

## **SUBLEASE AGREEMENT**

This Sublease Agreement, effective upon the date the last party to sign this Sublease executes the agreement, is entered into by and between CLARK MANAGEMENT, INC. (SUBLESSOR) and the KENAI PENINSULA BOROUGH (KPB). For the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties hereby agree as follows:

1. **Premises.** SUBLESSOR shall sublease to KPB, the garage space more particularly described as follows:

A 2,160 square-foot garage building with paved parking pad, gravel yard, and ingress/egress located at 72470 Clutts Avenue, Anchor Point, Alaska.

Situated on T 4S R 15W SEC 34 SEWARD MERIDIAN HM 0600045 SPRUCE ACRES SUB LOT 20, Homer Recording District, Third Judicial District, State of Alaska (KPB PIN 16517024).

The premises shall be used for fire station purposes including but not limited to fire station operations, equipment storage and maintenance, and training.

2. **Rent.** In consideration of the sublease of the Premises, the KPB shall pay to the SUBLESSOR the sum of \$2,000.00 per month. Rent is payable in advance and is due on the fifteenth day of each month. Rent shall remain the same for years one and two and shall increase annually by 2% thereafter.

- A. **Utilities.** Natural gas heat, phone and electric utilities shall be paid by KPB for the duration of this Sublease Agreement. All other utilities are included in the Sublease Agreement rent and shall remain the responsibility of the SUBLESSOR.

3. **Term.** The initial lease term is 5 years commencing August 15, 2020. The Sublease Agreement term shall automatically renew annually thereafter until terminated by 90-days written notice.

4. **Termination.**

- A. Ninety (90) days' notice. After the initial term, any extended term may be terminated by either party by giving written notice of termination no less than 90 days in advance.
- B. Subject to KPB Assembly approval and annual appropriation of funds. This sublease shall automatically terminate without penalty on June 30 of any year during which the Kenai Peninsula Borough assembly fails to appropriate funds sufficient to make the lease payments on the leased property for the following fiscal year.
- C. Default. Should either KPB or SUBLESSOR default in the performance of the obligations of any covenants of this Lease agreement and fail to fully remedy such default within 30 days after written notice by the non-defaulting party, then the Lease agreement may be terminated by written notice to the defaulting party. If the SUBLESSOR is in default all rent hereunder shall abate during the period of any such default. Upon termination of this sublease agreement, SUBLESSOR shall refund to KPB any unearned advance rent paid by KPB.

5. **KPB Responsibilities.** The KPB covenants and agrees:

- A. To pay rent: The KPB will pay the said rent specified at the times and in the manner set out in paragraph 2 herein, except only in the case of fire or other casualty as herein provided.
- B. Not to assign. KPB shall not assign, sublet or part with the possession of all or any part of the leased premises without the prior written consent of the SUBLESSOR. SUBLESSOR shall not unreasonably withhold such consent.
- C. To permit SUBLESSOR to enter. The SUBLESSOR, upon 24 hours' notice, may access the premises during reasonable times for inspection, maintenance, or repair. KPB may elect to have a representative present during times of SUBLESSOR's access.
- D. To yield up premises. At the expiration of the term of this Lease agreement, KPB will peaceably yield up to the SUBLESSOR the premises, in good repair in all respects, reasonable use and wear and damage by fire and other casualties excepted.

E. Alterations. KPB may not alter the premises without first obtaining prior approval of SUBLESSOR.

6. **SUBLESSOR's Responsibilities & Warranties.** The SUBLESSOR covenants, guarantees and provides the following express warranties:

A. No existing restrictions interfere with the KPB's permitted and intended use of the leased property;

B. Adequate ingress and egress to leased property shall be provided throughout the Lease term;

C. SUBLESSOR has sufficient interest in property to grant tenant this leasehold;

D. KPB shall have quiet enjoyment of the premises;

E. The property is fit for its intended use;

F. Any use, treatment, storage, or transportation of hazardous substances has been in compliance with all applicable federal, state and local laws. No hazardous substances have been released, discharged, spilled, leaked, disposed of, or omitted on, in, or under the premises. The premises are free of hazardous substance; and

G. SUBLESSOR shall be responsible to maintain the premises in good repair at all times.

H. Grounds Maintenance. SUBLESSOR shall be responsible for routine grounds maintenance such as lawn mowing, watering and snow removal.

I. SUBLESSOR has obtained prior written consent of Lessor in its Lease Agreement with Lessor (Hereinafter referred to as "Master Lease Agreement") to sublease the Premises and Lessor has affirmed, guaranteed, and consented to being bound by the terms of this Sublease Agreement.

7. **Liability and Insurance.**

A. SUBLESSOR Insurance. During the Term, and any extended terms, SUBLESSOR at its sole cost and expense, agrees to keep the Leased Premises

insured against loss or damage by fire or other casualty insurable under standard fire and extended coverage insurance in an amount equal to the full current replacement cost of the Premises. SUBLESSOR shall be responsible and liable for its own acts and omissions under this Lease agreement and shall carry insurance adequate to protect its interest or to the extent required by law. For any employees of SUBLESSOR who provide work in connection with this Lease, SUBLESSOR shall maintain Worker's Compensation limits as required by state law.

