will survive and remain binding on Traylor after the expiration, cancellation, or other termination of the Agreement:

- a. Section 8 – Rent; Notwithstanding this provision, rent will not apply if expiration is at the end of the term of this Master Lease or if the Master Lease is terminated for reasons set forth in sections 16 or 17 hereof.
- b. Section 14 – Disposition of Improvements and Personal Property; and
- c. Sections 19 through 24 of Chapter V, Environmental Issues.

V. ENVIRONMENTAL ISSUES

19. Environmental Liability Baseline.

19.1. Responsibility for Ascertaining Environmental Condition of Property. Traylor has the sole responsibility under this Agreement to ascertain the environmental condition and presence of contamination in, on, and under the surface of the Property, and is conclusively presumed to have caused or to have materially contributed to any contamination of, or originating on, the Property except as identified in an Environmental Liability Baseline. If known contamination is on the Property that has been closed out under alternate cleanup levels approved by ADEC, Traylor is responsible for following all restrictions set by ADEC including, but not limited to, notifying any assignee of this Agreement in writing of ADEC's restrictions.

19.2. Financial Responsibility for Contamination on the Property and on any Affected Property. Traylor assumes financial responsibility to the Borough for any contamination in, on, and under the Property, except for contamination that is identified in an Environmental Liability Baseline. This is without prejudice to Traylor's right to seek contribution or indemnity from either prior lessees of the

Property, or other potentially responsible parties except for the Borough.

19.3. Establishing an Environmental Liability Baseline

- a. If Traylor wants to establish an Environmental Liability Baseline for any or all portions of the Property, Traylor must provide the Borough with an Environmental Assessment for that portion of the Property prior to its use.
- b. If Traylor discovers contamination in, on, or under the surface of the Property, for any portion of the contamination to be considered for inclusion in the Environmental Liability Baseline, Traylor must demonstrate by reasonable evidence to the satisfaction of the Borough that the contamination proposed for inclusion was not caused or materially contributed to by Traylor or Traylor's operations or activities nor assumed by Traylor. Contamination caused or materially contributed to by activities of Traylor's sublessees, contractors, and guests on the Property are deemed to have been materially contributed to by Traylor.
- c. Only that portion of contamination not caused or materially contributed to by Traylor or Traylor's operations or activities must be included in the Environmental Liability Baseline.

19.4. Adding to an Existing Environmental Liability Baseline

- a. If, after an Environmental Liability Baseline is established for any portion of the Property, Traylor discovers contamination in, on, or under the surface of that portion of the Property having an Environmental Liability Baseline, which contamination Traylor or Traylor's operations or activities did not cause, or to which Traylor or Traylor's operations did not materially contribute, and which Traylor did not assume by reason of assignment, Traylor may, at its own cost, submit an additional Environmental Assessment reflecting that information to the Borough for the Borough's consideration to add to the Environmental Liability Baseline. Traylor's additional Environmental Assessment must demonstrate by reasonable evidence to the satisfaction of the Borough which portion of the additional contamination on the Property was not caused by Traylor or Traylor's activities, or to which Traylor or Traylor's activities did not materially contribute.
- b. Only that portion of contamination not caused by Traylor or Traylor's operations, or to which Traylor or Traylor's operations did not materially contribute, may be added to the existing Environmental Liability Baseline.

19.5. The Borough's Acceptance or Rejection of Traylor's Environmental Assessment.

When the Borough receives Traylor's Environmental Assessment to establish an Environmental Liability Baseline or to add to an existing Environment Liability Baseline, the Borough, in its sole discretion, may do one of the following:

- a. Perform additional environmental testing at Traylor's expense to verify the environmental condition of that portion of the Property being assessed. If the results of the Borough's tests conflict with Traylor's Environmental Assessment, the Borough and Traylor will negotiate in good faith an Environmental Liability Baseline or an addition to the existing Environmental Liability Baseline for that portion of the Property being assessed; or
- b. Accept the findings of Traylor's Environmental Assessment and any other relevant documents to establish an Environmental Liability Baseline for that

portion of the Property being assessed or to add to the existing Environmental Liability Baseline; or

- c. Reject the findings of Traylor's Environmental Assessment for that portion of the Property being assessed and offer Traylor the opportunity to perform additional environmental testing if the Borough determines in writing that the findings of the Environmental Assessment are inadequate to establish an Environmental Liability Baseline or to add to an existing Environmental Liability Baseline. The Borough's written rejection of the Traylor's Environmental Assessment will be based on failure of Traylor's Environmental Assessment to either:
 - (1) Follow generally accepted professional practices in determining the environmental condition of the Property and the presence of Contamination in, on, or under the surface of the Property; or
 - (2) Demonstrate the portion of the contamination that was not caused by Traylor or Traylor's operations, or to which Traylor or Traylor's operations did not materially contribute.

