

**Master Land Lease Development Agreement  
AMENDMENT NO 1  
KPBL# 21-0501-01**

WHEREAS, KPBL and DOT&PF have entered in a certain Master Land Lease Development Agreement (the "Agreement") serialized KPBL# 21-0501-01 for multiple staging and disposal sites associated with the Sterling Highway MP 45-60 project; and

WHEREAS, KPBL and DOT&PF desire to amend the Master Land Lease Development Agreement to include an additional site known as Tract C Quartz Creek Subdivision and to include appraisal provisions for the establishment of adjustment of rents on all sites included in the Agreement;

NOW THEREFORE,

The Kenai Peninsula Borough, an Alaska municipal corporation, whose address is 144 N. Binkley Street, Soldotna, AK 99669 (hereinafter "KPBL" or "Lessor"), and the State of Alaska, Department of Transportation and Public Facilities, whose address is 4111 Aviation Avenue, Anchorage, AK 99519 (hereinafter "DOT&PF" or "Lessee") enter into this Master Land Lease Development Agreement Amendment No 1 (Amendment No 1) and agree herein to amend the Agreement as follows (**bold underline** indicates amended language):

Amend Section I (2) to update contact information as follows:

- 2. **Authorized Contact.** All communications about this Agreement shall be directed as follows, any reliance on a communication with a person other than the listed below is at the party's own risk. KPBL staff do not have authority to bind the KPBL. Any material amendments or changes to the Agreement must be approved in writing signed by the KPBL Mayor.

**KPBL**

**DOT&PF**

Kenai Peninsula Borough  
Attn: Land Management Division  
Mailing Address: 144 N. Binkley St.  
Soldotna, AK 99669

DOT&PF Central Region Construction  
Attn: **Jonathan Tymick**  
4111 Aviation Avenue  
Anchorage, AK 99519-6900

**Amend Section II (5) as follows:**

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

- 5. **The Property.** The KPBL leases to DOT&PF and DOT&PF leases from the KPBL, the following

described Property in an “as-is” condition. The KPB makes no specific warranties, express or implied, concerning the title, condition, or use 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:

West #1 Staging and Disposal Site; 14.0 acres +/-, located within the N1/2 Section 27, T5N, R4W, S.M. AK

West #2 Staging and Disposal Site; 4.6 acres +/-, located within the N1/2 Section 26, T5N, R4W, S.M. AK

East #2 Staging and Disposal Site; 4.7 acres +/-, located within Tract A USS 5105 situated within Section 30, T5N, R3W, S.M. AK

**Tract C Quartz Creek Subdivision, Plat No 94-11, Seward Recording District; 15.81 acres +/-**

Each Site more particularly described and depicted in Attachment 3- Site Survey Drawings.

**Amend Section II (7) as follows:**

7. Term.

7.1. Initial Term. The Initial Term of this Agreement shall be for a period of 5 years commencing on May 1, 2021 and terminating on April 30, 2026. **The initial term as applied to Tract C Quartz Creek Subdivision commences August 15, 2021.**

**Amend Section II (8) as follows:**

8. Rent.

8.1. Surface Use Rent (“Rent”). The Rent for the use of the surface area of the Property is shown on the table below, for the first year of the Agreement, payable on the commencement date of the lease and each anniversary thereof. This Rent shall increase annually at 3% per annum.

SITE DESCRIPTION	AREA	INITIAL RENT
West #1 Staging and Disposal Site	14.0 acres +/-	\$8,400/YR
West #2 Staging and Disposal Site	4.6 acres +/-	\$5,520/YR
East #2 Staging and Disposal Site	4.7 acres +/-	\$5,640/YR
<b><u>Tract C Quartz Creek Subdivision</u></b>	<b><u>15.81 acres +/-</u></b>	<b><u>\$35,640/YR</u></b>
 TOTAL		 <b><u>\$55,200/YR</u></b>

8.2. Material Extraction and Disposal. The consideration, fees or royalties associated with

material extraction, disposal, and reclamation under the Agreement shall be set forth in Attachment 1 – Materials Extraction and Disposal Terms & Conditions.