- B. KPB Insurance. The KPB is self-insured and may maintain and carry insurance covering its employees, volunteers, property interest, and liabilities to the extent adequate to protect its interests or as required by law. Lessee's insurance will not insure SUBLESSOR against loss or liability of any type.
8. **Permits, Laws, and Taxes.** SUBLESSOR shall acquire and maintain in good standing all permits, licenses, and other entitlements necessary to its performance under this Sublease Agreement. All actions taken by the SUBLESSOR under this agreement shall comply with all applicable statutes, ordinances, rules and regulations. SUBLESSOR shall be responsible for and pay all taxes that may be due and owing to a federal, state, or local taxing entity.
9. **No Waiver.** No assent, expressed or implied, by either party to any breach of either party's covenants shall be deemed to be a waiver of any succeeding breach of the same covenants, nor shall any forbearance by a party to seek a remedy for any breach be deemed a waiver by that party of its rights or remedies with respect to such breach.
10. **Default on Master Lease Agreement; Consent to Sublease.** By signing the below Consent to Sublease document, incorporated by reference into this Sublease Agreement, Thomas Clark as the record owner of the property and Tom & Chevonne Clark as the Lessors in the Master Lease Agreement (hereinafter collectively the "Clarks"), hereby agree, affirm, and guarantee as follows:

(i) In the event of a default by Clark Management, Inc. (Lessee/Sublessor) on the Master Lease Agreement and/or termination of the Master Lease Agreement, the Clarks (Lessor in the Master Lease Agreement), shall: (a) allow the KPB to continue to occupy and possess the Premises pursuant to the terms and conditions of this Sublease Agreement; (b) shall not take any action to evict KPB from the Premises and shall not take action to terminate this Sublease so long as the KPB is

in compliance with the terms and conditions of this Sublease Agreement; and (c) direct the KPB to remit rent payments to a different payee or address but otherwise all terms and conditions of the Sublease Agreement shall remain in full force and effect with the Clarks standing in the shoes of the Sublessor.

11. **Integration.** This document contains the entire Sublease Agreement of the parties hereto. All negotiations, statements, representations, guarantees, warranties, and assurances, whether oral or written, which are in any way related to the subject matter of this Lease agreement and the performance of either party hereto, are merged and integrated into the terms of this document.
12. **Modification.** The parties may mutually agree to modify the terms of this agreement. Any modifications shall be in writing executed by both parties.
13. **Interpretation and Enforcement.** This Sublease Agreement has been drafted following negotiations between the parties. It shall be construed according to the fair intent of the language as a whole, not for or against any party. The interpretation and enforcement of this agreement shall be governed by the laws of the State of Alaska. The titles of sections in this agreement are not to be construed as limitations or definitions but are for identification purposes only.
14. **Severability.** If any section or clause of this agreement is held invalid by a court of competent jurisdiction, or is otherwise invalid under the law, the remainder of this agreement shall remain in full force and effect.
15. **Notice.** Whenever notice is required hereunder, it shall be addressed as follows until written notice of change of address is given to the other party:

**SUBLESSOR:**

Clark Management, Inc.  
P.O. Box 962  
Anchor Point, AK 99556

**SUBLESSEE/KPB:**

Kenai Peninsula Borough  
Attn: Planning Director  
144 N. Binkley Street  
Soldotna, AK 99669

16. **Counterparts.** This Sublease may be executed in several or separate counterparts, whether by facsimile or PDF signature or otherwise, each of which when so executed shall constitute an original and all of which together shall be deemed an original and all of which together shall constitute one and the same instrument.

**CLARK MANAGEMENT, INC.**

**KENAI PENINSULA BOROUGH**

\_\_\_\_\_  
Chevonne Clark  
President

\_\_\_\_\_  
Charlie Pierce  
Borough Mayor

\_\_\_\_\_  
Tom Clark  
Secretary

**ATTEST:**

**APPROVED AS TO LEGAL FORM  
AND SUFFICIENCY:**

\_\_\_\_\_  
Johni Blankenship  
Borough Clerk

\_\_\_\_\_  
Sean Kelley  
Deputy Borough Attorney

**KPB ACKNOWLEDGMENT**

STATE OF ALASKA            )  
  ) ss.  
THIRD JUDICIAL DISTRICT    )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2020,  
by Charlie Pierce, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation,  
for and on behalf of the corporation.

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_

**SUBLESSOR ACKNOWLEDGMENT**

STATE OF ALASKA            )  
  ) ss.  
THIRD JUDICIAL DISTRICT    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020,  
by Chevonne Clark, President, Clark Management, Inc.

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_

STATE OF ALASKA            )  
  ) ss.  
THIRD JUDICIAL DISTRICT    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020,  
by Tom Clark, Secretary, Clark Management, Inc.

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_

CONSENT TO SUBLEASE

By signing below, Thomas Clark as the record owner of the property and Tom & Chevonne Clark as the Lessors in the Master Lease Agreement (hereinafter collectively the "Clarks"), their heirs and assigns, hereby agree, affirm, and guarantee as follows:

(i) Consent. The Clarks consent to the Sublease Agreement; and

(ii) In the event of a default by Clark Management, Inc. (Lessee/Sublessor) on the Master Lease Agreement and/or termination of the Master Lease Agreement, the Clarks (Lessor in the Master Lease Agreement), shall: (a) allow the KPB to continue to occupy and possess the Leased Premises pursuant to the terms of the Sublease Agreement; (b) shall not take any action to evict KPB from the Premises so long as the KPB is in compliance with the terms and conditions of this Sublease Agreement; and (c) be bound by all terms and conditions of the Sublease Agreement which shall remain in full force and effect and survive termination of the Master Lease Agreement, with the Thomas and Chevonne Clark standing in the shoes of the Sublessor.

\_\_\_\_\_  
Chevonne Clark

\_\_\_\_\_  
Thomas (Tom) Clark

STATE OF ALASKA            )  
  ) ss.  
THIRD JUDICIAL DISTRICT    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by Chevonne Clark.

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_

STATE OF ALASKA            )  
  ) ss.  
THIRD JUDICIAL DISTRICT    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by Thomas Clark.

\_\_\_\_\_  
Notary Public in and for Alaska  
My commission expires: \_\_\_\_\_