19.6. Amending the Environmental Liability Baseline to Delete Contamination Caused or Assumed by Traylor, or to which Traylor Materially Contributed.

- a. If, after the Environmental Liability Baseline for any portion of the Property is established, it is discovered that the presence of contamination identified in the Environmental Liability Baseline was caused or assumed by Traylor or Traylor's operations, or to which Traylor or Traylor's operations materially contributed, the Environmental Liability Baseline may be amended to delete that portion of the Contamination that was caused by Traylor or Traylor's operations, or to which Traylor or Traylor's operations materially contributed.
- b. The Borough will have the burden of proof to establish that Traylor or Traylor's operations or activities caused or materially contributed to the contamination.
- c. If it is discovered that contamination identified in the Environmental Liability Baseline was caused by Traylor or that Traylor or Traylor's operations materially contributed to the contamination, the Parties will agree upon an amendment to the Environmental Liability Baseline within a reasonable time.

20. Release of Lessee. The Borough releases Traylor from liability to the Borough for contamination identified by the Environmental Liability Baseline that was not caused by Traylor or Traylor's operations, or to which Traylor or Traylor's operations did not materially contribute.

21. Required Remediation. The Borough is under no obligation to remediate contamination identified in an Environmental Assessment, except the Borough must remediate, or have responsible parties remediate, the contamination identified in the Environmental Liability Baseline if an agency with such authority requires the Borough to remediate. In the event of such required remediation, the Borough will make a reasonable effort to coordinate the remediation with Traylor to minimize disruption of Traylor's operations or activities and damage to Traylor's improvements and property. Traylor releases and holds the Borough harmless for all costs associated with any damage to, and relocation, removal, and repair of Traylor's improvements and property resulting from remediation performed in compliance with this Section with respect to contamination that existed before construction of affected

improvements.

- 22. Action Against Potentially Responsible Parties.** This Section restricts neither the Borough nor Traylor from seeking and obtaining cleanup efforts, costs, or damages from other potentially responsible parties for Contamination identified in the Environmental Liability Baseline.

VI. Additional Terms and Conditions

- 23. Defense and Indemnification.** Traylor agrees to defend, indemnify, and hold harmless the Borough, its employees, public officials, and volunteers, with respect to any action, claim or lawsuit to the extent cause by (1) a breach of this Agreement or (2) the use and occupancy of the Property by Traylor. This agreement to defend, indemnify, and hold harmless includes all losses and liabilities without limitation as to any damages resulting from judgment, or verdict, and includes the award of any attorney's fees even if in excess of Alaska Civil Rule 82. Traylor's obligations arise immediately upon notice to the Borough of any action, claim, or lawsuit. The Borough will notify Traylor in a timely manner of the need for indemnification but such notice is not a condition precedent to Traylor's obligation and may be waived where Traylor has actual notice. This agreement applies and is in full force and effect whenever and wherever any action, claim or lawsuit is initiated, filed, or otherwise brought against the Borough to the extent caused by Traylor's use and occupancy of the Property. Notwithstanding the foregoing, Traylor's duty to indemnify, defend, and hold harmless the Borough as set forth above will not apply to the extent a claim arises from the negligence or willful misconduct of the Borough, its employees, public officials, and volunteers.
- 24. Insurance.** Insurance coverage required under this Agreement must be primary and exclusive of any other insurance carried by the Borough. Minimum levels of insurance coverage required under this Agreement must remain in effect for the life of this Agreement and must be a part of the contract price. If Traylor's policies contain higher limits, the KPB will be entitled to coverage to the extent of such higher limits. There will be no cancellation or material change of the insurance coverages, or intent not to renew the insurance coverages as specified in this Agreement, without thirty (30) calendar days' prior written notice to the Borough. Certificates of Insurance, acceptable in form and content, will be delivered to the Borough at the time of submission of the signed Agreement and updated certificates must be provided upon insurance coverage renewal, where applicable.