- 8.3. **Rent for Tract C Quartz Creek Subdivision is prorated for the initial partial year through April 30, 2022 as (258 days divided by 365)x(\$35640)= \$25,192.10.**
- 8.4. **Rent for each site may, at any time, be adjusted to the appraised fair market rental value. DOT&PF may have the sites appraised according to DOT&PF appraisal standards as to the fair market value or fair market rental value. In the case of a fair market value appraisal, 8% of the appraised fair market value will be used as the lease rate. Upon acceptance of the appraisal by each party the appraised fair market rent will be adopted and any rental adjustment payment, or reimbursement due either party will be made within 60 days for the annual period in which the appraisal is conducted. The adjusted rent shall then increase annually at 3% per annum.**

**Amend Section III (9) as follows:**

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, Rights Reserved by KPB, DOT&PF shall have exclusive surface use and possession of the Property. The surface uses shall be governed by this Master Lease. Surface uses include, but are not limited to, staging of personnel and equipment, material processing operations, temporary facilities, and related uses reasonably necessary to support completing the Project. Authorized uses specifically include those described in Attachment 4- Staging/Disposal Operations Plan.
  - 9.2. Subject to the terms set forth in Attachment 1, Materials Extraction and Disposal Agreement, DOT&PF may use the Property to dispose, develop, process, explore, excavate, crush, stockpile, remove, gravel, soil, and other natural resource materials on the Property. The reclamation obligations set forth in Attachment 1 survive termination of the Agreement.
  - 9.3. **Terms specific to Tract C Quartz Creek Subdivision**
    - a. **Subject to reclamation obligations, DOT&PF shall have the right to develop Tract C sufficient for its authorized uses included importing clean, construction grade gravel fill material, installation of utilities, installation of DEC approved septic system or holding tanks, drilling of on-site water wells, and installation of road approaches, pads, and durable surfaces. DOT&PF shall conserve topsoil on site and maintain such material available for site reclamation at the end of the Agreement.**
    - b. **Vegetated Buffers/ Clearing Plan. Uses of Tract C under this agreement are subject to preserving certain vegetated buffers along the perimeter of the**

property. Prior to commencement of the Agreement, a clearing plan had been agreed upon and implemented through which certain areas of vegetation were preserved. The cleared area shall be available for DOT&PF's development and use under this agreement. No further clearing or expansion of use into vegetated areas will take place unless first approved by KPB in writing. Vegetated areas may be incorporated into DOT&PF's storm water management practices. Individual trees within the vegetated buffer that are a substantial hazard risk may be removed by DOT&PF as necessary without changing the buffer status.

c. Site Closure.

9.3.c.1. Notwithstanding KPB 17.10.240, prior to termination of this Agreement the KPB reserves the right, at KPB's sole option, to require Lessee to restore the site to a natural condition, free of contamination, to leave the site in a condition suitable for use by another, or any combination thereof. KPB declares an intent for the site to be useful for a commercial business subdivision at the end of the Agreement.

9.3.c.2. Pre-closure Inspection. KPB and Lessee will jointly inspect the site for the purpose of KPB determining the condition that site will be left in prior to termination of Agreement. KPB and Lessee shall agree in writing the condition that site will be left in prior to termination of Agreement. KPB, at its sole discretion, may require Lessee to take any or all of the actions listed in paragraphs A and B of this section.

A. Removal of Improvements. The KPB may require Lessee to remove any and all improvements including septic systems, utilities, imported materials, and closure of wells.

B. Reclamation. Site shall be reclaimed by adding organic topsoil material to bring site to a consistent topographic level as adjacent features and then planted with local plant species.

9.3.c.3. Post-closure Inspection. KPB and Lessee will jointly inspect site to confirm site is left in a condition acceptable to KPB and KPB will issue a document to Lessee affirming its findings.

Except as expressly set forth and amended herein, all remaining covenants, terms, and conditions of the Agreement, as amended, shall remain in full force and effect.

**LESSOR: Kenai Peninsula Borough**

**LESSEE: State of Alaska, Department of Transportation and Public Facilities**

By: Charlie Pierce  
Its: Mayor  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

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

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

**KPB NOTARY ACKNOWLEDGMENT**

STATE OF ALASKA            )  
  ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Charlie Pierce, 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: \_\_\_\_\_

**DOT&PF NOTARY ACKNOWLEDGMENT**

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, 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 \_\_\_\_\_, Department of Transportation and Public Facilities, State of Alaska, and who acknowledged to me that the foregoing instrument was executed freely and voluntarily on behalf of the State of Alaska, Department of Transportation and Public Facilities, for the uses and purposes therein set forth and who is authorized by said State of Alaska 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  
My Commission Expires:  
\_\_\_\_\_