

Kenai Peninsula Borough
Office of the Mayor

REVISED MEMORANDUM

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

THRU: Charlie Pierce, Mayor 

FROM: Patty Burley, Deputy Borough Attorney 

DATE: January 5, 2021

SUBJECT: **Second Revised** Amendment to Ordinance 2020-49, Approving the Transfer of Assets from Ninilchik Emergency Services, Inc. to the Borough on Behalf of the Newly Expanded Fire & Emergency Medical Service Area and Extending the Date to Complete the Transfer of Assets (Mayor)

Since the passage of Ordinance 2020-31 on July 7, 2020, the borough and Ninilchik Emergency Services (NES) have been working cooperatively to ensure a smooth identification and transfer of assets from NES to the borough as per the conditions of the ordinance. However, because the ordinance was not passed until voter approval in October, much of the work could not begin until then. Ordinance 2020-31 included a deadline of January 31, 2021 to complete the transfer of all real and personal property located in or obtained for use at or by the Ninilchik Fire Department to the borough on behalf of the expanded service area.

The transfer of assets is not as simple as signing over a building. Transferring assets involves a multitude of borough departments such as finance, IT, legal, risk, lands, and human resources just to name a few. An extensive checklist of the items which have to be completed in order to effectuate the transfer was prepared and is diligently being pursued but time is needed to ensure that all is done properly. Title reports and surveys must be ordered; claim histories must be reviewed and carriers contacted; open contracts must be identified and reviewed for duplication with Anchor Point and termination or transfer capabilities must be identified in those contracts; staffing and budgeting must be developed; as well as a myriad list of other items.

The current checklist is 6 pages long and while over one-half of the list has been completed, holiday and Covid closures makes contact with some agencies outside of NES and the borough difficult. For these reasons more time is requested to properly complete the tasks necessary and to ensure that the transfer is a successful one for both agencies. Additionally, more time is needed to finalize an asset transfer agreement. **Therefore the administration requests that the deadline to transfer the assets also be extended to April 20, 2021. The earlier proposed deadline was March 31, 2021 but this would have required assembly approval March 2, 2021. Extending that deadline to April 20, 2021 allows the parties to develop a final transfer agreement to deliver to the assembly for approval on April 6, 2021, leaving two weeks to complete the conveyance.**

The following amendments are requested to clarify that the proposed purchase agreement and list of assets will be attached to this ordinance and to amend the January 31, 2021 transfer deadline to March 31, 2021:

[Please note, bold underlined language is new and the bold strikeout language in brackets is to be deleted.]

- Amend the title as follows:

APPROVING THE TRANSFER OF ASSETS FROM NINILCHIK EMERGENCY SERVICES, INC. TO THE BOROUGH ON BEHALF OF THE NEWLY EXPANDED FIRE & EMERGENCY MEDICAL SERVICE AREA **AND EXTENDING THE DEADLINE FOR COMPLETION OF THE TRANSFER OF ASSETS**

- Amend Section 1, as follows:

SECTION 1. That the Borough Mayor is authorized to execute any **preliminary** documents necessary for the borough to accept the transfer of all real and personal property located in or obtained for use at or by the Ninilchik Fire Department from NES on behalf of the newly expanded service area called the Western Emergency Service Area, subject to inspection and approval of the property by the borough administration. A list of the property **proposed** to be transferred to the borough, subject to borough approval, is attached hereto as

Attachment A and incorporated herein by reference. **The final purchase agreement and list of property will be presented to the assembly for approval before the transfer deadline.**

- Insert a new Section 2 as follows:

SECTION 2. That the deadline in Section 8 of Ordinance 2020-31 for the transfer of free and clear title, ownership and possession of all real and personal property located in and obtained for use at or by the Ninilchik Fire Department to the borough on behalf of the Western Emergency Service Area is extended from January 31, 2021 to April 20, 2021. The failure to transfer said assets as described shall render the creation of the Western Emergency Service Area null and void.

- Renumber Section 2 to Section 3.

Your consideration is appreciated.