- 24.1. Commercial General Liability Insurance (CGL). All Contractors and subcontractors of any tier must provide and maintain Commercial General Liability Insurance (CGL). The CGL Policy must be written on an occurrence basis and with a limit of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) each occurrence and aggregate. CGL insurance must be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and must cover liability arising from the Property, operations, broad form property damage, independent contractors, products-completed operations, personal injury and advertising injury, explosion, collapse, underground hazards, and liability assumed under a contract including the tort liability of another assumed in a business contract. If necessary to provide the required limits, the Commercial General Liability policy's limits may be layered with a

Commercial Umbrella or Excess Liability policy. This policy must name the Borough as Additional Insured. To the extent damages are covered by commercial general liability insurance, subrogation will be waived.

- 24.2. Auto Liability. Traylor, its contractor(s) and subcontractor(s) of any tier must provide and maintain Auto Liability Insurance (ALI). The Auto Liability Policy must include a Combined Single Limit of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00); Underinsured and Uninsured Motorists limit of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00); Coverage must include Non-Owned and Hired Care coverage. This policy must name the Borough as Additional Insured. To the extent damages are covered by auto liability insurance, subrogation will be waived.
- 24.3. Worker's Compensation, Employer's Liability Insurance. Traylor, its contractor(s) and subcontractor(s) of any tier must provide and maintain, for all of its employees engaged in work under this Agreement, Workers' Compensation Insurance in accordance with the laws of the State of Alaska. Traylor will be responsible to ensure any contractor(s) or subcontractor(s) who directly or indirectly provide services under this Agreement provide and maintain such insurance for all of their employees engaged in work under this Agreement. This coverage must include statutory coverage for states in which employees are engaging in work and employer's liability protection not less than the minimum amounts required by law. Where applicable, coverage for all federal acts (i.e., U.S.L. & H and Jones Act) must also be included.
- 24.4. Proof of Coverage. The Borough may request copies of required policies and endorsements. Such copies must be provided within (10) TEN CALENDAR DAYS of the Borough's request. All insurance required hereunder must be maintained in full force and effect. All policies required must be written as primary policies and not contributing to nor in excess of any coverage the Borough may choose to maintain. Upon renewal of insurance coverage during the license, certificates of insurance must be delivered to the Borough. Traylor, on behalf of its contractor(s) and subcontractor(s) must deliver, within thirty (30) days, complete insurance coverage policy documents to the Borough upon request.
- 25. Subleasing.** Traylor may not sublease the Property or any part thereof without written permission of the Borough Mayor when applicable. A sublease must be in writing and subject to the terms and conditions of this Agreement.
- 26. Waste.** Traylor must not commit waste upon or injury to the Property.
- 27. Fire Protection.** Traylor must take all reasonable precautions to prevent, and take all reasonable actions to suppress, destructive and uncontrolled grass, brush, and forest fires on the Property, and comply with all laws, regulations, and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the Property is located.
- 28. Safety.** Traylor will be solely responsible for maintaining the Property in a safe and fit condition, including without limitation snow and ice removal from all improvements and areas on the Property as needed for Traylor's use of the Property. Traylor is responsible for the safety of all persons conducting activities on the Property under the Agreement.

- 29. Sanitation.** Traylor must comply with all laws, regulations or ordinances promulgated for the promotion of sanitation. The Property must be kept in a clean and sanitary condition and every effort must be made to prevent pollution of the waters and lands. Sanitary facilities must be in accordance with the State of Alaska, Department of Environmental Conservation regulations.
- 30. Compliance with Laws.** Traylor must abide by all applicable federal, state, city, and Borough statutes, ordinances, rules, and regulations. Traylor is responsible for obtaining all federal, state, and local permits applicable to Traylor's activities and must keep such permits in good standing.
- 31. Responsibility of Location.** It will be Traylor's responsibility to properly locate itself and its improvements on the Property.
- 32. Liens and Mortgages.** Traylor will not cause or allow any lien or encumbrance of any kind or nature whatsoever to attach to the Property during the term of the Agreement. In the event that any prohibited lien is placed against the Property, Traylor will immediately cause the lien to be released.
- 33. No Warranty, Express or Implied.** Traylor accepts the Property AS-IS, WHERE-IS. The Agreement will be without warranty whatsoever, whether implied or expressed, as to quality, fitness for purpose or suitability for development, or physical condition (including, without limitation, the environmental condition of the property). It is Traylor's responsibility to satisfy itself prior to executing the Master Lease as to the type, condition, and quality of the Property.
- 34. Jurisdiction.** Any lawsuits filed in connection with the terms and conditions of the Agreement, and of the rights and duties of the parties must be filed and prosecuted at Kenai, Alaska and will be governed by Alaska law, without regard to conflict of law principles.
- 35. Savings Clause.** Should any provision of the Agreement fail or be declared null or void in any respect, or otherwise unenforceable, it will not affect the validity of any other provision of the Agreement nor constitute any cause of action in favor of either Party as against the other.
- 36. Binding Effect.** It is agreed that all covenants, terms, and conditions of the Agreement will be binding upon the successors, heirs and assigns of the Parties hereto.
- 37. Integration and Merger.** The Agreement sets out all the terms, conditions, and agreements of the Parties and supersedes any previous understandings or agreements regarding the Property whether oral or written. Unless specifically authorized within a provision, no modification or amendment of the Agreement is effective unless in writing and signed by both of the Parties.
- 38. Warranty of Authority.** Traylor warrants that the person executing the Agreement is authorized to do so on Traylor's behalf.
- 39. Counterparts.** The Agreement may be executed in counterpart, each of which when so executed and delivered will be considered an original and all of which when taken together will constitute one and the same instrument.
- 40. Quiet Enjoyment.** During the term of the Agreement, Traylor will have quiet enjoyment of

