

Introduced by: Mayor, Ogle  
Date: 10/25/16  
Hearing: 11/22/16  
Action: Enacted as Amended  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2016-19-15**

**AN ORDINANCE APPROVING CONSTRUCTION AND ACCEPTING AND  
APPROPRIATING \$5,142,231.38 FROM THE U.S. DEPARTMENT OF  
TRANSPORTATION, WESTERN FEDERAL LANDS HIGHWAY DIVISION TO  
EXTEND A PORTION OF THE KENAI SPUR HIGHWAY WITHIN THE BOROUGH  
RIGHT-OF-WAY**

**WHEREAS,** the Kenai Spur Highway extension project was originally approved and funded as a road construction project in the amount of \$5,629,026.36 through the U.S. Department of Transportation's "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" program under Title 23 U.S. Code Section 204, ("SAFETEA-LU"); and

**WHEREAS,** the borough approved the project to extend the Kenai Spur Highway in phases by way of Resolution 2002-142; and

**WHEREAS,** the borough approved and appropriated portions of the SAFETEA-LU funds in the amount of \$1,000,000 by way of Ordinance 2002-19-27 and in the amount of \$1,464,000 by way of Ordinance 2005-19-16; and

**WHEREAS,** the approved project scope of work was to extend the Kenai Spur Highway approximately 27 miles from the Captain Cook terminus, which was later determined to be cost prohibitive; and

**WHEREAS,** the SAFETEA-LU funds reimbursed \$486,794.98 of the project expenditures and the U.S. Department of Transportation approved formal close out on July 1, 2013, releasing the State of Alaska Department of Transportation & Public Utilities and the Kenai Peninsula Borough from obligation to construct the project under the approved scope of work; and

**WHEREAS,** the balance of funds in the amount of \$5,142,231.38 remain available for a modified project scope of work to be completed on the Kenai Spur Highway; and

**WHEREAS,** on September 16, 2016 the borough received notification from the U.S. Department of Transportation, Western Federal Lands Highway Division ("WFL") that the borough may use the balance of funds to construct up to 7.5 miles of gravel road on the borough right-of-way beginning at the current

terminus of the Kenai Spur Highway at Captain Cook State Recreation Area, ending near Otter Creek, (“project”); and

**WHEREAS,** the modified scope of work is an approved mitigation project to reduce the impacts to wetlands and sensitive habitat currently created by off-road vehicles that access recreational properties and private residences adjacent to the project right-of-way; and

**WHEREAS,** the borough will enter into an agreement with WFL, authorizing the borough to construct the project in the amount of \$6,486,634.38, which includes \$5,142,231.38 SAFETEA-LU funds as well as the required 20 percent match approved through in-kind contributions in the amount of \$1,297,326.80; and

**WHEREAS,** the borough has exceeded the documented, in-kind contributions totaling \$1,344,403.20; and

**WHEREAS,** as the grant program does not allow for indirect costs, and the grant is for the Road Service Area, no borough administrative service fee will be charged for this grant; and

**WHEREAS,** Resolution 2016-017 authorized the borough to accept the engineering designs, work, data and permits from Apache Alaska Corporation for this project; and

**WHEREAS,** the construction contracts will be secured by way of request for proposals as governed by KPB 5.28; and

**WHEREAS,** at its meeting of October 18, 2016, the Road Service Area Board recommended approval by the passage of RSA Resolution 2016-09; and

**WHEREAS,** it is in the best interests of the borough to accept these funds;

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

**SECTION 1.** That the mayor is authorized to accept the \$5,142,231.38 grant from the U.S. Department of Transportation, Western Federal Lands Highway Division.

**SECTION 2.** That the grant funds in the amount of \$5,142,231.38 are hereby appropriated to account 434.33950.16NRD.49999 – Project Account.

**SECTION 3.** That the 20 percent in-kind match contributions in the amount of \$1,344,403.20 are hereby recorded to account 434.33950.16NRD.43011.

**SECTION 4.** Based on the standards set forth in the KPB 16.41.190, the Road Service Area board made the following findings in recommending construction of the North Road Extension Project to the Assembly:

**STANDARD:** Whether there is available road service area funding.

**FINDING:** Not applicable. The project will be funded with SAFETEA-LU funds.

**STANDARD:** Whether the road accesses public lands or facilities.

**FINDING:** Yes. This project will provide vehicular access to numerous publicly owned lands.

**STANDARD:** Whether the road is a collector road.

**FINDING:** No. At present, with a Road Service Area Board approved Engineered Design (instead of KPB 14.06 standards), the North Road Extension will not be constructed to category IV standards. The code does not require that all five criteria be met before recommending a construction project to the assembly.

**STANDARD:** Whether there are funding sources in addition to Road Service Area funds available for the project.

**FINDING:** Yes. Construction will be completed using SAFETEA-LU funds.

**STANDARD:** Whether the construction will provide an improved alternate route to a road currently certified for maintenance.


**FINDING:** No. The code does not require that all five criteria be met before recommending a construction project to the assembly.

**SECTION 5.** That, based on the above RSA board findings, the Kenai Peninsula Borough Assembly approves road construction as required by KPB 16.41.190 to construct up to 7.5 miles of gravel road on the borough right-of-way beginning at the current terminus of the Kenai Spur Highway at Captain Cook State Recreation Area, ending near Otter Creek.

**SECTION 6.** That the mayor is authorized to execute a grant agreement and any other documents deemed necessary to accept and expend the grant, and to fulfill the intents and purposes of this ordinance.

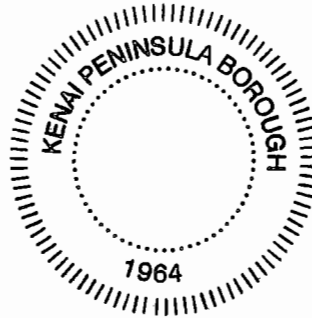
**SECTION 7.** This ordinance shall become effective immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS  
22ND DAY OF NOVEMBER, 2016.

  
Kelly Cooper, Assembly President

ATTEST:

  
John Blankenship, MMC, Borough Clerk



Yes: Bagley, Dunne, Fischer, Gilman, Holmdahl, Knopp, Ogle, Welles, Cooper  
No: None  
Absent: None