

Kenai Peninsula Borough

Planning Department

MEMORANDUM

TO: Charlie Pierce, Borough Mayor

THRU: A. Walker Steinhage, Deputy Borough Attorney *AWSS*
Sara Dennis, Acting Finance Director *SD for BH*
Lee Frey, Acting Purchasing & Contracting Director *LF for JH*

FROM: Robert Ruffner, Planning Director *RR*

DATE: August 4, 2022

RE: Request for Proprietary Procurement under 5.28.280(B)(1), Emergency Procurement under KPB 5.28.290 and for Waiver of Formal Bidding Procedures under KPB 5.28.300 for Testing, Scope Identification and Removal of Contained Fluids

On July 27, 2022, Code Compliance discovered a number of containers (drums, barrels, buckets, etc.) on a KPB-owned parcel of land in Hope (KPB PIN#03529022), legally described as: T 10N R 2W SEC 27 Seward Meridian SW That Portion SW1/4 SE1/4 of Sec 27 Lying South of Hope Hwy Excluding ASLS 2002-46 ("the Property"). The containers and other personal property at the Property are the result of a trespass. Initially, there was hope of resolution because the trespasser, Robert Davidson, signed a stipulated agreement ("Agreement") designed to address his trespass issues. However, Mr. Davidson failed to abide by the terms of the Agreement, including removal of all personal property. As a result, starting July 1, 2022, KPB denied him access to the Property.

Many of the containers are in the 5,000 gallon size. All of the containers are of unknown integrity, and contain unknown fluids in unknown quantities. The discovery of those containers came to my attention on July 29, 2022. So, at my request, staff from Code Compliance, Risk Management and Legal conducted a site visit on August 2, 2022. During the visit, staff observed the following scattered throughout the Property¹:

- Dark patches on the ground which appeared to be consistent with spilled oil;
- Car batteries in various states of decay;

¹ This is not an exhaustive list.

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Re: Request for Emergency and Proprietary Procurement and for Waiver of Formal Bidding Procedures

- Drums, barrels, buckets and other containers in various states of decay and many containing fluids;
- Engines and motors of all sizes and in various states of disrepair;
- Over 25 junk vehicles (including cars, trucks, a bus, and a Nodwell) in various states of disrepair; and
- Construction equipment in various states of disrepair.

Finally, during the site visit, staff also smelled what might be diesel fuel around one of the large containers—a rusty tank designed for train transport.

The fluids, possibly including fuel, oil and antifreeze, in the containers listed above may pose a significant threat to the environment, public health, public property, public safety and public welfare. Additionally, should the containers fail, there will be significant cleanup costs. Accordingly, as the Director of Planning, I request that KPB engage proprietary and emergency procurement procedures and waive formal bidding procedures for two purposes: 1) to test fluids and identify the scope of work; and 2) to remove potential contaminants from the Property. I further request we engage two independent companies to undertake the two tasks separately.

This request is made pursuant to KPB 5.28.280(B)(1), 5.28.290 and 5.28.300, and constitutes my written documentation as the requesting agency head required by KPB 5.28.290. Funding, not to exceed \$50,000.00 (\$25,000 for each task) for this project is in account number 250-21210-00000-43011.

Robert Ruffner
 Robert Ruffner
 Director of Planning
 Kenai Peninsula Borough

FINANCE DEPARTMENT FUNDS VERIFIED	
Acct. No. <u>250-21210-00000-43011</u>	
Amount <u>\$50,000.00</u>	
By: <u>CRJ</u>	Date: <u>8/4/2022</u>

NA

Based upon Director Ruffner's foregoing documentation, I find that there is an emergency threatening the public's health, public property, public safety and public welfare. Accordingly, the request for proprietary and emergency procurement and for waiver of formal bidding procedures is approved.

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Charlie Pierce

Charlie Pierce
Borough Mayor
Kenai Peninsula Borough

8/5/2022

Date