the Property subject to the terms and conditions stated in the Agreement.

41. Anadromous Waters. During the term of the Agreement, Traylor shall be required to comply with the Kenai Peninsula Borough development setback requirements from designated anadromous waters (KPB 21.18.040). An additional 50 foot shall be incorporated into this lease, resulting in a total setback of 100 feet from the mean high-water mark of Bean Creek. Any work that may be required within the additional 50' buffer will require prior consent of the Kenai Peninsula Borough Land Management.

42. Sqilantnu Archaeological District. The subject leased property lies within the identified boundaries of the Sqilantnu Archaeological District. As a condition of this lease, Traylor must not disturb historic or prehistoric resources. Should previously undiscovered artifacts or areas of historic, prehistoric or archaeological importance be discovered, the site must be protected from further disturbance and Traylor must immediately cease activities in the particular area of discovery and report such discovery to the Borough and the State Historic Preservation Office.

43. Interpretation. Both parties have had an opportunity to review the Agreement, to suggest changes, and to consult with legal counsel before signing. The Agreement will not be interpreted in favor of or against either Party.

LESSOR: Kenai Peninsula Borough

LESSEE: Traylor Bros., Inc.

By: Peter A. Micciche
Its: Mayor
Date: _____

By: _____
Its: _____
Date: _____

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Michele Turner, CMC
Borough Clerk

A. Walker Steinhage
Deputy Borough Attorney

KPB NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 2023, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Peter A. Micciche, known to me to be the Mayor, Kenai Peninsula Borough, and who acknowledged to me that the foregoing instrument was executed freely and voluntarily on behalf of Kenai Peninsula Borough, for the uses and purposes therein set forth and who is authorized to do so.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year written above.

Notary Public in and for Alaska
Commission expires: _____

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 2023, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared _____, known to me to be the _____, of Traylor Bros., Inc

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year written above.

Notary Public in and for Alaska
My Commission Expires:

ATTACHMENT 2
LEASE PROVISIONS REQUIRED BY KPB 17.10

(1) **Accounts Current.** The Lessee shall not be delinquent in the payment of any tax, debt or obligation owed to the KPB prior to execution of the Agreement.

(2) **Assignment.** Lease may assign the lands upon which he has an agreement only if approved by the mayor or land management officer when applicable. Applications for assignment shall be made in writing on a form provided by the land management division. The assignment shall be approved if it is found that all interests of the borough are fully protected.

(3) **Breach of Agreement.** In the event of a default in the performance or observance of any of the Agreement terms or conditions, and such default continues thirty days after written notice of the default, the borough may cancel Agreement or take any legal action for damages or recovery of the property. No improvements may be removed during the time which the contract is in default.

(4) **Cancellation.** This Agreement may be cancelled at any time upon mutual written agreement of the parties.

(5) **Entry or Re-entry.** In the event the Agreement is terminated, canceled or forfeited, or in the event of abandonment of Leased Premises by Lessee during the Term, the KPB its agents, or representatives, may immediately enter or re-enter and resume possession of the Leased Premise. Entry or re-entry by KPB shall not be deemed an acceptance of surrender of the Agreement.

(6) **Fire Protection.** The Lessee shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on the Property under Agreement, and comply with all laws, regulations and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the Property is located.

(7) **Hazardous Waste.** The storage, handling and disposal of hazardous waste shall not be allowed on the Leased Premises.

(8) **Modification.** The Agreement may not be modified orally or in any manner other than by an agreement in writing signed by all parties or their respective successors in interest.

(9) **Notice.** Any notice or demand, which under the terms of the Agreement or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address shown on the contract. However, either party may designate in writing such other address to which such notice of demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed received when deposited in a U.S. general or branch post office by the addressor.

(10) **Notice of Default.** Notice of the default will be in writing as provided in paragraph 10 above.

(11) **Removal or Reversion of Improvements Upon Cancellation of Purchase Agreement or Lease.**

(a) Improvements on Leased Premises owned by Lessee shall, within thirty calendar days after the termination of the agreement, be removed by him; provided, such removal will not cause injury or damage to the land; and further provided, that the mayor or land management officer when applicable may extend the time for removing such improvements in cases where hardship is proven. The Lessee may, with the consent of the mayor or land management officer when applicable, dispose of its improvements to the Sublessee or Assignee, if applicable.

(b) If any improvements and/or chattels having an appraised value in excess of ten thousand dollars, as determined by a qualified appraiser, are not removed within the time allowed, such improvements and/or chattels shall, upon due notice to the Lessee be sold at public sale under the direction of the mayor and in accordance with the provisions of KPB Chapter 5. The proceeds of the sale shall inure to the former Lessee who placed such improvements and/or chattels on the lands, or his successors in interest, after paying to the borough all moneys due and owing and expenses incurred in making such a sale. In case there are no other bidders at any such sale, the mayor is authorized to bid, in the name of the borough, on such improvements and/or chattels. The bid money shall be taken from the fund to which said lands belong, and the fund shall receive all moneys or other value subsequently derived from the sale of leasing of such improvements and/or chattels. The borough shall acquire all the rights, both legal and equitable, that any other purchaser could acquire by reason of the purchase.

(c) If any improvements and/or chattels having an appraised value of ten thousand dollars or less, as determined by the mayor, are not removed within the time allowed, such improvements and/or chattels shall revert and absolute title shall vest in the borough. Upon request, the Lessee shall convey said improvements and/or chattels by appropriate instrument to the KPB.

(12) **Rental for Improvements or Chattels not Removed.** Any improvements and/or chattels belonging to the Lessee or placed on the Property and remaining upon the premises after the termination of the contract shall entitle the KPB to charge a reasonable rent therefor.

(13) **Re-rent.** In the event that the Agreement should be terminated, canceled, forfeited or abandoned, the KPB may offer said lands for lease or other appropriate disposal pursuant to the provisions of this chapter or other applicable regulations.

(14) **Responsibility for Location.** It shall be the responsibility of the Lessee to properly locate improvements on the Leased Premises.

(15) **Rights of Mortgage or Lienholder.** In the event of cancellation or forfeiture the Agreement for cause, the holder of a properly recorded mortgage, conditional assignment, or collateral assignment will have the option to acquire the lease for the unexpired term thereof, subject to the same terms and conditions as in the Agreement. Any party acquiring the lease agreement must meet the same requirements as the Lessee.

(16) **Sanitation.** The Lessee shall comply with all regulations or ordinances which a proper public authority in its discretion shall promulgate for the promotion of sanitation. The Leased Premises under the Agreement shall be kept in a clean and sanitary condition and every effort shall be made to prevent any pollution of the waters and lands.

(17) **Shore Land Public Access Easement.** As established by AS 38.05, borough lands sold or leased may be subject to a minimum 50 foot public access easement landward from the ordinary high water mark or mean high water mark.

(18) **Subleasing.** No lessee may sublease lands or any part thereof without written permission of the mayor or land management officer when applicable. A sublease shall be in writing and subject to the terms and conditions of the original lease.

(19) **Violation.** Violation of any provision KPB 17.10 or of the terms of the Agreement of may expose the Lessee to appropriate legal action including forfeiture of purchase interest, termination, or cancellation of its interest in accordance with state law.

(20) **Written Waiver.** The receipt of payment by the borough, regardless of knowledge of any breach of the purchase agreement by the purchaser, lessee or permittee, or of any default on the part of the purchaser, lessee or permittee in observance or performance of any of the conditions or covenants of the agreement, shall not be deemed to be a waiver of any provision of the agreement. Failure of the borough to enforce any covenant or provision therein contained shall not discharge or invalidate such covenants or provision or affect the right of the borough to enforce the same in the event of any subsequent breach or default. The receipt by the borough of any payment of any other sum of money after notice of termination or after the termination of the agreement for any reason, shall not reinstate, continue or extend the agreement, nor shall it destroy or in any manner impair the efficacy of any such notice of termination unless the sole reason for the notice was nonpayment of money due and payment fully satisfies the breach.